

## The Family and Medical Leave Act: What Faculty and Staff Need To Know

The Family and Medical Leave Act (FMLA) provides employees the opportunity to balance demands of the workplace and their families by providing reasonable paid or unpaid leave for medical reasons.

### **What events qualify for FMLA leave?**

FMLA leave may be requested for:

- prenatal care, the birth of a child and/or the care of a newborn child;
- the placement of a child with an employee for foster care or adoption;
- care of the employee's spouse, child, or parent (or "next of kin" if covered service member) with a serious health condition; and
- your own serious health condition (including medical appointments for on-going treatment of chronic conditions).

### **Who's eligible?**

To be eligible for FMLA leave, you must have been employed by VCU or the State for at least 12 months (subsequent to any five-year break in service) and must have worked at least 1,250 hours during the 12-month period immediately before requesting the FMLA leave.

### **How may FMLA leave be taken?**

An eligible employee may take up to 12 workweeks (480 hours) of leave during a calendar year. Only a total of 12 weeks of leave is available even if you experience more than one of the qualifying events per calendar year. The 12 weeks are prorated for eligible employees working less than full time.

Leave may be taken all at once or on an intermittent basis if **medically necessary**. If an intermittent or reduced schedule is needed, you are encouraged to plan your leave with the least disruption as possible to department operations. Intermittent leave for birth, adoption, or foster care is subject to your supervisor's approval.

#### *Exceptions:*

- If both spouses work for VCU, they only can take a combined total of 12 weeks for the birth or placement of a child.
- FMLA is extended to 26 workweeks (1040 hours) to care for a family member with a serious health condition when the spouse, child, parent, 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 limiting FMLA for all purposes to 26 weeks during a 12-month period.

### **Is FMLA leave paid or unpaid?**

You may choose (or be required by your supervisor) to use accrued leave to provide for continued salary coverage during the time you are away from work on FMLA leave. However, you also may use unpaid leave for FMLA purposes. Specific leave rules are available in the attached "FMLA and the Sick Leave Plans."

### **How do I notify my supervisor of the need for FMLA leave?**

You must explain your absence in enough detail so as to notify the supervisor that the absence is due to a FMLA-qualifying reason; calling in sick is inadequate to obtain FMLA protections. The absence may be designated retroactively once enough information is obtained.

If foreseeable, you must give your supervisor 30 days' notice that FMLA leave is needed. When *planning* medical treatment, you must make a reasonable effort to schedule the leave to accommodate staffing and other business needs in consultation with your supervisor and your health care provider.

In all other cases, you should notify your supervisor that the leave being used is for FMLA purposes as soon as possible after becoming aware of the need for leave. Failure to do so will mean a loss of the FMLA's protections for that absence, and the time away from work could be counted as an unexcused absence.

**Note:** Department call-in requirements must be followed whenever you are absent from work.

You can use the attached request form to provide notice and request that your leave be designated as FMLA. A supervisor may also designate your leave as FMLA if he/she has enough information to determine your eligibility.

**Do I need to provide doctor's notes to my supervisor?**

The supervisor will require written certification from a health care provider to verify the need for FMLA. You may provide this information voluntarily and not wait for your supervisor to request the medical certification. If medical certification is not provided when requested or required by department policy, your leave may be denied or, in cases where sick leave has been used pending receipt of the certification, your time may be amended to reflect the use of annual leave or leave without pay. Medical certification must be provided within 15 calendar days of the supervisor's request and should include the following information:

- *medical facts supporting the need for leave;*
- *probable duration of the condition;*
- *an estimate of the number of treatments;*
- *a general description of the treatment;*
- *whether intermittent leave will be necessary;*
- *any work limitations; and*
- *a description of the need for leave to care for a family member.*

Your supervisor also may require:

- *periodic reports about your status and intent to return to work; and*
- *a "fitness for return- to-work" report from your physician.*

**What happens to my health insurance while I am on FMLA leave?**

You will continue to pay your portion of health insurance while on FMLA. If on unpaid leave, you must make arrangements to pay premiums directly to the Payroll Office by the 25th of each month for the following month's premium.

*Reminder:* You may change your health insurance plan or membership level during the annual open enrollment period (normally held each spring) or when you experience qualified "life events" such as the birth or adoption of a child. To ensure coverage, you must make your benefit changes **within 31 days of the occurrence** of the qualifying "life event." "Life events" that may occur when using FMLA include:

- *birth or adoption of a child;*
- *transition from short-term disability to long-term disability under the Virginia Sickness and Disability Program (VSDP); and*
- *return from an unpaid leave of absence (effective July 1, 2001).*

Contact VCU Human Resources at 827-1770 or by e-mail at [benefits@vcu.edu](mailto:benefits@vcu.edu) for more information on the payment process or qualified "life events."

**What if I don't pay my health care premiums or if I'm late with a payment?**

Your health care coverage will be maintained while on leave as long as you continue to pay your portion of the premium. If you fail to make a payment or if the payment is more than 30 days overdue, your health coverage may be discontinued while you are on leave. If your coverage lapses, your health care benefits can be restored only when you return to work.

**What happens when I return to work?**

At the conclusion of FMLA leave, you should be returned to the same job or one with equivalent pay, benefits, and working conditions. If you are unable to perform essential job functions upon your return or if the work schedule needs to be reduced, your supervisor will work with you and your physician to attempt to find appropriate accommodations.

