

HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT



CITATION REFERENCE

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[Return to Human Resources Administrative Practice Manual Table of Contents](#)

The University System of Georgia complies with the provisions of the federal Family and Medical Leave Act.

This policy ensures compliance with applicable law and consistency among institutions of the University System in providing leave to eligible employees under the Family and Medical Leave Act.

All units of the University System of Georgia are covered by this policy.

All Human Resources staff and employees within the University System of Georgia should be aware of this policy.

These definitions apply to these terms as they are used in this policy:

Board of Regents (BOR): The governing body of the University System of Georgia.

Eligible Employee: An eligible employee is defined as any employee (including part-time and temporary) of the University System of Georgia, who has been employed by the University System of Georgia for at least twelve (12) months total (not necessarily the last twelve (12)

HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

months), and worked at least 1,250 hours during the twelve (12) month period immediately preceding the leave.

Immediate Family: Child, Spouse or Parent, but not in-laws.

Family Leave: Leave as defined by the Family and Medical Leave Act that allows the employees excused absences from their workplace due to: the birth or legal adoption of a child, the employee's own serious health condition, the serious health condition of a member of the employee's immediate family, leave due to a call to active duty or caregiver leave to care for a family member in the armed services who is recovering from an injury.

- x Encompasses both physical and psychological care.
- x Includes situations where the employee may be needed to fill in for others who are

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

“activities of daily living,” such as grooming & hygiene, bathing, dressing, eating, cooking, taking public transportation, etc.

- o A “mental or physical disability” is one that substantially limits one or more major life functions as defined under the Americans with Disabilities Act (ADA).

Serious Health Condition: See [Serious Health Condition](#)

Leave for one’s own serious health condition, or for the care of a family member with a serious health condition, may be taken on a continuous basis - or on an intermittent basis in increments as small as one hour - if medically indicated. Institutions have the discretion to determine whether to allow intermittent leaves for birth, adoption, or foster placement - or whether such leaves must be continuous.

- x There must be a medical need for leave which can be best accommodated through an intermittent or reduced work schedule.
- x An employee must attempt to schedule leave or reduced work so as not to disrupt the employer’s operations.
- x The employer may assign the employee to an alternative position with equivalent pay and benefits that better accommodates the employee’s intermittent leave or reduced work schedule.
- x Intermittent leave may include leave periods of an hour or more, up to several weeks.
- x Only the amount of leave actually taken is counted toward the 12 weeks of eligibility.

For example:

- o an employee who normally works five days per week and takes off one day per week as intermittent FMLA leave is charged 1/5 of a week of FMLA leave
- o an employee who normally works eight-hour days, but who works half-days under a FMLA reduced work schedule would be charged 1/2 week of FMLA leave.
- x The granting of intermittent leave or a reduced work schedule for well-child care after the birth, adoption, or placement of a child is at the discretion of the institution.

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**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

To determine if an employee is eligible for FMLA leave during any given work week* on a “rolling year” basis, one looks back over the 12 months immediately preceding that week. If the employee has not utilized the equivalent of 12 weeks of FMLA-qualifying leave in the 12 months prior to the date in question, then the employee is eligible for that week of leave (assuming all other eligibility criteria are met). In utilizing a rolling year, this analysis may be conducted each week to determine continued eligibility.

*The fact that a holiday may occur within the week taken as FMLA leave has no effect; the week is counted as a week of FMLA leave. If, however, the institution’s business operations have ceased, and employees are generally not expected to report for work for one or more weeks (e.g., during the winter holiday break), those days do not count against the employee’s FMLA entitlement.

If a University System employee is working and residing outside of the State of Georgia, due to their employment situation, local state law may be applicable for FMLA. The Human Resource Director of the employing institution may need to seek assistance from the University System Office of Legal Affairs for interpretation of applicable state law.

During the course of taking FMLA leave, the circumstances regarding the leave may change. For example, the employee may discover that more leave than planned is necessary for recovery from the employee’s own or a family member’s serious health condition. Conversely, recovery may be faster than anticipated and less leave is required. The employee may wish to return to work sooner than planned.

The supervisor may require the employee to provide reasonable notice of these changed circumstances. Reasonable notice usually means within two (2) business days.

The following individuals licensed/authorized to practice in the state in which they practice, and performing within the scope of their practice as defined under state law:

- x Doctors of medicine or osteopathy authorized to practice medicine or surgery
- x Podiatrists
- x Dentists
- x Clinical psychologists
- x Optometrists
- x Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist);
- x Nurse practitioners

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

- x Nurse-midwives
- x Clinical social workers
- x Christian Science practitioners listed with the First Church of Christ Scientist in Boston, Massachusetts
- x Any health care provider from whom the University System's health care plans will accept certification of the existence of a serious health condition.

If the supervisor requires it, the employee must periodically report to the supervisor regarding the employee's status and intent to return to work. Status generally refers to the employee's or the family member's progress in recovery from a serious health condition.

