



Policy Name:	Mercy University Employee Paid Time Off (PTO) and Leave Policy		
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Responsible Office:	Office of Human Resources	Contact:	Executive Director of Human Resources

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I. INTRODUCTION

Mercy University recognizes that employees occasionally need time away from the workplace to address personal needs and family obligations while maintaining balance with the requirements of their job. The following are the Paid Time Off (“PTO”) policies and Leave of Absence policies that employees are entitled to in the Mercy University workplace:

- Paid Time Off (“PTO”)
- New York State Paid Family Leave Law
- Family Medical Leave Act (“FMLA”) Leave
- New York State Short-Term Disability Leave
- Worker’s Compensation
- Long-Term Disability Leave
- Paid and Unpaid Leaves of Absence Pursuant to Other New York State, Westchester County and New York City Laws

As set forth fully in this Policy, some of the leaves referenced herein may run concurrently. Specific questions regarding these leaves and policies should be directed to the Office of Human Resources.

If there are any inconsistencies between this Policy and local, state or federal law relating to PTO or Leaves of Absence, the latter shall apply.

Employees who are members of the union should refer to the Collective Bargaining Agreement (CBA) for all contractual terms in effect relating to PTO and other leaves. Where the policies and benefits set forth in this Handbook conflict with the CBA, the CBA shall control.

II. PAID TIME OFF (PTO) OPTIONS

Mercy University provides the following Paid Time Off (“PTO”) benefits to employees:

- Sick and Safe Leave
- Prenatal Leave
- NYS Paid Family Leave (Section III)
- Vacation Leave
- Personal Time
- Bereavement Leave
- Holiday Pay
- Summer Days Pay
- University Closure Pay
- Jury Duty Pay
- Quarantine Leave
- Voting Pay
- Other leaves pursuant to New York State, city and county laws

Employees should keep accurate records of their PTO time taken. All PTO balances are available on Banner Self-Service, accessible through Mercy Connect. Managers are provided with access via Time and Attendance recording to view the PTO balances for their employees.

A. Definitions

For purposes of this Policy, the following definitions shall apply for all PTO categories:

- “Eligible Employees” are defined as are those who regularly and customarily are scheduled to work at least twenty (20) hours per week for a minimum of 1,250 hours or 36 weeks per year.¹ This term applies to all PTO other than Sick and Safe Leave. All employees are eligible for paid Sick and Safe Leave.
- “Fiscal Year” shall mean from July 1 through June 30th.
- “Family member” is defined as an employee’s child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, and the child or parent of an employee’s spouse or domestic partner.
 - “Child” is defined as a biological, adopted or foster child, a legal ward, or a child of an employee standing in loco parentis.
 - “Parent” is defined as a biological, foster, step, or adoptive parent, or a legal guardian of an employee, or a person who stood in loco parentis when the employee was a minor child.

¹ Union employees should refer to the Collective Bargaining Agreement.

B. Other Terms

- PTO for all categories will *not* be counted as hours worked for the purpose of determining overtime.
- The University reserves the right to alter or discontinue the provision of any of these benefits at any time, with or without notice, except as otherwise required by law.
- PTO taken in accordance with this Policy should be discussed in advance with management, when feasible, and notated appropriately on the employee's timesheet.

C. Sick and Safe Leave

Under New York State law, employees are eligible for up to fifty-six (56) hours of paid leave per year for sick and safe leave, at the accrual rates set forth below. Employees may use accrued leave following a verbal or written request to the University for the following reasons impacting the employee or a member of their family for whom they are providing care or assistance with care for sick leave or safe leave as set forth below.

1. Sick Leave:

- For mental or physical illness, injury, or health condition, regardless of whether it has been diagnosed or requires medical care at the time of the request for leave; or
- For the diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or need for medical diagnosis or preventive care.

2. Safe Leave:

Safe leave can be taken when the employee or employee's family member has been the victim of domestic violence as defined by the State Human Rights Law, a family offense, sexual offense, stalking, or human trafficking due to any of the following as it relates to the domestic violence, family offense, sexual offense, stalking, or human trafficking:

- To obtain services from a domestic violence shelter, rape crisis center, or other services program;
- To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee's family members;
- To meet with an attorney or other social services provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding;
- To file a complaint or domestic incident report with law enforcement;
- To meet with a district attorney's office;
- To enroll children in a new school; or
- To take any other actions necessary to ensure the health or safety of the employee or the employee's family member or to protect those who associate or work with the employee.

3. Sick Leave Accruals

Under New York State law, employees (including part-time employees) begin accruing paid sick time at the start of their employment. While New York law requires that employees accrue sick time at a rate of one (1) hour for every thirty (30) hours worked, Mercy's sick leave Policy, as set forth below, exceeds what is required by law. For seasonal employees, accruals will be during their active employment period.

Eligible employees hired prior to July 1, 2002, will accrue sick leave benefits at the following rate:

- Clerical and Professional/Technical: 84 hours per year, accruable per pay period worked (3.5 hours per pay) to a maximum of 840 hours. 12 days per year (1.0 days for every full month of service).
- Administrative: 210 hours per year, accruable per pay period worked (8.75 hours per pay) to a maximum of 1260 hours. 30 days per year (2.5 days for every full month of service).

Eligible employees hired on or after July 1, 2002, will accrue sick leave benefits at the following rate:

- Clerical and Professional/Technical: 84 hours per year, accruable per pay period worked (3.5 hours per pay) to a maximum of 840 hours. 12 days per year (1.0 days for every full month of service).
- Administrative: 210 hours per year, accruable per pay period worked (8.75 hours per pay) to a maximum of 1260 hours. 30 days per year (2.5 days for every full month of service).

The maximum number of unused sick days permitted to accumulate for all eligible employees (prior to and after July 1, 2002) are the following:

- Clerical and Professional/Technical: 84 hours per year (840 hours/120 calendar days).
- Administrative: 1260 hours per year (1260 hours/180 calendar days).

