

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



UNIVERSITY SYSTEM
OF GEORGIA

Family and Medical Leave Act

CITATION REFERENCE

OFFICIAL TITLE	POLICY ON FAMILY AND MEDICAL LEAVE ACT
VOLUME	HUMAN RESOURCES
RESPONSIBLE OFFICE	USG HUMAN RESOURCES OFFICE
ORIGINALLY ISSUED	JANUARY 2009
REVISED	APRIL 2009

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

Policy Statement

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.

Applicability

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

Who Should Read This Policy

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

Definitions

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.

Care of a family member:

- Encompasses both physical and psychological care.
- Includes situations where the employee may be needed to fill in for others who are caring for the family member.
- May include intermittent leave.

Family member:

- **Spouse:**
 - The employee's legal husband or wife as defined or recognized under State law for purposes of marriage in the State where the employee resides.
- **Parent:**
 - A biological parent of the employee.
 - An individual who stands or stood "in loco parentis" to an employee by providing primary day-to-day care and financial support when the employee was a child.
 - Coverage *does not* include parents-in-law.
- **Child:**
 - The employee's biological son or daughter under the age of 18.
 - A legally adopted son or daughter under the age of 18.
 - A foster child, stepchild, or ward under the age of 18, legally placed with the employee.
 - Any such child over the age of 18 if the child is incapable of self-care due to a mental or physical disability.
 - "Incapable of self-care" means requiring active assistance or supervision to provide daily self-care in three or more basic or instrumental

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.

- 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](#)

Continuous & Intermittent leave

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.

Intermittent leave or reduced work schedule

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

For example:

- 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
- 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.
- 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.

Rolling 12-month calendar

The retrospective 12-month period as measured backward from the date the employee began using FMLA leave.

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.

Change in Circumstances

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.

Health care provider

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:

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

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

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

Intent to Return to Work

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.

Notice for foreseeable leave

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

Notice for unforeseeable leave

In complying with the requirement to provide the supervisor with notice of the need to take leave, the need to take leave may take place from an unforeseeable or unanticipated event. This could arise, for example, because circumstances have changed regarding planned leave or due to a medical emergency.

When the need to take leave is unforeseeable, the employee is required to provide the supervisor with notice of the need for leave as soon as practicable. This means, generally, that notice is provided within one or two business days of when the employee becomes aware of the need for leave. The timing of the notice is dependent upon the nature of the circumstances that cause the need for leave.

The notice may be provided in person, by telephone, telegraph, fax, or other electronic means. There may be circumstances in which the employee is incapable of providing notice personally. For example, the employee may be unconscious in the hospital. When this occurs, a representative of the employee, spouse, adult family member, doctor, attorney, etc., may provide the initial notice of the need for leave to the supervisor.

Protection from Discrimination

A supervisor may not take any adverse action or otherwise discriminate against an employee or prospective employee who has taken FMLA leave. A supervisor may not interfere with any rights provided by FMLA, including:

- Refusing to authorize FMLA leave.
- Discouraging an employee from using FMLA leave.
- Changing the essential functions of the employee's job to preclude the taking of FMLA leave.
- Reducing hours of work to avoid employee eligibility.
- A supervisor may not discharge or discriminate against any person (whether or not an employee) because that person has:
 - Opposed or complained about any unlawful practice under the Act
 - Filed a charge, or has instituted (or caused to be instituted) any proceeding under or related to the Act.
 - Given, or is about to give, any information in connection with an inquiry or proceeding relating to a right under the Act.
 - Testified, or is about to testify, in any inquiry or proceeding relating to a right under the Act.
 - Used FMLA leave

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

Rights & benefits of FMLA-eligible employees

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 accomplish this in a manner that accommodates the legitimate interests of employers, and minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women.

The following is a list of [your rights](#) and benefits as an eligible FMLA employee: (links open in new browser window)

- 12 weeks of [unpaid FMLA leave in a 12-month period](#)
- Continuation of [group health benefits](#) during FMLA leave
- Restoration to the same or an [equivalent job](#) upon return to work
- Retention of [accrued benefits](#)
- Protection from [discrimination](#) as a result of taking FMLA leave

Note: A supervisor may not take any adverse action against an employee for taking FMLA leave; however, any [personnel action/decision](#) that would have happened if the employee had continued in a work status may happen while the employee is on FMLA leave.

Process and Procedures

Consistent with the provisions of the federal Family and Medical Leave Act (FMLA) of 1993, an eligible employee may be entitled to up to twelve (12) work weeks of leave during any twelve (12) month period. 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) months) worked, and;
- worked at least 1,250 hours during the twelve (12) month period immediately preceding the leave.

