

MMC III-3A Absent - Sick Leave - House Staff

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HUMAN RESOURCES POLICY AND PROCEDURE MANUAL	SUBJECT: ABSENT - SICK LEAVE - HOUSE STAFF
APPROVED:  DAVID BRODSKY	POLICY NUMBER: III-3A
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GENERAL POLICY:

It is the policy of Montefiore Medical Center to provide sick leave benefits to eligible House Staff.

POLICY APPLICABLE TO:

All House Staff.

PROCEDURE:

1. House Staff accrue paid sick leave at the rate of one (1) day per month. Pursuant to New York State's Paid Safe and Sick Leave law ("NYPSSL") / New York City's Earned Safe and Sick Time Act ("ESSTA"), House Staff can use up to 7 of those days for safe or sick purposes. Time used for sick or safe purposes for NYPSSL/ESSTA will run concurrently.
2. A House Officer may be advanced sick time of up to one (1) year's entitlement during a period of continuous disability.

3. A House Officer is responsible for notifying the Program Director, Residency Coordinator, or their Chief Resident (as determined by each program), when the House Officer is unable to report for duty on account of illness.

4. The Program Director or Residency Coordinator will keep records, in writing, of sick and safe time used by a House Officer.

5. House Staff who have been absent from work due to illness for more than five (5) consecutive days, must report to Occupational Health Service ("OHS") for medical clearance before returning to work.

6. A House Officer who is absent for more than seven (7) consecutive calendar days due to illness or injury unrelated to their employment, must have the appropriate Disability Benefits Claim form completed by their physician.

7. If a House Officer becomes ill, or is injured on the job, the House Officer should report to OHS or the Emergency Department, if OHS is closed.

8. Each House Officer is responsible for:

a. Communicating the date they expect to return to work to their Program Director when the absence will continue for an extended period. A House Officer who is absent for a prolonged period of time must inform their Program Director of their status at least once per week.

b. Providing proof that the illness or injury is bona fide when requested by the Department Head or Program Director.

i. However, medical documentation will not be required if a House Officer uses paid time off accrued under NYPSSL/ESSTA unless a House Officer uses more than three consecutive workdays as sick leave under NYPSSL/ESSTA. If the House Officer uses more than three consecutive workdays as sick leave under NYPSSL/ESSTA, the following rules apply: (i) the House Officer will not have to disclose the nature of the illness, injury, or health condition; (ii) the House

Officer will only be required to provide documentation from one licensed health care provider; (iii) Montefiore will not specify that certain health care providers provide the documentation; and (iv) the House Officer will have at least seven days from the date they return to work to submit such documentation. Failure to provide such written documentation, if requested, may result in disciplinary action and/or denial of sick pay.

ii. Safe leave documentation will not be required if a House Officer uses paid time off accrued under NYPSSL/ESSTA unless a House Officer uses more than three consecutive workdays as safe leave under NYPSSL/ESSTA. If the House Officer uses more than three consecutive workdays as safe leave under NYPSSL/ESSTA, the House Officer will: (1) not have to specify the details of any act or threat of domestic violence, family offense, sexual offense, unwanted sexual contact, stalking, or human trafficking; and (2) the House Officer will have at least seven days from the date they return to work to submit such documentation. Documentation signed by an employee, agent, or volunteer of a victim services organization, an attorney, a member of the clergy, or a medical or other professional service provider from whom the individual or that individual's family or household member has sought assistance in addressing domestic violence, family offense, sexual offense, unwanted sexual contact, stalking, or human trafficking and their effects; a police or court record; or a notarized letter from the employee explaining the need for leave shall be considered reasonable documentation. Failure to provide such written documentation, if requested, may result in disciplinary action and/or denial of pay.

c. Requesting for a disability form to be completed by their physician for all absences exceeding seven (7) consecutive calendar days and providing additional disability forms as required.

d. Ensuring that paid sick leave is used for bona fide injury or illness, e.g., paid sick time is granted only for the disability portion of a maternity leave (except as provided herein in compliance with NYPSSL/ESSTA), additional leave may be taken as either personal holiday or unpaid leave of absence and will be administered by the Central Leave Administration Office.

9. House Staff Office is responsible for:

a. Completing House Staff Leave of Absence Request Form (which can be accessed on New Innovations; from Program Director; or from House Staff Office) and submitting it to the Central Leave Administration Office if the absence exceeds seven (7) calendar days.

b. Requiring the House Officer to obtain clearance from OHS to return to training if the House Officer has been absent in excess of five (5) consecutive days.

c. Retaining the proof of illness.

d. Retaining documentation from a licensed health care provider when a House Officer uses more than three consecutive workdays under NYPSSL/ESSTA.

e. Retaining the safe leave documentation when a House Officer uses more than three consecutive workdays under NYPSSL/ESSTA as safe leave.

