

**SHARE and UMass Memorial**  
**2018 CBA Negotiations Memorandum of Agreement**  
**3/25/19**

The Parties agree to a 4-year successor CBA (10/1/18 – 9/30/22) on the terms below:

**Wages**

Year 1 (effective 9/30/18): 1% ATB plus platform movement of 1.93%, or a \$0.60/hour minimum raise, whichever is greater.

Year 2 (effective 9/29/19): 1% ATB plus platform movement of 1.93%, or a \$0.60/hour minimum raise, whichever is greater.

Year 3 (effective 9/27/20): 1% ATB plus platform movement of 1.93%, or a \$0.60/hour minimum raise, whichever is greater.

Year 4 (effective 9/26/21): 1% ATB plus platform movement of 1.93%, or a \$0.60/hour minimum raise, whichever is greater.

For employees hired before 9/30/18, the year 1 increase is retroactive to 9/30/18 on all hours paid. Employees hired or transferring into SHARE on or after 9/30/18 receive the ATB retroactive to the date they started in a SHARE job. Employees at the minimum of their grade range who were hired on or after 9/30/18 also receive platform movement if they have 1 year of creditable experience as of 10/1/18.

Any amount greater than Max Cap is paid as a bonus. Bonus = (bonus rate) x (hours paid in previous FY, including overtime).


**UBTs**

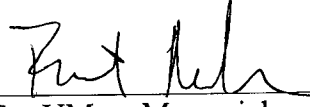

UMass Memorial commits to allocating \$273,000 for the purpose of supporting UBTs in FY20 with a plan for 25 UBTs. Specifically, the funding is to be used as a variance for managers in UBT areas to support meeting times and project work, including to backfill UBT members so that they can attend a UBT meeting with coverage of their work. Likewise, SHARE agrees to increase their investment in UBTs, including coaching.

The Parties will adjust the UBT phased implementation/growth plan in the CBA accordingly and agree to work collaboratively to finalize the details regarding UBT funding and support.

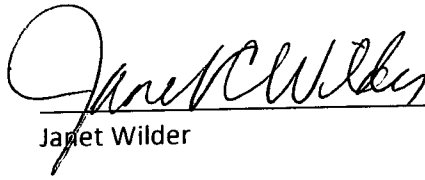
**Non-Economic**

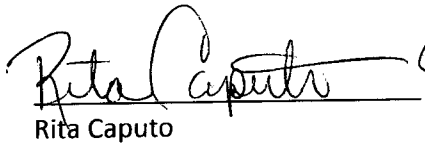
- This Agreement includes the tentative agreements reached by the side tables regarding:
  - Staffing language implementation
  - Breaks (as to breaks only, no tentative agreement was reached regarding time off)
  - Leave of absence
- The Parties agree to continue collaborative and productive discussions regarding revisions to the problem solving language with the goal of finalizing new language in the next few weeks.

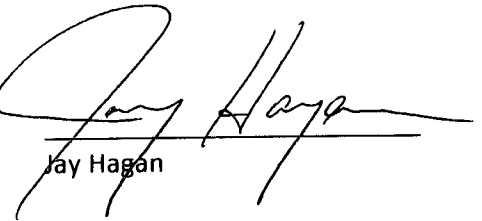
  
\_\_\_\_\_  
For SHARE

  
\_\_\_\_\_  
For UMass Memorial  


For SHARE:

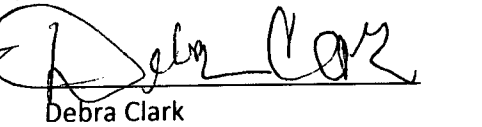
  
Janet Wilder

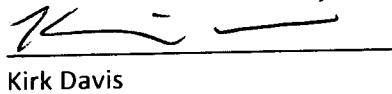
  
Rita Caputo

  
Jay Hagan

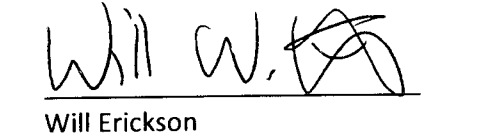
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Nancy Bickford