The University System of Georgia uses a “rolling” 12-month period (rather than a fixed calendar, fiscal, or academic year) to determine eligibility for, and availability of, leave time under FMLA. The 12-month period during which twelve weeks of family leave may be taken shall begin on the first day such family leave is taken. For example, if family leave begins August 1, 2002, the 12-month period is from August 1, 2002 until July 30, 2003.

An employee generally has a right to return to the same position, or an equivalent position in terms of pay, benefits, and working conditions. Certain “key employees” may be denied job restoration if they are among the highest-paid 10% of employees and if such, denial is

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

necessary to prevent substantial and grievous economic injury to the operations of the employer.

Leave under FMLA may be taken for one or more of the following reasons:

- The employee's own **serious health condition**, including an on-the-job injury or occupational disease covered by Worker's Compensation, which causes the employee to be unable to perform the functions of their job (see definition of [Serious Health Condition](#).)
- The **care** of an immediate **family member** with a serious health condition
- The birth and care of a **newborn child**
- The legal placement of a child with the employee for **adoption** or **foster care**
- A spouse, son, daughter or parent being on active duty or having been notified of an impending **call** or order **to active duty in the Armed Forces**. Leave may be used for any "qualifying exigency" arising out of the service member's current tour of active duty or because the service member is notified of an impending call to duty in support of a contingency operation.

Births and Adoptions under FMLA

[Intermittent leave](#) or a reduced work schedule may be granted for well-child care after the birth, adoption, or placement of a child at the discretion of the institution. Spouses employed by the University System of Georgia are jointly entitled to a *combined* total of twelve work weeks of family leave for the birth and care of a newborn child, for the placement of a child for adoption or foster care, or for the care of a parent who has a serious health condition.

Entitlement to this feature of FMLA leave expires at the end of the 12-month period that began on the date of the birth or placement. Any such FMLA leave must be concluded within this one-year period.

NDAAs

Consistent with the provisions of the federal Family and Medical Leave Act (FMLA) of 1993 and the National Defense Authorization Act of 2008, an eligible employee may be entitled to up to twenty-six (26) work weeks of leave during any twelve (12) month period per service member and per injury or illness, for the following reason:

- A spouse, son, daughter, parent, or nearest blood relative **caring for a recovering service member**. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active-duty that may render the person unable to perform the duties of the member's office, grade, rank or rating. Any family and medical leave, whether paid, unpaid, or a combination thereof, will be counted towards the twelve week leave entitlement.

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

Eligibility

Consistent with the provisions of the federal Family and Medical Leave Act (FMLA) of 1993, an eligible employee may be entitled to up to twelve work weeks of leave during any 12-month period, for one or more of the following reasons:

- The employee's own **serious health condition**, including an on-the-job injury or occupational disease covered by Worker's Compensation, which causes the employee to be unable to perform the functions of their job.
- The **care** of an immediate **family member** with a serious health condition.
- The birth and care of a **newborn child**.
- The legal placement of a child with the employee for **adoption** or **foster care**
- A spouse, son, daughter or parent being on active duty or having been notified of an impending **call** or order **to active duty in the Armed Forces**. Leave may be used for any "qualifying exigency" arising out of the service member's current tour of active duty or because the service member is notified of an impending call to duty in support of a contingency operation.

Consistent with the provisions of the federal Family and Medical Leave Act (FMLA) of 1993 and the National Defense Authorization Act of 2008, an eligible employee may be entitled to up to twenty-six work weeks of leave during any 12-month period, for the following reason:

A spouse, son, daughter, parent, or nearest blood relative **caring for a recovering service member**. A recovering service member is defined as a member of the Armed Forces who suffered an injury or illness while on active-duty that may render the person unable to perform the duties of the member's office, grade, rank or rating.

Employee Responsibilities Under FMLA

FMLA allows employees to balance their work and family lives by taking reasonable unpaid leave for certain family and medical reasons. The FMLA seeks to accomplish this in a manner that accommodates the legitimate interests of employers, minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women. As an employee requesting family leave, you are expected to provide your supervisor with appropriate notification and documentation.

- To be entitled to leave, employees must give at least a 30-day advance notice for [foreseeable leave](#), or as much notice as is possible and practicable. An employee must first submit a request for FMLA or Non-FMLA, and must also obtain a [FMLA Medical Certification form](#). For [unforeseeable leave](#), you must provide notice as soon as possible. Your supervisor or department head will provide you with written notice regarding the approval or denial of your request for family leave.