10. A House Officer will be eligible for New York State Statutory Disability benefits after sick time is exhausted. Montefiore will supplement the disability with a payment to bring the combination of disability and supplemental payment to two-thirds (2/3) of the House Officer's stipend up to the maximum benefits allowed under the plan during the approved disability period.

11. A House Officer will be eligible to apply for Long-Term Disability benefits after 6 months of continued disability.

12. The Central Leave Administration Office will manage the leave for the duration of the leave.

13. When a House Officer's employment with Montefiore ends, any accrued but unused safe and sick time hours and vacation hours are forfeited.

Interplay with NYPSSL/ESSTA

It is Montefiore's intent that House Staff entitled to safe and sick leave under this policy be able to use fifty-six hours of safe and sick leave in a manner that is compliant with NYPSSL/ESSTA. Accordingly, the following non-exclusive list of NYPSSL/ESSTA requirements will be applied:

1. All House Staff will begin to accrue safe and sick time to use for NYPSSL/ESSTA purposes on their first day of work and will be eligible to begin using NYPSSL/ESSTA immediately upon the start of their employment.
2. The first 56 hours that House Officer uses for safe or sick purposes in each calendar/anniversary year will be automatically deducted from their entitlement to NYPSSL/ESSTA. Once NYPSSL/ESSTA is exhausted, then House Officer will start exhausting their regular sick balances.
3. Time used for sick or safe purposes for NYPSSL/ESSTA will run concurrently.
4. House Staff may use sick time under NYPSSL/ESSTA when:
 - a. The House Officer has a mental or physical illness, injury, or health condition; the House Officer needs to get a medical diagnosis, care, or treatment of a mental or physical illness, injury, or condition; the House Officer needs to get preventive medical care.
 - b. The House Officer must care for a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, or who needs preventive medical care. Family member for NYPSSL/ESSTA is defined as an employee's child, grandchild, spouse, domestic partner, parent, grandparent, child or parent of an employee's spouse or domestic partner, or sibling, or any individual whose close association with the employee is the equivalent of a family relationship.

c. The House Officer's place of work closes due to a public health emergency or the House Officer needs to care for a child whose school or child care provider closed due to a public health emergency.

5. House Staff can use safe time under NYPSSL/ESSTA when the House Officer or a family member is the victim of any act or threat of domestic violence, family offense, sexual offense, unwanted sexual contact, stalking, or human trafficking and the House Officer needs to take actions necessary to restore the physical, psychological, or economic health or safety of the House Officer or the House Officer's family members or to protect those who associate or work with the House Officer, including to:

a. Obtain services from a domestic violence shelter, rape crisis center, or other services program.

b. Participate in safety planning, temporarily or permanently relocate, or take other actions to protect the House Officer's safety or that of the House Officer's family members, including enrolling children in a new school.

c. Meet with an attorney or social service provider to obtain information and advice related to custody; visitation; matrimonial issues; orders of protection; immigration; housing; discrimination in employment, housing or consumer credit.

d. File a complaint or domestic incident report with law enforcement or meet with a district attorney's office.

6. Requirements regarding documentation when a House Officer uses safe and sick time under NYPSSL/ESSTA is discussed above.

7. If a House Officer incurs fees in obtaining documentation that Montefiore has requested for safe and sick leave usage (for use that exceeds more than three consecutive work days), Montefiore will reimburse said fees to the House Officer. House Officers must provide Montefiore with proof of payment of the fees and Montefiore shall reimburse House Officers for said fees.

8. Montefiore will respond within 3 business days when a House Officer makes a request for 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 and will provide a response to the House Officer with the requested information.

House Officers who use sick or safe leave for purposes other than those provided for by NYPSSL/ESSTA, will be subject to disciplinary action, up to and including termination. If a Department believes that a House Officer is misusing NYPSSL/ESSTA, they are to contact the House Staff Office or Employee and Labor Relations for guidance.

Montefiore cannot require that a House Officer or a health care or service provider disclose personal health information or the details of the matter for which a House Officer requests safe leave under NYPSSL/ESSTA. Montefiore must also keep information about a House Officer or a House Officer's family member obtained solely because of NYPSSL/ESSTA confidential unless the House Officer consents to disclosure in writing or disclosure is required by law.

