



HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL

Area:	Leave Time	Number:	2355
Subject:	Family Medical Leave	Issued:	7/1/10
Applies To:	Faculty and Staff	Revised:	
Sources:	University Policies: Shared Leave, ADA	Page(s):	1 of 6

Purpose

To establish a policy that defines eligibility, duration and return from leave requirements for granting an employee family medical leave.

Policy

The Family and Medical Leave Act of 1993 (Section A) was passed to protect employees from termination of their jobs due to serious medical conditions. On January 28, 2008, the Family and Medical Leave Act (Section B) was amended to extend leave protection to the families of U. S. Armed Forces members.

A-1. Family and medical leave may be requested by an eligible employee for the following reasons:

- a. birth, adoption or foster care placement of a child;
- b. parenting to care for or bond with a child within twelve (12) months following the birth, adoption or foster care placement of a child;
- c. to care for an immediate family member with a serious health condition as defined in [A-6] of this policy. Unless otherwise noted, for purposes of this policy, **“immediate family member” includes: the employee’s legal husband or wife as defined or recognized under State law, the employee’s son or daughter or legally adopted son or daughter under the age of 18, biological parent or one who stands or stood “in loco parentis” to the employee by providing day-to-day care and financial support when the employee was a child. A foster child, stepchild or ward under the age of 18, legally placed with the employee; or any such child over the age of 18 if the child is incapable of self-care due to a mental or physical disability. Coverage does not include parents-in-law.** The university reserves the right to request documentation establishing financial responsibility or qualifying status as an IRS dependent.
- d. because of the employee’s own serious health condition [A-5]; or
- e. to serve as a human organ or bone marrow donor.

A-2. Supervisor Responsibilities under FMLA: It is the responsibility of the University to designate leave, paid or unpaid, as FMLA-qualifying. The University has the right to designate any qualifying time off as FMLA leave, even if the time is not specifically requested as FMLA leave per se by the eligible employee. It is also the responsibility of the University to notify the employee that it has designated such leave as FMLA-qualified. **The employee’s department should review employee absences of three (3) or more days with Human Resources to determine whether such time should be designated and qualifies as FMLA leave.**

NOTE: Human Resources Benefit’s Office will notify the employee and the department after ten (10) weeks of an employee using Family Medical Leave and request from the respective employee an updated Certification of Health Care Provider ([link to form is below](#)) and the Intent to Return to Work form ([link to form is below](#)).

A-3. Family and medical leave and/or service member family and medical leave are leaves without pay. However, when the absence also qualifies for the use of sick leave, if available, sick leave must be used first in conjunction with family medical leave before any period of unpaid absence. Once sick leave has been exhausted or when the type of absence does not qualify for the use of sick leave, the entire absence or remainder of the approved family medical leave will be unpaid, unless the employee chooses to use any combination of compensatory time, annual leave, or shared leave (if eligible).

A-4. Length of Leave. A maximum of up to twelve (12) weeks or a total of 480 hours of family medical leave may be granted to eligible full-time employees during a rolling twelve (12) month period. Eligible part-time employees may be granted up to twelve (12) working weeks of leave or a total number of hours consistent with their regular work schedule within a twelve (12) week period. (e.g., 20 hours per week x 12 weeks = 240 hours). The period is measured from the date the employee last used/exhausted family medical leave or became employed by the University to the date leave is to begin. Family medical leave may be taken on a continuous, intermittent, or reduced-hour basis.

Rolling 12-month calendar – The retrospective 12-month period is measured backward from the date the employee began using FMLA leave. The 12-month period during which twelve (12) weeks of family leave may be taken shall begin on the first day such family leave is taken. For example, if family medical leave begins May 1, 2009, the 12-month period is from May 1, 2009 until April 30, 2010. **Holidays:** When a holiday falls within a week taken as FMLA leave, the entire week will be counted as FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

When both parents are university employees, family medical leave taken for childbirth/parenting consists of a single benefit of up to a total of twelve (12) weeks for either parent (but not both parents, see [A-13](#)) or the single benefit may be shared between the parents. Up to ten (10) days of sick leave may be available to either parent for "parenting" (the bonding period after child birth related disability or for a non birth mother or father).