The following terms apply with respect to accruals:

- If an employee's benefits reach this maximum, further accrual of sick leave benefits will be held as overage until the employee has reduced the balance below the limit; at which time, the amount of time held as overage will be put towards replenishing the balance to the maximum accrued amount.

- Employees are only credited with leave time for hours worked and not for hours spent using sick leave time under the law or any other paid time.
- Employees do not accrue leave for payments that are not for hours worked, such as bonuses or subject-to-call time. However, time that is considered “hours worked,” including on-call time, training time, and travel time, must be counted for the purposes of accruing leave.

4. Carryovers and Usage

The following terms apply for carryovers and usage of sick and safe time:

- Carryovers: All outstanding sick leave balances may be carried over to the next fiscal year. Employees do not have to wait to use time carried over.
- Leave increments: An employee may take accrued sick leave in increments of 3.5 hours or less as may be needed.
- Sick leave benefits are calculated based on the employee’s regular rate of pay at the time of the absence.
- Employees with a minimum of five (5) years of service who experience a catastrophic illness and who have used up all of their sick, vacation and personal days may borrow sick leave from the next year's allotment upon approval from the Chief Financial Officer of the University.
- Unused accrued sick time will not be paid to an employee upon separation from the University.
- An employee may only use up to fifty-six (56) accrued hours for Sick and Safe Leave for a family member. This time is included within employees’ personal accrued paid sick time. Paid Family Leave will be available in qualifying cases.
- Employees cannot be required to work from home or telecommute instead of taking sick leave. But the University can offer the employee the options of working from home or telecommuting. If employees voluntarily agree to work from home or telecommute, employees will retain the paid or unpaid sick leave that they have accrued.
- Employees who will be or have been absent for more than five (5) days must apply for Family Medical Leave and any other available compensation and benefits, such as Short-Term Disability or Worker’s Compensation (if applicable). Sick leave benefits will be used to supplement any payments that an employee is eligible to receive from Disability

Insurance, or Worker's Compensation. The combination of any such disability payments and sick leave benefits cannot exceed the employee's normal weekly earnings.

- If the employee has exhausted their paid sick leave, they should consult with the Office of Human Resources regarding their eligibility for an unpaid leave as a disability accommodation under the University's *Policies and Procedures for Implementing Reasonable Accommodations* or in catastrophic circumstances, to borrow time from the next year.
- Leave accruals may not be reduced or otherwise restricted if an employee changes positions, roles, or locations with the same employer. Paid sick leave must by law be paid at the employee's rate of pay at the time the leave is taken.
- Sick time benefits are intended solely to provide income protection in the event of illness or injury or other covered purpose (as set forth above) and may not be used for any other absence such as supplemental vacation days or holiday extension. Indications of abuse of sick time may include, but are not limited to, a pattern of: (1) use of sick time on or adjacent to weekends, regularly scheduled days off, holidays, vacation or pay day, (2) taking sick time on days when other leave has been denied, or (3) taking sick time on days when the employee is scheduled to work a shift or perform duties perceived as undesirable. Where employees are found to be using sick time in this fashion, where there is a pattern of abuse of the use of sick time, or where the employee is found to have lied about their use being a covered use, such employees will be subject to disciplinary action, including but not limited to termination of employment.

5. Notice and Documentation

- Employees who are unable to report to work due to illness or injury or other covered purpose must notify their supervisor before the scheduled start of the workday if possible. Notification should take place as soon as possible via email or a phone call. Should additional sick time be needed, the supervisor must be notified each day.
- Employees who use accrued paid sick time for more than three (3) consecutive days but less than five (5) must provide supporting documentation to the Office of Human Resources indicating that the time off was needed for a covered purpose. Employees who require sick time for five (5) or more days must refer to the FMLA Policy when using accrued sick time.
- For employees assigned to the Manhattan or Bronx campuses, the University is required under New York City Law to:

- reimburse employees who must pay for required documentation after three consecutive workdays of leave and
- list on these employees' paystubs (or any document issued each pay period) the amounts of accrued and used leave and the total balance of accrued leave.

6. Additional Provisions

- Mercy cannot retaliate against an employee in any way for exercising their rights to use sick leave. Furthermore, employees must be restored to their position of employment as it had been prior to any sick leave taken. Employees who believe that they have been retaliated against for exercising their sick leave rights should contact the Department of Labor's Anti-Retaliation Unit at 888-52-LABOR or LSAsk@labor.ny.gov.
- Upon the request of an employee, the University is required to provide, within three (3) business days, a summary of the amounts of sick leave accrued and used by the employee in the current calendar year and/or any previous calendar year.

D. Prenatal Leave

Under New York State law, all employees are entitled to twenty (20) hours of paid prenatal leave in a 52-week period. This leave is separate and apart from the 56 hours under the NYS Sick and Safe Leave law, and applies immediately upon employment (i.e. it is not accrued time and the probationary period does not apply). Prenatal leave shall be taken in hourly increments to cover health care services received by an employee during their pregnancy or related to such pregnancy, including physical examinations, medical procedures, monitoring and testing, and discussions with a health care provider related to the pregnancy. This leave applies to fertility treatments and care appointments such as in vitro fertilization. This leave also applies to end-of-pregnancy care. It does not apply to post-natal or postpartum appointments. Employees are not required to provide medical documentation and the University cannot ask employees to disclose confidential information about their condition as a condition of requesting this leave.

E. Leave to Express Breastmilk

Mercy is required by New York State law to provide employees with thirty (30) minutes of paid break time daily for expressing breast milk for the employee's nursing child, as well as the reasonable use of other break time. In addition to the thirty (30) minutes, an employee may use their paid break or meal periods, or take unpaid break periods, with the option of making up the time by extending their workday. This Policy applies for up to three (3) years after the employee gives birth.

F. Vacation Leave

Mercy University provides vacation time benefits to Eligible Employees.

1. Accruals and Allotments

- Eligible Employees begin accruing vacation time pursuant to this Policy at the start of employment. Eligible Employees who work less than thirty-five (35) hours per week accrue vacation time on a pro-rated basis.
- Employees will be allotted half of their annual vacation leave on July 1 of each year, and the remaining half on January 1 each fiscal year. However, employees will accrue vacation at the rates set forth below and if an employee resigns in accordance with the policy set forth below, they shall only be paid out for time owed that has actually been accrued.