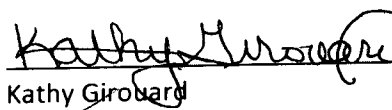
  
Andrea Bohm

  
Debra Clark

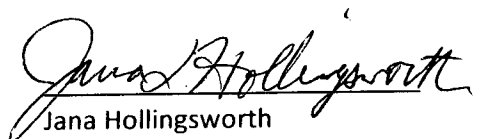
  
Kirk Davis

  
Debbie Engvall

  
Will Erickson

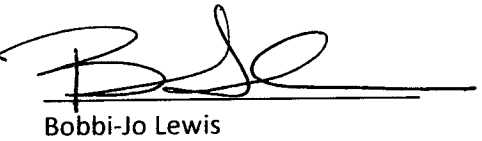
  
Kathy Girouard

  
Carol Hehir


  
Jana Hollingsworth

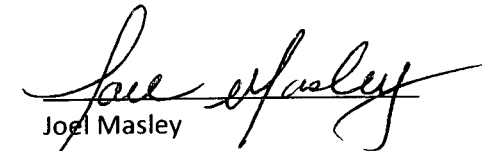
  
Tyler Knapp

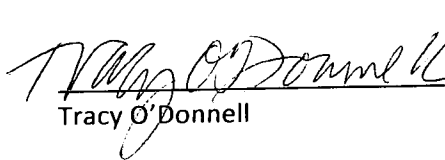
  
Deb Largesse

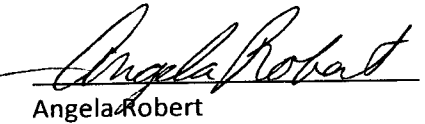
  
Bobbi-Jo Lewis

  
Melissa Markstrom

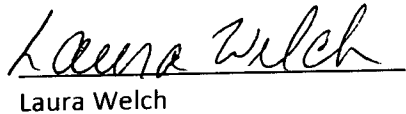
  
Tony Martocci

  
Joel Masley

  
Tracy O'Donnell

  
Angela Robert

  
Elisabeth Szanto

  
Laura Welch

Date: 3/25/2019

**SHARE and UMass Memorial  
Memorandum of Understanding  
About Retro Payments for SHARE Laid Off Employees**

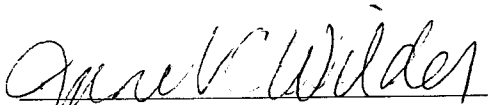
March 25, 2019

It is our shared intention that these three laid-off SHARE employees – Thuanny Santos, Margaret Durkin, and Carol Piarulli – will be paid the SHARE increase on their pay since 9/30/2018 as if they were active SHARE members.

Thuanny Santos shall receive retro for all hours paid from 9/30/2018 through her last day at work (in late December 2018).

Margaret Durkin and Carol Piarulli were laid off from SHARE jobs in February 2019. They are currently on the payroll as layoffs, receiving severance and payout of their earned time, as per the CBA.

- They will get retro payment for their hours worked after 9/30/2018 (including other paid time such as vacation) until their layoff dates.
- They will get the appropriate SHARE increase on their severance and earned time payout as if they were still active SHARE members, both retro and going forward. We estimate that these amounts will be about \$633 for Margaret Durkin and \$403 for Carol Piarulli. If the actual number turns out to be very different, we will meet to confer.

  
For SHARE

3/25/2019

  
For UMass Memorial

Janet P. Moran





## Proposed New Language

### Meal Periods/Breaks



A meal period of thirty minutes of unpaid time will be scheduled for SHARE members working a shift of six or more consecutive hours. In cases where extraordinary operation needs prevent an employee from taking a scheduled meal period, he/she will be paid for the time. An employee may, with supervisor permission, voluntarily choose to work through his/her meal period and be paid for the time.

If employees subject to this policy are required to carry mobile devices, they should be turned off during the meal period. If the mobile device cannot be turned off or handed off to a covering coworker because of the workload, this needs to be escalated to an immediate supervisor. Employees who need to return pages or answer calls during their meal break shall be considered as having "no lunch" and the employee will be compensated for that time.

In addition to the meal period, employees are to expect a rest period of fifteen minutes paid time for each half day worked. It is the intention of UMass Memorial and SHARE that employees regularly receive their rest periods, especially when individual workloads are increased due to volume or staffing issues. Rest periods may not be used to come in late or to leave early.

Individual departments should work collaboratively to implement these rest periods with minimal impact to their department. Staff should be encouraged and empowered to huddle daily, to support each other in taking breaks. When staff are unable to find rest time, they should escalate to their immediate supervisor to facilitate a solution.

Subject to workload and coverage requirements, there may be times that either a SHARE member or manager requests a change in the rest period schedule. This may include combining one or both rest periods with meal periods or not combining rest periods and meal periods.

Employees will not receive additional pay or be otherwise compensated for missed rest periods. If employees are unable to regularly receive these rest periods, SHARE members may escalate the issue to their Department Manager, HR Business Partner, SHARE Organizer or Representative. Management, SHARE, and HR will work collectively to problem solve solutions with the department.



## **Family and Medical Leave (FMLA) and Massachusetts Parental Leave**

### **I. Policy:**

UMass Memorial provides leave to employees consistent with the parameters and standards under which employees may be granted leave pursuant to the Family and Medical Leave Act (“FMLA”) and/or the Massachusetts Parental Leave Act (“MPLA”) as more fully described below. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

Each SHARE member’s leave of absence situation is different. The UMass Memorial Leave Office, Human Resources and SHARE are available to help, and will use a problem solving approach to finding a resolution to each situation.

### **A. Eligibility:**

1. To be eligible for a leave under FMLA:
  - a. Employees hired or rehired on or before 12/31/2016 must have completed six (6) months of service and worked at least 520 hours.
  - b. Employees hired or rehired on or after 1/1/2017 must have completed twelve (12) months of service and worked at least 1,250 hours during the previous twelve (12) months.
2. To be eligible for a leave under the MPLA, an employee must work full-time and must have completed his/her probationary period, or if there is no such probationary period, have completed three (3) months of service.
  - a. UMass Memorial will designate the parental leave taken under MPLA as FMLA leave, and count concurrently parental leave and leave granted under the FMLA, when applicable.

