

**Policy 2108**  
**Paid Parental Leave**

**Date of Current Revision: March 2022**

**Primary Responsible Officer: Director of Human Resources**

**1. PURPOSE**

This policy provides paid parental leave to enable eligible employees the opportunity to give birth to, care for, and bond with a newborn or to supplement reduced income replacement disability benefits following the birth of a newborn. Paid parental leave to care for and bond with a child under the age of eighteen (18) newly-placed for adoption or for foster or custodial care is also provided for within this policy.

**2. AUTHORITY**

The Board of Visitors has been authorized by the Commonwealth of Virginia to govern James Madison University. See Code of Virginia § 23.1-1600; § 23.1-1301. The Board has delegated the authority to manage the university to the president.

**STATE OR FEDERAL STATUTE AND /OR REGULATION**

Executive Order #12 (2018) establishes paid parental leave to eligible employees that recognizes the benefits to employees and their families of meaningful bonding time upon the birth or placement of a child. The paid parental leave policy is in addition to other leave benefits available to Commonwealth employees, such as Virginia Sickness and Disability Program leave (VSDP), sick leave, annual leave, and leave under the federal Family Medical Leave Act (29 U.S.C. §§ 2601-2654).

**3. DEFINITIONS**

**Adoption**

The act of legally and permanently assuming the responsibility of raising a child as one's own.

**Child**

A newborn biological child or a newly-placed adopted, foster, or custodial child under the age of 18.

**Custodial Care**

A placement authorized by a judgment, decree, or other order of a court providing for the legal and physical custody of a child.

**Eligible Employee**

A benefited full-time, quasi-full-time, or part-time salaried employee who has been employed by the university and is eligible under the FMLA coverage.

**Family and Medical Leave**

Unpaid job-protected leave for up to 12 workweeks or 480 hours for the reasons specified in this policy in conformance with the federal Family and Medical Leave Act (FMLA). See Policy [1308](#) - Family and Medical Leave for details.

### **Foster Care**

The act of temporarily assuming the responsibility of daily care and supervision for a child removed from the child's birth family home due to issues endangering their health and/or safety. Parental leave may be used for temporary arrangements made through local departments of social services with the intent of reuniting the child with their birth family if possible.

### **Intermittent Leave Schedule**

A leave schedule permitting the employee to take leave periodically for a few hours a day (less than eight hours), or for a few days, on an as-needed basis.

### **Parent**

Legally recognized biological, adoptive, foster, or custodial parent.

### **Traditional Sick Leave Program**

Provides employees who did not enroll in the Virginia Sickness and Disability Program (VSDP) with paid leave from work for health-related reasons, or access to 33% of leave for family FMLA events as described in DHRM Policy [4.55](#) -Traditional Sick Leave.

### **Virginia Sickness and Disability Program (VSDP)**

A program that provides various sickness and disability-related benefits to eligible Commonwealth employees as described in DHRM Policy [4.57](#) – Virginia Sickness and Disability Program.

## **4. APPLICABILITY**

This policy applies to all eligible, benefited university employees.

## **5. POLICY**

The university complies with Executive Order #12 (2018) by providing eight weeks (320 hours) of paid [parental leave](#) to eligible employees to be used within six months of the birth of an infant or adoptive, foster, or custodial placement of a child under the age of 18.

Employees who become parents via birth, adoption, or foster or custodial care and meet the following criteria are eligible:

- Employee is in a full-time, quasi-full-time, or part-time salaried position upon the birth or placement of the child, AND
- Employee must be eligible for Family and Medical Leave:
  - Must have been employed by the Commonwealth for a minimum of twelve months in the past seven years, AND
  - Must have worked at least 1,250 hours in the previous 12-month period.

Eligibility determinations are made as of the date that the child is born or placed via adoption or foster or custodial care.

An employee who is not eligible for parental leave on the date of birth or placement may become eligible during the following six months and access parental leave once the employee meets the eligibility requirements.

If both parents work for the Commonwealth and meet eligibility criteria, each is entitled to up to 320 hours of parental leave.

## **6. PROCEDURES**

### **6.1 When requesting parental leave, the university requires employees to:**

- provide as much notice to the employer as is reasonable and practicable. A 30-day advance notice is reasonable when the need for leave is foreseeable;
- complete the [Parental Leave Request form](#);
- provide proof of parentage in the form of a report of birth, a birth certificate, an order of parentage, an adoption order, certified DNA test results, a custody order, or a foster care placement agreement.

### **6.2 Leave Tracking**

All parental leave is tracked in the university leave system.

### **6.3 Leave Usage**

- Parental leave must be used within six months of the birth of an infant or placement of a child.
  - Eligible employees may use parental leave in one continuous period of time or may request intermittent use of parental leave.
  - The 320 hours of parental leave may be used only once per child and only once within a 12-month period.
  - Unused parental leave is forfeited six months from the date of the birth/placement.
  - Unused parental leave is not compensable if an employee separates from university employment or moves to a non-covered position.
  - Parental leave terminates at the conclusion of the foster or custodial care placement or within six months of the placement, whichever comes first.
- FMLA Job Protection: Employees using paid parental leave are afforded the remaining job protection under FMLA for an absence up to a total of 12 weeks (480 hours). They may charge personal leave, use faculty family leave (when applicable), or take leave without pay to cover the additional absence.
- Virginia Sickness and Disability Program (VSDP) Participants: Parental leave may be used to supplement reduced income replacement disability benefits following the birth of a child and/or may be accessed after the VSDP benefits related to the birth cease.
- Traditional Sick Leave Program Participants: Parental leave may be used for family medical leave events related to the bonding by employees participating in the traditional sick leave program.

## **7. RESPONSIBILITIES**

Employees are responsible for submitting a written request for parental leave at least thirty (30) calendar days prior to the anticipated leave begin date or as soon as practicable.

Upon receiving a request for parental leave and documentation of the birth or placement, Human Resources will notify the employee of their eligibility status within five (5) business days.

All departments, offices and employees that generate, receive, or maintain public records under the terms of this policy are also responsible for compliance with Policy [1109](#) Records Management.

## **8. SANCTIONS**

Sanctions will be commensurate with the severity and/or frequency of the offense and may include termination of employment.

## **9. EXCLUSIONS**

This policy does not apply to wage employees, adjunct faculty, student employees and graduate assistants.

## **10. INTERPRETATION**

The authority to interpret this policy rests with the president and is generally delegated to the director of human resources.

**Previous version:** November 2019

**Approved by the president:** November 2019