The amount of paid vacation time employees receive increase with the length of employment, and accrues on a monthly basis, as set forth in the following schedule:

Clerical and Professional/Technical:

- 1 to 5 years of service: 105 hours (15 days) per year, accrued per pay period worked at 4.375 hours each pay.
- 5 or more years of service: 140 hours (20 days) per year, accrued per pay period worked at 5.83 hours each pay.

Administrative:

- 140 hours (20 days) per year, accrued per pay period worked at 5.83 hours each pay.

2. Carryovers and Usage

- Full-time employees are allowed to carry forward thirty-five (35) hours (5 days) from one fiscal year to another. Part-time employees' carry-over will be pro-rated.
- Carryover time is separate and apart from annual amounts allotted on July 1 and January 1. Carryover days, if any, are used first when an employee takes vacation time beginning July 1st.
- Although vacation starts accruing during the probationary period, it cannot be used until the probationary period is successfully completed. An employee who leaves before the end of the probationary period will not be paid out for any accrued vacation time.

- It is preferable that vacation time be taken in half-day increments, though it may be taken in hourly increments as necessary.
- Vacation time is paid at an employee's regular rate of pay at the time of vacation.

3. Separation from Employment

- Employees will not be paid for any carry-over days when their employment ends with the University.
- **In cases where an employee is terminated by the University, the employee will not be eligible for payment of unused and earned vacation time.**
- Employees who voluntarily resign from the University will be paid for vacation time that is earned but unused as of the last day of work, provided the employee:
 - provides the University with ten (10) full working days' written notice of their resignation (excluding vacation time or holiday time used);
 - does not owe time that was used but not accrued;
 - employee's last day of employment is not scheduled during the Winter Break or within 7 business days after the end of the Winter Break; and
 - has returned all University owned property.
- Should the employee fail to provide the University with ten (10) full working days' notice, have time that was used but not accrued, have their last day of employment scheduled during the Winter Break or within 7 business days after the end of the Winter Break, or retain University property, the employee shall forfeit the right to be paid for unused vacation time that has been earned.
- Employees who voluntarily resign are expected to work through the full notice period and cannot use vacation or personal time during the 10-day notice period.
- Voluntary resignations cannot be made effective during a University closure, such as holidays and the winter break. The effective date will be changed to the close of business day preceding the University closure, unless extended by either the employee or Mercy University.

4. Notice and Documentation

Employees must obtain approval for vacation leave from their supervisor, or where an employee reports to more than one supervisor, they must secure the approval of all supervisors before the

leave request is deemed to be officially approved. Requests will be reviewed and approved based on a number of factors, including business needs and departmental staff levels at the time of the request.

G. Personal Time Leave

Mercy University provides personal time benefits to Eligible Employees. Personal time shall be used for personal or household emergencies and should therefore not be used as vacation time or an extension of vacation or holidays.

1. Accruals and Carry-Over

- Regular Employees who work thirty-five (35) hours or more per year are allotted twenty-one (21) hours or three (3) personal days per fiscal year, which are allotted on July 1st of each year.
- Part-time employees' personal leave is a proration of twenty (21) hours/three (3) days.
- Personal time is **not paid** out upon separation from the University and may not be carried over from one year to the next.
- It is preferable that personal time leave be taken in half-day increments, though it may be taken in hourly increments as necessary.
- Personal time cannot be taken until after the probationary period.

H. Bereavement Leave

Mercy University provides bereavement leave benefits to Eligible Employees who experience the death of a family member. The number of days for which an Eligible Employee may receive bereavement leave per deceased family member is as follows:

- Up to five (5) paid days per year will be granted for the death of a spouse, domestic partner, child, stepchild, son-in-law, daughter-in-law, father-in-law, mother-in-law, grandchild, parent, stepparent, sibling, or an adult who stood in loco parentis to the employee during childhood.
- Up to two (2) paid days per year will be granted for brothers-in-law, sisters-in law, aunts, uncles, nieces, nephews, grandparents and spouse's grandparents.

- Employees are allowed up to four (4) hours of bereavement leave to attend the funeral of a fellow regular employee or retiree of the University, provided such absence from duty will not interfere with normal operations of the University.

Bereavement leave is pro-rated for Eligible Employees who work less than thirty-five (35) hours per week.

Employees who wish to take bereavement leave should notify their supervisor as soon as practicable as to the need for the leave.

An employee may request vacation time, personal time, or unpaid leave for any other close relationship of up to five (5) days, to a maximum of ten (10) days per year. Employees may also be eligible for FMLA leave relating to emotional distress following the death of a loved one.

I. Holiday Pay

Mercy University will provide paid holiday time to Eligible Employees. Eligible Employees who work less than thirty-five (35) hours per week receive pro-rated holidays to the number of hours per week that they work. If a recognized holiday falls during an eligible employee's regular shift, holiday pay will be provided.

Mercy will grant paid holiday benefits to Eligible Employees on the holidays listed below:

- * New Year's Day (January 1)
- * Martin Luther King, Jr. Day (third Monday in January)
- * Memorial Day (last Monday in May)
- * Friday before Memorial Day
- * Juneteenth (June 19)
- * Independence Day (July 4)
- * Labor Day (first Monday in September)
- * Thanksgiving (fourth Thursday in November)
- * Day after Thanksgiving
- * Christmas Week (December 24 through January 1)

J. Summer Days Pay

Mercy University will provide paid summer days off to Eligible Employees who work at least thirty-five (35) hours per week for 1,260 hours or thirty-six (36) weeks per year.

- Eligible Employees hired prior to September 1, 2008, will be eligible to take seven (7) Summer Days between May 1st and Labor Day as approved by their supervisor and consistent with business needs.