Any time the employee gives unequivocal notice of intent not to return to work, the University System's obligations under the FMLA stop. This means the University System is no longer obligated to maintain group health benefits for the employee, and the University System is not required to restore the employee to an equivalent job.

For example, an employee who is on FMLA leave for the birth of a child and care of that child might advise the supervisor she has decided to stay home with the child and not return to work. Once the employee advises the supervisor of this decision, the University System's responsibilities under the FMLA cease.

To take FMLA leave, the employee must provide the supervisor with notice of the need to take leave. When providing notice, the employee is not required to identify the leave specifically as FMLA leave, but must provide sufficient information regarding the nature of the leave to enable the supervisor to make a determination of the applicability of FMLA. **In all situations, it is the supervisor's responsibility to designate leave as FMLA leave.**

If the leave is foreseeable, the employee must notify the supervisor of the need for leave at least 30 days before the date leave is to begin. If the leave is foreseeable and the employee fails to provide the 30-day notice, the supervisor may delay the taking of leave until 30 days have elapsed after the date of the employee's notice.

Some possible examples of foreseeable need for leave are leave for the birth of a child and leave for elective surgery. However, there may be a change in circumstances or a medical emergency that necessitates the taking of leave earlier than anticipated. For example, an employee's doctor may decide that to protect the health of the employee, a baby should be delivered through surgery earlier than the estimated date of delivery. When the circumstances change and leave is needed earlier than anticipated, the employee should notify the supervisor as soon as practicable (depending upon the circumstances, usually within one or two business days).

HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

In complying with the requirement to prov

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

FMLA allows employees to balance their work and family life by taking reasonable unpaid leave for certain family and medical reasons. The FMLA seeks to accn3sA E.3 (b)ee leyc dfc a.y ace.001 Tc 0.003 - 0 T

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

- x child care and school activities (for non-routine matters);
- x financial and legal arrangements;
- x counseling;
- x rest and relaxation (up to five days);
- x post-deployment activities (including debriefings or funeral services for up to 90 days following the termination of the covered military member's active duty status); and
- x any additional activities agreed to by employer and employee.

Although intermittent and reduced schedule leave are available for qualifying exigencies, qualifying exigency leave counts against the employee's 12-week per 12-uengn(u)k pllotlee

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HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

- o [Poster in Spanish](#)
- x At some later date, an institution may request medical certification if there is reason to question the appropriateness of the leave or its duration. The [Form WH-380](#)

**HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT**

- x an eligibility, rights, and responsibilities notice,
- x and a designation notice. Notices can be found in the [Appendix to the new regulations](#).

If certification (or recertification) is incomplete or insufficient, the institution must provide written notice of what specific information is still needed and give the employee seven calendar days to cure the deficiencies. If the certification is still deficient at the end of the seven days, management may contact the employee’s health care provider to clarify. However, the management official contacting the health care provider may not be the employee’s immediate supervisor, and the individual may not ask health care providers for information beyond that required by the certification form.

FMLA leave is unpaid (employers are not required to grant such leave as paid time off). However, employees may elect to utilize — or the institution may require that employees utilize — their accrued paid sick leave and/or annual leave, as appropriate for such absences. (Exception: If your FMLA leave is a result of an on-the-job injury, you have the option of using unpaid leave even if you have paid leave available.)

In the example below, the work week begins on Monday; however, the work week start and end dates may vary by institution. In order to comply with FMLA guidelines, you should calculate leave time (accrued and taken) based on the work week start and end dates at your institution. Please contact your campus Human Resources office or payroll department for specific information regarding your institutional work week.

You are a full-time employee and you were out on FMLA leave from the second of the month through the sixth of the month. You returned to work on the ninth. You had a leave balance of three days at the time you began your FMLA leave (Eight hours sick leave and 16 hours annual leave). If your absence was not a result of an on-the-job injury, you can elect or your employer may require you to begin using your 24 hours of available leave beginning the first day of your absence. In this example, your leave balance should reflect the following:

- x Your paid leave (sick and annual) will end on the fourth.
- x You will be on sick leave without pay (SLWOP) for two days, beginning on the fifth.
- x You used one week of FMLA leave.

Sun.	Monday	Tuesday	Wednesday	Thursday	Friday	Sat.
1	2 SL 8 hrs taken	3 AL 8 hrs taken	4 AL 8 hrs taken	5 SLWOP 8 hrs taken	6 SLWOP 8 hrs taken	7
8	9	10	11	12	13	14

HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

Party

Responsibility

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HUMAN RESOURCES ADMINISTRATIVE MANUAL
TIME AWAY FROM WORK: FAMILY AND MEDICAL LEAVE ACT

- x [WH-384 - Certification of Qualifying Exigency For Military Family Leave](#)
- x [WH-385 - Certification for Serious Injury or Illness of Covered Servicemember – for Military Family Leave](#)