

Family and Medical Leave Policy

Under the College's Family & Medical Leave policy, eligible members of the faculty and professional staff are entitled to an unpaid leave of absence, generally totaling up to 12 weeks in a 12 month period, if time off from work is needed due to an employee's serious health condition; because the employee is needed to care for his/her spouse or same-sex domestic partner, dependent child, or parent with a serious health condition; following childbirth or adoption; due to a qualifying urgent need for leave related to the spouse's, child's, or parent's active duty, or call to duty, in the Armed Services; or because an employee is needed to care for his/her spouse, child, parent, or next of kin who is a member of the Armed Forces and has a serious injury or illness (up to 26 weeks of leave is provided within a 12 month period in this case).

Eligible Employees

An employee is eligible for up to 12 weeks of Family & Medical Leave (F&ML) per 12 month period if he/she:

- (1) has been employed by Franklin & Marshall for at least a total of 12 months prior to the commencement of leave, and
- (2) if during the previous 12 month period, the employee worked at least 1,250 hours for the College.

In addition, to be eligible for leave, the employee must submit all required forms, as described below. As noted below, an employee who is eligible for leave to care for a family member in the Armed Forces is eligible for up to a total of 26 weeks of leave in a 12 month period.

Reasons for Which Family & Medical Leave Will be Granted

An eligible member of the faculty or professional staff will be granted F&ML for any of the following reasons:

Due to a Serious Health Condition:

1. A "serious health condition" renders the employee unable to perform the essential functions of his/her job.
2. The employee is needed to care for his/her spouse or same-sex domestic partner, dependent child, or his/her parent who has a serious health condition.

Following Childbirth or Adoption:

3. Following the birth of the employee's child, in order to care for that child. To qualify, leave must be completed within 1 year of the birth.

4. Following the placement of a child with the employee for adoption or foster care. To qualify, leave must be completed within 1 year of the placement.

Military Caregiver Leave:

5. Leave is required due to a "qualifying exigency" or urgent need arising out of the fact the employee's spouse or same-sex domestic partner, child, or parent is on active duty in the Services, or has been called to active duty, in support of a contingency operation. A "qualifying exigency" is as defined in the Family & Medical Leave Act, and may include, but is not limited to, the following situations that result in the need for leave by the College employee: (a) the employee's spouse / same-sex partner, child, or parent is given short-notice before being deployed, (b) the employee must make alternate childcare or eldercare arrangements based on his/her spouse's / same-sex partner's, child's, or parent's active duty status, (c) the employee must attend military events or activities, (d) financial or legal matters must be handled, and/or (e) the employee must attend to post-deployment activities.
6. The employee is needed to care for his/her spouse or same-sex domestic partner, child, parent, or next of kin who is a "covered service member" or a veteran of the Armed Forces with a serious illness or injury incurred in the line of duty on active duty, or aggravated by active duty. A covered service member is a member of the Armed Forces, including the National Guard or Reserves. The service member must be undergoing medical treatment, recuperation, or therapy; be an outpatient; or be on the temporary disability retired list for a serious injury or illness incurred in the line of duty or aggravated by active duty. Leave may be taken to care for a veteran who is undergoing medical treatment, recuperation, or therapy for serious injury or illness and who was a member of the Armed Forces at any time during the five years preceding the date of treatment, recuperation, or therapy. Up to a total of 26 work weeks of leave is provided during a single 12 month period under these circumstances.

For purposes of Family & Medical Leave:

- A dependent child is defined as the biological, adopted, foster child, step-child, or legal ward of the employee. The child must be under age 18 or, if 18 or older, incapable of self-care due to a physical or mental disability.
- A parent includes a biological, adoptive, foster, or step-parent (in-laws are not included).
- Spouse includes a common law spouse when recognized by the state in which the employee resides, or same-sex domestic partner. For the College's definition of same-sex domestic partner, please see the Same-sex Domestic Partner policy on the Human Resources web pages.
- "Next of kin", for purposes of number 6 above, means an employee's nearest blood relative.

