

# PARENTAL LEAVE QUESTIONS AND ANSWERS FOR CLASSIFIED AND OPERATIONAL EMPLOYEES AND PROFESSIONALS AND FACULTY ENROLLED IN THE VIRGINIA SICKNESS AND DISABILITY PROGRAM OR TRADITIONAL SICK LEAVE PROGRAM

**1. How much parental leave is available?**

- Up to 320 leave hours (forty days of leave) for eligible full-time employees. Leave is awarded as a number of hours which may be charged according to standard leave procedures. Parental leave must be taken in a continuous block and is not available on an intermittent basis.

**2. When is the leave available and for how long?**

- The leave is available to an eligible employee on the date of the birth or placement of his/her child. Parental leave is not available prior to the date of the birth.
- Parental leave must be used within six months of the date of the birth/placement. In other words, parental leave cannot be used once the six month period has passed.

**3. What are the eligibility requirements?**

Employee must:

- be a salaried, Operational or Classified employee or Professional or Faculty member enrolled in the Virginia Sickness and Disability Program (VSDP) or Traditional Sick Leave Program at the time of the birth/placement of the child under the age of eighteen AND
- Must be or become eligible for FMLA within six months of the birth or placement of a child
- must have worked for twelve months for William & Mary AND
- must have worked 1,250 hours during the twelve months immediately preceding the birth/placement of the child.

**4. If two parents of the same child are W&M employees, is parental leave available to both parents?**

- Yes, if both parents are eligible for FMLA coverage, each of the parents may use the full allotment of parental leave.

**5. If the full 320 hours are not used within the six month period, what happens?**

- The remaining time is forfeited.

6. **If the employee resigns before using the full 320 hours, will the remaining hours be paid out upon separation?**
  - No. These hours are designated to provide pay to employees absent from work for the specific purpose of bonding and then returning to the workplace. Unused parental leave hours are forfeited.
7. **An employee travels to other states or to a foreign country to make arrangements for adoption and for pre-adoption visits. Is paid parental leave available for these trips?**
  - No. Parental leave is not available to eligible employee until the beginning date of the adoptive placement.
8. **An employee seeking to become a foster or custodial parent must make visitations and court appearances leading to the placement. Is parental leave available to this employee for this purpose?**
  - No. Paid parental leave is not available to eligible employees until the date of the placement.
9. **An employee becomes a parent to a child/children upon marriage to that child's/children's parent. Is parental leave available for bonding with the other parent's child/children?**
  - Paid parental leave is available in this situation only if/when the employee formally adopts or is granted custody of a child/children new to the parent.
10. **May an employee access paid parental leave during his/her probationary period?**
  - If the employee is eligible for FMLA during the probationary period, (s)he may access it, just as (s)he may access other types of leave.
  - Successful completion of probation is not a prerequisite for using parental leave.
  - If a probationary employee was employed in a wage position immediately prior to beginning a salaried position, (s)he MAY be eligible for FMLA and for paid parental leave.
  - The probationary period will be extended any the period of parental leave that is taken during the probationary period.
11. **If an employee adopts a child and later gives birth to another child, may she use parental leave for each event?**
  - This depends upon the timing. Parental leave may be used only once within 12 months from the date of birth/placement of the first child for whom parental leave has been used.
12. **If an employee gives birth to more than one baby or adopts/places more than one child at the same time, is additional parental leave provided?**
  - No. This is considered one event and in all cases parental leave may be used only once within 12 months.

**13. Under Family & Medical Leave policy, full-time, eligible employees may receive up to 12 weeks (480 hours) of unpaid job-protected absence for the prenatal care/birth of a child and bonding or the adoptive or foster placement of a child. May parental leave be used only during the FMLA approved 12 week period?**

- Parental leave is available to eligible employees on the date of the birth/placement regardless of the start of the FMLA period.
- The parental leave allotment is not reduced by the absence attributable to the medical condition related to pregnancy/delivery/recovery unless parental leave is used to supplement income replacement levels after the birth of the baby. In that case, the leave allotment is reduced by the leave amount used to supplement income replacement.
- An eligible employee may use VSDP disability benefits or traditional sick leave during the medical absence and may also use the 320 hours of parental leave for bonding.
- Parental leave must be used within six months of the birth/placement.