### **B. Types of Family and Medical Leave:**

Leave may be taken for the following reasons:

1. The birth of a child and in order to care for that child.
2. The placement of a child for adoption or foster care and to care for the newly placed child.
3. To care for an employee’s spouse, dependent child or parent of the employee with a serious health condition.
4. The employee’s own serious health condition that prevents the employee from performing the essential functions of his/her position (this includes employees out on workers’ compensation – FMLA will run concurrently with workers’ compensation).
5. To provide Military Caregiver Leave for an employee’s spouse, son, daughter, parent or next of kin who is a veteran or member of the Armed Forces, including a member of the National Guard or Reserves.
6. A Qualifying Exigency arising out of the fact that the employee’s spouse, son, daughter or parent is on active duty or has been notified of an impending call or order of active duty status or has been deployed to a foreign country. For purposes of covered active duty or call to covered active duty status, the Reserve components of the Armed Forces include the Army National Guard of the United States, Army

Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve, and retired members of the Regular Armed Forces or Reserves

**C. Duration of Family and Medical Leave:**

1. Eligible employees may be granted up to 12 weeks of FMLA leave in a rolling 12-month period. (FMLA time will be pro-rated for eligible part-time employees).
2. The leave may be granted on a Continuous, Intermittent or Reduced Schedule basis based on the nature of the leave. An intermittent leave cannot exceed a total of twelve work weeks during the twelve month period.
3. Eligible employees may be granted up to 12 weeks for the birth or adoption of a child or the placement of a foster child. Leave for these purposes generally is granted as continuous leave, and may be taken intermittently only with the prior approval of UMass Memorial.
4. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as to not unduly disrupt UMass Memorial's operation.
5. UMass Memorial may discuss a temporary transfer to an alternative equivalent position that better accommodates intermittent periods of leave with the SHARE member.
6. If both spouses are employed by UMass Memorial and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (but not a parent "in-law") with a serious health condition, the spouses together may only take a combined total of 12 weeks of leave for these purposes.
7. Employees requesting Military Caregiver Leave may be eligible for up to 26 weeks of leave and should contact the Leave of Absence Office for additional details.

**D. Duration of Massachusetts Parental Leave:**

Full-time employees who have completed their probationary period (or at least three months of service) are eligible for up to eight (8) weeks parental leave for the purpose of giving birth, adopting a child, or the placement of a child in accordance with state law. This leave will also be designated as FMLA Leave, where applicable. If both spouses are employed by UMass Memorial and each wishes to take leave for the birth of a child, adoption or placement of a child, the spouses together may only take a combined total of eight (8) weeks parental leave.

**II. Definitions:**

FMLA Leave: Job protected leave when an employee is unable to work because of a serious health condition or to care for their spouse, child or parent who has a serious health condition.

Parent: The father/mother of the employee or an individual who acted as a parent to the employee when s/he was a child.

Dependent Children: A biological, adopted or foster child, a stepchild, a legal ward or a child who is living with the employee in a parent-child relationship, who is under the age of 18, or if over the age of 18 is incapable of self-care as defined by the FMLA.

Spouse: A husband or wife as defined or recognized under state law for purposes of marriage



in the state where the employee resides.

Continuous Leave: A leave taken over a defined, single time period.

Intermittent Leave: A leave taken in separate blocks of time.

Reduced Leave Schedule: A leave schedule that temporarily reduces an employee's usual number of working hours per workweek, or hours per workday.

Military Caregiver Leave: Job protected leave relating to certain military deployments or to care for a covered service member with a serious injury or illness.

Qualifying Exigency Leave: As defined by the regulations, job protected leave for short notice deployment, military events and related activities, family support or assistance programs sponsored or promoted by the military, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, parental care, and any additional activities agreed upon by the employer and employee.

Massachusetts Parental Leave: Job protected leave for employees for the purpose of giving birth, adopting a child, or the placement of a child.

TPA (Third Party Administrator): A company that has been contracted to administer leaves of absence on behalf of UMass Memorial. Employees can contact the TPA, AbsenceOne, at 855-209-4802, or online at [www.absenceone.com/umassmemorial](http://www.absenceone.com/umassmemorial). Please note the TPA is subject to change, and employees will be notified accordingly.

### **III. General Procedure**

#### **A. Process:**

1. Employees requesting leave must:

- a. ~~Complete a Leave of Absence Request form and submit it to their supervisor. The form is available on MyHR~~ Notify their supervisor/manager. Specifically, where leave is foreseeable, employees are expected to give at least 30 days notice to his/her supervisor/manager. Where leave is not foreseeable, the employee must follow their department's usual and customary notice and procedural requirements for notifying their supervisor/manager, absent unusual circumstances.
- b. Contact UMass Memorial's TPA to obtain leave paperwork. Comprehensive pProcess information is available on MyHR. Employees may also contact the LOA office with any questions.