- Eligible Employees who are hired on or after September 1, 2008, will be eligible to take "Summer Days Off" as outlined in the schedule below:

The Friday before Memorial Day* and

- After 1 full year of service: 1 day off
- After 2 full years of service: 2 days off
- After 3 full years of service: 3 days off
- After 4 full years of service: 4 days off (maximum)

*The Friday before Memorial Day is considered a holiday for non-UAW employees, but is categorized as a Summer Day under the UAW CBA. Regardless of the categorization, it is treated as a Holiday for payroll purposes and does not count against earned Summer Days.

K. Pay for Work During Inclement Weather or Emergencies

Eligible Employees shall receive regular pay for days in which the University provides official notice of closure of the particular campus for which an employee is assigned, due to inclement weather or another emergency or dangerous situation. Essential employees, as defined under the University's Human Resources Policy, may be required to work on such days. It is expected that all other (non-essential) employees will, to the greatest extent possible, work remotely in an effort to carry on University business as usual during such days. Employees are expected to bring their Mercy-provided laptops to and from home every day in the event of a campus closure. Employees who are unable to work due to childcare or other personal reasons can take a vacation or personal day.

L. Jury Duty Pay

Eligible Employees receive regular pay for days during which they serve on jury duty, including but not limited to state and federal jury duty, and state and federal grand jury duty. The University reserves the right to review any notices provided to appear for jury duty. Part-time employees are paid for jury duty on a pro-rated basis.

M. PTO to Vote

All employees are eligible for the following PTO:

1. If a University employee is a registered voter and does not have sufficient time outside of their scheduled working hours within which to vote on any day at which they may vote, at any election, the employee may, without loss of pay for up to two (2) hours, take off so much working time as will, when added to their voting time outside their working hours, enable the employee to vote.

2. If an employee has four (4) consecutive hours either between the opening of the polls and the beginning of his or her working shift, or between the end of his or her working shift and the closing of the polls, they shall be deemed to have sufficient time outside his or her working hours within which to vote. If they have less than four (4) consecutive hours they may take off so much working time as will, when added to their voting time outside their working hours enable him or her to vote, but not more than two (2) hours of which shall be without loss of pay, provided that he or she shall be allowed time off for voting only at the beginning or end of his or her working shift, as the employer may designate, unless otherwise mutually agreed.

III. LEAVE OF ABSENCE PURSUANT TO NEW YORK STATE PAID FAMILY LEAVE (“PAID FAMILY LEAVE”)

Mercy University provides job-protected paid family leave to employees in accordance with the New York Paid Family Leave Law and applicable regulations, and the terms and conditions of this Policy. This Policy sets forth the eligibility requirements for leave, the conditions for using leave, the process for requesting leave, etc., as well as how Paid Family Leave interplays with FMLA, Disability and other University leaves.

A. Eligibility

Employees are eligible to receive Paid Family Leave benefits based on meeting the following criteria:

1. Employees who have a regular work schedule of 20 or more hours per week and have been employed at least 26 consecutive weeks prior to the date paid family leave begins, or
2. Employees who have a regular work schedule of less than 20 hours per week and have worked at least 175 days prior to the date Paid Family Leave begins are eligible for Paid Family Leave.

Employees are eligible for Paid Family Leave regardless of citizenship and/or immigration status.

B. Entitlement

- Paid Family Leave is available to eligible employees for up to twelve (12) weeks at 67% of the employee’s average salary or 67% of the state average weekly wage, whichever is less.
- Employees may elect to supplement Paid Family Leave benefits up to their full salary with any accrued paid sick and vacation leave available to them, to the maximum extent permitted by applicable law.

C. Qualifying Reasons for Paid Family Leave

Paid Family Leave may be taken within any fifty-two (52)-consecutive week period for any of the following reasons:

1. To participate in providing care, including physical or psychological care, for the employee's family member (child, stepchild, spouse, domestic partner, parent, stepparent, parent-in-law, grandchild or grandparent) with a *serious health condition; or
2. To bond with the employee's child during the first twelve months after the child's birth, adoption or foster care placement (see Section F below for interplay with FMLA); or
- L. For qualifying exigencies, as interpreted by the Family and Medical Leave Act (FMLA), arising out of the fact that the employee's spouse, domestic partner, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States. The 52-consecutive week period is determined retroactively with respect to each day for which Paid Family Leave benefits are currently being claimed.

*A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

1. In-patient care in a hospital, hospice or residential health care facility; or
2. Continuing treatment or continuing supervision by a health care provider.

For the purpose of this section, "providing care" may include necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters and personal attendant services.

The employee must be in close and continuing proximity to the care recipient. This means present at the same location as the family member during the majority of the employment period from which leave has been taken. Travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care, satisfy this requirement.

D. Payroll Deductions and Waivers

Paid Family Leave benefits are financed solely through employee contributions via payroll deductions for non-union employees.²

An employee has the option to file a waiver of Paid Family Leave and therefore not be subject to deductions when his or her regular employment is:

1. Twenty (20) or more hours per week but the employee will not work 26 consecutive weeks;
or
2. Less than twenty (20) hours per week and the employee will not work 175 days in a 52 consecutive week period.

E. Use of Leave

Employees do not need to use this leave entitlement in one block. Leave can be taken intermittently but must be in daily increments. Leave taken on an intermittent basis will not result in a reduction of the total amount of leave to which an employee is entitled beyond the amount of leave actually taken.

F. Paid Family Leave Interplay with Short-Term Disability Leave and FMLA

1. Disability Leave

An employee who is eligible for both statutory short-term disability benefits (“DL”) (set forth in Section IV below) and Paid Family Leave during the same period of fifty-two (52)-consecutive calendar weeks may not receive more than twenty-six (26) total weeks of DL and Paid Family Leave benefits during that period of time. In addition, DL and Paid Family Leave benefits may not be used concurrently.

If an employee is unable to work and qualifies for workers’ compensation benefits, the employee may not use Paid Family Leave benefits at the same time the employee is receiving workers’ compensation benefits. An employee receiving reduced earnings may be eligible for Paid Family Leave. See the Office of Human Resources for more details.

