


Understanding and Managing Leave

Presented by
Human Resource Services


Rev. September 2016



Objectives

By the end of this training you should be able to:

- Understand and navigate your role in the medical leave and Reasonable Accommodation processes, as a supervisor.
- Identify and avoid potential pitfalls regarding the process.



Medical Leave and Reasonable Accommodation


Governed by

Federal Law

State Law (RCW)

Rules(WAC/Collective Bargaining Agreements)

University Policy
AP Handbook / Faculty Manual



Leave Provisions Available

- Family Medical Leave.
- Extended Leave as RA.
- Family Care Leave.
- Disability Leave.
- Military Family Leave.
- Parental Leave.
- Domestic Violence Leave.

Leave Types Available

- Annual Leave.
- Sick Leave.
- Leave Without Pay (LWOP).
- Compensatory Time.
- Personal Holiday.
- Shared Leave*.



Family Medical Leave

Federal Provision

- Job protected leave.
- FML does not protect against budget impacts, performance management, or layoff.
- Benefits protected leave.
- Employee maintains employer paid benefits, granted the employee continues to pay the premiums that are normally collected.




Family Medical Leave Eligible Employees

HRS determines eligibility based on if the employee has worked for the State of Washington

- for at least 12 months.
- for at least 1,250 hours during the 12 month period immediately preceding the request for FML.



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Family Medical Leave

- 12 weeks/480 hours of leave, in a rolling 12 month period, for an eligible full-time employee for qualifying event.
- 26 weeks for care of military family member.

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Family Medical Leave Qualifying Events

- Employee’s serious health condition.
- Birth, adoption, or placement of a child (Parental Leave).
- Care for a qualifying family member (child, parent, spouse) with a serious health condition.

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Family Medical Leave Qualifying Events (cont.)

- Care for a qualifying family member recovering from a serious health condition sustained in the line of duty.
- Exigency Leave for employee whose qualifying family member has been called to active duty.

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Family Medical Leave

- Employee chooses how to use leave.
- Leave can be for a block of time, reduced work schedule, or used intermittently.
- 12 month period starts first day leave used and runs for next 12 months.
- **All based on supporting medical documentation.**




Disability Leave
University Provision



- Allows non-FML eligible employees, who need full-time leave for their own condition, up to total of four months.
- Allows for an additional month of insurance benefits beyond FML period when an employee is out full time.
 - Must be in minimum eight hours paid status in additional month. (Normally first working day).




Medical Leave Requests

Your responsibility as a supervisor is to:

- Identify the request, or potential need, for medical leave.
- Some examples of things employees might say, that would trigger you to refer them to HRS are:
 - I need to be out every now and then for my medical condition.
 - I'm having a baby.
 - I am going to need surgery.





**Medical Leave
Other Notice Triggers**

Other Medical leave needs triggers


- Employee calls out for over three days.
- Employee was hospitalized.
- Consistent use of sick leave.
- Suspicious use of sick leave.

BPPM 60.56, 60.57






Leave Example

General leave provision progression of full-time, medical leave for Administrative Professional (AP), Faculty, and Classified Staff (CS)*




Pay, Benefits, Workers' Compensation






Leave Example

General leave provision progression of long term intermittent medical leave for AP, Faculty, and CS with FML case for an ongoing/chronic condition



Up to 12 Months, then re-certify if needed



Notice: Medical Leave Request

Dear Department:

Human Resource Services (HRS) has received medical documentation related to your employee's leave status.

Employee's Name: John Smith
 Employee's ID #: 12345678
 Department: Human Resource Services
 Start Date: October 21, 2016
 Return to Work Date: November 1, 2016
 Leave Status: Family Medical Leave approved

Time/Leave Report Coordination:

- Based upon a review of Payroll System records, it appears the employee has worked **more than 1200** hours (total work hours) in the last 12 months. If this is NOT the case please contact me as soon as possible.
- Send copies of time/leave reports to HRS for the duration of the employee's leave.
- If the employee is on Leave Without Pay (LWOP), time/leave reports must be turned in bi-monthly, once prior to the 15th and again prior to the 30th (see the [Payroll Services website](#) under **Dept/Pay/Leave** and then the appropriate **Payroll Document Schedule** for applicable payroll cut-off dates). For assistance with coordination or questions, please feel free to contact Payroll Services at 509-335-9575.

Supervisor:

- During approved FML, an employee can use their accrued leave however they like. It is an employee's responsibility to communicate to their department how they would like to use their accrued leave during their leave period. Your employee has indicated they would like to use their leave in the following way:
- Please ensure the time your employee takes off is identified as FML in the "Comments" section of their monthly leave report. HRS will use this information to track the number of hours used towards the 480 hours they are entitled to under FML.