2. ~~In requesting FMLA leave, where the leave is foreseeable, employees are expected to give at least 30 days notice to his/her supervisor and contact UMass Memorial's TPA.~~

- a. ~~To best ensure that employees are fully aware of their rights and leave eligibility, any An employee whose absence extends beyond three (3) consecutive days must should contact UMass Memorial's TPA; on day four (4) of the absence.; contact UMass Memorial's TPA to initiate the leave process. An employee whose illness FMLA-related absence that extends beyond three (3) consecutive days must contact UMass Memorial's TPA by the fourth (4<sup>th</sup>) day, and the absence may be~~

~~provisionally designated as FMLA even if the employee has accrued earned time to cover the absence. Every employee has the right to file for an FMLA after 3 days of absence. Call TPA to file or get more information. Employees may also contact the LOA office with any questions.~~

~~b. When the need for FMLA leave is not foreseeable, the employee must follow their department's usual and customary notice and procedural requirements for notifying their supervisor/manager and requesting leave, absent unusual circumstances.~~

3. UMass Memorial's TPA will review the request and mail the employee the applicable notices and medical certification forms for completion.
4. It is the employee's responsibility to ensure that the complete and sufficient certification form is provided to the TPA within the specified timelines outlined in the law. FMLA leave requests may be denied if certification forms are not returned to the TPA within the timelines outlined in the law. UMass Memorial or their designee may seek further review and/or speak with the treating health care professional for purposes of verifying information provided on the medical certification, in accordance with the regulations. In some cases, a second or third medical opinion may also be required at UMass Memorial's expense.
5. During an FMLA leave, an employee may be required to provide periodic updates regarding his/her status to the TPA and intent to return to work to both the TPA and the supervisor/manager. For intermittent leave, an employee needs to indicate to the supervisor/manager at the time of the absence that it is FMLA related, and the employee also needs to report the absence to the TPA within two (2) business days of the absence, (absent) unless there are unusual circumstances. Absences that are not reported and approved by the TPA as FMLA will count as occurrences. (see Absenteeism policy) Recertification may be required in accordance with the FMLA.
6. While on FMLA leave, employees may not engage in outside employment during the hours they otherwise would have been working at UMass Memorial.
7. An employee cannot waive their rights under the FMLA/MPLA nor may an employee "trade-off" the right to take leave under the FMLA/MPLA against some other benefit offered by UMass Memorial.

## **B. Pay During Leave:**

1. FMLA/MPLA leaves are unpaid job protected absences.
2. An employee who is granted FMLA/MPLA leave may use all available paid time off, consistent with this contract's Paid Time Off Policy regarding earned, sick, vacation, personal, and holiday time. During continuous leave, employees may elect to take the leave unpaid. Once the employee goes into unpaid status, s/he will remain on unpaid status through the completion of the leave. During intermittent leaves, employees are required to use earned/sick/vacation/personal/holiday time, if they have time available. Intermittent leave can be taken without pay if the SHARE member does not have time available in their bank(s). If a SHARE member is scheduled for a vacation that has been approved, it will not be cancelled in the event that the employee has exhausted their available paid time off as a result of their intermittent leave usage following the approval of the vacation.
3. Employees may not use earned/vacation/sick/personal time to postpone the start of the leave or to prolong approved leave time.

UMass Memorial provides leave to employees consistent with the parameters and standards under which employees who are not eligible for leave under the Family and Medical Leave Act (FMLA) may be granted Personal Medical Leave as more fully described below.

**A. Eligibility:**

To be eligible for a Personal Medical Leave under this policy, an employee must:

- a. Have a hire or rehire date of on or after 1/1/2017
- b. Have completed six (6) months of service and
- c. Worked at least 520 hours during the previous six (6) months.
- d. Not have met the eligibility requirements for leave under the FMLA.

**(Note: Employees who have qualified for FMLA and have exhausted their FMLA leave are not eligible for Personal Medical Leave under this Policy.)**

**B. Reason for Requesting Personal Medical Leave:**

The employee's own serious health condition that prevents the employee from performing the essential functions of his/her position (this includes employees out on workers' compensation – Personal Medical Leave will run concurrently with workers' compensation).

**C. Duration of Personal Medical Leave:**

1. Eligible employees may be granted up to 12 weeks of unpaid Personal Medical Leave in a rolling 12-month period. (Personal Medical Leave time will be pro-rated for parttime employees).
2. The leave may be granted on a Continuous, Intermittent or Reduced Schedule basis based on the nature of the leave. An intermittent leave cannot exceed a total of 12 work weeks during the 12 month period.
3. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as to not unduly disrupt UMass Memorial's operation.
4. UMass Memorial, at its discretion, may require the employee to transfer temporarily to an alternative equivalent position that better accommodates intermittent periods of leave.
5. If, during the Personal Medical Leave period, the employee becomes eligible for FMLA leave, the Personal Medical Leave will terminate and any remaining leave time will be designated as FMLA leave.

**II. Definitions:**

Continuous Leave: A leave taken over a defined, single time period.

Intermittent Leave: A leave taken in separate blocks of time.

Reduced Leave Schedule: A leave schedule that temporarily reduces an employee's usual number of working hours per workweek, or hours per workday.