Definition of Serious Health Condition

A "serious health condition" is defined as:

- An illness, injury, impairment, or physical or mental condition that:
 - renders the employee / patient unable to work (or incapacitated) for **more than** 3 consecutive, full calendar days, *and* requires 2 or more treatments by, or under the supervision of, a health care provider within 30 days of the onset of illness or injury, or treatment on at least 1 occasion that results in a regimen of continued treatment; the 1st visit to the health care provider must occur within 7 days of the onset of illness or injury,
 - or*
 - requires inpatient care (i. e., an overnight stay) in a hospital, hospice, or residential medical care facility.
- A chronic health condition which requires periodic treatment by a health care provider (at least 2 visits or treatments per year) and results in intermittent periods of incapacity.
- A permanent or long-term condition for which treatment may not be effective, but which requires supervision by a health care provider (at least 2 visits per year).
- A medical condition resulting in absence from work/incapacity to receive multiple treatments for restorative surgery, or for a condition that would likely result in incapacity of more than 3 days if not treated.
- Pregnancy-related disability, and/or time away from work for prenatal care.
- For purposes of number 6 above, "serious injury or illness" means an injury or illness which occurred in the line of duty while on active duty in the Armed Forces, that may render the service member unfit to perform the duties of his/her office, grade, rank, or rating. The serious injury or illness may have occurred any time during the five years preceding the current date of treatment.

A health care provider is a doctor of medicine or osteopathy, a podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse-midwife, or clinical social worker authorized to practice and performing within the scope of his/her practice.

Length of Family & Medical Leave

The maximum length of F&ML is 12 work weeks (60 work days if the employee normally works a 5-day per week schedule) in a 12 month period. Leave may be taken continuously, for up to 12 weeks, or intermittently, depending on the nature of the condition for which leave is granted. Up to a total of 26 work weeks of leave during one 12 month period is provided if an employee is eligible to take leave to care for a relative who is a member of the Armed Forces and suffers a serious injury or illness in the line of duty, as described above.

The eligibility period during which an employee may take Family & Medical Leave is measured forward, for a 12 month period, from the date an employee's leave of absence first begins. If an employee uses his/her full allotment of F&ML within any 12 month period, he/she will not be eligible for additional leave for 12 months from the first day of the previous leave.

F&ML following the birth of a child, or placement for adoption or foster care, must be taken within 12 months of the date of birth or placement for adoption or foster care.

Approved F&ML will run concurrently with any necessary time off work due to an occupational injury or illness, and with sick leave, maternity / paternity leave, family leave, vacation days, and paid personal days.

In cases where both a husband and wife, or both same-sex domestic partners, are employed by the College, each will be eligible for up to 12 weeks of unpaid leave in any 12 month period (or up to 26 weeks for leave to care for an injured service member).

Intermittent Family & Medical Leave

In certain circumstances, intermittent F&ML may be taken, provided the total hours of leave do not exceed the equivalent of 12 regular work weeks for the employee. Intermittent leave may be taken in increments of less than a full day (in as little as 15 minute increments). Up to the equivalent of 26 weeks of leave may be granted intermittently if necessary, for leave to care for an injured service member. Intermittent F&ML will be granted only if medically necessary, as certified by a health care provider.

When intermittent F&ML is requested, and is based on a foreseeable schedule of planned medical treatment, the College reserves the right to temporarily transfer an employee to an available alternate job which has equivalent pay, benefits, and other terms and conditions, and which better accommodates recurring periods of leave than the employee's regular position.

Employees must make reasonable efforts to schedule leave for planned medical treatments so as not to unduly disrupt department and College operations.