Please forward a copy of this email to applicable departmental personnel, including those that work with time/leave reports for your department, if not c.c. it above.

Notice: Medical Leave Request

Dear Department:

Human Resource Services (HRS) has received updated medical documentation which states John Smith is released to return to work effective November 16, 2016, with the following limitations until December 1, 2016, when released without restriction:

- Wear ankle brace
- Walk Frequently (3--6 hours)

These are the only limitations

Based upon a review of the employee's position description, it appears these limitations may or may not be job-impacting. Please contact HRS as soon as possible but no later than **DATE** regarding what, if any, work is available within the employee's normal job duties based upon these limitations, and for what duration. HRS will assume there is full-time work available within the employee's normal job duties if no response is received. **OR Please contact HRS as soon as possible if these limitations become job-impacting.**

Please send copies of time/leave reports to HRS for the entire duration of the employee's leave. HRS cannot complete the processing of this employee's medical leave until all applicable time/leave reports have been received.

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Leave Case Study

- Employee on intermittent FML for four hours per week, for five months.
- Department noticed employee was consistently out of the office two to three full days per week. Notifies HRS two months in to leave.
- HRS DS reviews time/leave reports and contacts employee to determine
 - Certified FML vs Time Taken.

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Leave Case Study (cont.)

- Of 75 hours of Time Taken, employee identified only 20 hours were related to Certified FML.
- 55 hours were not related to the Certified FML. This leave was considered excessive by the department.
- The department can address performance related to non-FML events.

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Case Study Thoughts

- When an employee calls out, if they do not specifically identify, ask if it is for the approved FML or other needs.
- Approve/Deny non-FML leave per policy.
- Record FML on time/leave reports.
- Contact HRS as soon as you see an issue.

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Leave Takeaways

- Variety of leave provisions available.
- Know when to refer to HRS.
- Refer to HRS.
- Send medical documentation to HRS.
- Keep conversations “private.”
- Be consistent.
- Act timely.
- Continue to manage.

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Workers' Compensation

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Work Related Injury/Illness



- Injury or Occupational Disease
that has a . . .
- Proximate Cause
which occurred during . . .
- Course of Employment

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Workers' Compensation



- Washington State Department of Labor and Industries (L&I).*
- No fault insurance.
- L&I looks towards a quick and dependable remedy.
- Priority is placed upon returning to work in any capacity.

* WSU is not self insured



Benefits of Workers' Compensation

- Approved Medical Care (100%).
- Wage Replacement (60-75%).
- Return-to-Work Assistance.
- Other long term benefits (partial permanent disability, pensions etc.).


Supervisor / Department Responsibilities

- Ensure first-aid and/or medical treatment is provided.
 - If required - Call **911**.
 - Arrange for ride to hospital/doctor as necessary.
- Interview the injured worker and any witnesses ASAP.
- Have WSU Online Incident Report completed within 24 hrs.

Supervisor / Department Responsibilities

- Complete the Supervisor’s Accident Investigation Report if:
 - Medical treatment is sought.
 - Employee is unable to work next full shift.
- Provide initial safety training and periodic safety reviews.
- **Immediately** report accidents which result in death, or serious injury according to policy (SPPM [2.24](#))



Filing a L&I Claim


If an employee chooses to file an L&I claim they do so

1. Through medical provider,
2. Online with L&I, or
3. Over the phone with L&I.

WSU may question the claim validity if:


- Condition is not covered by law.
- Not work related.
- Questionable based on situation or timing, etc.

All L&I paperwork goes through HRS Pullman.





Supervisor / Department Responsibilities

- Alert HRS your employee has called out for more than 3 days due to a medical condition.
- Complete Supervisor’s Investigative Report.
- Limit employee questions to those on report.
- Refer the employee to HRS.
- Employees must follow normal leave processes even if due to a Work Related injury/illness.




Worker's Compensation and Leave

- WSU does not 'keep on salary' when someone is off due to a workplace illness/injury.
- Employee utilizes their own accrued leaves (sick leave, annual leave, etc.) to maintain their WSU pay.
- Unless they are on FMLA, they must have at least 8 hours of pay in a month to maintain benefits.



Return To Work Coordination

- Employers held to higher standard to return injured workers to the workforce.
- HRS Pullman coordinates WSU portion of all claims and works with employees and departments on applicable leave needs.
- Do not change job duties due to illness or injury without HRS consultation.



Return To Work Coordination

Dear Department


Human Resource Services (HRS) has received medical documentation regarding the work-related incident on February 14, 2016, which states Beth Coag is released to perform modified duties, if available, effective October 29, 2016, with the following limitations until December 25, 2016, when released without restriction.

