

**FRANCIS MARION UNIVERSITY**

**SUBJECT:** Leave Policy

**POLICY Contact:** Human Resources Office

Revised: 1/13/00  
Revised: 11/30/00  
Revised: 2/1/02  
Revised: 7/1/04  
Revised: 8/17/04  
Revised: 9/22/04  
Revised: 1/16/09

## **LEAVE POLICY**

**THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH, CREATE ANY CONTRACT OF EMPLOYMENT.**

**Policy:** Leave slips should be submitted for the actual type of leave taken. If an employee has used all of a particular type of leave, the leave slip will be adjusted by the Human Resources office. Annual leave should be requested in advance, and leave slips should be sent to the Human Resources office prior to leave being taken.

If a personal emergency arises which requires an employee to be absent, the employee is responsible for reporting his/her situation to his/her appropriate supervisor as early as possible, but in no event later than the time he/she is to report for work. If the situation continues beyond one (1) day, the employee must notify his/her supervisor as to the expected length of absence or call in each day. If he/she cannot contact the supervisor, the employee should then attempt to contact the department head. If the department head cannot be reached, the Human Resources office should be notified. If proper notification is not given, the absence may be charged as leave-without-pay. If an employee is absent without prior approval and for a reason which is not, in the opinion of the department head, sufficient to constitute an emergency, the absence may be charged as leave-without-pay.

**Example:** *An employee is out sick but does not have any sick leave. He/she should indicate sick leave on the leave slip. The leave slip will be changed to either annual leave or leave-without-pay by the Human Resources office.*

**Annual Leave** shall be accrued by and granted to permanent and probationary full-time and permanent and probationary part-time classified employees who are scheduled to work at least one-half the work week on a twelve months basis or who are scheduled to work the equivalent of one-half the work week on a twelve month basis during the full school or academic year of nine months or more.

Such leave must be requested in advance; and if prior approval is not obtained, the leave may be charged as leave-without-pay. Each department is responsible for scheduling leave for employees so the office can operate on a normal basis. The minimum amount of annual leave permitted is fifteen (15) minutes and such leave must be taken in units of one-quarter ( $\frac{1}{4}$ ) hour. Annual leave for full-time twelve-month employees with State service of less than ten (10) years is earned at the rate of one and one-fourth ( $1\frac{1}{4}$ ) days for each calendar month of employment. Employees with State service of more than ten (10) years shall earn an additional one and one-fourth ( $1\frac{1}{4}$ ) days per year for each year of continuous service not to exceed thirty (30) working days accumulation per calendar year.

Any employee in pay status half or more of the workdays of the month will be credited with the full month's earnings. An employee who is not in pay status for half of the month will not be credited with any leave earnings for the month.

The following general restrictions apply with respect to annual leave:

- A maximum of thirty (30) days annual leave may be taken in any year.
- A maximum of forty-five (45) days annual leave may be carried over as of January 1; however, all employees are encouraged to take their vacation time each year. Eligible employees who do bring the maximum accumulation into a calendar year shall be entitled to earn and use annual leave up to a maximum of thirty (30) days during the year.
- A maximum of forty-five (45) days may be accumulated and paid as terminated leave.

Annual leave will accrue to the credit of an employee who is on a leave-with-pay status such as annual, sick or military leave. Employees, however, shall not be credited with any leave earnings for a month in which they are not in a pay status for one-half ( $\frac{1}{2}$ ) or more of the workdays of the month.

On termination of employment with the State, employees shall be paid in lump sum for all authorized, unused annual leave accumulated to their credit, not to exceed the maximum of forty-five (45) days accumulation. Leave credit will be determined as of the last day of work. Upon retirement from State employment or upon the death of an employee while in active service, a lump sum payment will be made for unused leave, not to exceed forty-five (45). Upon the death of an employee while in active service, the legal representative shall be entitled to the lump sum payment.