Applying for Family & Medical Leave

1. Notify Your Supervisor or Department Chair

If an employee cannot work because of an illness or injury, including pregnancy-related disability, or other circumstance for which Family & Medical Leave may be granted, the employee or his/her designee must notify the supervisor or department chair in accordance with departmental policy (**but no later than by the start of the work day on the first day absent, except in an emergency situation**). The employee must provide as much advance notice of a known absence as is reasonable and practical. The employee must keep his/her supervisor or department chair informed of the expected duration of the absence. If the employee's medical condition prevents him/her from notifying the supervisor, someone acting on behalf of the employee must do so.

2. Notify Human Resources

When an employee expects to be absent from work or incapacitated for 4 or more days, the employee must notify Human Resources, (717) 291-3996, **no later than by the start of the work day on the first day absent**. When an employee could not have foreseen the need for leave or duration of leave, the employee, or his/her designee, must notify Human Resources of the absence **as soon as possible and prior to return from leave**. If proper notice of the absence is not provided, leave may be denied or delayed.

When an employee knows in advance the date or approximate date he/she will begin an absence that qualifies the employee for Family & Medical Leave, the employee is required to give at least 30 days notice. When dates are not known in advance, as much advance notice as may reasonably be given under the circumstances is expected.

If an employee fails to provide proper notice of the need for leave, absent unusual circumstances, the request for leave may be delayed or denied.

3. Submit a Health Certification Form

The employee's / patient's health care provider must complete a Certification of Physician or Health Care Practitioner form when leave is requested due to a serious health condition. (This form is available from the Human Resources web pages and in the Human Resources public folder in eDisk.) The employee will be responsible for any costs associated with having his/her health care practitioner complete this form. The employee or patient must sign an authorization allowing his/her health care provider to release medical information to the College related to the leave request.

The Certification of Physician or Health Care Practitioner form is not required for leave associated with the birth or placement for adoption of a child to care for the child, or when an employee requests leave because a qualifying relative has been called to active duty. However, the College may request information, as permitted by the Family & Medical Leave Act, to verify the need for leave. A copy of the military member's call to duty order may be requested for leave associated with active service, along with other relevant documentation.

If the College deems the Medical Leave Certification incomplete or insufficient, Human Resources will notify the employee in writing regarding information that is lacking, and provide the employee with 7 calendar days to obtain missing information. Failure to supply incomplete or missing information may result in denial of leave.

Human Resources may contact the employee's health care provider for purposes of clarifying the information provided on the Certification.

Except when leave is needed to care for a covered service member, the College reserves the right to require that the employee or patient obtain the opinion of a second health care provider of the College's choosing. This health care provider will not be one regularly employed by the College, and the College will pay for the cost of the examination. If the second opinion conflicts with the opinion of the first health care practitioner, the employee / patient may choose to follow the recommendation of the second health care provider or to select a mutually agreeable third health care provider, at the College's expense, whose decision will be binding.

Except when leave is needed to care for a covered service member, during an ongoing, intermittent leave, recertification by a health care provider may be required by the College at reasonable intervals (typically every 12 months), as permitted by the Family & Medical Leave Act. If the number of days or weeks of leave requested changes, recertification by a health care provider may be required.

All medical information that the employee or patient and his/her physician supply to support the request for leave will be kept in the employee's confidential medical file. Only those with a business need-to-know will receive information regarding an employee's absence.

Designation as Family & Medical Leave

After an employee provides notice to his/her supervisor and to Human Resources of the need for leave, the employee will receive a written notice from Human Resources within 5 business days, notifying the employee of his/her eligibility for leave, designation as F&ML, and his/her rights under the federal Family & Medical Leave Act. The leave of absence will be officially designated on the College's records as F&ML if the employee qualifies for such leave. Known absences from work of 4 or more consecutive days due to a serious health condition will automatically be designated as Family & Medical Leave, if the employee meets all eligibility requirements and provides the proper health certification. Human Resources reserves the right to designate leave as Family & Medical Leave in the absence of a completed health certification, if there is reason to believe the employee qualifies for such leave.