TPA (Third Party Administrator): A company that has been contracted to administer leaves of absence on behalf of UMass Memorial.

### **C. Benefits During FMLA/MPLA Leaves:**

1. While an employee is on an approved leave, UMass Memorial will continue the employee's health benefits at the same level and under the same conditions as if the employee had continued to be actively at work.
2. If the leave is paid, UMass Memorial will continue to take payroll deductions to collect the employee's share of premium(s).
3. If the leave is unpaid, the employee will be responsible for submitting payment for the employee's share of premiums to Human Resources/Benefits.
  - a. Payments for health insurance that are more than 30 days late may result in cancellation of coverage for the duration of the leave. UMass Memorial will provide 15 days notification prior to the employee's loss of coverage.
  - b. If coverage is cancelled during the leave period, and employees wish to re-enroll upon their return to active status, they must contact the Benefits Contact Center within 30 days of their return.
4. Employees who exhaust their 12 weeks of leave under the FMLA and who are authorized to remain out of work unpaid will be responsible for 100% of their medical and dental premiums.
5. If the employee chooses not to return to work following their approved leave, they will be required to reimburse UMass Memorial for any outstanding benefit premiums due.

### **D. Return to Work:**

1. In accordance with Policy #4007 Employee Health Services General Policies and Scope, eEmployees returning from a Leave of Absence due to their own serious health condition are required to:
  - a. present a fitness-for-duty certification from their treating provider, and
  - b. contact Employee Health Services schedule an appointment with Employee Health Services at least one (1) week prior to their planned return to work date to schedule an appointment in order to be restored to active duty in a timely manner. The employee needs to be evaluated by Employee Health Services as close to, and prior to their planned return to work date as possible.
2. Employees who have a planned or prolonged leave of absence must notify their immediate supervisor regarding their intent to return at least two (2) weeks prior to the end of the approved leave period.
3. Generally, an employee who takes FMLA/MPLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. Additionally, the employee will be subject to any pay or benefit reductions or other adverse actions, including a layoff that he or she would have experienced if not on leave.

**RELATED POLICIES:**      Leave of Absence  
   Workers Compensation

### **Personal Medical Leave**

#### **I. Policy:**

### III. General Procedure

#### A. Process:

1. Employees requesting leave must:
  - a. Notify their supervisor/manager. Specifically, where leave is foreseeable, employees are expected to give at least 30 days notice to his/her supervisor/manager. Where leave is not foreseeable, the employee must follow their department's usual and customary notice and procedural requirements for notifying their supervisor/manager, absent unusual circumstances.  
Complete a Leave of Absence Request form and submit it to their supervisor.  
The form is available on MyHR.
  - b. Contact UMass Memorial's TPA to obtain leave paperwork. Comprehensive process information is available on MyHR. Employees may also contact the LOA office with any questions.
2. To best ensure that employees are fully aware of their rights and leave eligibility, any ~~in~~ requesting a Personal Medical Leave, where the leave is foreseeable, employees are expected to give at least 30 days notice to his/her supervisor.
  - a. employee whose illness extends beyond three (3) consecutive days should contact UMass Memorial's TPA on day four (4) of the absence.  
An employee whose illness that extends beyond three (3) consecutive days must contact UMass Memorial's TPA by the fourth (4<sup>th</sup>) day to initiate requires a  
Personal Medical Leave even if the employee has accrued earned time to cover the absence. **Every employee has the right to file for an FMLA after 3 days of absence. Call TPA to file or get more information Employees may also contact the LOA office with any questions.**
  - b. When the need for Personal Medical Leave is not foreseeable, the employee must follow UMass Memorial's usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances.
3. UMass Memorial's TPA will review the request and mail the employee the applicable notices and medical certification forms for completion.
4. It is the employee's responsibility to ensure that the complete and sufficient certification form is provided to the TPA within the specified timelines outlined. Personal Medical Leave requests may be denied if Certification forms are not returned to the TPA within the timelines outlined. UMass Memorial or their designee may seek further review and/or speak with the treating health care professional for purposes of verifying information provided on the medical certification.
5. During a Personal Medical Leave an employee may be required to provide periodic updates regarding his/her status to the TPA and intent to return to work to both the TPA and the supervisor/manager. For intermittent leave, an employee needs to indicate to the supervisor/manager at the time of the absence that it is leave related, and the employee also needs to report the absence to the TPA within two (2) business days of the absence, (absent) unless there are unusual circumstances. Absences that are not reported and approved by the TPA as FMLA leave related will count as occurrences. (see Absenteeism policy)  
Recertification may be required as appropriate.
6. While on Personal Medical Leave, employees may not engage in outside employment

- during the hours they otherwise would have been working at UMass Memorial.
7. An employee cannot waive or “trade-off” the right to take a Personal Medical Leave against some other benefit offered by UMass Memorial.

