



## Time and Leave Issues

The **RESEARCH FOUNDATION**, Human Resources Office of the Buffalo State Campus is providing these guidelines to RF sponsored program and administrative employees for guidance in the area of time and leave. The following policies are set forth by the Research Foundation's central office in Albany.

**In general, employees requesting leave under the Research Foundation's general leave policy must:**

- Request leave from their supervisor
- Request vacation and holiday leave in advance.
- Whenever possible *personally* notify their manager within 30 minutes of their scheduled time to begin work when absent on sick leave.
- Request personal leave in advance, except in emergencies.
- Understand that leave cannot be used until **after** it is accrued.

### Vacation Leave

The Research Foundation (RF) recommends that each employee be encouraged to take vacation leave for rest and relaxation during the year if accrued leave is available.

Eligible employees may also use accrued paid time off (PTO) vacation for leave approved and taken under the Family and Medical Leave Act (FMLA).

### Eligibility

Salaried employees appointed at a minimum of .5 full time equivalent (FTE) are eligible to accrue vacation leave unless they are

- within the first six months of their date of hire. Eligible employees will be credited with vacation accruals from their date of hire upon completion of six months service.

### When Accruals Begin

Upon the completion of 6 months of service, salaried employees are credited with vacation accruals from their date of hire.

Employees may **request** to use vacation leave as soon as it is credited. Vacation time is not to be substituted for sick leave if the employee is out of sick leave accruals unless **the request is approved by their supervisor in advance** and the RF HR office is notified. FMLA status must be reviewed for employees who exhaust sick leave.

Prior SUNY full-time service will be recognized when establishing vacation accrual rates if the employee is appointed to the Research Foundation (RF) within 15 days of separation from SUNY. The employee is required to observe the 6-month waiting period for accruals.

## Accrual Rate for Exempt Employees

*Full-time* employees accrue vacation PTO by pay-period, although the timesheets will reflect a monthly amount. The Oracle system calculates leave for exempt employees in days. For example, the month of January 2009 had 3 pay-periods. Vacation accrued at 1.845 days for vacation for an employee that has between 0-24 months of service. Eligible exempt employees must be in pay status (working or on paid leave) for 50% or more work days within the past pay period to accrue vacation leave for that period.

*Part-time* employees accrue vacation leave on a prorated basis according to FTE. For example, if employed at .75 FTE, an employee will accrue at 75% of the full-time rate based on length of service. For example, the month of January 2009 had 3 pay-periods. Vacation accrued at 1.845 days for an employee at 1.0 FTE, but the employee working at .75 FTE accrued 1.38 days.

Use the chart below to figure your accruals for a month with either two or three pay periods.

Vacation Accrual				
Months of Service (Years)	Per Pay Period	2 Pay Periods in a Month	3 Pay Periods in a Month	26 Pay Periods
<b>0 – 24</b> (0 – 2 yrs)	0.615	1.230	1.845	15.99
<b>25 – 36</b> (after 2 yrs)	0.654	1.308	1.962	17.004
<b>37 – 72</b> (3, 4 & 5 yrs)	0.731	1.462	2.193	19.006
<b>73 – 84</b> (6 yrs)	0.808	1.616	2.424	21.008
<b>85 +</b> (7 + yrs)	0.846	1.692	2.538	21.996
Sick Accrual				
Months of Service (Years)	Per Pay Period	2 Pay Periods in a Month	3 Pay Periods in a Month	26 Pay Periods
<b>0 – 24</b> (0 – 2 yrs)	0.577	1.154	1.731	15.002
<b>25 – 36</b> (after 2 yrs)	0.615	1.230	1.845	15.99
<b>37 – 72</b> (3, 4 & 5 yrs)	0.692	1.384	2.076	17.992
<b>73 – 84</b> (6 yrs)	0.769	1.538	2.307	19.994
<b>85 +</b> (7 + yrs)	0.808	1.616	2.424	21.008

When taking time off

8 hrs = 1 day

6 hrs = .75 day

4 hrs = .50 day

2 hrs = .25 day

## Accrual Rate for Nonexempt Employees

Full-time employees accrue vacation PTO for each pay period. Eligible nonexempt employees must be in pay status for 50% or more of the work days during the pay period to accrue vacation leave for that period.

