



VCU

Family and Medical Leave

Policy Type: Administrative
Responsible Office: VCU Human Resources
Initial Policy Approved: 07/01/1994
Current Revision Approved: 08/06/2015

Policy Statement and Purpose

It is the intent of Virginia Commonwealth University (VCU) to provide employees the opportunity to balance the demands of the workplace and their families by taking paid or unpaid leave for medical reasons. This policy for the university is designed to be consistent with federal law (Family and Medical Leave Act – FMLA) and the provisions of the Commonwealth of Virginia's Policy on Family and Medical Leave.

Noncompliance with this policy may result in disciplinary action up to and including termination of employment. VCU supports an environment free from retaliation. Retaliation is prohibited against any employee who brings forth a good faith concern, asks a clarifying question or participates in an investigation.

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Who Should Know This Policy

All faculty and staff are responsible for knowing this policy and familiarizing themselves with its contents and provisions.

Definitions

Exigency

This leave is needed for circumstances related to a call to military duty or impending call to duty, including short-term notice of deployment, military events, childcare and school activities, financial and legal arrangements, counseling, rest and recuperation and post-deployment activities.

Immediate Family Member

This person is a child (biological, adopted, foster, step, legal ward or child of a person standing in loco parentis) under age 18, a child over 18 years of age who is incapable of self-care because of a mental or physical disability, a spouse or a parent who has a serious health condition. This person also includes "next of kin," defined as the closest blood relative, if the leave is used for the serious health condition of a covered service member.

Intermittent Leave or Reduced Schedule Leave

This leave schedule permits the employee to take leave periodically for a few hours a day or for a few days at a time, on an as-needed basis or to reduce his/her usual number of hours worked per workweek or per workday.

Key Position

This is a position within the highest paid 10% of the institution's employees.

Serious Health Condition

This is an injury, illness, impairment or physical or mental condition that involves either inpatient care in a hospital, hospice or residential medical care facility; or a condition requiring "continuing treatment" by a health care provider.

Contacts

VCU Human Resources officially interprets this policy and is responsible for obtaining approval for any revisions as required by the policy *Creating and Maintaining Policies and Procedures* through the appropriate governance structures. Please direct policy questions to VCU Human Resources.

Procedures

- 1. Eligibility Criteria:** An employee must have been employed by the Commonwealth of Virginia for at least 12 months and have worked for VCU at least 1,250 hours during the 12-month period prior to the start of the leave. (NOTE: Neither the 12 months nor the required 1,250 hours have to be worked during consecutive months. The 12 months must have been worked subsequent to any seven-year break in service.) Leave for a qualifying exigency is only available to employees who have family members in the National Guard, Reserves and regular Armed Forces or Reserve who are retired.

2. Qualifying Reasons for FMLA: The following are qualifying reasons for which an employee may take family and medical leave:

- the employee's own serious health condition;
- the birth of a child (to be taken within 12 months after birth);
- the placement of a child with the employee for adoption or foster care (to be taken within 12 months of the date of placement);
- to care for an immediate family member who has a serious health condition; and
- for a qualifying exigency arising out of the employee's spouse, child or parent being on active military duty or having been notified of an impending call to duty.

3. Benefits and Conditions

Salary Continuation: An employee may choose to use accrued leave as provided under applicable faculty and staff leave policies so that his/her salary continues without interruption. If the employee does not choose to substitute accrued paid leave, the department may require the substitution. The number of unpaid work days or work hours, when combined with the number of days of other leave taken, may not exceed a total of 60 work days or 480 work hours.

Length of Leave: Eligible full-time employees may take up to 12 weeks (60 work days; 480 work hours) of family and medical leave in a fixed leave year. At VCU, the fixed leave year is January 10 of the current year through January 9 of the following year. Any time missed from work due to family and medical leave that exceeds 12 weeks in a calendar year will not be covered by this policy. Eligible part-time and hourly employees may take FMLA on a prorated basis corresponding to the percentage of time (% FTE) worked during the 365-day period prior to the date family and medical leave is scheduled to begin.

FMLA is extended to 26 workweeks (1,040 hours) to care for a family member with a serious health condition when the spouse, child(ren), parent(s) or "next of kin" is a covered service member and the health condition is incurred in the line of duty on active duty. This leave is only available once and is combined with all other FMLA leaves that year, thereby limiting FMLA for all purposes to 26 weeks during a 12-month period.

Intermittent Leave: When medically necessary, an employee may take family and medical leave on an intermittent or reduced schedule. The employee may be transferred temporarily to another position that better accommodates the intermittent leave or reduced schedule, provided the new position carries equivalent pay and benefits.

If the intermittent schedule is requested to care for a newborn child or because of the placement of a child through adoption or foster care, the supervisor must give approval prior to the leave.