**B. Pay During Leave:**

1. Personal Medical Leave is an unpaid job protected absence.
2. An employee who is granted Personal Medical Leave may use all available paid time off, consistent with this contract’s Paid Time Off Policy regarding earned, sick, vacation, personal, and holiday time. During continuous leave, employees may elect to take the leave unpaid. Once the employee goes into unpaid status, s/he will remain on unpaid status through the completion of the leave. During intermittent leaves, employees are required to use earned/sick/vacation/personal/holiday time, if they have time available. Intermittent leave can be taken without pay if the SHARE member does not have time available in their bank(s). If a SHARE member is scheduled for a vacation that has been approved, it will not be cancelled in the event that the employee has exhausted their available paid time off as a result of their intermittent leave usage following the approval of the vacation.
3. Employees may not use earned/vacation/sick time to postpone the start of the leave or to prolong approved leave time.

**C. Benefits During a Personal Medical Leave:**

1. While an employee is on an approved Personal Medical Leave, UMass Memorial will continue the employee's health benefits at the same level and under the same conditions as if the employee had continued to be actively at work.
2. If the leave is paid, UMass Memorial will continue to take payroll deductions to collect the employee's share of premium(s).
3. If the leave is unpaid, the employee will be responsible for submitting payment for the employee’s share of premiums to Human Resources/Benefits.
  - a. Payments for health insurance that are more than 30 days late may result in cancellation of coverage for the duration of the leave. UMass Memorial will provide 15 days' notification prior to the employee's loss of coverage.
  - b. If coverage is cancelled during the leave period, and employees wish to reenroll upon their return to active status, they must contact the Benefits Contact Center within 30 days of their return.
4. Employees who exhaust their 12 weeks of Personal Medical Leave and who are authorized to remain out of work unpaid will be responsible for 100% of their medical and dental premiums.
5. If the employee chooses not to return to work following their approved leave, they will be required to reimburse UMass Memorial for any outstanding benefit premiums due.

**D. Return to Work:**

1. In accordance with Policy #4007 Employee Health Services General Policies and Scope, ~~e~~Employees returning from a Personal Medical Leave are required to:
  - a. present a fitness-for-duty certification from their treating provider, and
  - b. contact schedule an appointment with Employee Health Services at least one (1) week prior to their planned return to work date to schedule an appointment in order to be restored to active duty in a timely manner. The employee needs to be evaluated by

Employee Health Services as close to, and prior to their planned return to work date as possible.

2. Employees must notify their immediate supervisor regarding their intent to return at least two (2) weeks prior to the end of the approved leave period.
3. Generally, an employee who takes a Personal Medical Leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. Additionally, the employee will be subject to any pay or benefit reductions or other adverse actions, including a layoff that he or she would have experienced if not on leave.





## **Solving Problems at Work**

### **Problem-Solving**

Problems will arise in any workplace. We want to solve them productively, minimizing antagonism and strengthening a healthy union-management relationship. Our “Problem-Solving” approach describes a collaborative interest-based approach that we agree to use whenever possible for any kind of issue. The goal is to find a solution or approach that everyone can live with.

### **Guiding Principles**

These principles should guide our response and decisions when problems arise; they describe the behavior to which we aspire. They are general, however, and will not apply in every situation. For help with the investigations/discipline procedure, refer to the “Coaching and Investigations” section.

- Using ideas from “Just Culture”, problems and issues should be viewed as opportunities to improve the work process and how we work together.
- The Standards of Respect guide our approach to resolving problems and how we work together.
- Interest-based problem-solving methods help move parties to find solutions that work for everyone. In interest-based problem-solving, each party identifies their interests (what they care about), and the group generates options to solve the problem after understanding each other’s interests.
- Workplace problems are best solved locally and informally.
- Consensus-building is often the most effective approach to problem-solving.
- The individuals or groups involved in the problem should be involved in the process of solving it.
- Every problem is different and may require a unique solution.
- The process should be flexible. Members of the problem-solving team can modify the process by mutual agreement, including time frames.

When a problem develops, as defined by either an individual employee, a group of employees, a supervisor or manager, the SHARE union or UMass Memorial, every effort should be made to solve it directly and informally through discussion and information-sharing. Representatives from SHARE and HR are available to support employees and supervisors when solving problems, and to help facilitate the discussion and find a solution. This step may take more than one conversation and may involve additional people.

### **Appeal Process: Escalating the Problem to Resolution**

When the methods described above do not succeed in resolving a problem at the local level, the problem can be escalated to UMass Memorial and SHARE leaders, and, if necessary, to an outside neutral mediator.

### **Step 1:**

Step 1 should involve the affected employee and supervisor, and possibly a SHARE employee representative or organizer and someone from Human Resources. Discussions should use the guiding principles above.

If the problem is not resolved at Step 1, it may be sent to Step 2. To proceed to Step 2, the problem should be identified and communicated in writing to Human Resources and the supervisor involved in Step 1. The communication must identify the problem as being moved to Step 2.

### **Step 2:**

SHARE and UMass Memorial will assign a union-management pair to work together as a team to find a solution that is acceptable to all parties. The goal of Step 2 is to involve new people with wider perspectives on their entire organizations as well as an expertise in interest-based problem-solving to see if they can find a solution that all parties can live with.