Years of Service	Hours Accrued Per Pay Period (37.5 Hour Workweek)	Hours Accrued Per Pay Period (40 Hour Workweek)
Less than 7	3.75 hours (1/2 day)	4.00 hours (1/2 day)
Seven (7) or more	5.75 hours	6.15 hours (1/2 day)

Additional leave is credited on the employee's Continuous Service Date (CSD), either the date the employee is hired or rehired after a yearlong break in service.

*Part-time* employees accrue vacation leave on a prorated basis according to FTE. For example, an employee employed at .75 FTE will accrue at 75% of the full-time rate based on length of service.

## Maximum Carry-Over

*Full-time* employees may accumulate in excess of 40 vacation days during a calendar year, by combining current accruals with unused past accruals. However, **no more than 40 vacation days may be carried over from calendar year to calendar year.**

*Part-time* employees may accumulate in excess of the full-time equivalent of 40 vacation days during a calendar year, by combining current accruals with unused past accruals. **However, no more than the full-time equivalent of 40 accrued vacation days may be carried over from calendar year to calendar year.**

## Sick Leave

The primary purpose of sick leave is to provide a reasonable measure of protection against loss of income due to illness or disability.

### Other Reasons Sick Leave May Be Taken

In addition to personal illness, paid time off (PTO) may be taken under the following circumstances **with their supervisor's approval:**

*Doctor/Dentist Appointment.* Employees are encouraged to schedule medical appointments during non-working time. However, if necessary, sick leave may be charged.

*Bereavement/Family Illness.* An employee may charge up to fifteen (15) days accrued sick leave per calendar year for a death or illness of an immediate family member. Immediate family is defined as parent, child, spouse, sibling, parent-in-law, grandparent, grandchild or any person with whom the employee makes his/her home.

Eligible employees may also use accrued sick leave for leave approved and taken under the Family and Medical Leave Act (FMLA).

Purpose of Leave Under FMLA	Accrued Leave to be Charged
Birth of a child	Sick must be charged during period of disability; if applicable, then vacation, personal or holiday may be used for the remainder of the leave.
Adoption, Foster Care	Vacation, Personal or Holiday
Care for a Family Member	Family Sick (maximum of 15 days), Vacation, Personal or Holiday
Employee's Serious Health Condition	Sick must be charged until exhausted, then vacation, personal or holiday may be used for the remainder of the disability period
Qualifying Exigency	Vacation, Personal or Holiday
Care for Military Service Member	Family Sick (if applicable, maximum of 15 days), Vacation, Personal or Holiday

Documentation Required from Employees When Returning to Work

An employee *absent on sick leave for five (5) or more consecutive work days* is **required to produce a return to work form filled out by a physician before returning to work.**

**Identifying Patterns of Sick Leave Abuse**

Each project should maintain adequate records for proper control and to identify the reasons for which sick leave is used. This will assist in the identification of patterns that suggest abuse of sick leave. Examples of patterns would be the consistent use of sick leave on Friday afternoons, Monday mornings, the day before or after holiday or vacation leave, and leave use as soon as it is credited resulting in less than a day in the employee sick leave balance. If the supervisor, working in consultation with the RF Human Resources Office determines that such a pattern exists, ***appropriate disciplinary action will be taken.***

**Family and Medical Leave**

**When Leave Under FMLA Should Be Requested**

An employee wishing to take leave under FMLA should give at least 30 days' notice prior to taking leave. If this is not possible, immediate notification is required.

When FMLA applies

If the employee is eligible for leave under FMLA, the leave requested is appropriate under FMLA, and the amount of leave requested is within the limits set by FMLA, the leave request ***must*** be approved by the Human Resources Office. If necessary, employees who have not done so ***must provide a medical certification*** and an application for continuation of benefits.

The approved leave must be administered under the terms and conditions of the Family and Medical Leave Act, as well as, where appropriate, under the Research Foundation's general leave policy and guidelines, and, if appropriate, according to NYS Disability requirements.

### When FMLA does not apply

If the employee is not eligible for FMLA, is requesting leave for a purpose not allowed under FMLA, or has already used all the leave he or she is entitled to under FMLA for the appropriate 12-month period, the Human Resources Office is not required to approve the leave request.