Montefiore will not retaliate, nor tolerate retaliation, against House Staff who seeks or obtains time that is protected by NYPSSL/ESSTA. In particular, punishing or taking an adverse action against House Staff for exercising their rights or reporting violations under NYPSSL/ESSTA is not permitted.

House Staff who have a good faith belief that their rights may have been violated may call the Compliance Hotline at (800) 662-8595. Any other questions about NYPSSL/ESSTA may be directed to:
estaquestions@montefiore.org

Medical/Parental/Caregiver (GME Leave of Absence, effective July 1, 2023)

Beginning on the first day of their program, residents/fellows in a GME program will have up to 6 weeks of paid medical, parental, or caregiver leave that may be used for qualifying reasons. This leave will be paid at 100% of pay and will only be available once during their GME program. Health and disability insurance benefits will be continued during this leave. As explained below, residents/fellows are entitled to reserve one (1) week of their vacation time for use outside of the 6 week GME leave of absence.

The 6 week GME leave of absence that will be paid at 100% of pay does not need to be taken at one time. It must be taken continuously, however, which is defined as a leave lasting 5 or more working days. For example, a resident/fellow may take 4 weeks of GME leave of absence and then take the remaining 2 weeks later.

In order to be eligible for the GME leave of absence, residents/fellows must have actually worked at least five days in the 60 days prior to making the GME leave of absence request. New residents/fellows, however, are eligible for the GME leave of absence starting the day the resident/fellow is required to report.

GME Leave of Absence Time Runs Concurrently

GME leave of absence will run concurrently (which means that time taken for GME leave of absence will also exhaust time under the following laws) with Federal, State and local leave laws, such as Family Medical Leave Act (FMLA), New York Paid Family Leave (NY PFL), New York State Paid Sick Leave Law (NYPSSL), New York City Earned Safe and Sick Time Act (ESSTA) and disability, when applicable and when resident/fellow meets eligibility under those laws (e.g. 12 months of prior employment required for FMLA and 6 months of prior employment required for NY PFL). GME leave of absence will also run concurrently with Montefiore's Maternity, Paternity and Childrearing Leave Policy (HR Policy III-5) if the resident/fellow is eligible for a leave under that policy.

A leave of absence that qualifies for FMLA and/or NY PFL, will automatically deduct from a resident's/fellow's GME leave of absence entitlement.

Sick Days, Disability Benefits and Statutory Disability to be Used During Medical Leave of Absence

Sick days, short-term disability benefits, and New York Disability Benefits (statutory disability) (if the leave qualifies for disability) must be used during medical leave. In a situation where a resident/fellow is eligible for short-term disability or statutory disability, they must submit to the House Staff Office any checks or payment received from Montefiore's short-term disability carrier (Principal) or received from New York State. Montefiore will directly pay the resident/fellow 100% of their pay for the leave of absence.

If a resident/fellow runs out of sick days during the leave of absence or is not eligible for disability, Montefiore will ensure that they receive 100% of pay for the remainder of the six week GME leave of absence.

Residents/fellows whose GME medical leave of absence spans two academic years will exhaust available sick days in the academic year when the leave starts (if available) and in the academic year which the leave extends to.

Time to be Used During Caregiver or Parental Leave of Absence

NY PFL time (if resident/fellow meets NY PFL eligibility and has PFL hours) must be used during a caregiver or parental leave. Vacation time must also be used during a caregiver or parental leave. However, as stated above and below, residents/fellows are entitled to reserve one (1) week of their vacation time for use outside of the six week GME leave of absence.

Residents/fellows will be required to use NY PFL (if resident/fellow meets NY PFL eligibility and has PFL hours) and complete and submit a NY PFL application. Their vacation time will be used to "top off" their salary (e.g. exhausting available vacation time, as described herein).

If a resident/fellow runs out of NY PFL hours during the GME leave of absence, Montefiore will ensure that they receive 100% of pay for the remainder of the six week leave of absence (Montefiore will exhaust vacation time, as described herein, and then ensure that they receive 100% of pay for the remainder of the six week leave of absence).

If a resident/fellow runs out of NY PFL and vacation time during the GME leave of absence, Montefiore will ensure that they receive 100% of pay for the remainder of the six week leave of absence.

In a situation where a residents/fellow is eligible for NY PFL, Montefiore will directly pay the resident/fellow. Residents/fellows must submit to the House Staff Office any checks or payment received from Montefiore's NY PFL carrier (Shelter Point).

