

Policy Name: Family and Medical Leave Act

Policy Owner: Human Resources

Policy Contact: Cynthia Hatchett, Director of Benefits & Retirement

Reviewed By: Georgia Tech Human Resources

Policy Steering Committee Approval: January 2024

Policy Purpose: This policy ensures that the Georgia Institute of Technology (Georgia Tech) complies with the with applicable law and University System of Georgia (USG) policy in providing leave to eligible employees under the Family and Medical Leave Act (FMLA).

Summary of Substantive Policy Changes:

- **Throughout**, updated to align with FMLA rules and regulations, updated hyperlinks.
- **Page 3**, added definition for serious health condition and noted that FMLA covers prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest.
- **Page 4**, clarified USG requirements to use Paid Parental Leave prior to accrued sick and vacation leave, unless otherwise applicable leave is in use.
- **Page 5**, clarified ability to utilize sick and/or vacation leave while on FMLA.
- **Page 6**, clarified that medical documentation is not required to start leave related to the birth of a child; however, confirmation of birth (after birth) is required for any use of Paid Parental Leave.
- **Page 7-8**, clarified that Employees are required to present a Return Medical Evaluation completed by their healthcare provider prior to returning from any medical leave of absence related to their own serious health condition. The date the form is received by GTHR or the dept will be the effective date of the employee's return. Returns from leave will not be processed retroactively.
- **Page 7-8**, clarified that if the employee does not return, FMLA leave will be extended until exhausted at which time if additional leave is needed the employee may request personal leave (refer to leave of absence policy). If the leave is related to their own serious health condition, the employee will be advised to request leave as a reasonable accommodation under ADA (Americans with Disabilities Act).
- **Page 9**, removed definitions and linked to guiding USG FMLA resource.



Georgia Institute of Technology

Family and Medical Leave Act Policy

Policy No. 2.12

Type of Policy: Academic

Effective Date: October 2014

Last Revised: September 2021

Policy Owner: Human Resources

Policy Contact: Cynthia Hatchett, Director, Benefits & Retirement;
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1. Reason for Policy

This policy ensures that the Georgia Institute of Technology complies with the University System of Georgia (USG) policy in providing leave to eligible employees under the Family and Medical Leave Act (FMLA).

2. Policy Statement

The Family Medical Leave Act allows employees to balance work and family life using paid and unpaid leave for certain family and medical reasons. Employees should refer to the related documents/resources cited in this policy as well as consult GTHR for additional information. For more information on the FMLA process, refer to the GTHR to GTHR Benefits Website <https://benefits.hr.gatech.edu/fmla/>

Job Restoration and Health Benefits

During FMLA leave, the Institute will maintain the employee's health coverage under any group health plan on the same terms as if the employee had continued to work, provided the employee continues to pay their portion of the premium. Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

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 employees may be denied job restoration if they are among the highest-paid 10% of employees and if such denial is necessary to prevent substantial and grievous injury to the operations of Georgia Tech.

Adverse action or discrimination is prohibited against an employee or prospective employee who has taken FMLA leave. Interference with any rights provided by FMLA will not be tolerated, including:

- Refusing to authorize FMLA leave for an eligible employee
- 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.

FMLA Leave Entitlement

The Family Medical Leave Act (FMLA) entitles eligible employees to take up to 12 weeks of unpaid, job protected leave each year. An employee must be employed for at least one year and have worked at least 1,250 hours during the previous 12 months. Eligible employees may use FMLA leave intermittently or in one continuous block for the following qualifying reasons:

- Birth or placement of a child (for adoption or foster care)
- To bond with a newborn or a newly placed child (must be taken within the first 12 months of the child's birth or placement in the home)
- The employee's own serious health condition or to provide care for the employee's child, spouse, or parent with a serious health condition.
- Any period of incapacity or treatment connected with inpatient hospital care, hospice, or residential medical care facility
- Any period of incapacity, sporadic absence from work, school, or other regular daily activities that also involves continuing treatment by a health care provider
- Continuing treatment by a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated, would likely result in a period of incapacity.
- **Qualifying Exigency Leave:** When a qualifying exigency arises because the employee's spouse, son, daughter, or parent is on active duty, or has been notified of an impending call or order to covered active-duty status. Qualifying exigencies leave may include:
 - short notice deployment (seven (7) days' notice or less and only available for seven (7) days total)
 - military events and related activities (such as ceremonies and briefings)
 - childcare and school activities (for non-routine matters),
 - financial and legal arrangements, counseling, rest and relaxation (up to five (5) 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 upon by the Institute and employee.

- **Military Caregiver Leave:** Eligible employees who are 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. 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 FMLA leave. A single 12-month period begins on the 1st day the employee takes military leave and ends 12 months later.
- **Covered Active Duty Leave:** A member of the Armed Forces, including a member of the National Guard and Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness, OR a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including the National Guard and Reserves, at any time during the five-year period preceding the date on which the veteran undergoes medical treatment, recuperation, or therapy.

Serious Health Condition

- Conditions requiring an overnight stay in a hospital or other medical care facility.
- Conditions that incapacitate you or your family member (for example, unable to work or attend school) for more than three consecutive days and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication)
- Chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by a health care provider at least twice a year; and
- Pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

Leave Entitlement When Multiple Events Occur

Employees may have one or more qualifying reasons for leave during the twelve-month period, however the leave entitlement is limited to 12 weeks, except for military caregiver leave, which is 26 weeks.

Paid Parental Leave

Paid Parental Leave when taken due to the birth or placement of a child (for adoption or foster care), will also count towards any available FMLA leave. In no case will the total amount of leave—whether paid or unpaid—granted to the employee under the FMLA exceed 12 weeks during the 12-month FMLA period. As required by USG, Paid Parental Leave must be used prior to accrued sick and vacation leave unless otherwise specified. After the Paid Parental Leave is exhausted, the balance of FMLA leave may be compensated through accrued sick, vacation, or other eligible accrued leave. Eligible employees do not have to meet FMLA requirements to utilize Paid Parental Leave. Learn more about Paid Parental Leave and associated processes [here](#).

Leave Entitlement When Spouses Work for the University System of Georgia (USG)

If both the employee and the employee's spouse work for the USG and are eligible for FMLA, then they are limited to a combined total of:

- 12 workweeks of FMLA leave during any 12-month period for the birth of a child or the placement of a child for adoption or foster care; or to care for an employee's parent with a serious health condition
- Each employee may use up to 12 workweeks of FMLA leave during any 12-month period if the leave is for the care of the employee's spouse or child with a serious health condition or the employee's own serious health condition
- 26 workweeks during the single 12-month period if the leave is Military Caregiver Leave or a combination of Military Caregiver Leave and Family Medical Leave, Employee Medical Leave, or Qualifying Exigency Leave.

Determining Eligibility for Leave

The Institute 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 is determined by reviewing the twelve months of employment prior to the date that the employee requests FMLA leave to begin. If the employee has not utilized the equivalent of 12 weeks of FMLA-qualifying leave during the 12 months prior to the designated date, then the employee is eligible to take leave on that date, provided that all other eligibility criteria are met.

Holidays During FMLA Leave

For purposes of determining the amount of leave used by an employee, 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. 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. Similarly, if the Institute's business operations have ceased and the employees are generally not expected to report for work for one or more weeks (i.e., during winter holiday break), then those days do not count against the employee's FMLA entitlement.

Using Sick and Vacation Leave While on FMLA

FMLA leave is unpaid, and the Institute requires that employees use their accrued paid sick leave and/or vacation leave concurrently with FMLA leave before going into unpaid status. If FMLA leave is granted because of an on-the-job injury, eligible employees have the option of taking unpaid leave even if sick and/or vacation leave is available.