Requests for vacation, sick, holiday, or personal leave may or may not be granted by the supervisor under the Research Foundation's general leave policy, depending on the employee's eligibility and accruals and the needs of the project. Leave under the Research Foundation's general leave policy must have the approval of the employee's supervisor. If leave is granted, it must be administered according to the Research Foundation's general leave policy and guidelines.

## **Holiday Leave**

The Human Resources Office may inform Project Directors and Supervisors of their employees' unused holiday leave accrual balances. Supervisors should not unreasonably withhold use of holiday leave and should encourage employees to use this leave within a reasonable period of time (*i.e.*, within 1 calendar year).

Employees absent on paid leave on a holiday are to charge holiday leave.

An employee who is required to work on a holiday will be granted holiday leave. If employees do not use holiday leave before employment terminates, the holiday leave is lost.

## **Full-Time Employees**

A full-time employee will receive holiday leave for all holidays, regardless of whether the employee is scheduled to work that day or not. The maximum holiday leave credited will be 7.5 hours for a 37.5 hour work week or 8 hours for a 40 hour work week.

A *full-time* employee who takes leave on a holiday will receive a full day's pay.

## **Part-Time Employees**

**A part-time employee receives holiday leave for only those holidays that fall on a day that the employee is regularly scheduled to work or that are designated as floating holidays that fall on a Saturday or a Sunday.** However, if a holiday that falls on a work day is designated as a floating holiday (*e.g.*, election day), the employee must be scheduled to work that day in order to earn the floating holiday.

**Part-time employees must have a work schedule on file with the RF Human Resources Office in order to be eligible for holiday leave.**

**A *part-time* employee who takes leave on a holiday will receive pay for the hours he or she is scheduled to work.** A part-time employee's work schedule should not be arbitrarily changed prior to a Research Foundation holiday to deprive the employee of holiday pay or to provide additional pay inconsistent with the work schedule followed prior to the holiday.

## **Jury Duty**

The Research Foundation (RF) recognizes that jury duty is a civic obligation of all citizens. Research Foundation (RF) employees, who should request jury duty leave from

their supervisor, will receive the necessary time off with full pay to fulfill that obligation. Documentation, such as a jury duty voucher, and advance notice of service are required.

An employee is expected to report to work on days when his/her attendance in court is not required. If an employee is not required to attend a full day in court, the employee is expected to report for work before or after court attendance or charge the time not in court to accrued leave (excluding sick leave).

### **Child Care**

Employees, regardless of sex, are entitled to leave without pay for child care for up to six months immediately following the date of delivery or adoption. Leave cannot extend beyond the period of appointment. The leave period includes the period of medical disability following childbirth.

Leave must be requested in writing. At the employee's request, paid time off (PTO), such as vacation or personal leave, may be charged; however, this leave cannot be used to extend the duration of child care leave. An employee who wishes to return from leave before his or her stated return date must be allowed to do so.

An employee returning from child care leave will be reinstated to his or her former position or appointed to a comparable position dependent upon the availability of work and funds.

### **Disability Leave**

An employee unable to work due to illness or injury who is eligible for benefits under New York State Disability and **who has exhausted sick leave credits** will be placed on **disability leave without pay**.

**An employee may use accrued vacation or personal leave to supplement disability income up to the equivalent of the employee's regular salary.**

An employee returning from disability leave will be reinstated to his or her former position or appointed to a comparable position dependent upon the availability of work and funds.

### **Military Leave**

Effective September 14, 2001, employees who are called to active military duty will be paid for up to 22 work days or 30 calendar days, whichever is greater, during any one calendar year or any continuous period of ordered military service. After this leave is exhausted, employees may use accrued vacation, holiday, or personal leave credit or be put on leave without pay for the period of their military duty. Military leave will be charged to the employee's current project award.

The Fair Labor Standards Act (FLSA) does not allow salary reductions of less than a full workweek for exempt employees who are called to military duty. An exempt employee who has no appropriate leave accruals must be advanced appropriate leave so the absence of less than one week is paid in full.

### **Leave for Spouses**

Effective August 16, 2006, spouses of members of the armed forces who have been deployed during a period of military conflict are allowed to take ten days unpaid leave time when that employee's spouse is on leave from the armed forces. Spousal military leave will run concurrently with all other types of leave available to the employee.

For more information on Military Leave and the FMLA please contact the RF Human Resources Office.