Benefits: The university will continue to contribute to the health benefits premiums of eligible salaried employees who are on family and medical leave. When using paid leave under the provisions of this policy, the payroll deductions of the employee's portion of the premium continue. When employees are on leave without pay under family and medical leave, they are responsible for making their premium contributions.

- If the employee's portion of premiums **is** fully paid for the duration of family and medical leave, his/her health benefits will continue with no change in coverage upon return from leave.
- If the employee's portion of premiums **is not** fully paid for the duration of family and medical leave, his/her health benefits will be terminated and the employee may re-enroll in coverage within 60 days of returning from leave or at the next open enrollment.

Reinstatement: At the end of family and medical leave, employees are to be reinstated to the same position or to one with equivalent pay, benefits, and other terms and conditions of employment. The employee should report periodically on his/her status and intent to return to work and may be required to provide certification from a health care provider that he/she is able to return to work.

- The university may deny restoration if it can be shown that the employee would not have been employed at the time reinstatement is requested (i.e., the employee would have been laid off).
- If a position is determined to be a key position, the university may deny restoration when necessary to prevent substantial and grievous economic injury to the institution's operation. The university must notify the employee that restoration will be denied and provide him/her with a reasonable opportunity to discontinue leave and return to work.

- 4. FMLA Restrictions:** When both spouses work for the university, the total amount of leave provided to both employees is limited to a combined total of 12 weeks in a 12-month period when the leave is for the birth, adoption or foster care placement of a child with the employee, or for the care of a child within 12 months after the birth or placement. This limitation does not apply if the leave is taken because of the employee's own serious health condition or to care for an immediate family member with a serious health condition.
- 5. Concurrent Leave:** Family and medical leave may run concurrently with other leave coverage, such as the Virginia Sickness and Disability Program (VSDP) and workers' compensation leave for occupational injuries or illnesses.
- 6. Medical Certification:** FMLA coverage allows for a significant amount of medical documentation to be obtained.

Employees must provide a Certification of Health Care Provider form for their own serious health condition or for a family member's serious health condition before family and medical leave is granted. Employees must provide documentation within 15 calendar days following the request by the supervisor for FMLA eligibility to be preserved. Documentation of the same illness may only be requested once every 30 days unless the original documentation states the minimum duration is more than 30 days. Recertification can be obtained every six months in the latter circumstance.

- 7. Employee Responsibilities:** Employees are required to provide enough information for the supervisor to know if FMLA should be considered. That information includes the anticipated duration of leave, whether the employee can perform the job and if he/she intends to visit a health care provider.

Employees should provide at least 30 days' advance written notice before family and medical leave is to begin, if the need for leave is foreseeable, such as for an expected birth, adoption or planned medical treatment. If emergencies or unforeseen events preclude such advance notice, the employee should give notice in accordance with department call-in procedures. Department call-in policies regarding unscheduled leave notification are still applicable.

Employees on unpaid FMLA leave must remit monthly health benefits coverage premiums by the first of each month to continue coverage for any month in which they do not return to work for at least half the working days in that month.

- 8. Department Responsibilities:** The supervisor should be knowledgeable about FMLA and is responsible for providing the FMLA information handout within five working days of receiving the employee's request for family and medical leave. Generally, FMLA leave must be designated within five working days after learning of the qualifying reason and may be applied retroactively provided the employee is not harmed. Departments are responsible for tracking and calculating FMLA usage.

Forms

1. VCU FMLA Leave Request Form for Faculty and Staff
<http://www.hr.vcu.edu/payroll-and-leave/leave/family-and-medical-leave/> (fact sheet and request for FMLA)
2. VCU Certification of Health Care Provider (FMLA)
http://www.hr.vcu.edu/media/hr/documents/Certification_Health_Care_Provider.pdf
3. Federal Notice of Eligibility and Rights & Responsibilities (FMLA)
<http://www.dol.gov/whd/forms/WH-381.pdf>
4. Federal Designation Notice (FMLA)
<http://www.dol.gov/whd/forms/WH-382.pdf>

Related Documents

1. Federal Family and Medical Leave Act (FMLA)
<http://www.dol.gov/whd/fmla/fmlaAmended.htm>
2. State Policy 4.20, Family and Medical Leave
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol4_20fmla.pdf?sfvrsn=4
3. State Policy 4.55, Sick Leave
http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol4_55sicklv.pdf?sfvrsn=4
4. State Policy 4.57, Virginia Sickness and Disability Program (VSDP)
<http://www.dhrm.virginia.gov/docs/default-source/hrpolicy/pol457vsvp.pdf?sfvrsn=2>

Revision History

This policy supersedes the following archived policies:

April 10, 2011	<i>Family and Medical Leave</i>
August 21, 2012	<i>Family and Medical Leave</i>
August 06, 2015	<i>Family and Medical Leave</i>

FAQs

There are no FAQs associated with this policy and procedures.