

Policy: Paid Family Leave

Date: 1/1/2018

Policy ID: HRM-

Status: Pending

Policy Type: University

Contact Office: Human Resources

Oversight Executive: Executive Director of Human Resources

Applies To: Faculty and Staff (exempt and non-exempt)

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Policy Purpose: The University is committed to providing leave to assist employees with balancing the demands of the workplace, their individual needs, and the needs of their family in ways that accommodate the legitimate interests of the University's schools and departments. This policy assists the University in complying with the Paid Family Leave (PFL) of 2018.

Policy Summary: In accordance with the New York State Paid Family Leave Law, effective January 1, 2018, Clarkson University (the "University") will provide eligible employees with time off to care for family members under certain circumstances detailed below. Employees on paid family leave (PFL) will receive partial pay through an insurance policy funded by a small weekly post-tax payroll deduction (set in accordance with state law). Payroll deductions begin on January 1, 2018, or the employee's first day of employment, whichever is later. Pursuant to state law, participation in the PFL program is mandatory for all employees covered by the law, except for those eligible for a waiver, as explained below.

Definition of Terms in Statement:

Eligible employees:

To be eligible for job-protected PFL, an employee must meet the following criteria:

- A full-time employee (regularly scheduled for at least 20 hours per week) is eligible to take PFL after he/she has been employed by the University for 26 consecutive weeks.
- A part-time employee (regularly scheduled for less than 20 hours per week)

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is eligible to take PFL after working 175 days.

- Time spent on paid vacation or sick leave will be counted towards eligibility, provided deductions were taken during that paid time. However, time spent on paid disability leave or unpaid leave is not counted.
- Faculty members or those working in a “teaching capacity” are not eligible for leave under this policy.

Employment Benefits: All benefits provided by the University to employees including group life insurance, disability insurance, health insurance, vacation and sick leave, special days, educational benefits, and retirement contributions.

Paid Family Leave (PFL): The Paid Family Leave provides eligible employees with the right to take job-protected leave with continuation of medical benefits when you need to take time off from work to care for a family member who is seriously ill, to care for a newborn, newly adopted or fostered child, or to attend to the affairs of a family member who is called to active duty in the military.

Policy Statement:

Amount of Leave Available:

The amount of PFL available will be phased in over several years. The maximum amount of leave available in a 52-week period is as follows:

2018	8 weeks
2019	10 weeks
2020	10 weeks
2021	& beyond 12 weeks

The 52 weeks are counted by measuring backwards from each day for which PFL is taken. PFL may be taken in weekly or daily increments. In the event an employee also collects New York State Disability Leave, benefits for his/her own disability (DBL), the maximum amount of time that can be taken under state law for both DBL and PFL is 26 weeks in a 52-week period.

The University will not permit more than one employee to use PFL to care for the same family member at the same time. For example, if both spouses work for the University, the University can deny PFL to one spouse if both have requested the same period off to bond with the same child.

Benefit Levels:

Employees do not continue to receive their full pay from the University during PFL. Rather, they receive a partial benefit payment from the University's insurance carrier, Cigna, after filing a claim with the carrier. Benefit levels are set by state law as a percentage of the employee's weekly income, up to a statewide cap. The levels will be phased in as follows:

2018	50% of the employee's average weekly wage, capped at \$653/week
2019	55% *
2020	60% *
2021	& beyond 67% *

*The benefit cap for years after 2018 will be determined annually in the fall by the state and applied in January.

Qualifying Reasons for PFL:

Once eligible, employees can apply to take PFL for the following reasons:

To provide care for a child (regardless of age), parent (including parent-in-law), grandparent, grandchild, spouse and/or domestic partner with a "serious health condition."

- **Providing care** includes necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters, and personal attendant services. During the leave, the employee must be in close physical proximity to the care recipient.
- **Serious health condition** means an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment or supervision by a health care provider. For further detail as to whether a particular condition qualifies as a serious health condition, please consult with Human Resources.
 - **Please note** that ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., **do not** constitute a serious health condition.

To bond with a new child following the birth, adoption or placement in foster care.

- In the case of adoption or placement, leave may be taken prior to the adoption or placement if the employee's absence is necessary for the placement or adoption to proceed.
- In the case of a birth, the leave must be taken within the first year following the child's birth.

To attend to a qualifying exigency arising out of the fact that the employee's spouse, domestic partner, child or parent is on or has been called to military active duty.

If you have questions regarding the definition of qualifying exigency, please consult with Human Resources.

PFL is not intended, nor available for the employee's own disability or serious health condition. Disability and/or medical leave may be available in those circumstances. Please see the University's New York State Disability Benefits Leave (DBL) or other leave policies for more information.

Note: PFL will run concurrently with leave under the Family and Medical Leave Act (FMLA) where the leave qualifies under both laws. If an employee whose absence qualifies for both PFL and FMLA declines to apply for PFL benefits (despite being notified he/she is also taking leave for a PFL-qualifying reason), such time will nevertheless count against the employee's PFL allotment.

