

## **Leave of Absence (Unpaid)**

<b>Reviewed Date</b>		<b>Number</b>	HR0709
<b>Revised Date</b>	<i>November 9, 2022</i>	<b>Approved Date</b>	<i>December 19, 1990</i>

### **Introduction**

#### **Purpose**

The purpose of this policy is to inform Simcoe Muskoka District Health Unit employees of the entitlement for employee time off in relation to unpaid leaves of absence (LOA). ONA members are referred to their collective agreement. Notwithstanding, in order to facilitate consistency in application of this policy across the Health Unit this policy outlines the criteria which will be applied by SMDHU when considering the approval of all unpaid leaves of absence requests including those under the collective agreement.

To establish conditions under which unpaid leaves of absence of stated duration may be granted to employees without loss of seniority or related employment benefits

#### **Legislative Authority**

Employment Standards Act, 2000

### **Policy Definitions and Interpretation**

#### **Policy**

##### **A. Personal Emergency Leave under the Employment Standards Act, 2000**

Per the Employment Standards Act, 2000, (ESA) as may be amended from time to time, as updated in Appendix A, all employees are entitled to Personal Emergency Leave (PEL) days without pay as legislated under the Act. Any entitled Personal Emergency Leave required that is less than a 7-hour day shall count as one Personal Emergency Leave day. Employees are required and expected to return to work once the emergency situation has been dealt with. In addition, SMDHU may require an employee to provide evidence reasonable in the circumstances to substantiate the employee is entitled to Personal Emergency Leave.

Currently under the ESA an employee is entitled to a specific number of unpaid Personal Emergency Leave days for either: Sick Leave; Family Responsibility Leave or Bereavement Leave, with respect to the following individuals:

- An employee's personal illness, injury or medical emergency;
- The death, illness, injury, medical emergency or an urgent matter that concerns the following specifically named individuals:
  - the employee's spouse

- a parent, step-parent, foster parent of the employee or the employee's spouse, child, stepchild, foster child of the employee or the employee's spouse, grandparent, step-grandparent, grandchild or step-grandchild of the employee or the employee's spouse, the spouse of a child of the employee
- the employee's brother or sister; and
- a relative of the employee who is dependent on the employee for care or assistance.

Accordingly, an urgent matter pertaining to the employee alone is not covered under Personal Emergency Leave. In addition, as per the ESA, when an employee takes an employer paid or unpaid leave of absence in circumstances for which he or she would also be entitled to take an ESA unpaid PEL day, the employee is deemed to have taken a PEL day and as such the day(s) are deducted from the employee's allotment of PEL days under the ESA.

PEL days will be recorded on the electronic timecard and coded "ER" along with the number of hours utilized.

For paid leave see, Family Related HR0703, Bereavement Leave HR0705, and Sick Leave HR0704.

## **B. Leaves of Absence - up to 52 weeks**

In addition to the aforementioned statutory Personal Emergency Leave provisions, consideration may be granted for reasonable requests for unpaid absence up to 52 weeks where such requests may be accommodated without undue disruption, inconvenience, hardship, or additional cost to the Health Unit, in accordance with the following conditions:

- Employees taking a leave of absence must use their vacation entitlement earned up to the start of the leave and any carry over from the previous year before commencing their leave.
- Leave of absence to attend to Association Business relevant to their discipline may be granted to a maximum of 15 workdays per year in total for the discipline(s) and for the whole Association. Written requests are submitted to the Department Vice President for approval. (The Vice President may grant leave of absence with pay for this clause if deemed to be in the best interest of the Health Unit.)
- Personal: When circumstances are of an exceptional nature and do not fall under the definition of Personal Emergency Leave, requests may be submitted in writing to the Department Vice President for approval, specifying complete details of the reasons for the request.
- Education: For a formal post-secondary educational program directly applicable to Public Health and approved as such by the Department Vice President
- Personal illness or accident: When absence is not provided by the paid sick leave policy, WSIB or LTD, such as may be the case when an employee has no benefit coverage or a claim is in dispute or appeal with the insurance provider, an acceptable doctor's certification for the absence must be submitted showing the nature of the illness or injury, prognosis and expected date of return to work. Extension of a disability leave is not guaranteed. The employer will attempt, where possible, to meet its Duty to Accommodate obligations

- Family illness: When circumstances are of an exceptional nature and do not fall under the definition of Personal Emergency leave and compel absence from work, requests must be submitted in writing to the department Vice President specifying complete details of the reason for the request. Satisfactory medical certification may be required.
- Employee incarceration is reviewed on an individual basis given the unique circumstances and at the discretion of the employer may or may not be a valid reason for an unpaid LOA

Employee benefit entitlements may be limited by the insurance carrier during leaves of absence as may service accrual. Sick leave and vacation will not accrue and entitlements will be required to be adjusted for periods of non-statutory leaves of absence in excess of 10 consecutive scheduled work days (ex. "consecutive scheduled" could also be one day one week and one day the next week). In addition, sick leave and vacation entitlements will be required to be adjusted in accordance with their new FTE where an employee takes unpaid leave of absences in order to reduce their FTE on a temporary basis. OMERS credited service will not accrue during LOA's. Accordingly, employees should ensure they contact Human Resources for confirmation of such matters in writing prior to commencing any leave.

### **C. Leave of Absence - more than 52 weeks up to a maximum of 104 weeks.**

As maintaining the efficiency and effectiveness of the health unit without being subject to undue disruption or inconvenience is of paramount importance in our service delivery, unpaid leaves of absence over 52 weeks are considered only in very exceptional and rare situations and therefore are not usually granted. All requests for leave of absence in excess of 52 weeks up to a maximum of 104 weeks must therefore be submitted in writing, through the Department Vice President, who will submit the request to the Medical Officer of Health for their approval.