2. FMLA

The University will require an employee who is entitled to leave under both the FMLA and Paid Family Leave, to take Paid Family Leave concurrently with any leave taken pursuant to the FMLA. When the total hours taken for FMLA in less than full-day increments reach the number of hours

² Union employees should refer to the Collective Bargaining Agreement.

in an employee's usual workday, the University may deduct one (1) day of Paid Family Leave from an employee's annual available Paid Family Leave.

Please note that for mothers after childbirth, the first six (6) (or eight (8) weeks for a caesarean section) is deemed to be a disability under NY Law. An employee can take DL and FMLA during that period or can opt to take FMLA and Paid Family Leave.

G. Leave Not Covered Under Paid Family Leave

Leave *may not* be taken for any one of or for a combination of the following reasons:

1. For a birth mother's pregnancy or prenatal conditions;
2. For an employee's own health condition; and/or;
3. For an employee's own qualifying military event.

These conditions are eligible for coverage under FMLA (and 1 and 2 could be covered under Disability Leave).

H. Requests for Paid Family Leave

Employees must provide thirty (30) days' advance notice before the date leave is to begin if the qualifying event is foreseeable. When thirty (30) days' notice is not practicable for reasons such as lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide notice as soon as practicable and generally must comply with the University's normal call-in procedures. Failure by the employee to provide thirty (30) days' advance notice of a foreseeable event may result in partial denial of the employee's benefits for a period of up to thirty (30) days from the date notice is provided.

Employees must provide sufficient information to make the University aware of the qualifying event and the anticipated timing and duration of the leave. Employees must specifically identify the type of family leave requested. Employees also must provide medical certifications and periodic recertification or other supporting documentation or certifications supporting the need for leave.

Employees requesting paid family leave must submit a completed Request for Paid Family Leave or Paid Family Leave-1 form and additional certification form(s) as follows to the carrier: (1) Bonding Certification: Paid Family Leave-2 Form plus documentation; (2) Health Care Provider Certification: Paid Family Leave-4 Form plus Personal Health Information (PHI) Release (Paid Family Leave-3 Form); or (3) Military Qualifying Event: Paid Family Leave-5 Form plus

documentation. To obtain the Paid Family Leave claim forms, employees must contact the University's Paid Family Leave Carrier, The Hartford, at 888-277-4767. Please note, for telephonic intake, these forms may not be required. Mercy University's NY DBL and Paid Family Leave Policy number is 864979.

I. Job Protection and Benefits

During any Paid Family Leave taken pursuant to this policy, the University will maintain coverage under any existing group health insurance benefits plan as if the employee had continued to work. The employee must make arrangements with Human Resources prior to taking leave to pay their portion of any applicable health insurance premiums each month.

The University's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than thirty (30) days late. If an employee's payment is more than 15 days late, the University will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date.

Employees who exercise their right to Paid Family Leave will receive job protection. This means that upon the expiration of that leave, the employee will be entitled to be restored to the position held by the employee when the leave commenced, or to a comparable position with comparable benefits, pay, and other terms and conditions of employment. The taking of leave covered by Paid Family Leave will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced. While on Paid Family Leave, employees will continue to accrue sick or vacation time.

J. Questions and/or Complaints about Paid Family Leave

If you have questions regarding this Paid Family Leave policy, please contact the Office of Human Resources. For additional information concerning leave entitlements and obligations that might arise when Paid Family Leave is either not available or exhausted, please consult the University's other leave policies or contact the Office of Human Resources. The University is committed to complying with the Paid Family Leave and shall interpret and apply this policy in a manner consistent with the Paid Family Leave. Employees who disagree with a denial of their claim for Paid Family Leave may submit their dispute to arbitration. Employees will be provided with information about how to request arbitration.

Employees are protected from discrimination and retaliation for requesting or taking Paid Family Leave. If employees believe their rights have been violated and/or denied job restoration as a result of requesting and/or taking Paid Family Leave, they must send the Office of Human Resources a formal request for job reinstatement using the *Formal Request For Reinstatement Regarding Paid Family Leave (Form Paid Family Leave-DC-19)*, which can be found in the forms section of

<https://www.ny.gov/PaidFamilyLeave>. Employees must file the completed form with the University and send a copy to: Paid Family Leave, P.O. Box 9030, Endicott, NY 13761-9030. If the University does not comply with an employee's request for reinstatement within 30 days, the employee may file a Paid Family Leave discrimination complaint with the Workers' Compensation Board using the *Paid Family Leave Discrimination Complaint (Form Paid Family Leave-DC-120)*, which is also available on the New York Paid Family Leave website. Once an employee's complaint is received, the Board will assemble the employee's case and schedule a preliminary hearing in front of a Workers' Compensation Law Judge.

IV. FAMILY MEDICAL LEAVE ACT (FMLA) LEAVE OF ABSENCE

The Family Medical Leave Act (FMLA) entitles eligible employees 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 the leave.

A. Eligibility

FMLA leave is available to "eligible employees" as defined by law. To be eligible, an employee must have:

1. Been employed by the University for at least twelve (12) months (which need not be consecutive); and
2. Worked for at least 1,250 hours during the 12-month period immediately preceding the requested commencement of the leave. Note: Only periods of actual work time count toward the determination of whether the employee has worked at least 1,250 hours during the preceding twelve months; periods of unpaid or paid leave, holidays, sick, etc. are excluded.

B. Leave Entitlement

Employees who are eligible are provided with up to twelve (12) weeks of unpaid job-protected leave during the designated leave year for anyone, or for a combination, of the following "qualifying reasons":

1. The birth of a child and to care for the newborn within one year of birth,
2. The placement for adoption or foster care;
3. To care for the employee's spouse, son, daughter, or parent (excluding in-laws) who has a serious health condition, including any period of incapacity due to pregnancy and for prenatal medical care;

4. For employee's own serious health condition (including any period of incapacity due to pregnancy and for prenatal medical care) that makes the employee unable to perform one or more essential functions of the employee's job; and/or
5. Up to 26 weeks of leave during a single 12-month period to care for a child, parent or next of kin who is a covered service-member. Leave to care for a covered service-member is only available during a single 12-month period and, when combined with other FMLA-qualifying leave, may not exceed 26-weeks during the single 12-month period. The single 12-month period begins on the first day an eligible employee takes leave to care for the injured service-member.

