



Human Resource Services POLICY RESOURCES

207 Old Main, One John Marshall Drive, Huntington, West Virginia 25755, Phone 304.696.6455
FAX 304.696.6844, E-mail human-resources@marshall.edu, Web <http://www.marshall.edu/human-resources/>

Applies to:	Marshall University
Title:	Application of Family and Medical Leave Act (FMLA)
Number:	MU-HR-19
Effective Date:	09/16/04
Last Revision Date:	05/01/06

Marshall University (hereinafter the University) complies with the requirements of the federal Family and Medical Leave Act (FMLA). FMLA provides for up to 12 weeks per calendar year of unpaid leave if necessary for (1) the birth of a son or daughter and to care for the newborn child; (2) the placement with the employee of a child for adoption or foster care and to care for the newly-placed child; (3) care for an immediate family member (spouse, child, or parent) with a serious health condition; or (4) for the employee if unable to work because of a serious health condition. FMLA leave may be taken either continuously or intermittently according to the circumstances and/or the directions of the employee or family member's healthcare provider. All employees are advised of the availability of leave under the provisions of the Family and Medical Leave Act and of the University's commitment to comply with the law. In cases where an employee has been taking paid sick leave, is at risk of running out of accrued leave, and continues to be ill or injured or to deal with the illness or injury of a member of the immediate family, the employee's supervisor or Human Resource Services has a responsibility to advise the employee about the potential availability of leave under FMLA. The employee has a specific responsibility, however, to request FMLA leave if he/she wishes to use such leave.

An employee may request leave under FMLA by completing and submitting to Human Resource Services a copy of the Request for Family or Medical Leave form available on the Human Resource Services web site at: <http://www.marshall.edu/human-resources/forms/>.

Leave is officially designated as FMLA leave by action of the Director, Human Resource Services, by completing and providing to the employee a copy of the Designation of Leave as Family or Medical Leave form.

In order to inform the employing department of the action taken to approve leave as FMLA leave, the Director, Human Resource Services, or other representative of Human Resource Services completes and submits to the employee's department a copy of the form Notification of Leave of Absence/Catastrophic Leave. The employee who requests and is approved for FMLA leave must cause to be submitted to Human Resource Services a properly completed copy of the Healthcare Provider's Certification of Need for Family or Medical Leave. This form is available on the Human Resource Services web site at: <http://www.marshall.edu/human-resources/forms/>.

As stated on the Designation of Leave as Family or Medical Leave form, the Healthcare Provider's Certification form must be completed and returned to Human Resource Services within 15 calendar days of the date of designation of leave as FMLA leave.

The FMLA statute provides for up to 12 weeks of unpaid leave in a calendar year. Leave-accruing employees who have a positive balance of sick leave and/or annual leave may elect to use such leave until it is exhausted and then go on unpaid FMLA leave. If an employee wishes to preserve his/her balance of sick leave and/or annual leave and go on unpaid FMLA leave, they may do so. In general, the welfare of the employee is enhanced if they continue to receive pay, so Human Resource Services politely encourages employees to use accrued leave to the extent possible. The final decision about whether or not to use accrued sick leave and/or annual leave rests with the employee. The designation of leave as FMLA leave is an official act of Human Resource Services, and the effective date of such designation of leave is related to the approval of such leave and is not related to whether or not accrued sick leave and/or annual leave exists or whether the employee chooses to use or not use such accrued leave.

A “week” of FMLA leave is set as the percentage Full-Time Equivalent (FTE) at which the employee is appointed. A full-time employee works a 37.5 hour standard work week. If an employee is appointed at less than FTE or changes to less than FTE status at any time during a period of approved FMLA leave, the “week” for FMLA purposes becomes a week at the appointed FTE. For example, if an employee works a 20-hour standard work week (.53 FTE), one week of the FMLA limitation will be one 20-hour week. If an employee begins designated FMLA leave as an FTE employee and then shifts to part-time status, the weeks of FMLA for purposes of satisfying the 12-week limitation becomes a week at the employee’s new appointed rate. Full weeks do not pro-rate to part-time status.

All leave taken by the employee in the calendar year due to a reason for which FMLA leave is later designated counts against the 12 weeks in the calendar year limitation. For example, an employee had a chronic disabling illness and was absent for a total of two weeks and the subsequently applied for and was approved for FMLA leave for that same illness, the time taken earlier in the calendar year for that particular illness counts against the 12-week limitation. In this example, the employee would have 10 weeks remaining in the calendar year as designated FMLA leave.

If FMLA leave occurs at such a point in the calendar year that the 12-week limitation cannot be consumed, the 12 weeks resets new for the new calendar year. For example, if an employee goes on designated FMLA leave at the first of November and can only use four weeks of FMLA leave before the calendar year ends, none of that 12 weeks carries over to the new year. Rather the employee is set up with a new 12-week FMLA leave period for the new year if based on the same illness, injury, or family circumstance that was the basis for the original designation as FMLA leave.

FMLA leave without pay functions like the University’s Medical Leave of Absence without pay (MLOA) in that the University continues to pay the employer’s portion of the health insurance premium while the employee remits the employee portion from personal funds.

In order to be eligible for Family and Medical Leave Act leave the employee must have worked at least 1,250 hours during the last year and have been employed at the University for at least 12 months prior to making application for FMLA leave. Hours worked for this purpose do not include hours of paid or unpaid leave.

Depending on the illness/injury or other circumstances for which FMLA leave is designated, the employee may be authorized to work on an intermittent basis. The 12-week calendar year limitation for FMLA leave would be consumed only by the hours actually absent on designated FMLA leave.

An employee on FMLA leave shall be returned to the same or an equivalent job at the same salary. If an employee was absent on designated FMLA leave due to his/her own illness or injury, a written medical release from the employee’s healthcare provider is required prior to return to work.

Questions on the application of FMLA at Marshall University can be made to the Director, Human Resource Services. Information and assistance with this policy and procedure may be obtained by contacting Human Resource Services at 304.696.6455 or human-resources@marshall.edu.

IF YOU ARE VIEWING THIS POLICY ON THE WEB, PLEASE CLICK THE “BACK” BUTTON ON THE WEB BROWSER AS DESIRED TO NAVIGATE TO THE POLICY TOP PAGE. IF VIEWING THIS POLICY ON PAPER, THE POLICY TOP PAGE CAN BE VIEWED ON THE WEB AT <http://www.marshall.edu/human-resources/polv/>. THIS POLICY IS COPYRIGHTED BY MARSHALL UNIVERSITY. FOR ANY QUESTIONS ON THIS POLICY, PLEASE CONTACT HUMAN RESOURCE SERVICES AT THE ADDRESS AT THE TOP OF THIS POLICY.