F&ML may not be designated retroactively if timely notice of the absence was not provided by the employee.

Compensation and Benefits During Family & Medical Leave

F&ML is unpaid except when an employee is eligible for paid sick leave benefits (see the Paid Sick Leave for Professional Staff policy or the Paid Sick Leave for Faculty policy on the Human Resources web pages for more details). **In the case of a serious health condition of the employee, the employee will be required to use accumulated paid sick leave in conjunction with F&ML. An employee will be required to use any earned, paid family leave and paid maternity / paternity leave in conjunction with F&ML when taking F&ML to care for a family member or due to childbirth or adoption.** An employee may elect to use accrued vacation or paid personal days in conjunction with F&ML. As noted above, F&ML will run concurrently with any necessary time off work due to an occupational injury or illness, and with sick leave, maternity / paternity leave, family leave, vacation days, and paid personal days.

Holiday pay is not granted if an employee is on leave on the day of a College holiday unless the employee is receiving paid sick leave benefits. An employee will be charged with use of a Family & Medical Leave day on a College holiday if on leave (F&ML will run concurrently with College holidays), except during the winter break holiday period or other period during which College offices are closed for an entire work week and the employee is not scheduled to work.

As applicable, participation in the College's Health Insurance & Prescription Drug Plan, Dental Plan, and/or Flexible Spending Accounts Plan will continue while an employee is

on approved *paid* F&ML (i.e., receiving paid sick leave benefits or paid vacation benefits), providing the employee is otherwise eligible for such coverage. Health insurance and dental premiums, at active employee rates, will be deducted from each of the employee's sick leave payments or vacation payments on a pre-tax basis (unless the employee had previously elected after-tax deductions), and any contributions to the Medical Expense Reimbursement Account and/or Dependent Care Account will continue to be deducted from the employee's pay on a pre-tax basis if the employee remains eligible for participation.

If an employee takes *unpaid* F&ML, he/she may elect to continue coverage through the Health Insurance & Prescription Drug Plan, Dental Plan, Medical Expense Reimbursement Plan, and/or Dependent Care Account, or may discontinue participation during the unpaid leave. If coverage is continued, health insurance and dental premiums, at active employee rates, and Medical Expense Reimbursement Account contributions must be paid by the employee. Payments are to be made by the employee in one of the following ways while taking unpaid leave:

Pre-payment Option-- an employee may elect to pre-pay all or a portion of premiums / contributions due during the leave period on a pre-tax basis, to the extent that such pre-tax payments will not be used to fund coverage during the next calendar year. Such pre-payments will be deducted from salary in advance of the leave period, on a pre-tax / salary reduction basis. If an employee elects this pre-payment option, he/she must notify Human Resources at least one month in advance of commencement of leave.

Pay-As-You-Go Option-- the employee may pay his/her share of premiums / contributions on an after-tax basis. Health insurance premiums and/or dental insurance premiums, at active employee rates, must be sent to Human Resources by the last work day of each month for which coverage is provided. Medical Expense Reimbursement Account contributions and Dependent Care Account contributions must be submitted by the employee on a monthly basis, in the manner described at commencement of leave. If premium payments are more than 30 calendar days late, College health insurance and dental coverage and participation in the Flexible Spending Accounts Plan will be terminated during the remainder of the leave.

If an employee elects to continue his/her coverage while on unpaid leave, the College will continue to pay its share of any premiums. If an employee's coverage ceases while on F&ML, upon return from such leave, he/she may elect to be reinstated in the Health Insurance & Prescription Drug Plan, Dental Plan, and Flexible Spending Accounts Plan on the same terms that applied prior to leave, or as otherwise required by the FMLA.

Life insurance, long-term disability coverage, and coverage through the Employee Assistance Program will continue during an approved F&ML, whether paid (via paid sick leave benefits or paid vacation benefits) or unpaid. College contributions to the Retirement Plan, and an employee's elective contributions, will continue during any period in which the employee is receiving normal base salary, but will cease during an unpaid leave.