Intermittent Leave:

PFL can be taken intermittently (in separate blocks of time) in full-day increments.

If an employee is taking intermittent FMLA leave in partial day increments for a PFL-qualifying reason, and the employee is paid for working part of a day, the University will track the hours taken as FMLA. When the total hours taken reaches the number of hours in the employee's usual work day, the University will deduct one day of PFL benefits from the employee's annual available PFL benefit.

Employee Notice Requirements:

Employees must provide the University with notice prior to the start of any family leave by contacting Human Resources. Employees must also provide simultaneous notice to the University's insurance carrier, Cigna.

- If the need for leave is foreseeable, such as for planned medical treatment or appointments, or to bond with a child, the employee must provide *at least 30 days* advance notice, or notice as soon as the need for the leave is known.
- If the need for leave is not foreseeable because of a medical emergency, change in circumstances, or lack of advance knowledge, the employee must provide notice as soon as practicable under the circumstances.
- If an employee fails to give 30 days' notice of a foreseeable PFL leave with no reasonable excuse for the delay, the insurance carrier may partially deny the leave claim for a period of up to 30 days from the date the notice is given.
- If the leave is taken on an intermittent basis, the employee must provide notice before each day of leave.

Supplementation of Paid Time Off:

If an employee takes leave for one of the qualifying reasons above, but wishes to be paid in full, the employee has the option to supplement their PFL benefit with a partial day of accrued vacation time to bring their wages to 100%. In no case can the combination of benefits result in the receipt of more than 100% of an employee's normal wages.

Maintenance of Health Benefits:

If the insurance carrier Cigna approves an employee's PFL claim, the University will maintain the employee's health benefits as if the employee continued to be actively employed. Specifically, the University will continue to pay its portion of the employee's group health insurance premium while the employee is on PFL.

The employee will be responsible for continuing to contribute his/her portion of the premium and is expected to make arrangements with Human Resources so that this payment is made in a timely fashion. If the payment is more than thirty (30) days late, the employee's health care coverage may be dropped for the duration of the leave. The University will provide fifteen (15) days notification prior to the employee's loss of coverage.

Waiver:

Employees will be afforded the opportunity to waive PFL benefits under the following circumstances:

- The employee's regular schedule is 20 or more hours per week, but the employee will not work 26 consecutive weeks; or
- The employee's regular schedule is less than 20 hours per week and the employee will not work 175 days in a consecutive 52-week period.

If an employee elects to waive coverage and his/her regular schedule changes such that he/she works for 26 weeks or 175 days in a consecutive 52-week period, the waiver will be automatically revoked. When the waiver is revoked, the University may begin deducting contributions from the employee, including any retroactive amounts from the date of hire or the amount necessary to prevent the University from paying for coverage.

Restoration to Employment:

Employees who return to work at the conclusion of an approved PFL leave will be restored to the same or to a comparable position (with comparable employment benefits, pay and other terms and conditions of employment) upon their return from leave.

Appeal Rights:

An employee whose claim for PFL benefits has been denied by the insurance carrier has the right to appeal the determination through an arbitration proceeding. Appeal information is available from Cigna.

Protection from Retaliation:

The University will not discriminate and/or retaliate against any employee for inquiring about, applying for or using PFL benefits. Employees who believe they have experienced discrimination and/or retaliation should immediately notify their supervisor, Human Resources, or any other member of management.

Fraud:

An employee who fraudulently obtains PFL leave, or who uses PFL leave in an improper manner, is subject to disciplinary action, up to and including termination.

Procedures:

Applying for Leave Benefits:

In addition to notifying Human Resources of the need for leave, in order to receive

Family Leave and Certification form, together with supporting documentation, to the University's PFL insurance carrier, Cigna. If an employee is seeking, payment for a previously taken time off, such request must be made within 30 days of the leave. A request form is available from Human Resources and/or Cigna.

The insurance carrier, Cigna, will make the final determination of whether the employee is eligible for PFL, whether the reason for the leave qualifies under the law, and whether the employee has provided sufficient documentation to support the need for leave.

An employee who is absent from work and is not approved for PFL may be authorized for leave, if eligible, under the University's other paid and/or unpaid time off policies. If the employee is not eligible under any other paid and/or unpaid time off policies, the absence may be treated as unexcused and subject to the University's applicable attendance policy.

Related Information: New York State <https://www.ny.gov/programs/new-york-state-paid-family-leave> for guidelines, regulations and forms.

Subject: Paid Family Leave
Contact: Human Resources at 315-268-6497

Policy Background: Effective January 1, 2018, New York State government issued its new policy guidelines and regulations for interpreting the Paid Family Leave (PFL).

Major Category: Human Resource Management

Process:

Next Scheduled Review:

Approved By Date:

Revision History:

Supersedes (previous policy):