**For assistance, contact:**

**Employee Relations at 828-1510 or by e-mail at [emprel@vcu.edu](mailto:emprel@vcu.edu)**

**Leave Administration at 828-1712 or [leave@vcu.edu](mailto:leave@vcu.edu)**

## FMLA and the Sick Leave Plans

The following VCU leave policies apply to faculty and staff in the two available sick leave plans: Traditional Sick Leave Plan (TSLP) and Virginia Sickness and Disability Program (VSDP). *Exception:* Nine-month faculty do not have access to 33% of their sick balances for FMLA family-related illnesses without prior written approval of the appropriate Vice President and Dean.

<b>Traditional Sick Leave Plan (TSLP)</b>	<p><b>Personal illness</b> - sick leave is used to cover the absence certified as medically necessary by a health care provider. After all sick leave is used, any additional time off for personal illness may be covered by annual or holiday leave balances or leave without pay.</p> <p><b>Family* illness</b> - employees may use up to six days (48 hours) of family sick leave to cover a short-term family illness. Additional time off for FMLA-covered family illness may be reported using up to 33% of remaining sick leave balance; or annual/holiday balances; or leave without pay. Annual/holiday balances or leave without pay must cover additional time off for family illness that does not qualify for FMLA.</p> <p><b>Maternity/paternity</b> - for absences due to pregnancy, sick leave may be used by the woman to cover the period of time she is medically disabled (normally six weeks). Additional time taken may be covered by up to 33% of her remaining sick leave balance; or annual/holiday balances; or leave without pay. Paternity leave is covered by the same rules as shown above under family illness.</p> <p><b>Adoption/foster care</b> – employees may use up to 33% of their existing sick leave balance. Annual or holiday balances, or leave without pay may cover additional time off. In cases where the child has a medical condition, up to three days (24 hours) of family sick leave may be used before using other balances.</p>
<b>Virginia Sickness and Disability Plan (VSDP)</b>	<p><b>Personal illness</b> - sick leave is used to cover absences certified as medically necessary by a health care provider. Generally, after all sick leave is used, additional time off for personal illness may be covered by personal and family leave, annual or holiday leave balances, or leave without pay. After seven calendar days of absence, employees may apply for short-term disability (STD).</p> <p><b>Family* illness</b> – employees may use personal and family leave, annual or holiday balances, or leave without pay to cover an occurrence of family illness. Additional time off for <b>FMLA-covered</b> family illness may be reported using up to 33% of available sick leave balance, annual/holiday balances, or leave without pay. Annual/holiday balances or leave without pay must cover additional time off for family illness that does not qualify for FMLA.</p> <p><b>Maternity/paternity</b> - for absences due to pregnancy, sick leave, personal and family leave, annual or holiday balances, or leave without pay may be used by the woman to cover the seven day waiting period. After seven calendar days of absence, an employee may apply for short-term disability coverage for the time she is medically disabled (normally, six weeks). Additional time taken after the STD claim has been closed may be covered by up to 33% of her remaining sick leave balance, personal and family leave, annual or holiday balances, or leave without pay. Paternity leave is covered by the same rules as shown above under family illness.</p> <p><b>Adoption/foster care</b> – employees may use up to 33% of their existing sick leave balance. Personal and family leave, annual or holiday balances, or leave without pay may cover additional time taken.</p>

\*Family member under FMLA includes:

- spouse (as defined or recognized by law);
- biological parent or individual who stood in loco parentis to an employee (having day-to-day care and financial responsibility for); does not include parents “in law”;
- biological, adopted or foster child, stepchild, legal ward, or child of a person standing in loco parentis, who is either under age 18, or age 18 and over and “incapable of self-care because of mental or physical disability;” and
- “next of kin” defined as the employee’s nearest blood relative - only applicable to leave to care for injured service member.

Family member for non-FMLA family sick reasons is defined as:

- spouse (as defined or recognized by law);
- parents, including step-parents;
- children, including step-children and foster children; and
- any relative, by blood or marriage, living in the employee’s household.

**For assistance, contact Leave Administration at 827-1770 or by e-mail at [leave@vcu.edu](mailto:leave@vcu.edu).**

*Note:* Bone Marrow and Organ Donor leave is **not** considered FMLA leave and does not count toward an eligible employee’s FMLA allotment.

# Employee's Request for FMLA

If you believe your health condition qualifies for FMLA leave and your supervisor has not already provided you with written approval of your leave, please submit this request form to your supervisor for approval. Your request must be submitted no later than two working days after returning to work for an unexpected absence or 30 days in advance for planned absences.

*Note: Your supervisor also may designate your time off as FMLA if he/she verifies that you are eligible and that the absence qualifies as FMLA.*

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(Name)

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(Date)

My use of FMLA is for (*check one*):

- birth or placement of child
- my own serious health condition
- serious health condition for which I am needed to provide care for my:  
 spouse     child     parent

Dates leave is needed:

Begin date: \_\_\_\_\_ End date: \_\_\_\_\_

I will need intermittent leave as indicated by my physician.

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(Signature)

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(Date)

**Keep a copy of this request and submit the original to your supervisor.**