The employee's FMLA 1-week leave period entitlement will commence anew from the subsequent period of leave taken, provided that the eligibility requirements are fulfilled (the "designated leave year").

Entitlement to FMLA leave for the birth of an employee's child expires at the end of the 12-month period beginning on the date of the birth.

Please refer also to Section IV below regarding eligibility for New York State Paid Family Leave (Paid Family Leave), and the interplay between FMLA, Paid Family Leave and Disability Leave (DL) entitlements.

C. Definitions

- **"Serious health condition"** is an illness, injury, impairment, or 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 calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.
- **"Qualifying exigencies"** may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, caring for the parents of the military member on covered active duty and attending post-deployment reintegration briefings.

- **“Covered service-member”** is 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 on the temporary disability retired list, for a serious injury or illness. These individuals are referred to in this policy as “current members of the Armed Forces.” Covered service-members also include a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and who was discharged or released from military service, under condition other than dishonorable, at any time during the five (5) years before the employee takes injured service-member leave to care for the veteran. These individuals are referred to in this policy as “covered veterans.”
- Note: The FMLA definitions of a “serious injury or illness” for current Armed Forces members and covered veterans are distinct from the FMLA definition of a “serious health condition” applicable to FMLA leave to care for a covered family member.

D. Use of Leave

FMLA leave is usually taken for a period of consecutive days, weeks or months. However, an employee does not need to use this leave entitlement in one block. Leave for any purpose can be taken intermittently or on a reduced leave schedule. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer’s operations.

When spouses are both employed by the University and eligible for FMLA leave, they will be limited to a combined total of twelve (12) weeks of leave during any twelve (12)-month period if the leave is taken for the birth of the employee’s child or to care for the child after birth, for the placement of a child with the employee for adoption of foster care or to care for the child after placement, or to care for the employee’s parent with a serious health condition.

Employees will be required to use all accrued unused sick, personal and vacation days in that order during the leave period. Once such benefits are exhausted, the balance of the leave will be without pay. FMLA leave runs concurrently with Short Term Disability Benefits and New York State Paid Family Leave if applicable, and with certain exceptions. See Section IV.E. regarding the interplay of these leaves.

E. Employee Responsibilities

Employees must provide thirty (30) days’ advance notice to The Hartford of the need to take FMLA leave when the need is foreseeable. When thirty (30) days’ notice is not possible, the employee must provide notice as soon as practicable meaning within the same day or next business

day of when the need for leave becomes known to the employee, taking into account all of the facts and circumstances.

To apply for FMLA leave, the employee must have the healthcare provider complete *The FMLA Leave Certification of Healthcare Provider for Family Member's Serious Health Condition* or *The FMLA Leave Certification of Healthcare Provider for Employee's Serious Health Condition*, and must be submitted to the carrier (The Hartford) for processing. The applicant will be provided with the *FMLA Leave Notice of Rights and Responsibilities* at the time the application form is given to the employee.

Although employees do not have to share a medical diagnosis, employees must provide sufficient information to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave.

If the certification is deemed insufficient or incomplete, the employee will be notified in writing of what information is lacking and have seven (7) business days to provide the information.

Employees also must inform the University if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave. If the employer determines that the certification is incomplete, it must provide a written notice indicating what additional information is required.

If the employee is eligible for FMLA, she/he must inform her director supervisor of what the leave schedule will be as soon as practicable. The employee is not required to explain what the leave is for or to provide any medical diagnosis or paperwork to her/his supervisor.

F. University Responsibilities

The University is required to inform employees requesting leave whether they are eligible under FMLA within five (5) business days of submitting the application, and this is done by a carrier on the University's behalf. If they are eligible, the University must provide the employee with a notice specifying any additional information required as well as the employees' rights and responsibilities under the FMLA. If they are not eligible, the University must provide a reason for ineligibility.

G. Benefits and Protections

During FMLA leave, the University shall maintain the employee's health insurance coverage as if the employee had continued to work. The employee must continue to pay for his/her contributions (via payroll if still receiving a salary, or by making arrangements for payment if on unpaid leave).

All Mercy University benefits that operate on an accrual basis (e.g. sick, personal and vacation) will accrue during the leave period as long as the employee is receiving a salary but will cease to accrue when the leave becomes unpaid. Where an employee has exhausted all leave balances and is still on an FMLA leave, he/she may be eligible to receive benefits under Short Term Disability (see Section V. below). If the leave exhausts benefit time and Short-Term Disability benefits, then the employee may qualify for Long Term Disability benefits (see section VII. below).

Upon return from FMLA leave, subject to some exceptions, including situations where job restoration of "key employees" will cause the University substantial and grievous economic injury, the employee will have a right to return to or be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms and conditions. The University will notify employees if they qualify as "key employees" and advise them of their rights if it intends to deny reinstatement.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

H. Complaints

FMLA makes it unlawful for the University to:

- Interfere with, restrain or deny the exercise of any right provided under FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Employees may file a complaint internally with the University's Equity Compliance Specialist if they believe they are being discriminated against, or their rights under the FMLA are not being protected. Employees can also file a complaint with the U.S. Department of Labor or may bring a private lawsuit against the University.

FMLA does not affect any Federal or State law prohibiting discrimination or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

V. **SHORT-TERM DISABILITY LEAVE**

Mercy University provides benefits and partial compensation for eligible employees who are unable to work for qualified health reasons unrelated to workers compensation.

Employees typically use accrued health and personal leave (if available) to cover lost wages for the first seven (7) calendar days of a disability-related absence. After the seven (7) calendar day waiting period, employees receive 50% of their base pay (or \$170—the lesser amount) for the time they are medically approved as disabled from work, up to a maximum of 26 weeks in any 52 week period (or approximately six (6) months) and they are entitled to the same position or substantially the same position as when they went out on the leave.