If an issue that resulted in progressive discipline cannot be resolved through the joint processes at Step 2, the employee may ask the SHARE Executive Board to take the issue to Step 3. In individual progressive discipline situations and other kinds of unresolved problems, the SHARE Executive Board will decide whether to send the case to mediation to final conclusion or arbitration, or not to proceed. The Union shall have 90 days from the attempt at resolution at Step 2 to file for mediation/arbitration. The union shall provide the UMass Memorial Director of Labor Relations with a status update within 60 days of the decision at Step 2, if a case is being considered for mediation/arbitration.

### **Step 3: Mediation to Final Conclusion**

If proceeding to Step 3, UMass Memorial and SHARE will jointly choose a mediator and a date for the case. If the parties agree that mediation to final conclusion is not appropriate for the situation, they will choose an arbitrator. In the case of mediation to final conclusion, if the mediator cannot get the parties to a mutually acceptable agreement, they will issue a final and binding written decision which accepts either party's position or some point in between. Expenses of mediation or arbitration shall be borne equally by the parties.

<b>Coaching and Investigations</b>
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UMass Memorial and SHARE are committed to creating a constructive work environment. Open communication, based on mutual trust and respect among staff at all levels, is the cornerstone to constructive working relationships.

It is UMass Memorial's expectation that employees at all levels will conduct themselves in a manner consistent with the highest standards of professionalism and accountability for their work. When an employee is not meeting expectations, every possible effort will be made to work with the employee toward satisfactory improvement. Coaching and progressive discipline is, in most instances, intended to provide employees with the opportunity to make the change(s) needed with guidance and assistance from their supervisor. UMass Memorial will attempt to ensure that all such discipline is appropriate to the offense, timely, and applied consistently.

Concerns that require coaching or progressive discipline typically fall into four (4) areas: absenteeism, tardiness, behavior, and performance.

Where appropriate, employees will be provided coaching and an opportunity to correct the problem. However, progressively more severe action up to and including termination will be taken if the employee has not corrected the problem or if a pattern of unacceptable action continues.

### **Guiding Principles for Coaching and Investigations**

- We will use a Problem-Solving approach to discussions about administering discipline.
- We will resolve performance issues at the most informal level possible.
- Direct conversation by the employee and supervisor are the most effective method to set up mutual effort to address problems
- We will strive to strengthen the supervisor-employee relationship during difficult discussions; the role of SHARE and Human Resources is to support the employee and supervisor in resolving the problem.
- Mistakes can be opportunities to improve a work process. We will look for such opportunities to move our focus from individual performance to a system view when appropriate.
- The employee's confidentiality should be respected by all participants.
- It is the intent of both SHARE and UMass Memorial to move investigations quickly, once a problem is discovered. We expect that steps 1 – 2 will normally transpire with a 6 – 8-week time frame.
- Union representation and the Appeal Process are available to an employee at any point in this process.
- Joint union-management training in the problem-solving approach, Appeal Process, and progressive discipline is necessary for everyone who is new to the organization.

### **Coaching:**

Coaching can be any conversation between a supervisor and employee about the work and may include discussions about problems that the employee needs to address or needs that the employee has in order to do their job better. Coaching is encouraged – frequent and good communication helps people get the work done better. It is our hope that supervisors and employees will resolve issues and improve performance through coaching.

Coaching is not considered discipline. When used effectively it can prevent the need for discipline. Though coaching will generally precede the application of progressive discipline in all but the most severe cases and documenting that coaching occurred is advised, it should not be viewed as punitive. Coaching is called for when a supervisor has a concern about an employee, but the goal is mutual understanding of the issue, its causes, and possible solutions.

### **Investigations:**

When a supervisor becomes aware of an incident that may require investigation, the supervisor should collect all the pertinent facts and review all documentation relating to the incident. This step may necessitate consultation with the Human Resources. It is important to address the issue in timely manner. The supervisor should meet with the employee prior to determining if progressive discipline or another other action is warranted.

Typically, the process of meeting with an employee about an issue will follow this procedure:

Prior to an investigatory meeting:

- The employee may have participated in an investigative conversation with their supervisor about the issue.
- If the supervisor has a concern that could result in progressive discipline, the supervisor should reach out to the SHARE organizer and HR business partner for the area to inform them of their concern.
- If a meeting is required, the supervisor will inform the employee. The supervisor's notification will include: reason for the meeting, unless there is a compelling reason not to, and the employee's right to have a SHARE employee union representative or SHARE organizer present if the meeting may result in discipline.
  - For any meeting, if the employee does not want a Union representative, the employee should sign a statement indicating that.
- SHARE employee union reps and/or SHARE organizers must be given enough notice to attend the meeting. Scheduling flexibility is encouraged and appreciated.
- A preparatory conversation between those who will be meeting with the employee (the HR BP, SHARE union rep/organizer and supervisor) is best practice.

Investigatory meetings with a SHARE employee should include the following:

- The supervisor should clarify their expectations and explain why the employee may not be meeting those expectations.
- The employee should have the opportunity to respond and/or what would help them to meet expectations.

