

New York City and State Earned Safe and Sick Leave Policy

1. Policy Statement

In accordance with the New York City Earned Safe and Sick Time Act and the New York State Paid Sick Leave law, eligible employees of the auxiliary entities of the Fashion Institute of Technology, namely the Fashion Institute of Technology Foundation (the “Foundation”) and the Fashion Institute of Technology Student Housing Corporation (“SHC”), may request days off from work from time to time to address their medical needs or the medical needs of a family member, or to address issues relating to certain “safe time” matters, including family offense matters, sexual offenses, stalking, or human trafficking. For this purpose, the Foundation and SHC have developed a sick and safe time leave program through which eligible employees are assured of at least a minimum level of paid time off benefits each year. Eligible employees will be eligible for up to forty hours of safe and sick time leave (“ESSL time”), as further described below.

For employees who are already eligible for at least the minimum level of paid time off benefits set forth in this policy, such employees have the choice to use their available paid leave benefits for ESSL-qualifying sick, family health care, or safe time purposes under this policy, or for such other purposes permissible under the Foundation or SHC’s paid leave policies, as described below.

2. Eligibility

All employees of the Foundation and SHC will be eligible for at least the minimum level of benefits under this policy. Employees who are eligible for other paid time off benefits under the Foundation or SHC’s policies should refer to the section below regarding applicability and concurrent designation of ESSL time. This policy may not apply to employees who are covered by a collective bargaining agreement.

3. ESSL Bank

Employees are eligible to use ESSL time upon their date of hire. Under this policy, full-time employees will be “front-loaded” twice a year with a sufficient amount of leave to be used for ESSL purposes. Full-time employees will receive their allotment of forty (40) hours of ESSL time through the sick and personal days already provided under the Foundation and SHC’s existing policies. Eligible part-time employees will accrue hours of ESSL as they work at rates equivalent to, or greater than, the ESSL required accrual rate.

Please note that, as set forth below, employees who are eligible for other paid time off benefits – including but not limited to paid sick time, vacation time, personal business time, optional days, free days or similar paid time off benefits under other Foundation or SHC policies – beyond the ESSL benefits set forth under this policy, will not receive a greater total amount of paid time off benefits as a result of any provisions of this policy. Rather, use of ESSL time will run concurrently with use of any other paid time off benefits until all ESSL benefits (whether accrued, or projected to be accrued, during the calendar year) are exhausted.

4. ESSL Time Usage

Employees may begin to use accrued ESSL time as it becomes available, subject to the limitations set forth in this policy. Employees may neither accrue nor use more than 40 hours of ESSL time during any calendar year although employees may be eligible to use sick time or other paid leave in accordance with the employer's policies.

Employees are permitted to use accrued ESSL time only for an absence from work during mandatory hours the employee was scheduled to work.

5. Permissible Purposes of ESSL Leave Usage

For purposes of this policy:

- “Family offense matter” means an act, or threat of an act that may constitute disorderly conduct, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree or coercion in the second degree (as those terms are defined by applicable sections of the New York Penal Law) between spouses or former spouses, between parent and child, or between members of the same family or household.
- “Family member” means an employee's child, spouse, domestic partner, parent, sibling, grandchild, grandparent, the child or parent of an employee's spouse or domestic partner, any other individual related by blood to the employee, or any other individual whose close association with the employee is the equivalent of a family relationship.
- “Member of the same family or household” means (i) persons related by blood or through marriage; (ii) persons legally married to or in a domestic partnership with one another; (iii) persons formerly married to or in a domestic partnership with one another regardless of whether they still reside in the same household; (iv) persons who have a child in common, regardless of whether such persons have been married or domestic partners or have lived together at any time; and (v) persons who are not related by blood or through marriage and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time.

Employees may use accrued ESSL time for absences from work during mandatory hours the employee was scheduled to work, only for the following reasons:

- Personal Medical Care: The employee’s mental or physical illness, injury or health condition; or need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or need for preventative medical care;
- Family Medical Care: Care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or who needs preventative medical care;
- Ordered Closure Due to Public Health Emergency: Closure of such employee’s place of business by order of a public official due to a public health emergency or such employee’s need to care for a child whose school or childcare provider has been closed by order of a public official due to a public health emergency. “Public health emergency” must be declared by Mayor or NYC Commissioner of Health and the closure must be by order of a public official due to the public health emergency;
- Safe Time: When the employee or a family member of the employee has been the victim of a family offense matter, sexual offense, stalking, or human trafficking for the following reasons:
 - To obtain services from a domestic violence shelter, rape crisis center, or other shelter or services program for relief from a family offense matter, sexual offense, stalking, or human trafficking;
 - To participate in safety planning, temporarily or permanently relocate, or take other actions to increase the safety of the employee or employee’s family members from future family offense matters, sexual offenses, stalking, or human trafficking;
 - To meet with a civil attorney or other social service provider to obtain information and advice on, and prepare for or participate in any criminal or civil proceeding, including but not limited to, matters related to a family offense matter, sexual offense, stalking, human trafficking, custody, visitation, matrimonial issues, orders of protection, immigration, housing, discrimination in employment, housing or consumer credit;
 - To file a complaint or domestic incident report with law enforcement;
 - To meet with a district attorney’s office;
 - To enroll children in a new school; or
 - To take other actions necessary to maintain, improve, or restore the physical, psychological, or economic health or safety of the employee or the employee’s family member or to protect those who associate or work with the employee.