Up to forty-five (45) days unused annual leave may be included in the average final compensation for retirement. This will possibly increase retirement benefits if paid in a high quarter earnings. (Retirement is based on the highest twelve consecutive quarters of earnings.) Up to ninety (90) days unused sick leave may be used to increase service credit at retirement, thereby increasing retirement benefits. The unused sick leave may not be used to qualify for service credit eligibility levels for retirement.

If an employee transfers from one State agency to another, he/she can transfer his/her annual leave accumulation not to exceed forty-five (45) days, provided that he/she reports to the employing agency within fifteen (15) calendar days following the last day for which the employee was paid by the losing agency.

Permanent part-time employees accrue annual leave on a pro-rata basis.

**Court Leave** is leave granted for jury duty or court subpoena. Any permanent or probationary employee who is summoned as a member of a jury panel shall be granted leave-with-pay, and any jury fees and travel payment shall be retained by the employee.

Any permanent or probationary employee subpoenaed as a witness shall be granted leave-with-pay. Any permanent or probationary employee subpoenaed in line of duty to represent a State agency as a witness or defendant shall not be granted leave-with-pay and appearance in such cases shall be considered a part of the employee's job assignment. The employee shall be reimbursed according to the Budget and Control Board regulations for any meals, lodging and travel expenses that may be incurred while serving in this capacity.

In no case shall leave-with-pay be granted for court attendance when an employee is engaged in personal litigation; however, an employee may be granted annual leave (or leave-without-pay when annual leave is not available). In such cases, the agency must approve the request.

Any day an employee is excused from service on a jury, the employee is expected to return to the job; otherwise, the time the employee is excused from court service will be charged to annual leave. A copy of the summons or subpoena must be attached to the leave slip.

**Holidays:** The State of South Carolina generally has eleven (11) legal holidays. Because some of these holidays fall during the period when classes are in session, only the following holidays are usually observed: New Year's Day, Thanksgiving and Christmas Day. The extra days are normally applied during the Christmas/New Year's season.

**Death in Immediate Family:** An employee, upon request and approval of the department head, shall be granted up to three (3) consecutive days of leave-with-pay on the death of any member of the employee's immediate family. "Immediate family" is defined as the spouse, great-grandparents, grandparents, parents, brothers, sisters, children, grandchildren, and great-grandchildren of either the employee or the spouse. Also included are step relatives and half relatives when the employee lived within the same household for a prolonged period of time. **Effective August 16, 2004,** immediate family is redefined to include the spouse of brothers, spouse of sisters, and spouse of children. Leave slips must be approved and submitted to the Human Resources office and must indicate the name of the deceased and the relationship to the deceased on the leave slip.

**Leave of Absence (Without-Pay):** An employee may be granted a leave of absence without-pay provided his/her request is approved by his/her supervisor, department head and the appropriate vice president. Normally a leave of absence without-pay will be granted only for short periods and when circumstances permit such an absence without undue hardship for the University. Annual and/or sick leave credits are not earned in any month during which an employee is on leave-without-pay for more than half the working days of the month. Leave-without-pay must have been approved by the supervisor and department and reported to the Human Resources office prior to the time the employee goes on leave.

An employee must use all annual leave and/or sick leave before going into a leave-without-pay status for anything other than for a disability as explained under the Sick Leave guidelines. If the employee fails to return at the end of the period for which the leave-without-pay was granted, he/she shall be treated as having voluntarily resigned from his/her position.

*Refer to Sick Leave guidelines for the use of leave-without-pay with regard to personal illness.*

**Military Leave:** Up to fifteen (15) work days of leave-with-pay will be granted in a calendar year to regular employees who are members of a reserve component of the Armed Forces or the National Leave Policy

Guard for training or other such duties ordered by the Governor or the Department of Defense. This leave cannot be used for any other purpose. The employee must make a one-time declaration to the employer of the year, calendar or military fiscal, under which he/she is scheduled. In the event an employee is called upon to serve during a declared emergency, he/she shall be entitled to additional emergency military leave for a period not to exceed thirty (30) additional days.