Eligible employees may use accrued sick leave, personal leave and/or vacation time to supplement the other 50% pay. The employee will also receive holiday pay for any holiday that falls during a period of approved disability.

Employees may choose to use these days together or return to work up to half-time and receive 50% pay for the time not worked with agreement from the employee, his/her physician, the employee's supervisor, and the Office of Human Resources. Leave accruals may still be used to supplement this partial disability time. If an employee exhausts all of his/her DL benefits, he/she may be approved for long-term disability.

As noted above, however, Short-Term Disability Leave and Paid Family Leave benefits may not be used concurrently.

A. **Eligibility**

To be eligible for this benefit, employees must:

1. Be employed for at least four (4) consecutive weeks by the University or worked four (4) or more consecutive weeks elsewhere in New York and be re-employed with the University within four (4) weeks from the last day previously worked in New York.
2. Be absent from work for seven (7) consecutive calendar days.
3. Provide proper medical certification of disability from a licensed New York medical provider, both at the start of disability, and via periodic medical certification if the absence from work is lengthy. The University may seek independent medical verification of your disability as a condition of continuing your benefits.
4. Be a Regular full-time or Regular part-time University employee.

5. Not perform work for remuneration or profit elsewhere when the employee is disabled and receiving benefits from the University. Any outside employment requires the express written authorization from Mercy.
6. Part-time, non-benefits eligible employees (such as adjuncts) must meet the same criteria as above and the benefit is limited to the weekly rate as per current New York law.

B. Requests

Employees should first speak with their supervisor and the Office of Human Resources. Requests shall be made as follows:

1. Provide written notification: It is the employee's responsibility to present written notification to his/her supervisor certifying the employee is able to return to work after an absence of five (5) consecutive working days or more. Employees who cannot produce such notification cannot be allowed to return to work.
2. Complete the DB-450 form: If an employee is absent for more than seven (7) calendar days, he/she must have a DB-450 form completed by his/her doctor. If the employee sees more than one physician, a DB-450 must be filed for each doctor he/she sees during the period of disability. The carrier, who administers the leave, will send the employee this form automatically. The carrier treats this information confidentially. Under no circumstances will this information be released to the employee's department.
3. Submit all other forms: Claim forms and information will be sent to the employee's home. It is his/her responsibility to promptly complete and submit all forms received from the carrier. The employee is required to provide continuing medical reports of the disability when required by the carrier.
4. Returning: Once the disability has ended, the employee must be medically certified to return to his/her job. This will require the employee to present a medical note from his/her physician to the Office of Human Resources that the employee is able to resume their job. This note must be presented either before the employee returns or on the day of his/her return. The University may seek independent medical verification of the employee's ability to return to work.
5. If the employee becomes disabled as a result of the same illness or accident within three months of their return to work, disability benefits under this program will begin immediately.

VI. WORKERS' COMPENSATION

The University's Workers' Compensation program provides payments for medical treatment and wages lost as a result of a work-related illness or injury. All Employees are covered by Workers' Compensation.

A. Eligibility

If a physician considers an employee "disabled," the employee will continue to receive his/her regular salary during the first thirteen (13) weeks of disability. However, state law requires a seven (7) calendar day waiting period before workers' compensation goes into effect. During this waiting period, the employees' accumulated sick leave can be used. If he/she has no accumulated sick leave, he/she may use vacation time to assure continuation of full salary during this time. If the disability exceeds fourteen (14) calendar days, the sick leave or vacation time used during the first week will be returned to the employee.

A benefit-eligible employee's position, or an equivalent, is held for a combined total of twenty-six (26) weeks of any medical leave (182 days) during any twelve (12)-month period. If the employee returns to full duty within this 26-week period, he/she is entitled to his/her job upon returning to work. Once this twenty-six (26)-week period has elapsed, the employee's department is no longer required to hold the employee's position, and it may be filled at the department's discretion.

Workers' Compensation has no limit on how long an employee receives a benefit. Therefore, the employee may receive Workers' Compensation for the first six months of leave, and then, if approved, long-term disability will begin. If you continue to receive Workers' Compensation after LTD begins, the monthly benefit you receive from the LTD plan is reduced by the amount you are receiving in Workers' Compensation benefits.

B. Filing a Claim

If an employee experiences a work-related illness or work injury, he/she must notify their immediate supervisor as soon as possible, but within thirty (30) days. To file a claim for benefits, complete an Accident Report Form paying particular attention to the nature of the injury, lost work time, and medical treatment administered. The report can be made by visiting the State Insurance Fund webpage at www.nysif.com and click on "Report an Injury".

C. Returning to Work

Once the disability has ended, the employee must be medically certified to return to the job. This will require the employee to present a medical note from his/her physician to the Office of Human Resources to resume their job. This note must be presented either before the employee returns or on the day the employee returns. The University may seek independent medical verification of the employee's ability to return to work.

VII. LONG-TERM DISABILITY LEAVE

The University's Long-Term Disability Plan (administered by an outsourced carrier) provides an important financial safety net to eligible employees unable to work because of debilitating illness or injury. Employees are enrolled in long-term disability coverage automatically.

Long-Term Disability benefits continue as long as the employee remains disabled or until the maximum benefit period has been reached at their social security normal retirement age. For employees who are age sixty (60) or over at the time the disability begins, the maximum benefit period is the later of the employee's social security normal retirement age or five (5) years from the date the employee became disabled.

The Long-Term Disability plan pays a monthly benefit equal to 60% of the employees' regular monthly income at the time of disability and up to a maximum monthly benefit of \$1,500. The paid benefit is reduced by any amount of money the employee receives from the following:

- Workers' compensation
- Federal social security disability
- Retirement
- No-fault auto insurance lost wage benefits
- Employer salary continuation

VIII. OTHER LEAVES PURSUANT TO NEW YORK STATE, NEW YORK CITY AND WESTCHESTER COUNTY LAWS

A. Public Health Emergencies

Westchester County Local Law No. 10623-2018 and New York City Law A.C. Title 20, Chapter 8, permit employees who work more than eighty (80) hours in a calendar year to use up to fifty-six (56) hours per year of paid sick time for an employee (which time runs concurrent with paid sick leave in Section II above) in the following circumstances:

1. An employee's place of business, or child's day care, elementary or secondary school is closed due to a public health emergency; or
2. A public health authority determines the presence of an employee or family member in the community may jeopardize others' health because of the individual's exposure to a communicable disease, whether or not the individual has actually contracted the communicable disease.

