



University-Initiated Student Medical Leave

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Students

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I Introduction

The following policy and procedures are to be used to help transition a student to a safer environment more conducive to his or her needs when it becomes clear that remaining at Lander University (“University”) is not in the best interest of the student or the University community. This policy also permits a student to take a leave voluntarily when medical conditions or psychological distress make a leave in his or her best interest; its goal is to define the length of separation, outline the path to re-entry, ease the transition for the student’s return, and optimize the opportunities for the student’s success upon return. Under certain conditions, if a student has not opted to take a leave voluntarily, the University may institute an involuntary leave under this policy. All records will be maintained and secured in accordance with the Family Educational Rights and Privacy Act (FERPA¹) and Health Insurance Portability and Accountability Act (HIPAA²).

II Student-Initiated Voluntary Leave of Absence

- A. A student may initiate a leave or withdrawal from the University for medical or psychological reasons. At the discretion of the Assistant Vice President for Student Affairs (or designee), and subject to the refund policies of the institution, arrangements may be made for partial or complete refund of tuition and/or fees. Academic accommodations (e.g., incomplete grades) may be made as well, subject to the academic policies of the University. Modifications to housing contracts may also be possible. The usual University procedures for leave or withdrawal will be followed, including any documentation requirements. If a student takes a voluntary leave, the leave documentation will specify the duration of the leave and options for extension. The student will be permitted to return upon the end of the leave, and expectations for a successful return will be outlined in writing to the student at that time.
- B. A student who elects to fully withdraw, rather than take a leave, will be required to reapply for admission after a period of time specified by the



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Office of Enrollment Management. He or she will be treated as any other applicant for admission at that time.

III University-Initiated Student Medical Leave

- A. If a student poses a direct threat of harm to others or causes the University to have a legitimate safety concern of harm to self, the Assistant Vice President for Student Affairs (or designee) may initiate proceedings under the Code of Student Conduct. A student who engages in threats to others or self-harm behaviors that cause a significant disruption to the University community may also be subject to the Code of Student Conduct.

- B. Standard for University-Initiated Student Medical Leave on the Basis of Threat of Harm to Others

This section applies to all medical leaves from housing or from the University for any student who is at significant risk of harm to others. The University will determine whether it is more likely than not that a student is a direct threat. When a student poses a direct threat, he or she may be placed on leave until he or she is no longer a direct threat.

1. A direct threat exists when a student poses a significant risk to the health or safety of others. A significant risk constitutes a high probability of substantial harm. Significance will be determined by:
 - The duration of the risk;
 - The nature and severity of the potential harm;
 - The likelihood that the potential harm will occur; and
 - The imminence of the potential harm.

2. Determining that a student is a direct threat requires an objective and individualized assessment and a thorough review of any pertinent information. The assessment must be based on reasonable medical judgment and the most current medical knowledge and/or on the best available objective evidence. This standard also applies to the reinstatement of a student who has been placed on leave. The student will be entitled to return upon an assessment by external licensed providers, with University administrators reviewing the evidence/documentation provided by those providers to determine the student's readiness to return.

- C. Standard for University-Initiated Student Medical Leave on the Basis of Self Harm Behaviors

1. A student who exhibits self-harming behaviors that significantly disrupt normal University activities will be subject to the Code of Student Conduct. A student who exhibits potentially lethal or acute self-harming behaviors, such as a suicide attempt, will be subject to this policy as presenting legitimate safety concerns. When the University, using the process outlined below, determines that a student poses a legitimate safety concern of harm to self, the University-initiated medical leave process can be invoked.



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IV Conduct Proceedings

- A. If the student has been accused of a violation of the Code of Student Conduct, but the student is considered to be incapable of understanding the nature or inappropriateness of his or her actions, the medical leave policy may be activated prior to issuance of a determination resulting from the conduct process. Interim suspension for threat of harm to others or a legitimate safety risk to self will also likely be imposed. If the student is placed on medical leave from the University, or another action is taken under these provisions following a finding that the student's behavior was the result of a lack of capacity, such action terminates the pending conduct action. If the student is found not to be subject to the medical leave policy, conduct proceedings may be reinstated.

V Referral for Assessment

- A. The appropriate official (or CARE Team) may refer or mandate a student for an assessment by an independent licensed mental health provider (e.g., psychiatrist, psychologist, professional counselor, social worker, etc.). Such an assessment would be appropriate if it is believed that the student may meet the criteria set forth in this policy or if a student subject to conduct proceedings provides notification that information concerning a mental health/behavioral condition or disorder will be introduced.
- B. A student referred or mandated for an assessment will be so informed in writing with personal and/or certified delivery and will be given a copy of these standards and procedures. The assessment must be completed per the instructions contained in the referral letter, unless the Assistant Vice President for Student Affairs (or designee) grants an extension. A student who fails to complete the assessment in accordance with these standards and procedures, and/or who fails to give permission for the results to be shared with appropriate administrators, will be referred for conduct action for "Failure to Comply" under the Code of Student Conduct.

