

University Policy 200.12
FAMILY AND MEDICAL LEAVE ACT (FMLA)

Responsible Administrator: Office of the President

Responsible Office: Office of Human Resources

Originally Issued: August 2006

Revision Date:

Authority: Office of the President

Policy Statement

It is the policy of Claflin University to provide Family and Medical Leave to eligible employees. In accordance with the Family and Medical Leave Act of 1993, eligible employees are granted unpaid leave for a serious personal health condition, for the birth of a child, for the placement of a child for adoption or foster care, or to care for a spouse, child, or parent. Employees may use their accumulated sick and vacation leave for personal medical reasons and accumulated vacation leave and sick leave for family related medical reasons.

Statement of Purpose

This policy establishes guidelines for the administration of the Family and Medical Leave Act in compliance with applicable federal laws and regulations issued by the U. S. Department of Labor and state laws. It is the responsibility of the University to protect the rights and privileges of its employees by providing up to 12 weeks of **PAID** and/or **UNPAID** leave during any 12 consecutive months for certain family and medical reasons. The employee shall be offered the benefit of paid leave by using applicable accrued sick and/or vacation leave to cover the absent period.

Applicability

This policy is applicable to all administrators, faculty, staff, and hourly employees with 12 months of service or 1,250 hours in the preceding twelve months.

Definitions

- Child - Son or daughter means a biological, adopted, stepchild, or foster child who is under the age of 18 or age 18 or older and "incapable of self-care because of a mental or physical disability."
- Parent - Biological parent or a person who took the place of a parent when the employee was a child.
- Spouse - Husband or wife as recognized under South Carolina law. It is noted that South Carolina recognizes common-law marriage; therefore, common-law spouses are covered.

PROCEDURES

Employees who meet length of service and hours work requirements have rights under the Family and Medical Leave Act. Employees must request leave of absence under this law and policy through the "Request for Leave Application" process. However, in appropriate situations, the University reserves the right to place employees on Family and Medical Leave status without the leave application.

Eligibility

Employees must meet the following requirements to be eligible for the leave benefits provided under this Act:

- Must have worked for the University at least 12 months
- Must have worked at least 1,250 hours during the year preceding the start of the leave

Purpose of the Leave

The University shall grant up to 12 weeks of leave for any of the following reasons:

- A serious health condition that renders the employee unable to perform the functions of the job
- For the birth and care of a newborn child within 12 months of the birth
- For the placement of a child with the employee for adoption or foster care, and to care for a newly placed child within 12 months of the placement
- To care for a child under 18 years of age, or a dependent son or daughter over 18 years of age who is incapable of self-care because of mental or physical disability
- To care for the employee's spouse or parent with a serious health condition

Circumstances may require an expectant mother to take family and medical leave before the birth of the child for prenatal care, or if her condition makes her unable to work. The period for taking leave based on birth, adoption, or foster care expires one year after the child is born or placed.

In addition, the University provides Maternal-Parental Leave benefits to employees eligible for FMLA. The Maternal-Parental Leave benefits are **ONLY** applicable for the birth and care of a newborn child within 12 months of the birth or for placement of a child with the employee; and for adoption or foster care and to care for a newly placed child within 12 months of the placement.

Serious Health Condition

A serious health condition refers to any illness, injury, impairment, or mental or physical condition that involves any of the following:

- In-patient care in a hospital, hospice, or residential medical care facility
- More than three calendar days of incapacity that involves continuing treatment by a health-care provider
- Incapacity because of pregnancy or prenatal care
- Chronic health condition (i.e., asthma, diabetes)
- Long-term or permanent health condition

Military Caregiver Leave

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave to care for a family member who is a current service member with a serious injury or illness. FMLA leave for this purpose is called “military caregiver leave.” This leave allows an eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness to take up to a total of **26 workweeks** of unpaid leave during a “single 12-month period” to provide care for the service member.

Verification of Employee's Need for Family and Medical Leave

Sick leave that is designated as family and medical leave under the Family and Medical Leave Act must include documentation from the treating physician of the employee or family member, as appropriate. Employees must provide the University with the "Certification of Health Care Provider Form" from the United States Department of Labor. The type of verification an employee may provide include:

- Certification from the treating physician that the employee is temporarily disabled from work. This should indicate the extent of the employee’s disability and the anticipated duration of the disability. The University may send a copy of the Employee's Position Description for the physician to use in determining which duties the employee is able to perform.
- Certification from the employee’s physician that the employee currently has or has been exposed to a contagious disease such that his or her presence on the job might endanger the health of others.
- Evidence that the employee has a medical appointment that could not have reasonably been scheduled during the employee’s non-work hours.
- Certification or verification of incapacity for family members of FMLA qualifying conditions must meet the requirements for family sick leave or FMLA, as applicable.