B. COVID-19 Paid Sick and Vaccination Leave

1. Quarantine Leave

Under current New York State legislation, employees shall be provided with at least fourteen (14) days of paid sick leave while they or their minor dependent child are on a mandatory or precautionary order of quarantine or isolation³ issued by the State of New York, department of health, local board of health, or any governmental entity duly authorized to issue such order due to COVID-19. Conditions and further guidance relating to COVID-19 leave can be found on the New York State website: <https://paidfamilyleave.ny.gov/COVID19>. It should be noted that according to the Centers for Disease Control, quarantining for 5 days is no longer required for those who have COVID-19. As such, it is likely that such leave may not be necessitated.

2. NYS Vaccination Leave

Under New York State law, Mercy University employees are entitled to up to four hours of excused leave to receive the COVID-19 vaccination. Four hours is granted per injection, that will not be charged against any other leave the employee has earned or accrued. Additionally, Mercy University may use other accrued sick time in the event that they experience side-effects from the COVID-19 vaccine.

C. Blood Donation Leave

Employees who work on average twenty (20) hours or more per week are permitted the following unpaid leave (or paid personal or vacation time if accrued) under New York State Labor Law §202-j:

- Three (3) hours of leave in any 12-month period to donate blood off of the employer's premises, or
- To donate blood during work hours at least twice each year at a convenient time and place set by the employer, which includes at a blood drive at the employee's place of employment.

1. Notice

Employees are required to provide notice of their intent to take blood donation leave:

³ **Isolation**: is required when there is a confirmed infection, from of those who are not sick.

Quarantine: is required for individuals who, though not showing signs of the illness yet, have been exposed and need to see if they become sick.

- Three days in advance if the leave is for off-premises blood donation, or
- Two days in advance if the leave is for blood donation at a convenient time and place set by the employer.

In the case of an emergency where an employee needs to donate blood for their own surgery or the surgery of a family member, the University must provide reasonable accommodations for a shorter notice period.

2. Certification – If an employee donates blood off premises, the University may require the employee to provide proof of blood donation.
3. Employee Rights – Leave for blood donation off of the University’s premises is unpaid, or the employee can use personal or vacation time. If the employee donates blood during work hours on the University’s premises, the time is paid.

D. Bone Marrow Donation Leave

Under New York State Labor Law §202-a, employees who work on average twenty (20) hours or more per week may take unpaid leave (or paid personal or vacation time if accrued) in order to donate bone marrow as well as to recover from the procedure and for resulting medical care. The University may ask for medical documentation detailing the purpose and length of the requested bone marrow leave. An employee should provide at least twenty-four (24) hours’ notice to an employer of a scheduled bone marrow donation and, in the case of an unscheduled bone marrow donation, as soon as possible upon receiving the request for donation.

E. Crime Victims Leave

Under New York State Penal Law § 215.14, employees who are victims of a crime or who are subpoenaed as a witness in a criminal proceeding are eligible for unpaid leave (or paid personal or vacation time if accrued).

1. Victims include:
 - The aggrieved party;
 - The aggrieved party’s next of kin, if the aggrieved party died because of the crime.
 - The victim’s representative (for example, an attorney, guardian or parent of a minor);
 - Good Samaritans; or
 - Any person applying for or seeking to enforce an order of protection under the criminal procedure law or the family court act.
2. Employees are eligible for leave to:
 - Appear as witnesses;

- Consult with the district attorney; or
- Exercise other rights under the law.

3. Notice

Employees who are crime victims or subpoenaed as a witness at a criminal proceeding must provide at least one day of notice to their employer before taking the leave.

4. Certification

The University may request proof that the employee attended or testified at a criminal proceeding.

F. Military Service Leave

Under New York State Military Law § 317, all non-temporary employees may be entitled to reemployment following military service.

1. Valid Leave Reasons – Employees are entitled to leave in order to fulfill their obligations to the armed forces, National Guard and military reserves. This includes participation in drills and other equivalent training, reserve training, instruction, annual full-time training duty, active duty for training or other annual training.
2. Certification – In order to obtain reemployment, the employee must provide a certificate of completion of military service executed by an officer of the applicable force of the organized militia. The employee must also still be qualified to perform the duties of their position and timely apply for reemployment.

3. Employee Rights – Employees must be reemployed, unless they were temporary employees, if, upon completion of military service the employee: (1) receives a certificate of completion of military service duly executed by an officer of the applicable force of the armed forces of the United States or by an officer of the applicable force of the organized militia; (2) is still qualified for the duties of the position; and (3) applies for reinstatement within the appropriate time frame. However, the University need not reemploy the employee if the University's circumstances have so changed that it would be impossible or unreasonable to reinstate the employee.

Upon reemployment, the employee must be: (1) restored to their previous position or a position of similar seniority, status and pay; (2) restored to employment without any loss of seniority; (3) entitled to participate in insurance or other benefits offered by the employer pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time such person entered the military service; and (4) protected from discharge, other than for cause, for one year after reemployment.

G. Military Spouse Leave

Under New York Labor Law §202-i, an employee who works on average 20 hours or more is entitled to take up to ten (10) days unpaid leave (or paid personal or vacation time if accrued) without advance notice or certification if he/she is the spouse of a member of the armed forces of the United States, the National Guard or military reserves who has been deployed during a period of military conflict to a combat theater or combat zone.

H. Non-Retaliation Under all Leave Laws

Mercy University is not permitted to engage in retaliation or threaten retaliation against an employee for exercising or attempting to exercise any right, or for filing a complaint or participating in an investigation, regarding their rights under any of the laws contained in this Policy.