VI University-Initiated Student Medical Leave Resolution Procedures

- A. **Informal Administrative Conference Option**
The Assistant Vice President for Student Affairs (or designee) may invoke informal procedures to determine the need for an involuntary leave. This process is also known as an administrative conference. In an administrative conference, medical and/or administrative evidence will be introduced. Administrative evidence may include, but is not limited to, previous referrals and/or past concerns, preceding intervention efforts, and assessment findings. The appropriate official will render a written decision within two business days, barring exigent circumstances, stating the rationale for his or her determination. The decision will be delivered to the student directly, electronically, and/or by regular and certified mail. If the determination is made that a leave is warranted, the notification will include information regarding the length of the leave and any conditions of reinstatement.



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B. Formal Administrative Review Option

1. The student subject to a University-initiated student medical leave may request a formal administrative review in lieu of the informal conference option described above. If the medical and/or administrative assessment support the need for a leave, a formal administrative review meeting will be scheduled before the Assistant Vice President for Student Affairs (or designee), and senior members of the University administration. The formal review will be closed and confidential. The student will be informed, in writing, electronically, and through regular and/or certified delivery, of the time, date, and place of the meeting. The student will be given at least two business days to independently review the information that will be presented. The student will be notified of the individual who is expected to present information at the meeting, and the student is expected to notify the Assistant Vice President for Student Affairs (or designee) of any parties with relevant information whom the University official should contact to request their appearance at the meeting as a witness. The student may, at the discretion of the Assistant Vice President for Student Affairs (or designee), be assisted by an advisor in the meeting. The student is permitted to have an attorney present to attend/advise the student, but any advisors will not be allowed to speak for or formally represent the student during a medical leave meeting, unless the Assistant Vice President for Student Affairs grants an exception, such as in cases of incapacity.
2. The student may present information about the necessity and appropriateness of medical leave and will have an opportunity to ask questions of others presenting information. The meeting should be conversational and non-adversarial in tone, although it is the responsibility of the Assistant Vice President for Student Affairs (or designee) to exercise active control over the proceeding, to include deciding who may present information. Formal rules of evidence will not apply. Anyone who disrupts the formal meeting may be excluded. There will be a single verbatim record, such as a recording, for all formal involuntary leave meetings. The record will be the property of the University and will be maintained according to the University's record retention policy.
3. A written decision will be rendered by the formal administrative review panel on the basis of a preponderance of evidence within two business days, barring exigent circumstances, and will state the rationale for its determination. The decision will be delivered to the student in writing, electronically, and through regular and/or certified delivery. If the determination is made that a leave is warranted, the notification will include information regarding the length of the leave and any conditions of reinstatement.

C. Appeal Process

1. The determination of any medical leave resolution (informal or formal) is subject to appeal to the Vice President for Student Affairs in accordance with the following process. A student subject to a University-initiated student medical leave may petition for a review of the determination within three (3) business days of issuance of the written decision. All petitions must be in writing and delivered to the Vice President for Student Affairs (or designee).



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Reviews will only be considered for one or more of the following purposes:

- a. **Procedural Error(s):** Procedural error that resulted in material harm or prejudice to the student (i.e., by preventing a fair, impartial, or proper review). Deviations from the designated procedures will not be a basis for sustaining an appeal unless material harm or prejudice has resulted.
 - b. **Evidentiary Standard:** To determine whether the decision reached regarding the involved student was based on a preponderance of the evidence.
 - c. **New Evidence:** To consider new information sufficient to alter a decision or other relevant facts not brought out in the original meeting, because such information and/or facts were not known to the person appealing at the time of the original resolution.
 - d. **Appropriateness of Outcome** To decide if a medical leave is inappropriate to address the nature, duration, and/or severity of the risk or threat.
2. Except as required to explain the basis of new information unavailable at the time of the original meeting, an appeal review will be limited to the verbatim record of the initial meeting and/or all supporting documents. The decision of the Vice President for Student Affairs (or designee) is final.

D. Readmission Following a University-Initiated Student Medical Leave

A student who is seeking reinstatement to the University after University-initiated student medical leave must receive clearance by providing the Assistant Vice President (or designee) with written evidence from a licensed medical or mental health professional that the student no longer poses a direct threat to others or a legitimate safety concern and is otherwise able to function in an educational setting. Any other conditions resulting from determinations made in accordance with this policy must also be completed. A follow up meeting, as outlined above, may be held to determine whether the student will be permitted to return to student status.

¹ FERPA website: <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

² HIPAA website: <http://www.hhs.gov/hipaa/>