### Reemployment After Service

Under the Uniformed Services Employment and Reemployment Rights Act (USERRA) of 1994, an employee is entitled to re-employment by the Research Foundation upon separation from military service, provided the employee:

- was honorably discharged or terminated from service.
- was employed in a position for which there was an expectation of continued employment.
- has not been absent for duty in the uniformed services for longer than a *cumulative* period of five years.
- reported to work or notified his or her supervisor of an intention to return to work at the proper time, as indicated in the following table:

Period of Service	Action Employee Must Take	When Action Must Be Taken
1 — 30 days	report to work	on the next regular work day
31 — 180 days	notify his or her supervisor of the employee's intent to return to work	within 14 days
181 + days	notify his or her supervisor of the employee's intent to return to work	within 90 days

The escalator principle requires that the employee be reemployed in a position that reflects with reasonable certainty the pay, benefits, seniority, and other job perquisites, that he or she would have attained if not for the period of service. The returning service member's salary should be reviewed upon reemployment to ensure all across-the-board and discretionary increases they would have benefited from if they remained continuously employed by the RF have been credited.

### Leave of Absence

An employee may request other leave without pay. Requests for leave must be made in writing and to the supervisor. The leave may be granted for up to one year but may not extend beyond the employee's appointment period.

When an employee is granted leave without pay, the Human Resources Department will send the employee a letter containing the following information:

- effective date of leave,
- termination date of leave,
- what is expected during and at the end of the leave period, and
- the employee's obligation to report after leave.

It is the employee's responsibility to notify his or her manager of any changes in the employee's leave status thirty (30) days before the termination date of leave. An employee who wishes to return from leave before his or her stated return date must be allowed to do so.

An employee will not accrue vacation or sick leave during leave. An employee returning from leave will be reinstated to his/her former position or appointed to a comparable position dependent upon the availability of work and funds.

For information on Continuation of Benefits during a Leave of Absence please contact the RF HR Office.

## **Time Reporting Policy**

### **Basis for Policy**

Time reporting is the basis for determining payment to employees for services performed.

As a private, nonprofit corporation, the Research Foundation (RF) must comply with the time reporting provisions of the Fair Labor Standards Act (FLSA) of 1938, as amended, and New York State Labor Laws. The Research Foundation is required to maintain time records showing hours worked for *nonexempt* employees, those who must be paid overtime premium wages. The FLSA also specifies recordkeeping requirements for *exempt* employees — those who are in bona fide executive, administrative, and professional positions.

### **Policy**

In accordance with the provisions of the FLSA, time records must be signed both by the employee and the supervisor.

### **Forms Used for Time Reporting**

The forms that are used by the Research Foundation to report employees' time at work or away from work are the hourly and biweekly attendance reports and the exception report.

- The *hourly and biweekly attendance reports* are completed by employees in *nonexempt* positions.
- The *exception report* is completed by employees in *exempt* positions. It shows accrual usage by the employee.

### **Requirements**

The following sections describe the Research Foundation's requirements regarding the completion of time reporting forms, the signatures required on the forms, timely submission of the forms, and their retention at operating locations.

### **Timely Submittal of Reports**

Hourly and Biweekly Attendance Reports and Exception Reports must be submitted at the end of the work period for which time is being reported and no later than the end of the next reporting period.



## Completion of Attendance Report

All *nonexempt* Research Foundation employees must complete an hourly or a biweekly attendance report that documents each hour worked in order to fulfill the overtime calculation requirements of the FLSA.

Hourly and biweekly attendance reports must contain the following element:

- A statement certifying that the activity reported represents a reasonable estimate of the work performed by the employee during that period.

## Completion of Exception Report

All *exempt* Research Foundation employees must complete an exception report for each calendar month.

Daily exceptions must be recorded on the report so that appropriate adjustments can be made in leave accrual balances for employees who accrue leave.

Reports must also be completed for employees who do *not* accrue leave.

## Required Signatures on Forms

An *employee* signs the *attendance report* as certification that his or her entries on the form are accurate. The *exception report* is signed by the employee as certification that he or she has worked the anticipated schedule for the period specified with the exception of the dates listed on the report. In addition, the employee's signature on the exception report substantiates salary payment.

Any questions regarding the Research Foundation leave policies should be directed to Chris Goff by e-mail at:

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Buffalo State