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

- Your institution may require documentation of the need for leave by having the [health care provider](#) complete the [Form WH-380-E - Certification of Health Care Provider for Employee's Serious Health Condition](#). An employee must provide the requested certification to their employer within the time frame requested (the institution must allow at least 15 calendar days after its request), unless it is not practicable to do so despite the employee's diligent, good-faith efforts.
- Medical recertification may be required every 30 days for prolonged illnesses. Please get the [Form WH-380-E - Certification of Health Care Provider for Employee's Serious Health Condition](#).
- For a personal serious health condition, you may be required to present a fitness-for-duty clearance from your [health care provider](#) before being reinstated to active duty. Please get the [Medical Evaluation \(Return to Work\) form](#).
- You must make arrangements to pay your health insurance premiums. Please contact the benefits department at your institution to make these arrangements.
- You must notify your employer of any [change of circumstances](#) for which your leave is being taken.
- You are expected to return to work by the end of the approved FMLA leave. If you do not return, and if failure to return is not due to a continued or newly documented qualifying serious health condition, you may be required to reimburse the institution for the employer portion of the health coverage premiums that it paid on your behalf during the leave.
- Once you have reviewed your responsibilities, please consult your supervisor or department head if you have further questions. Please review your [FMLA rights and benefits](#).

Military Notification:

Leave is available to covered family members of members of the National Guard or Reserves, or of retired military, who are on active duty, called to active duty, or are notified that they will be called to active duty in support of a contingency operation, as that is defined in various statutes governing military service. Leave is not available to regular members of the Armed Forces, and it is normally not available to members of state militias, unless they are called up in support of a U.S. operation.

The regulations define eight categories of "qualifying exigencies":

- short-notice deployment (seven days' notice or less and only available for seven days total);
- military events and related activities (such as ceremonies and briefings);

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

- child care and school activities (for non-routine matters);
- financial and legal arrangements;
- counseling;
- rest and relaxation (up to five days);
- 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
- 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-month total allotment of FMLA leave. The employer may also request documentation of the need for qualifying exigency leave.

Supervisor Responsibilities Under FMLA

- It is the responsibility of the home institution to designate leave, paid or unpaid, as FMLA-qualifying. An institution 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 home institution to notify the employee that it has designated such leave as FMLA-qualified. Institutions should review employee absences of three days or more to determine whether such time should be designated as FMLA leave.
- A supervisor should be aware of the [employee responsibilities](#) under FMLA. Should a supervisor be unfamiliar with the guidelines related to FLMA policy, they should seek assistance from their campus Human Resource Department.
- As soon as possible, a supervisor should provide written notice to an employee when leave taken for a qualifying condition will be designated as family leave. A supervisor must complete the FMLA Institutional Response form.
- If leave is taken as a result of a [serious health condition](#), please obtain a [Form WH-380-E - Certification of Health Care Provider for Employee's Serious Health Condition](#).
- If you have a question regarding whether an employee's leave should be designated as family leave, please contact the Human Resources office at your institution.
- A University System of Georgia institution should provide its employees with information regarding the FMLA. Please obtain a poster to place in your break room or other prominent work location.
 - [Poster in English](#)

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

- [Poster in Spanish](#)
- 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-E - Certification of Health Care Provider for Employee's Serious Health Condition](#) may be used to recertify the leave. In addition, an institution that has reason to doubt the validity of a medical certification may, at the employer's expense, require the employee to obtain a second opinion.
- A supervisor may not directly contact a health care provider to request additional information, but he/she should consult with their institution's HR office if assistance is needed. Arrangements may be made for a health care provider representing the institution to contact the employee's provider, with permission, for clarification and authentication.
- A supervisor should maintain contact with their employee to remain informed of any [change in the circumstance](#) for which leave is being taken.
- You may request an attending physician to indicate when the employee may be able to return to work. Please obtain a Medical Evaluation (Return to Work) form.
- A supervisor should notify the Human Resources/Payroll Office one week before an employee has exhausted all annual and sick leave. The purpose of this notification is to help the employee make arrangements to pay for health insurance premiums and other benefits premiums while not receiving a paycheck.
- Please ensure you have provided information to the employee regarding their [Employee Rights & Benefits](#).
- If an employee is not able to return to work by the end of the approved FMLA leave, he/she may be eligible to request additional personal leave under other University System of Georgia policies. The granting of such additional leave is at the discretion of the institution. In no case may all leaves combined exceed twelve months. If an employee does not return to work and is not granted additional leave, their employment will end on the last day of the approved FMLA leave.
- A supervisor should follow the established institutional documentation procedures regarding retaining FMLA-related paperwork. If the employee is a member of the faculty, a copy of the documentation should be sent to the Office of Faculty Affairs/Academic Affairs. For a faculty member working toward tenure, a copy of the Faculty Request for Extension of Probationary Period due to Family Medical Event form should be completed and submitted to the Office of Faculty Affairs/Academic Affairs.