F&ML is not considered a break in service for determining waiting periods for eligibility for fringe benefits or length of continuous service with the College.

Return from Family & Medical Leave

When the reason for which F&ML was granted no longer exists, the employee is required to return to work. An employee should promptly notify Human Resources of his/her return to work date. **Failure to promptly return to work when the need for F&ML no longer exists will be considered a voluntary resignation of employment.**

When an employee takes F&ML due to his/her own serious health condition, prior to returning to work, the employee must provide medical documentation from the employee's attending physician, stating that the serious health condition which necessitated the leave no longer renders the employee unable to work and he/she can perform the essential functions of the job. Such documentation must be given to Human Resources before the day the employee returns to work, and must include:

- a. the date the employee is released to return to work, and
- b. any work limitation imposed due to the serious health condition.

Upon return from F&ML, an employee will be reinstated to his/her former job, or to a position with equivalent pay, benefits, and other terms and conditions of employment. Participation in those fringe benefit plans in which the employee was participating prior to leave will automatically be reinstated immediately upon return to work (for full-time employees). An employee who discontinued participation in the Medical Expense Reimbursement Account or Dependent Care Account during an unpaid F&ML may elect to participate again at his/her prior contribution level, or may have his/her contributions prorated for the remainder of the year.

Failure to Return from Family & Medical Leave

An employee who is unable to return to work following the approved Family & Medical Leave period is not guaranteed continued employment by the College. The last day of approved F&ML or paid sick leave, whichever occurs later, will become the individual's termination date. If the inability to return to work is due to a full-time College employee's continued disability, the employee may be eligible for long-term disability insurance benefits and must contact Human Resources for an application for benefits. In the event a former employee is again able to work, the College will consider the employee for rehire based on the needs of the College and the employee's entire work record.

Employment Actions

Adverse employment actions will not be taken against an employee because the employee exercises his/her rights under the federal Family & Medical Leave Act.

An employee who engages in other employment during a period of Family & Medical Leave may be subject to disciplinary action, up to and including termination of employment, and/or denial of paid sick leave benefits. Any outside employment must be approved in advance by the College.

Family & Medical Leave Extension

Full-time employees may apply for up to a 7 week leave extension, if circumstances warrant additional, consecutive time away from work. The leave request is to be made through the employee's immediate supervisor, with notice and proper medical certification submitted to Human Resources in advance of the start of the leave extension. The extension will be under such terms as are approved in the sole discretion of the College, including the right to require medical certification by a physician of the College's choosing, and such other restrictions as the College may impose for the orderly administration of work and staffing. The leave extension will be granted only after all Family & Medical Leave is exhausted, and will generally be granted only once during the employee's tenure with the College. The leave extension will be unpaid unless the employee qualifies for paid sick leave benefits or paid vacation. Benefits continuation will be provided, if the leave extension is approved, as applies during the initial 12 week Family & Medical Leave period.

Following a 7 week leave extension, an employee may request an unpaid, personal leave of absence if unusual circumstances necessitate continued time off work. Please see the Personal Leave of Absence policy on the Human Resources web pages for details. Continued employment cannot be guaranteed during a personal leave of absence.

This 7 week leave extension does *not* apply when leave is taken intermittently. It also does not apply to leave available to those caring for a member of the Armed Forces, as such individuals receive up to 26 weeks of leave.

Franklin & Marshall College intends to abide by all applicable provisions of the federal Family & Medical Leave Act (FMLA). If any employee feels his/her FMLA rights have been violated or the College is not properly applying provisions of the federal FMLA, he/she should promptly notify the Assistant Director or Director, Human Resources, (717) 291-3996.

Questions about Family & Medical Leave may be directed to Human Resources, (717) 291-3996.