A-5. Definitions.

a. **"Serious health condition"** is defined as an illness, injury, impairment or physical or mental condition that involves any period of incapacity or treatment connected with in-patient care (i.e. overnight stay) in a hospital, hospice, or residential medical-care facility, and any period of incapacity or subsequent treatment in connection with such in-patient care; continuing treatment by a health care provider, which includes any period of incapacity (i.e. inability to work, attend school, or perform other regular daily activities) due to a health condition (including treatment for or recovery from) lasting more than three (3) consecutive days; and any subsequent treatment or period of incapacity relating to the same condition, that also includes:

1. Treatment two (2) or more times by or under the supervision of a health care provider; or one treatment by a health care provider with a continuing regimen of treatment; or
2. Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence; or
3. Chronic serious health condition, which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g. asthma, diabetes). A visit to a health care provider is not necessary for each absence; or
4. Permanent or long-term condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or
5. Absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g. chemotherapy or radiation treatments for cancer).
6. "Parenting" is defined as the period of bonding that occurs within the first twelve (12) months of the birth, adoption or foster placement of a child in the family and ends twelve (12) months after birth or placement of an adopted or foster child for either parent. An employee who has given birth

may be eligible for family medical leave related to child-birth disability and may continue leave followed by a period of bonding or parenting which begins at the expiration of the disability of the birth mother and/or child if applicable. Up to ten (10) days of sick leave may be used by either parent for the bonding/parenting period (?and A-3).

b. An eligible employee includes any employee who meets all of the following criteria:

1. Has completed twelve (12) months of service with the university, and
2. Has worked at least 1250 hours during the twelve (12) month period prior to the commencement of the requested leave, and
3. Returns to work from the approved leave for at least thirty (30) calendar days.

A-6. Health benefits continued during family medical leave on the same basis as for any similarly situated employee who is actively at work, regardless of whether the employee is using other forms of accrued leave or taking leave unpaid. The employee's share of cost for health coverage is the amount that is typically payroll-deducted for the employee's own coverage and/or coverage for his/her dependents. The employee is responsible for payment of these amounts during leave. Payroll deductions will be continued for any portion of the leave that is paid. During any portion of leave when no pay is received, the employee must make arrangements to self-pay these amounts. Retirement plan contributions, accruals for sick and annual leave and credit toward vesting are suspended during unpaid portions of family medical leave.

A-7. All qualified absences (see [A-5](#)), including those due to a work-related injury, will be considered as family medical leave. If there are reasonable circumstances to support that an employee's absence qualifies as family medical leave, the university has the right to classify such absence as family medical leave (see [A-2](#))

A-8. When the need for family medical leave is foreseeable, an employee must request and complete the FMLA Designation / Approval Form ([Link](#)) and an application for family medical leave at least thirty (30) days in advance of the need for leave. Application assistance is available from the university's Benefits Office. When events are not foreseeable, employees must provide as much notice as is possible. Application for family medical leave after a return from absence is not recommended; rights to preserved employment and benefits may be adversely affected. In any event, absent extraordinary circumstances, an employee may not claim an absence as a qualified family medical leave event unless done so within the first two (2) days of return from an absence.

A-9. When leave is taken for personal illness or to care for an immediate family member with a serious health condition, leave may be continuous or intermittent and may include a reduction in hours worked. For intermittent leave, the employee must provide certification from the health care provider caring for the employee and/or family member stating the leave must be taken intermittently. Employees needing intermittent leave must attempt to schedule their leave so as not to disrupt university operations. The university reserves the right to assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent or reduced leave schedule.

A-10. Employees on family medical leave are required to provide documentation to Human Resources Benefits Office as requested, including a Certification of Health Care Provider ([link to form is below](#)) and intent to return to work form. During leave, the university may require an employee to re-certify the medical condition that caused him/her to take leave. The Return-to- Work Medical Evaluation Form ([link to form is below](#)) release from the health care provider is required before an employee absent due to his or her own serious health condition may return to work.

HIPPA Regulations – The supervisor is responsible for ensuring that the Health Insurance and Portability and Accountability Act of 1996 (HIPPA) guidelines are followed. The supervisor/employer is responsible for protecting the privacy and confidentiality of all Personal Health Information obtained as a result of an FMLA application and process. HIPPA will be applied to the use, maintenance, transfer, and disposition of healthcare records and information. **A supervisor may not directly contact a health care provider to request additional information, but**

he/she must contact the HR Benefits Office if assistance is needed. Arrangements may be made for a health care provider or Benefits Specialist representing the University to contact the employee's provider, with permission, for clarification or authentication.

A-11. Family medical leave requests for medical treatment or care giving requires certification from the health care provider documenting medical necessity.

A-12. Family medical leave requests for parenting must be approved in advance and completed within twelve (12) months of the birth, adoption, or foster care placement of a child.

a. Shared leave may not be used for the purpose of parenting; however, shared leave (if granted) may be used for the disability period related to childbirth.

b. Intermittent leave or reduced work schedule requests for parenting may not be granted, or may be cancelled by the university with thirty (30) days written notice, based on business needs of the university.