Similarly, an employee on FMLA leave utilizing short term disability (STD) insurance may go into an unpaid leave status when they begin receiving STD benefits, reserving any remaining sick leave and/or vacation for use after the employee returns from leave. Employees must use their available accrued sick and/or vacation leave during the STD waiting period.

Note, personal leave can be requested to bond with a newborn (after the 6/8 week medical period), newly adopted or foster placed child. Employees may use accrued vacation only or choose to be unpaid if absence is less than 30 days.

Intermittent and Reduced Schedules While on FMLA

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 during the leave period count as FMLA leave.

Although intermittent and reduced schedule leave are available for qualifying exigencies, **Qualifying Exigency Leave** counts against the employee's total allotment of FMLA leave. The Institute may also request documentation of the need for qualifying exigency leave.

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

Employees are expected to ~~talk~~ communicate with their supervisors about their need for intermittent leave prior to scheduling treatment in order to work out a schedule that best suits the needs of the employee and the Institute. In order to better accommodate the employee's intermittent leave or reduced work schedule, the Institute may assign the employee to an alternative position with equivalent pay and benefits. The assignment of such an alternative position must be coordinated through the Employee Relations unit of the Office of Human Resources.

Providing Notice of the Need for FMLA

When FMLA leave is needed the employee should make a request for leave in the Employee Self Service Portal and notify their supervisor (or HR representative). GTRI employees must request leave using the appropriate request forms located on the GTHR Benefits site under forms and guides.

When the need for FMLA leave is foreseeable, due to a planned medical treatment or other planned FMLA-qualifying event, the employee should make a [request for leave](#) at least 30 calendar days in advance of the start of leave, unless otherwise unforeseeable in which case the employee must request leave as early as circumstances permit. When possible, employees should make reasonable efforts to schedule leave for planned medical treatments so that they do not disrupt the Institute's operations.

When the need for leave is not foreseeable, an employee must comply with the Institute's usual and customary notice and procedural requirements, which includes call-in procedures established by the employee's department, absent unusual circumstances.

Previously Provided FMLA Leave

When an employee seeks leave due to a qualifying FMLA reason for which the Institute has previously provided the employee FMLA-protected leave, the employee must specifically reference the qualifying reason for leave.

Medical Documentation Requirements

In the case of medical conditions, the Institute may inquire further to determine if the leave is because of a serious health condition and may request a medical certification to support the need for such leave. The Institute may also request certification to support the need for leave for a qualifying exigency or for military caregiver leave. Employees must provide the requested certification to the Institute within the time frame requested, unless not practicable to do so despite the employee's diligent, good-faith efforts. The Institute may request recertification at some later date if there is reason to question the appropriateness of the leave or its duration. Failure to provide the required documentation may result in disapproval of the leave or a delay in its commencement.

Medical documentation is not required start leave related to the birth of a child, however confirmation of birth (after birth) is required for any use of Paid Parental Leave.

It is the sole discretion of GTHR, to question and confirm the validity of any medical documentation submitted and may reach out to the employee's provider for any additional clarifying information. If there is a question regarding the medical opinion supporting the leave, a second opinion may be required with a health care provider chosen by GTHR at the Institute's expense in order to support the need for leave. If the two opinions conflict, GTHR may request and pay for a third opinion. The third medical certification opinion will be final and binding.

Designation of Time Off as FMLA Leave

GTHR has the responsibility to designate any time off as FMLA that qualifies as such, even if the time is not specifically requested as FMLA leave by the employee. In these instances, a Designation Notice will be issued to the employee.

Recertification

The Institute may request recertification documentation no more often than every 30 days (except as indicated below) and only in connection with an absence by the employee. If the medical certification indicates that the minimum duration of the condition is more than 30 days, the Institute must wait until that minimum duration expires before requesting recertification. For example, if the medical certification states that an employee will be unable to work, whether continuously or on an intermittent basis, for 40 days, then the Institute must wait 40 days before requesting recertification.