Consideration will be given to requests and recommendations for unpaid absence in excess of 52 weeks in accordance with the following conditions:

- Employees taking a leave of absence must use their vacation entitlement earned up to the start of the leave and any carry over from the previous year before commencing their leave.
- The reasonableness of the request and whether it can be accommodated without undue, disruption, inconvenience, hardship or additional cost to the Health Unit. Furthermore, maintaining the efficiency and effectiveness of the Health Unit is also a factor to be considered in reviewing such lengthy requests.
- Personal illness or accident: When a continuing absence in very exceptional circumstances is not provided by the paid sick leave policy, WSIB or LTD such as may be the case when an employee has no benefit coverage or a claim is still in dispute or appeal with the insurance provider, an acceptable doctor's certification for the continuing absence must be submitted showing the nature of the illness or injury, prognosis and expected date of return to work. Extension of a disability leave is not guaranteed. Employees requesting such leaves assume the risk that their position may be not be available upon their return. The employer will attempt, where possible, to meet its Duty to Accommodate obligations
- Family illness: When circumstances are of a continuing exceptional nature and compel continuing justifiable absence from work, requests must be submitted in writing

specifying complete details of the reason for the request. Satisfactory medical certification may be required.

- Education: For a formal post-secondary educational program directly applicable to Public Health and supported as such by the Department Vice President.
- Employee incarceration is reviewed on an individual basis given the unique circumstances and at the discretion of the employer may or may not be a valid reason for an unpaid LOA
- Employee benefit entitlements may be limited by the insurance carrier during leaves of absence as may service accrual. Sick leave and vacation will not accrue and entitlements will be required to be adjusted for periods of non-statutory leaves of absence in excess of 10 consecutive scheduled work days (ex. "consecutive scheduled" could also be one day one week and one day the next week). In addition, sick leave and vacation entitlements will be required to be adjusted in accordance with their new FTE where an employee takes unpaid leave of absences in order to reduce their FTE on a temporary basis. OMERS credited service will not accrue during LOA's. Accordingly, employees should ensure they contact Human Resources for confirmation of such matters in writing prior to commencing any leave.

#### **D. Leaves of Absence for employment elsewhere**

A Leave of absence to work for another employer while requesting to continue to maintain an employment relationship with the Health Unit is not a valid reason for a leave of absence.

#### ***Procedures***

1. Employees requesting Personal Emergency Leave under the Employment Standards Act shall endeavor to advise their direct Supervisor as soon as possible prior to commencing the leave. If emergency circumstances dictate otherwise then as soon as possible after beginning the leave.
2. All other leave of absence requests must be submitted in writing to the Department Vice President or designate at least two weeks in advance of the requested leave in order to allow adequate time for replacement planning. In substantiated emergency situations the two-week requirement may be waived at the discretion of the Vice President.
3. All written requests must include all required supporting documentation specify the complete details of the reason for the request and the date of return to work.
4. The Department Vice President will consider the reasonableness of the request, and whether it can be accommodated without undue disruption, inconvenience, hardship, or additional cost to the Health Unit and respond in writing in a timely manner.
5. The Medical Officer of Health shall advise in writing of any requested approvals submitted to them in a timely manner after having given full consideration to the request.
6. In situations where an employee feels a matter is of an extremely confidential nature requiring an unpaid leave of absence from work, they may first speak in confidence to the Human Resource Manager specifying the complete details of the reason for the request along with the date of return. After this initial consultation, the employee may then forward their written request for the leave of absence with the return date to the Human Resources Manager. The Human Resources Manager will upon making a

determination that the request is consistent with the intent of this policy, forward that confirmation along with the request to the Department Vice President.

Confidentiality will be maintained and the direct Supervisor/Vice President will only be advised of the general nature of the employee's request and not the specific details.

The Department Vice President will assess the feasibility of granting the request in accordance with Health Unit policy (involving the Medical Officer of Health in situations required in this policy). The Department Vice President will then respond to the request in writing in a timely manner. The two-week advance notice requirement is applicable when submitting a request through the Human Resources Manager. In substantiated emergency situations the two-week requirement may be waived at the discretion of the Vice President.

### ***Related Policies***

HR0703 - Family Related Leave

HR0705 - Bereavement Leave

HR0704 - Sick Leave

### ***Related Forms***

***Final Approval Signature:*** \_\_\_\_\_

Review/Revision History:

Revised November 9, 2022, Director to Vice President

Revised April 1, 2019, with recent ESA amendments

Revised April 27, 2015, LOA Section D

Revised March 5, 2014, LOA criteria clarification

September 2010 Policy re-numbered, previous number B5.050

## ***Appendix A Employment Standards Act, 2000(ESA)***

### **2019 ESA Personal Emergency Leave Days**

As at 2019 employees who meet the criteria contained within the ESA may be eligible for up to 8 unpaid days under the ESA as follows:

1. Up to a maximum of 3 days for Sick Leave under Section 50(1) of the ESA
2. Up to a maximum of 3 days for Family Responsibility Leave under Section 50.0.1 of the ESA
3. Up to a maximum of 2 days for Bereavement Leave under Section 50.0.2 of the ESA

Please note the above days are not interchangeable among the 3 categories of unpaid leaves. They can only be used up to the maximum number of days allotted specifically for either Sick, Family Responsibility or Bereavement Leave.