A-13. Family medical leave taken by two (2) university employees to care for a new born child or child placed for adoption or foster care consists of a cumulative total of twelve (12) weeks of leave. If the employee's spouse is out on FMLA leave due to a serious health condition, both the employee and spouse are both eligible for 12 weeks.

A-14. If the university obtains information from a credible source, such as the workers' compensation authority, disability carrier, or a medical practitioner, that alters, changes, casts doubt, or fails to support continued leave or the leave application, the university has the right to:

- a. revoke leave;
- b. not grant leave;
- c. require new evidence to support the leave request;
- d. require the employee to return to work if the leave is not substantiated; and/or
- e. when appropriate under applicable employee discipline policies, take disciplinary action, up to and including dismissal.

A-15. Upon return from family medical leave, employees will be assigned to their same or similar position with equivalent pay and status with or without reasonable accommodation, as appropriate, in accordance with the Americans with Disabilities Act. Job reassignment must be coordinated with Human Resources Employment Office and approved by the Chief Human Resources Officer or designee. The university has no obligation to restore employment to temporary hourly or other employees if the employment term or project is over and the university would not otherwise have continued employment. A supervisor may not discriminate and take any adverse action against an employee for taking FMLA leave; however, any personal action / decision that would have happened if the employee had continued in a work status may happen while the employee is on FMLA leave.

A-16. Family medical leave is not intended for individuals who do not plan to return to work. Any time an employee gives unequivocal notice of intent not to return to work, the University's obligations under the FMLA stop. If an employee intends to return to work, but is unable to return immediately after exhausting twelve (12) weeks of FMLA leave, he/she may be eligible to request additional personal leave under other Georgia Southern policies. The granting of such additional leave is at the discretion of the University. A department may consider the following factors in granting the additional leave:

- Length of service at Georgia Southern University
- Medical condition of the employee
- Whether the employee performs unique functions and would be difficult to replace
- Additional amount of time requested
- Requirements of the Americans with Disabilities Act

In no case may all leave periods combined exceed twelve (12) months unless a person goes into Long Term Disability, or establishes a new rolling twelve month period. If an employee is not granted additional University leave upon the exhaustion of their twelve (12) weeks of FMLA leave and does not return to work immediately, his/her employment will end on the last day of the approved FLMA leave.

B. SERVICE MEMBER FAMILY AND MEDICAL LEAVE. The federal Family and Medical Leave Act (FMLA) now entitles eligible employees to take leave for covered family member's service in the Armed Forces (Service member Family and Medical Leave) in two instances. This section of the policy supplements the above Family Medical Leave policy and provides general notice of employee rights to such leave. Except as stated below, an employee's rights and obligations to service member family and medical leave are governed by the general family medical leave policy.

B-1. Definitions: The following definitions are applicable to this section of the policy.

- a. "Eligible employee" is a spouse, son, daughter, parent, or for purposes of caring for a family member, the next of kin of a covered family member.
- b. "Next of kin" is the nearest blood relative of a family member who is in the Armed Forces.
- c. "Covered family member" means any family member who is a member of the Armed Forces, including a member of the National Guard or Reserves, regardless of where stationed and regardless of combative activities.

B-2. Leave Entitlement: Eligible employees are entitled to take service member family and medical leave for any one, or for a combination of the following reasons:

- a. Any "qualifying exigency" (as defined by the Secretary of Labor) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces in support of a "contingency operation," and/or
- b. To care for a covered family member who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces, provided that such injury or illness may render the covered family member medically unfit to perform duties of the family member's office, grade, rank or rating.

B-3. Duration of service member family and medical leave:

- a. When leave is due to a qualifying exigency: an eligible employee may take up to 12 work weeks of leave during any 12-month period.
- b. When leave is to care for a covered family member: an eligible employee may take up to 26 workweeks of leave during a single 12-month period to care for the covered family member. Leave to care for a covered family member, when combined with other qualifying family medical leave may not exceed 26 weeks in a single 12-month period.
- c. Concurrent leave: service member family and medical leave runs concurrent with other leave entitlements provided under federal, state and local law.

Procedure

1. The employee must complete the FMLA Designation/Approval Form (link to form is below) and submit it to the appropriate administrative authority for approval. The request must indicate the nature of the leave and the length of time requested.
2. Once approved by the appropriate department head, the form must be sent to the Human Resources Benefits Office.
3. The primary department must process a PAF to return an employee to active status from a Family Medical Leave of Absence.

Forms:

All FML forms can be found on the Human Resources website at <http://jobs.georgiasouthern.edu/forms.htm>