6. Advance Notice of ESSL Time Off Required

In order to use accrued ESSL time, employees must provide reasonable notice of the need to use ESSL time, as follows:

- If the need for ESSL time is foreseeable, the employee should provide notice as soon as possible in advance. Employees must give at least seven (7) days advance notice when the need for ESSL time is foreseeable seven (7) days or more in advance.
- If the need for ESSL time is not foreseeable at least seven (7) days in advance, the employee must give notice as soon as feasible or practicable.

When the need for use of ESSL time is foreseeable, the employee must submit notice of the request to use ESSL time in writing to the employee's supervisor in advance.

7. Verification/ Documentation

For absences of three (3) or less consecutive workdays, the employee may be required to submit written documentation to the employer that confirms the need for the amount of ESSL time utilized and that the ESSL time was used for an authorized purpose under the law.

For absences of more than three (3) consecutive workdays relating to Personal Medical Care or Family Medical Care (as described above), the employee may be required to provide documentation signed by a licensed health care provider verifying that the ESSL time was used for a purpose authorized under this policy and verifying the need for the amount of ESSL time taken. Note that those leaves qualifying under the Family and Medical Leave Act of 1993 (FMLA, 29 U.S.C. §2601 et. seq.) may be required to submit additional documentation in accordance with that Act.

For absences of more than three (3) consecutive workdays relating to Safe Time (as described above), the employee may be required to provide documentation verifying that Safe Time was used for an authorized purpose and verifying the need for the amount of Safe Time taken, such as 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 employee or the employee's family member has sought assistance in addressing family offense matters, sexual offenses, stalking, or human trafficking and their effects; a police or court record; or a notarized letter from the employee explaining the need for such time.

An employee who uses ESSL time for purposes other than those authorized under this policy may be subject to disciplinary action, up to and including termination from employment.

8. Year-End

The calendar year will run from September 1 through August 30, unless the Foundation or SHC designates a different calendar year. If an employee has accrued ESSL remaining on August 30

(or other designated year-end date), the unused ESSL will be carried over to the next year, up to a maximum of 40 hours.

9. Application to Employees Eligible for Paid Time Off Benefits Under Other Policies

Employees of the Foundation or SHC who are eligible for other paid time off benefits – including but not limited to paid sick time, vacation time, personal business time, optional days, free days or similar paid time off benefits under other Foundation or SHC policies – beyond the ESSL benefits set forth under this policy, will not receive a greater total amount of paid time off benefits as a result of any provisions of this policy. Rather, use of ESSL time will run concurrently with use of any other paid time off benefits until all ESSL benefits (whether accrued, or projected to be accrued, during the calendar year) are exhausted.

Employees may use their paid time off benefits for ESSL-qualifying reasons, if they so choose, but are not required to do so. If an employee has an ESSL-qualifying reason for an absence, the employee may notify the employee's immediate supervisor in writing of the need for use of ESSL time in accordance with the notice requirements above. Whenever ESSL time is requested, and the employee has remaining accrued or advanced ESSL time available, the rules for use of paid time off under this ESSL policy will apply (and any rules generally applicable to the use of paid time off under other policies will not apply to the extent inconsistent with this policy).

Paid time off benefits will be applied against ESSL time unless the employee advises the employer that they are using the paid time off benefits for a reason that would not qualify for ESSL. Employees may use paid time off benefits under other policies for ESSL-qualifying reasons. In order to do so, the employee need not identify an ESSL-qualifying reason before using paid time off benefits. Rather, the use of paid time off benefits under other policies will be credited against ESSL time regardless of whether the employee chooses to disclose to the employer that the reason for requesting or using paid time off is for an ESSL-qualifying reason.

To the extent that the terms of any other Foundation or SHC policy relating to paid time off benefits or attendance are inconsistent with the terms of this policy, the terms of this policy will apply.

10. Separation

Upon separation from employment, for any reason, any accrued but unused ESSL will not be paid out.

11. Non-Retaliation

No employee who requests to use or uses ESSL for purposes authorized under this policy will be subject to retaliation. No employee who makes a good faith complaint regarding any alleged violation of this policy will be subject to retaliation.