If a resident/fellow is not eligible for NY PFL or does not have NY PFL time available, Montefiore will use vacation time, as described herein, and then ensure that they receive 100% of pay when their vacation time is exhausted during the six week GME leave of absence.

If a resident/fellow is not eligible for NY PFL or does not have NY PFL time available and does not have vacation time, Montefiore will ensure that they receive 100% of pay during the six week GME leave of absence.

Longer Leaves of Absence

If the leave required is longer than 6 weeks, NY PFL and/or FMLA will apply for the remainder of the leave if the resident/fellow is eligible for leave under those laws.

Residents/fellows whose leave is longer than 6 weeks and which qualifies for statutory disability or short-term disability will be paid subject to the rules governing statutory disability and short-term disability.

Residents/fellows whose leave is longer than 6 weeks and which qualifies for NY PFL will be paid the NY PFL statutory benefit by Montefiore's PFL carrier (Shelter Point) if they have remaining NY PFL hours. Residents/fellows can also elect to "top off" (e.g. exhausting available vacation time) if they have vacation time, as set forth in Montefiore's NY PFL policy.

Residents/fellows who do not have NY PFL hours or who do not have available vacation time, will not be paid past the initial 6 week GME leave of absence for caregiver or parental leave of absence.

Required Paperwork

Residents/fellows shall complete a House Staff Leave of Absence Request Form (which can be accessed on New Innovations; from their Program Director; or from House Staff Office) to initiate the aforementioned GME leave of absence and must provide and submit requested paperwork.

Medical leave will require a medical certification from the resident's/fellow's medical provider and will be approved under the same conditions provided under the FMLA.

Residents/fellows who are eligible for statutory disability (which includes childbirth) will be required to complete and submit disability paperwork.

Parental leave will require either a statement asserting that the requisite family relationship exists (which must contain child's date of birth or placement date to allow Montefiore to determine eligibility) or other documentation such as a child's birth certificate or a court document and will be approved under the same conditions provided under NY PFL and FMLA. Residents/fellows who are eligible for NY PFL will be required to complete and submit a NY PFL application.

Caregiver leave will require a medical certification from the resident's/fellow's family member's medical provider and will be approved under the same conditions provided under NY PFL and FMLA. Residents/fellows who are eligible for NY PFL will be required to complete and submit a NY PFL application.

Definitions for Medical/Parental/Caregiver Leave

Residents/fellows can use medical/parental/caregiver leave to cover absences related to: personal medical/illness/injury (including childbirth); parental leave (birth, adoption, placement for adoption, or fostering within first year of birth/adoption); or immediate family member's medical/illness/injury. For

purposes of this policy, immediate family includes spouse or domestic partner, child, parent, grandchild, grandparent, sibling, or parent of a spouse or domestic partner.

Reserving One Week of Vacation Time Outside of 6 Week GME LOA

Residents/fellows in a GME program can reserve use of one (1) week of vacation before or after their 6 week GME LOA. As such, the maximum amount of vacation time that Montefiore would exhaust during a GME parental or caregiver leave of absence would be three weeks of vacation.

If a resident/fellow has used all of their vacation time prior to their GME LOA, the requirement for preservation of a week of vacation time will have been met, and the resident/fellow is not entitled to an additional week of vacation time.

Medical, Parental, or Caregiver Leave Not Used

If a resident/fellow does not use medical, parental, or caregiver leave during their employment with Montefiore, they will not be paid for any such time not used.

Effect of Leave for Satisfying Completion of Program

Due to the fact that all training programs have different curriculums and training requirement needs, each program has their own policy regarding the Effect of Leave for Satisfying Completion of Program and requirements for advancement to the next PGY-year and graduation. This policy is available through training program directors and/or residency/fellowship coordinators. The Program Directors are responsible for the timely communication of the effects of leave(s) on the ability of residents/fellows to satisfy requirements for program completion.

Policies:

See also Human Resources Policy III-5: Maternity, Paternity and Childrearing Leave

See also Human Resources Policy III-17: Family, Medical, and Military Leaves of Absence See also Human Resources Policy III-18: New York State Paid Family Leave

See also Human Resources Policy V-3: New York State
Disability Insurance See also Human Resources Policy VI-
9: Disability Management Policy (DBL)

All Medical Center Human Resources policies and practices are guidelines and may be changed, modified or discontinued at any time by the Medical Center's Senior Vice President of Human Resources, or designee, with or without notice. Exceptions do not invalidate the basic policy.

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