- The supervisor should explain how the employee could meet the expectations and set a timeframe for improvement with the employee.
- If possible, the employee and supervisor should collaborate on solutions to the problem. When possible, this may include additional training, redistribution of tasks, a work hours change, or experimenting with a process change.
- The conversation should be documented in some way, though this need not be through progressive discipline.
- If the supervisor believes that progressive discipline is the best option for helping the employee to improve their performance issue, the supervisor may initiate one of the steps of progressive discipline in accordance with the seriousness of the infraction and the employee's previous progressive discipline. In some cases, it may be appropriate to repeat levels of discipline rather than advance to a more severe level. The decision to apply discipline should not be made until after the meeting with the employee.
- The meeting and the result should be documented, and both the supervisor and employee should get a copy.
- It is not necessary for SHARE or HR to be present when the employee receives documentation of progressive discipline.
- The supervisor will ask the employee to sign to show that they received a copy. If the employee does not want to sign, the supervisor may ask someone else, such as the SHARE union representative or the Human Resources person, to witness that the employee was given a copy of the letter. If no other witness is available, the supervisor will document that the employee refused to sign.

With each step of progressive discipline, a corrective action plan (if applicable) with time frames should be included in the memorandum to assist the employee in bringing performance back to an appropriate expectation.

## **Levels of the Progressive Discipline:**

- Level 1 of 5 (formerly known as “documented counseling”)
- Level 2 of 5 (formerly known as “verbal warning”)
- Level 3 of 5 (formerly known as “written warning”)
- Level 4 of 5 (formerly known as “final written warning”)
- Termination

Copies of documentation describing progressive discipline below Level 3 will be kept in an employee’s department file. A copy of the documentation describing progressive discipline of Level 3 and above will be placed in an employee’s personnel file and can thus potentially impact that employee’s ability to transfer to another department.

Level 4 disciplinary action can also result in an unpaid suspension of up to three days, if justified by the seriousness of the issue.

Under extraordinary circumstances, SHARE and UMass Memorial may agree to a suspension of more than 3 days through the Appeal process.

When SHARE and UMass Memorial do not agree about whether termination is appropriate, they will normally do a joint investigation/Step 2 Appeal before a final decision is made. If necessary, to permit sufficient time to conduct a thorough investigation and reach a final determination, the employee may be placed on an investigatory paid leave.

**Investigatory Paid Leave:** An investigatory paid leave removes an employee from the workplace while an investigation and/or Appeal take place. This makes sense in some situations, such as when serious allegations against an employee involve patient safety, or when a situation with co-workers requires it. An investigatory paid leave is not meant to be punitive, since the investigation could reveal that the employee is innocent of the allegation(s). The leave should last as long as is necessary to do an appropriate investigation and/or problem-solving process. The employee will receive compensation as if they had continued to work their scheduled shifts, including overtime, holidays and differentials.

If the employee was scheduled for an overtime shift but was unable to work the shift due to investigatory leave and the investigation results in discipline, the employee will not be paid for the shift (except by mutual agreement.) If no discipline is imposed, the employee will be paid time and a half as if they had worked the shift. If the outcome is a disciplinary suspension, it will begin after the decision is reached unless there is mutual agreement to change one or more days of the investigatory paid leave to unpaid suspension.

**Skipping or Repeating Steps:** Every disciplinary situation is different. The disciplinary steps should be designed to match the situation – the point is to help the employee fix the problem. It may be appropriate to skip disciplinary steps because of the seriousness of the offense, or to repeat steps in the process if that is what would best help to solve the problem. Questions of what is appropriate in any one case are best handled through the problem-solving process, involving a SHARE Union Representative and HR.

**Confidentiality:** Disciplinary actions and discussions are confidential. Supervisors and others involved in a SHARE member's case should not discuss the discipline or the investigation with other employees. The SHARE member in the case is encouraged to use discretion in the workplace should they choose to discuss their situation with others.

**Transfers:** This policy does not prohibit a SHARE employee from applying for, being offered, or accepting a new position at UMass Memorial when there is some record of disciplinary action in their file.

**EMPLOYEE ASSISTANCE PROGRAM (EAP):** The Hospital has an Employee Assistance Program to assist staff and managers in managing these difficult situations when personal issues outside of work play a role. The EAP is a resource that you are encouraged to utilize. Contact Human Resources for further information.

**Removing disciplinary action from a file:** After a year has passed with no further related problems arising, most disciplinary actions will no longer be active. An employee may request that inactive discipline be removed from his/her file(s) and placed in a separate archive of removed discipline. The archive will not be accessible in the hiring process but may be kept by the employer for legal or regulatory purposes.

In serious cases, such as those involving regulatory issues or sentinel events, discipline may be designated to remain active for longer than one year. These exceptions will be worked out through the problem-solving process. They will not have access to the Appeal Process.

### **Probation for New Employees**

Probation is a time for the manager and the employee to figure out whether there is a good fit between the job needs and the employee. Probation for new hires will last three months from the date of hire. During that time, communication and feedback between the supervisor and the employee should be consistent and intended to help the employee succeed in the job.

If there are problems with a new employee during the probation period, the employee and the supervisor should use a problem-solving approach. New employees in their probation period can have a SHARE Employee Rep or Organizer accompany them to progressive discipline meetings and support them.