- Lift, carry
 - 10 lbs. Occasionally (0-2.5 hours)
 - 11 to 50 lbs. Seldom (0-1 hour)
- Needs to wear a cast

Based upon a review of the employee's position description, these limitations may be job-impacting. Please contact HRS as soon as possible but no later than **November 1, 2016** if these limitations are job-impacting and there is not full-time work available within the employee's normal job duties due to these limitations. Health care provider approval may be required for any job duties that are outside of the employee's normal duties. HRS will assume there is full-time work available within the employee's normal job duties if no response is received.

Please send copies of time/leave reports to HRS for the entire duration of the employee's leave. HRS cannot complete the processing of this employee's medical leave until all applicable time/leave reports have been received.

NOTE: Duties reviewed are from position descriptions on file with HRS. It is imperative these are accurate.



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Workers' Compensation- Work Limitations

Once notified of limitations from HRS:


- Determine if work is available within the employee's work duties, within the limitations.
- Discuss available work with HRS.
- If there is only part-time work available, HRS will notify the employee and may place them on leave for hours work NOT available.

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Temporary Modified Duties

- If normal job is impacted by limitations, can the job be temporarily modified to accommodate the limitations?
- Examples of Temporary Modified Duties:
 - Part-time/alternate schedule.
 - New duties - same knowledge.
 - Change building or location.
 - Different equipment or work methods.
 - Special projects.
 - Temp/hourly duties.



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L&I Return to Work and Job Analysis

- Job Analysis (JA) is a part of L&I vocational services, to review the details of an employee's job.
- It gathers, evaluates, and records objective data about the job's characteristics.
- Assists in evaluating return to work or other employment possibilities.
- HRS coordinates with supervisor and Vocational Counselor.
- JA may also assist in L&I claim validity determination.

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Supervisor / Department Responsibilities

- Refer the employee to HRS for possible medical leave options.
- Complete WSU Online Incident Report.
 - If exact time of illness/injury unknown, list the date employee reported it to you or the date your employee identifies they sought medical treatment.
- Complete the Supervisor's Accident Investigation Report.




Workers' Compensation Case Study

- An experienced CS employee in a physical job was injured on the job.
- After a period of leave the employee was released to return to modified duty for six weeks, with significant lifting limitations.
- Initially no work was available within the normal job duties
- Two weeks after released, the employee's Lead took leave for two months.



Workers' Compensation Case Study

- The department identified duties, within the limitations, that needed to be performed during the Lead's absence.*
- A Light Duty Job Offer was provided to the employee's health care provider approved the temporary light duty work.
- Employee was able to return to work, providing services needed for the period of limitations.



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Case Study Thoughts

- Consider any duties an employee may be able to perform for the unit.
- Be creative but mindful.
- “100% or not at all” is NOT the answer.
- Temporary work ends when documented limitations end.

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Workers’ Comp Takeaways

- Report and follow-up as necessary
- If concerns regarding facts surrounding incident, contact HRS.
- Refer employee to HRS if needs leave.
- Send medical documentation to HRS.
- Keep conversations “private.”
- Be consistent.
- Act timely.
- Continue to manage.

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Reasonable Accommodation

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Reasonable Accommodations (RA)

- WSU will provide RA for known physical, mental, or sensory limitations of an otherwise qualified individual.
- Condition substantially limits individual's ability to perform the job.
- Employee must be able to perform the essential functions of the position, with or without an accommodation.
- WSU policy - BPPM 60.21.




RA Overview

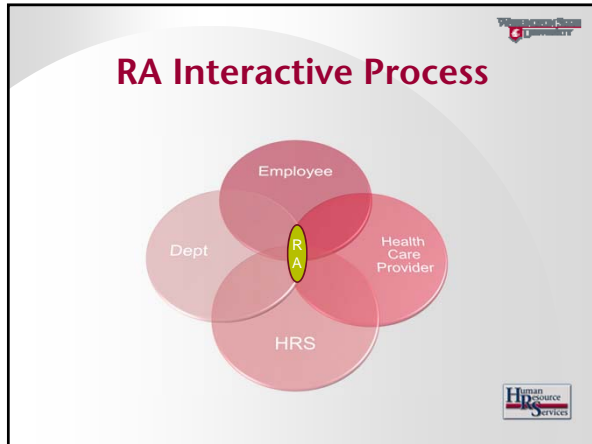
- Modification or adjustment to a job, work environment, policies, practices, or procedures.
- Enabling a qualified individual with a disability.
- Equal employment opportunity.
- Does not impose an undue hardship on the employer.

Not a Qualified Disability

- Non-chronic condition.
- Sprain, broken limb, flu.
- Pregnancy (normally).
- Psychoactive substance use disorders resulting from "current" *illegal* drug use.
- Active alcoholism or abuse.



Process Overview

WSU policies, procedures and practices follow the Equal Employment Opportunity Commission's (EEOC) Best Practices for RA.


