

Understanding Family and Medical Leave (FMLA) At Georgia State University

Introduction: Family and Medical Leave Act (FMLA) of 1993. This act requires Georgia State University to provide eligible employees with up to 12 weeks (or 480 hours) of unpaid leave. The University has chosen to establish the FMLA year based upon the roll back year plan.

Eligibility: To be eligible for federal FMLA leave, you must have at least 12 months of total service and have worked at least 1,250 hours in the 12 months immediately preceding the beginning of your leave. ('Hours worked' does *not* include time spent on paid leave – sick, vacation, personal, administrative or unpaid leave).

If both you and your spouse work for the University System of Georgia and are eligible for FMLA, the combined total of 12 weeks applies.

Qualifying Reasons for Leave:

- Your own "serious health condition";
- The "serious health condition": of your child, spouse or parent;
- The care of a military family member
- The birth of your child;
- The care of a newly adopted child, or care of a child newly placed in foster care

New Leave Entitlement. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12-month period to care for the service member. This provision became effective immediately upon enactment. This military caregiver leave is available during "a single 12-month period" during which an eligible employee is entitled to a combined total of 26 weeks of all types of FMLA leave.

Serious Health Condition: "Serious health condition" is very specifically defined under federal FMLA.

- Inpatient Care (i.e., overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to inpatient care.
- Absence plus treatment – a period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition, that also involves (a) treatment two or more times by a health care provider or (b) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Pregnancy – includes prenatal care.
- Chronic conditions requiring treatments (example: asthma, diabetes, epilepsy).
- Permanent long-term conditions (example: Alzheimer's, a severe stroke, terminal states of a disease).
- Multiple treatments of non-chronic conditions (example: cancer and kidney disease).

New Qualifying Reason for Leave. Eligible employees are entitled to up to 12 weeks of leave because of "any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active duty status, in support of a contingency operation. By the terms of the statute, this provision requires the Secretary of Labor to issue regulations defining "any qualifying exigency." In the interim, employers are encouraged to provide this type of leave to qualifying employees.

Advance Notice and Medical Documentation Requirements: You are required to submit the following: 1) a Request for Family Medical Leave and 2) a Medical Certification Form. When a leave is foreseeable (e.g., an anticipated birth, adoption or surgery), you must submit the medical certificate form *at least 30 days in advance*, using approximate dates if definite ones are not yet available. When there is no forewarning (e.g., major unexpected illness), you should submit the medical certification form *as soon as you become aware* that you may need to be absent for a FMLA qualifying reason. Failure to provide the needed documentation may result in disapproval of the leave or a delay in its commencement.

If the validity of the medical certification is in doubt, a *second opinion* can be required with a health care provider chosen by the department and/or Human Resources at its own expense. If the two opinions conflict, the department may request and pay for a *third* opinion. The third opinion will be final and binding.

During your leave, you may be required to furnish periodic medical updates of your status. This may be requested from every three months up to a year (depending upon the nature of the illness and the medical circumstances).

Health Care Provider: Department of Labor regulations for the Family and Medical Leave Act define a "health care provider" as a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, nurse-midwife, or clinical social worker who is authorized to practice by the State and performing within the scope of their practice as defined by State law, or a Christian Science practitioner. A health care provider also is any provider from whom the University or the employee's group health plan will accept certification of a serious health condition to substantiate a claim for benefits.

Paid vs. Unpaid Leave: Generally, federal FMLA leave is unpaid leave. However, federal law permits the employer to substitute paid leave to cover some or all of the FMLA leave. Under Board of Regents policy, you may use any accrued sick leave for a condition deemed medically necessary. If the sick leave balance is not adequate to cover the FMLA period, accrued vacation leave will be deducted. (You may request in writing, prior to the commencement of a leave, to freeze all or a portion of your vacation leave). The Leave Coordinator in Human Resources can review your leave balance with you.

If you are requesting paternity leave, you may use your accrued vacation time or request leave without pay. (Accrued sick leave may only be used for a paternity leave when medical documentation is provided).

Additional Benefits Available: If you are a participant in the Donated Leave Program, you may apply to the committee for review and approval while on FMLA. If you have either short or long term disability, you may be eligible to receive these benefits while on leave. The Leave Coordinator in Human Resources can review these options with you.

Continuation of Benefits: During periods of paid and/or unpaid FMLA leave, you will continue to receive the same benefits as if you were actually working. However, if you are on an unpaid leave you will have the option to continue any or all of your benefits. In this case, you will be billed directly for the same portion of the cost that was previously withheld from your paycheck for that purpose. The Leave Coordinator will provide you will a Continuation of Benefits form at the appropriate time.

In the case of any other deductions being made from your paycheck (credit union loans etc.) you must deal directly with the appropriate office to discuss payment options.

Return to Work: If your case involves your own serious health condition, you will be required to produce a Return to Work Certification in which a health care provider specifies the conditions, if any, that you are able to return to work. Therefore, if you are notified of the need for this certification, you will not be allowed to return to work without it.

Application Procedure: If you as the employee, or on your behalf, a supervisor or department official wishes to inquire into the possibility of FMLA leave, a "Medical or Family Leave Application must be completed and submitted to Human Resources. If the employee is requesting FMLA leave, the Medical Certification form must also be received within 15 calendar days of the date the leave is requested.

Failure to provide the needed documentation may result in a disapproval of the leave or a delay in its commencement. Upon receipt, the Leave Coordinator in Human Resources will review the request and notify you in writing, to your home address, as to the approval status.

University Designated FMLA Leave: Even when an employee does not specifically request family and medical leave under FMLA, the University may designate time away from work as FMLA if the leave meets the requirements of federal FMLA law.

More Information: If you have additional questions please contact the Leave Coordinator for Human Resources, Corrin Sorteberg by phone (404) 413-3314 or by email: corrinsorteberg@gsu.edu.

Any required medical documentation or confidential forms may be faxed directly to:
(404) 413-3324.

In person, by appointment:
Suite 330, One Park Place South

Mailing address:
Benefits Office, Human Resources,
PO Box 3982
Atlanta, GA 30303-3982, Attention: Corrin Sorteberg.