**Sick Leave:** The 1974 Sick Leave Act for State Employees established a standard sick leave earning rate that shall apply to all permanent State employees in accordance with the following guidelines:

Sick leave shall be granted to and accrued by (1) permanent and probationary full-time employees and (2) permanent and probationary part-time employees who are scheduled to work at least one-half the work week of the agency on a twelve months basis during the full school or academic year of nine months or more.

The University shall maintain a leave record for each employee covered by this Act. These records are maintained in the Human Resources office and are updated as follows:

- Sick leave is credited to the employee's permanent record at the beginning of each month for the previous month. (Ex: November accrual is credited on December 1<sup>st</sup>.)
- Sick leave is charged to the employee's permanent record from employee leave slips.

All permanent and probationary full-time State employees shall be credited with sick leave on the basis of one and one-fourth (1 ¼) working days for each full calendar month of service not to exceed a maximum accumulation of 180 days. All permanent and probationary part-time employees shall be credited with sick leave on a pro-rata basis for each full calendar month of service.

Employees shall not be credited with leave for any month in which they are not in a pay status for one-half or more of the workdays of the month. An employee shall be credited with sick leave earnings while on annual leave, sick leave or other authorized leave-with-pay.

When employees are absent because of sickness, their leave records shall be charged for the actual time the employees must be away from the job; however, leave shall not be charged in units of less than one-quarter (¼) hours.

The use of sick leave shall be subject to verification. When there is reason to believe that sick leave is being abused or when the absence is more than three (3) consecutive workdays, a doctor's Statement should be required before approval can be granted. The doctor's Statement must describe the disability and give the inclusive dates. If sick leave is known in advance (*example: surgery*), the doctor's Statement should be provided in advance of the leave.

Each employee is responsible for reporting his/her illness to his/her appropriate supervisor as early as possible, but no later than the time he/she is to report for work. If illness continues beyond one (1) day, the employee must notify his/her supervisor as to the expected length of absence or the employee should call in each day. If he/she cannot reach the supervisor, the employee should then attempt to contact the department head. If the department head cannot be reached, then the Human Resources office should be notified. If proper notification is not given, the absence may be charged as annual leave or leave-without-pay.

Individual leave slips must be completed and properly executed before sick leave can be approved. Leave slips are then forwarded to the Human Resources office for verification of accrued leave and record keeping. After such leave is verified, the employee will be notified as necessary.

An employee shall be granted sick leave if absent for any of the following reasons:

- **Personal illness or injury** incapacitating the employee to perform duties of the position.
- **Exposure of contagious disease** such that presence on duty could endanger the health of fellow employees.
- **Appointment for medical or dental examination** or treatment when such appointment cannot reasonably be scheduled during non-working hours. To the extent possible, examination appointments must be approved in advance.
- **Sickness or temporary disability due to pregnancy.** The date on which sick leave for maternity purposes is to begin shall be the determination of the employee and her doctor. In no event shall such date be prescribed unilaterally by an appointing authority except on the basis of professional medical opinion that the employee is physically incapable of performing normal duties or that continuing to perform normal duties would be hazardous to the employee or unborn child.

When an employee is anticipating an absence due to maternity, she should notify the Human Resources office by the fourth month of pregnancy. It will be necessary for the requesting employee to provide a Statement at the earliest possible date (at least by the fourth month) from her doctor to her supervisor who will then forward the Statement to the Human Resources office recommending when the employee should stop work due to the pregnancy, the expected date of delivery and the expected date when the employee would normally return to work. Dates set forth by the physician can be amended only by the physician and only for medical reasons based on the mother's condition as a result of pregnancy.

When an employee adopts a child, he/she may use accrued leave for the purposes of arranging for the adopted child's placement or for caring for the child after placement. Use of sick leave is restricted to six weeks after placement of the child.