- RA Procedures.
- Timelines.
- Documenting and Tracking Requests.
- Ensuring the Confidentiality of Medical Information.
- Denial of RA.


RA Process

Identification - a need for RA is identified, by the employee or by the supervisor and referred to HRS.

Documentation - normally the employee submits medical certification supporting the RA.


Accommodation - Upon receipt of the necessary paperwork, HRS works with the department and the employee to review the request and possible options.






RA Stages – Receipt

1. HRS receives request/documentation.
2. HRS identifies any additional needs, i.e. missing paperwork, unclear medical documentation, duration of need.





RA Stages - Receipt

3. HRS communicates receipt with employee and department.

Dear Mr. Smith:

Human Resource Services (HRS) received an updated Reasonable Accommodation (RA) request regarding, Mr. John Jones.

Limitations:


- Sit, stand (in place), walk: Occasionally (0 – 2.5 hrs.)
- Bend, squat: Occasionally
- Lift, carry:
 - 0 to 10 lbs.: Occasionally
 - 11 to 25 lbs.: Rarely (Once a week or less)
 - 26+ lbs.: Never
- Push/pull:
 - 0 to 25 lbs.: Rarely
 - 26+ lbs.: Never

Request for Reasonable Accommodation from Mr. Jones:

- Assistance with lifting over 10 lbs.

Duration: January 1, 2015 through December 31, 2015.


The medical documentation supplied outlines and supports the employee's request. I will schedule a meeting to discuss the above.



RA Stages - Review

1. In collaboration with department, capabilities and limitations are compared with position description – job duties/functions and departmental needs.
2. HRS contacts and works with other WSU or external partners to review options as needed.

Examples include: EH&S, Capital – space management, interior design, Labor & Industries, vocational rehabilitation counselors, job coaches.



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RA Stages - Decision

If an RA is identified:

1. HRS documents accommodation.
2. Appointing Authority approves the RA.
3. Review date established.

If no RA is identified, including due to Undue Hardship, after full review and vetting process, HRS determines next steps in accordance with federal and state laws and rules and WSU policies.

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Types of Accommodations

- Making existing facilities readily accessible.
- Work space modification or location change.
- Acquiring or modifying equipment or devices.
- Restructuring the job in a manner consistent with the rules.

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Types of Accommodations (cont.)



- Modify work schedules.
- Granting a leave of absence consistent with law.
- Providing the opportunity for reassignment to an open, vacant, recruited for position.

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Extended Leave-RA Examples

- General leave provision progression of full-time leave for AP, Faculty, and CS*:

1 2 3 4 5+
Months

Exhausted In-Job Options

Employer Actions


- Alternative Job Search
 - HRS perform WSU wide search for position employee is qualified for and meets RA.
- Disability Separation
 - WSU action to separate an employee based on inability to accommodate.

Employee Actions

- Disability Retirement.
- Regular Separation or Retirement.


RA Case Study


- An employee was on full-time FML for three months and Disability leave for one month.
- They continued to need two more months of leave. This RA for leave was approved by Appointing Authority.
- The employee released to work with one limitation of no sitting for more than one hour at a time ~permanently.
- Explore possible accommodations based on job duties. Is there a RA need? What if the employee was a...?



RA Case Study (cont.)

- Determined a sit/stand workstation would accommodate.
- Employee provided updated medical listing cognitive limitations and requested to only do one task at a time, to have written instructions, and to work in a distraction free environment.
- Explore possible RA based on job duties. What if the employee worked in front-facing customer service, research, a physically active job.







Department Responsibilities

What to do

- Once you are aware/put on notice that there may be a disability - refer employee to HRS.
- Send medical documentation to HRS.
- Keep conversations "private."
- Be an active, constructive participant in the leave and RA processes.
- Critical vs emotional review of the case.
- **Accommodate through the official RA process only.**






Department Responsibilities

What Not to Do

Do not informally accommodate.
Do not make job changes based on employees information regarding a "medical condition" without engaging HRS.

General Examples*:

- Changing the employee's essential functions. (Over time or even if identified as temporary)
- Providing equipment.
- Moving their office.
- Adjusting their schedule/work structure.



Disability Services Coordination

Interplay between these leaves is complicated.
HRS is here to help you manage the process.

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Resources

- BPPM 60.21 (Reasonable Accommodation).
- BPPM 60.56 and 60.57 (Leave).
- Administrative Handbook.
- Faculty Manual.
- Collective Bargaining Agreements.
- Access Center.
 - Student accommodation issues.
- Office of Equal Opportunity (OEO).
 - EEO/AA compliance.
 - Disability discrimination.
- WSU Accessibility - ADA Coordinator

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Questions

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Disability Services

hrs.wsu.edu/Disability-Services

509-335-4521 or hrs@wsu.edu

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