The Institute may request recertification in less than 30 days if:

- The employee requests an extension of leave.
- Circumstances described by the previous certification have changed significantly (e.g. the duration or frequency of the absence, the nature or severity of the illness, complications).
- The Institute receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

Working While on FMLA

It is presumed that employees on FMLA for their own serious health conditions are not working outside of the Institute while on FMLA leave. Consulting or outside activity agreements may still apply. The protections of the FMLA will not, however, cover situations where:

- the reason for the leave no longer exists,
- the employee has not provided required notices or certifications, or
- the employee has misrepresented the reason for leave.

Returning to Work

Employees are expected to return to work at the end of the approved FMLA leave. If the employee does not return, FMLA leave will be extended until exhausted at which time if additional leave is needed the employee may request personal leave (refer to leave of absence policy). If the leave is related to their own serious health condition, the employee will be advised to request leave as a reasonable accommodation under ADA (Americans with Disabilities Act). The granting of any such additional leave is at the discretion of the Institute and must meet the legal and policy requirements for leave to be granted. In no case may all leaves combined exceed 12 months. If an employee does not return and is not granted additional leave, employment ends on the last day of the approved FMLA leave.

Employees are required to present a Return Medical Evaluation completed by their healthcare prior to returning from any medical leave of absence related to their own serious health condition. The date the form is received by GTHR or the dept will be the effective date of the employee's return. Returns from Leave effective date will not be processed retroactively.

The Institute may require that the certification specifically the employee's ability to perform the essential functions of the employee's job. If reasonable job safety concerns exist, the Institute may require a Return Medical Evaluation before an employee may return to work when the employee takes intermittent leave. A Return Medical Evaluation is not required for the birthing parent when returning to work after their medical period

3. Scope

This policy applies to all benefit eligible faculty and staff of the Georgia Institute of Technology.

4. Definitions

Refer to the [University System of Georgia \(USG\) FMLA Terms and Definitions Website](#)

5. Form Links

[GTHR Forms and Guides](#)

6. Frequently Asked Questions

[Family Medical Leave Act FAQ Index](#)

7. Responsibilities

Vice President and Chief Human Resources Officer (VP-CHRO)

Ensure consistent administration of family leave as governed by the FMLA.

GTHR Employee Relations

Consults with Human Resources on the effective utilization of policy and monitors for compliance.

Supervisors

Work with GTHR Benefits Leave Specialists to ensure that employees are aware of FMLA policy. Provide information to GTHR regarding employees requesting leave and returning to work.

Employees

Must notify their supervisor or HR Representative that they will need to take leave, if it is foreseeable. While on FMLA leave, employees should periodically check in with their supervisor or HR Representative regarding their status and intent to return to work.

GTHR Benefits

Works with employees and supervisors in the administration of FMLA. Provides notification of eligibility, reviews medical certification and designates leave. FMLA paperwork is maintained in GTHR in a file (separate from employee's personnel file) for no less than three years.

8. Related Information

Resource	Link
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GT Time Away from Work Website	https://hr.gatech.edu/fmla
GTHR Disability Services	https://eoc.gatech.edu/employee-accommodations
GTHR Parental Leave Information	hr.gatech.edu/paid-parental-leave
USG FMLA Policy	https://benefits.usg.edu/
USG Parental Leave Policy	http://www.usg.edu/hr/assets/hr/hrap_manual/HRAP_Parental_Leave_Policy.pdf
US Department of Labor – FMLA Fact Sheet	https://www.dol.gov/agencies/whd/fact-sheets

9. Policy History

Revision Date	Author	Description
TBD	Georgia Tech Human Resources	Updated to align with FMLA regulations, clarify leave usage and documentation requirements including Paid Parental Leave and serious health conditions, and streamline definitions by linking to USG resources.
9/22/2021	Georgia Tech Human Resources	Updated definitions, clarified procedures, updated intermittent leave applicability.
10/2014	Georgia Tech Human Resources	New Policy