- **Treatment for alcoholism.** Sick leave may be used for the purpose of participating in public and/or private treatment and rehabilitation programs for alcoholics that have been approved by the South Carolina Department of Mental Health.
- **Family Sick Leave.** Effective July 1, 2002, employees earning sick leave may use no more than ten days of sick leave annually to care for ill members of their immediate families. **Immediate family** includes "the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian and grandchildren."

For an extended illness, disability or maternity leave exceeding the amount of accrued annual and sick leave, the employee may apply for leave-without-pay status for a period not to exceed 180 days. The written request for leave-without-pay status shall specify the inclusive dates and provide a physician's certificate describing the disability and giving the projected inclusive dates. The request will not be denied for bona fide illness or disability for employees who have served satisfactorily at the University for a period of twelve (12) months or more. Dates set forth by the physician can be amended only by the physician.

**Family and Medical Leave Act (FMLA):** The Family and Medical Leave Act of 1993 requires Francis Marion University to provide up to 12 weeks of unpaid, job-protected leave each calendar year to

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"eligible" employees for specified family and medical leave reasons. However, if an employee is requesting leave for a condition that is covered under the sick leave policy, he/she must use all accrued sick leave for which he/she is eligible before he/she requests unpaid leave. If this leave qualifies for FMLA, it is included in the 12 weeks of FMLA leave. An eligible employee's right to FMLA leave begins on August 5, 1993; any leave taken before that date does not count as FMLA leave.

For a Francis Marion University employee to be eligible for FMLA benefits, he/she must:

- have worked for the State of South Carolina for a total of at least 12 months;  
**and**
- have worked at least 1,250 hours over the previous 12 months.

Employees are eligible for a total of 12 weeks of FMLA leave during a calendar year for one or more of the following reasons:

- A. For a birth or placement of a child for adoption or foster care. This leave must conclude within 12 months of the birth or placement.
- B. To care for an immediate family member (spouse, child, or parent, not parents-in-law) with a serious health condition. FMLA may be taken intermittently whenever necessary to care for a seriously ill family member. However, leave must be in quarter-hour increments.
- C. To take medical leave when the employee is unable to work because of a serious health condition. FMLA leave may be taken intermittently whenever necessary because the employee is seriously ill and unable to work. However, leave must be in quarter-hour increments.
- D. For qualifying exigency caused by the call to active duty of a member of the Armed Forces. Qualifying exigencies can include: 1) short notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; 7) post-deployment activities; and 8) additional activities not encompassed in other categories but agreed upon by the University and the employee.
- E. To care for a spouse, child, parent, or next of kin who is a services member and is injured or becomes seriously ill while on active duty.

If both spouses work for the State of South Carolina, they are jointly entitled to a combined total of 12 workweeks of family leave for a birth or placement of a child for adoption or foster care. For military caregiver leave, the employee and employee's spouse may be limited to a combined total of 26 weeks of leave in a single calendar year.

A "serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- A. any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care facility;

- B. any period of incapacity requiring absence of more than three calendar days from work or other regular daily activities that also involve continuing treatment by (or under the supervision of) a health care provider;
- C. continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days, and for parental care.

Employees seeking to use FMLA leave will be required to provide:

- A. 30-day advance notice of the need to take FMLA leave when the need is foreseeable;
- B. medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member; and
- C. periodic reports during FMLA leave regarding the employee's status and intent to return to work.

Francis Marion University may require second or third medical opinions and periodic recertification (at FMU's expense) from employees seeking FMLA leave.

When leave is needed to care for an immediate family member or the employee's own illness, and is for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt the normal routine of the department.

Under the military caregiver leave provisions, an eligible employee who is a spouse, son, daughter, parent, or next of kin of a current member of the Armed Forces, including a member of the National Guard or Reserves, with a serious injury or illness may be able to take up to a total of 26 workweeks in a single 12-month period to care for the service member.

Group insurance will be maintained for the employee on FMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. Employees will be required to pay for their share of the health insurance premiums while on leave in the same manner as they were paid while working.

An employee will be restored to his/her original position, or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions. The employee will not lose any benefit that the employee earned or was entitled to before using FMLA leave.