Medical Certification

The certification should include the following additional information for personal and family related medical leave of absence:

- The date when the serious health condition began
- The probable duration of the condition
- The medical facts regarding the condition
- The reason why the employee is required to care for the family member, what care the employee will provide, and how long the care is likely to be required

The University reserves the right to require that additional information or clarification be included on the certificate depending on the reason for the Family and Medical Leave. (i.e., If an employee applies for leave under the FMLA because of personal serious health conditions, the University may require that the certificate state whether or not the employee can perform the essential functions of the job). The University may require the employee to get an opinion from a second doctor at the University's expense and provide a recertification of a medical condition to support the Family and Medical Leave request. A recertification may be requested at reasonable intervals (generally not more often than every 30 days). While on Family and Medical Leave, the employee is expected to contact his or her supervisor on a regular basis.

Length of the Leave

An eligible employee is entitled to up to 12 weeks of unpaid leave during a 12-month period. Leave to care for a newly born or newly received child must be taken consecutively. Leave required because of the employee's own serious health condition or that of a spouse, child, or parent, may be taken intermittently or by means of a modified work schedule when necessary.

When both spouses are employed by Claflin University, they are each entitled to separate leave for serious (personal) health conditions for themselves, each other, their children, or their parents. However, they are jointly entitled to a **COMBINED** total of 12 work weeks of family leave for the birth and care of the newborn child, and for placement of a child for adoption or foster care.

Family and Medical Leave with Pay

Employees who must be absent due to their **OWN** serious health condition will be paid for time lost from work by first using their accrued sick leave and then vacation leave if the condition persists. Employees who must be absent due to **FAMILY** related medical reasons will be paid for time lost from work by using their accrued vacation leave first. Employees who exhaust their sick and/or vacation

leave while on Family and Medical Leave may apply for leave through the leave sharing program or they will automatically be placed on leave without pay.

Employee Responsibility

Employees must submit their request for family and medical leave by completing the FMLA application at least 30 days before the family and medical leave is to begin. When a 30-day advance notice is not possible, the employee should provide as much notice as practical. Employees should notify the University within one or two working days of learning of the unexpected need for family and medical leave. When there is a medical emergency involving the employee or a member of the employee's family, or when the need for FMLA leave is not foreseeable, advance notice is not practical. In these instances, the employee or a family member should notify the Office of Human Resources in person, by telephone, fax, or email of the circumstances requiring the leave. The FMLA Leave Form may be acquired from the Office of Human Resources.

Returning to Work

The Family and Medical Leave Act normally gives an employee the right to return to his/her job when the family and medical leave has been completed. At the conclusion of the leave of absence under the FMLA, the employee is entitled to reinstatement to his/her former position or to a position equivalent to the former position. An employee who has taken leave due to the employee's serious health condition must obtain medical certification that he/she is able to resume work and must give reasonable notice of intent to return to work. An employee may **NOT** return to work until such certification is provided to the Office of Human Resources.

Key Employees (salaried employees in the highest paid 10% of all employees) may be denied reinstatement rights if reinstatement would cause substantial and grievous economic injury to operations.

Termination of Reinstatement Rights and Employment

An employee's right to reinstatement as set forth above will automatically terminate if the employee does not return to work in full active employment status to the position of reinstatement within or on the working day following the expiration of the leave of absence under the Family and Medical Leave Act.

Employment will automatically terminate if the employee does not return to active employment status with the University at the conclusion of the family and medical leave of absence (12 weeks of entitlement). A further leave of absence

may be granted under the section on Leave without Pay for Disability in the Staff Guidelines.

Effect of Leave on Health Insurance Benefits

Health Insurance Premium

Employees taking leave under this policy must continue to pay their portion of the health benefit plan premiums on or before the same date that such portion of premium would be deducted from the employee's wages. An employee's failure to pay his or her portion of the health benefit plan premium may result in a loss of health insurance coverage.

Reimbursement of Premium to the University

Employees who do not return to work after the expiration of leave under this law and policy will be required to reimburse the University for the portion of the health insurance paid by the University to continue coverage during the leave period. However, an employee who does not return to work because of the presence of a serious health condition which prevents the employee from performing his/her duties or circumstances beyond the employee's control will not be required to reimburse the University.

RELATED POLICIES

Maternal-Parental Leave

Sick Leave

Vacation Leave

Documentation (Tools and Forms) available on HR website -
Claflin.edu/about/offices-services/policies-and-procedures

**United States Department of Labor - Family and Medical Leave Act of 1993
(Fact Sheet#28)**

MINOR REVISION DATE - October 2021