**14. When an eligible employee (VSDP participant) is out on short-term disability prior to the birth of a baby, when may she access parental leave?**

- Parental leave may not be charged to cover the VSDP waiting period before the baby is born. If the baby is born during the waiting period, parental leave may be used to cover the waiting period beginning on the date of the birth.
- She may use parental leave beginning on the date the baby is born to supplement income replacement levels below 100% and use the remainder of her parental leave after her disability benefits cease **or**
- She may use other personal leave to supplement the income replacement and use her parental leave after her disability benefits cease **or**
- She may be placed on leave without pay during the period of time her income replacement levels fall below 100% and then use her parental leave after her disability benefits cease.
- Parental leave and FMLA run concurrently. However, if a mother has exhausted her FMLA eligibility for pregnancy/delivery/recovery related medical conditions, she is still eligible for parental leave, even if the FMLA period has lapsed . The parental leave must still be used within six months of the birth.

**15. An employee is FMLA eligible, has at least a full year of service, participates in VSDP or the Traditional Sick Program, and has a baby. What types of paid leave is available to this employee?**

- Disability benefits at the income replacement levels based on months of service for the absence due to the employee's medical condition (usually 6-weeks) **and**
- Up to 33% of the employee's VSDP or Traditional sick leave balance to be used within 12 weeks of the birth **and**
- Up to 320 hours of parental leave to be used within 6 months of the birth. Parental leave may be used to supplement income replacement levels following the date of

the birth if the mother has medical complications and for bonding time following short-term disability benefits.

- All annual and VSDP or Traditional Sick family/personal leave balances are available to supplement short-term disability income replacement levels during the FMLA period. After the FMLA period has ended and parental leave has been exhausted, annual and VSDP or Traditional family/personal leave balances may only be used with supervisor approval.

**16. An employee is eligible for FMLA and parental leave for bonding for the adoption of a child. (S)He uses 320 hours of parental leave during the FMLA period. What options are available for extending his/her absence?**

- This employee is eligible for 12 weeks (480 hours) of job-protected absence. (S)He has used only 8 weeks (320 hours) of leave and there are 4 weeks (160 hours) of FMLA job-protected absence still available for bonding. (S)He may use personal paid leave or take the remaining time unpaid (or a combination of both).

**17. May an employee use paid parental leave when his/her child has a Family & Medical Leave Act (FMLA) certified illness or injury outside of the six month period following birth or placement?**

- No. Parental leave is not available for reasons covered by the Family and Medical Leave policy other than bonding within six months of birth or placement.

**18. May parental leave be used more than once within a leave year?**

- No. Parental leave may be used only once per child and only once within 12 months since it was last awarded. The normal leave year is disregarded.
- Example: If parental leave is granted to an employee on August 1, 2018, parental leave may not be used again until August 1, 2019.

**19. May an employee currently on FMLA for bonding who is using personal leave now, charge parental leave instead?**

- Yes. If the FMLA is for a birth or placement that occurred less than six months ago, parental leave should be charged for 320 hours from the date of the birth/placement. Personal leave charged to date should be restored.

**20. May an employee who has not used any bonding time for his/her child born/placed four months ago use parental leave now?**

- Yes, if the employee is eligible for FMLA and the birth/placement occurred less than six months ago, the employee may charge parental leave - up to 320 hours - until the leave expires six months after the birth/placement.
- Example: Baby was born March 26, 2018 and the father did not use any FMLA for bonding. If he is FMLA eligible now, he may access parental leave as long as the leave is used before the baby turns six months old.