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

HIPAA

The supervisor is responsible for ensuring that the Health Insurance and Portability and Accountability Act of 1996 (HIPAA) guidelines are followed. The supervisor/employer is responsible for protecting the privacy and confidentiality of all Personal Health Information (PHI) obtained as a result of an FMLA application and process. HIPAA guidelines will be applied to the use, maintenance, transfer, and disposition of healthcare records and information.

FMLA and Health Insurance

Whether utilizing paid or unpaid time, employees may continue their insurance benefits during FMLA leave by paying their portion of the premiums. Below is an example of how FMLA can impact the payment of your health care premium.

Definitions

- **University System contribution:** The portion of your health insurance cost the University System pays as a benefit for you.
- **Premium:** The portion of your health insurance cost you are required to pay after the University System's contribution.

Example: You have missed work and have been in a leave without pay status for an entire calendar month. As a result, your premium and the University System contribution have not been paid. Under University System of Georgia policies, your health coverage is not current unless the University System contribution and your premium are paid for that month. In this example, your benefits summary is as follows:

- The University System's contribution towards your health coverage is \$400 per month.
- Your premium for your health coverage is \$100 per month.
- Under FMLA, you must make arrangements to pay the \$100 premium.
- The University System will pay its contribution of \$400.

Employees on family leave without pay may also continue participation in other benefits options (i.e., dental, life, LTD, AD&D) by making arrangements to pay the premiums while not receiving a paycheck.

If you have any questions about your insurance as it relates to Family & Medical Leave, please contact the Human Resources office at your institution.

Postings

Each institution shall post general notice about FMLA in either:

- a handbook or other document that is circulated annually (which may be in electronic format),

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

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

Medical Certifications

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 and Leave

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.

Example: 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:

- Your paid leave (sick and annual) will end on the fourth.
- You will be on sick leave without pay (SLWOP) for two days, beginning on the fifth.
- 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**

If an employee is on unpaid FMLA leave, he/she would not accrue annual leave or sick leave during this period of time. If an employee is using unpaid FMLA on an intermittent basis, leave accruals will only calculate on that paid portion of the pay period. Questions regarding the calculations of leave accruals should be directed to the Human Resources/Payroll office.

Note: Your institution may provide to its employees access to an institutionally-sponsored short term disability program. If so, please consult with your institution's Human Resources office to determine the relationship between FMLA leave and your institutional short-term disability program benefits coverage.

Light Duty

Employees who accept light duty positions in lieu of taking time off from work under FMLA leave cannot have the time spent on light duty counted against their FMLA entitlement.

Holidays

Holidays occurring during a full week of FMLA leave count as FMLA leave. However, if a holiday falls within a week where the employee has worked, the holiday does not count as FMLA leave unless the employee was scheduled to work on the holiday.

Overtime

If an employee is on intermittent or reduced schedule FMLA leave and would otherwise be required to work overtime hours, any overtime hours not worked due to the leave count as FMLA leave.

Record Retention

Employment prior to breaks in service counts towards eligibility; however, FMLA regulations limit the time period. Employers are only required to look back seven years to determine eligibility. Furthermore, because the FMLA only requires files to be maintained for three years, the employee has burden to show eligibility if records of prior employment are no longer available.

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

Responsible Parties and Contact Information

Party	Responsibility	Phone/Email/URL
Vice Chancellor for Human Resources, USG	Maintain leave policy, provide guidance to institution human resources officers on effective utilization of policy, monitor for compliance, update the system as necessary, and respond to campus requests for updates.	404-962-3235 usg-hr@usg.edu
Institution Chief Human Resources Officers	Ensure appropriate utilization of the USG family leave on their respective campuses, as governed by the FMLA. Ensure appropriate record retention procedures in accordance with FMLA guidelines for purpose of determining eligibility.	See University System HR Officer Listing

Appendices (Internal Documents, Forms and Web Links)

- HRAP ADA Policy
- HRAP Worker’s Compensation Policy
- [Board Policy on Sick Leave](#)
- [Family and Medical Leave Act](#)
- [USG Benefits Website](#)
- [Faculty Request for Extension of Tenure Probationary Period](#)
- [Family & Medical Leave Request](#)
- [Non-Family & Medical Leave Request](#)
- [Institutional Response to Employee Request for Family Leave](#)

Related Documents and Resources (External)

- [WH-380-E - Certification of Health Care Provider for Employee’s Serious Health Condition](#)
- [WH-380-F - Certification of Health Care Provider for Family Member’s Serious Health Condition](#)
- [WH-381 - Notice of Eligibility and Rights & Responsibilities](#)
- [WH-382 - Designation Notice](#)

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

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

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