

# Augusta University

## Policy Library

### Family Medical Leave Act

**Policy Manager: University HR Services**

#### **POLICY STATEMENT**

In accordance with the Federal Family and Medical Leave Act (FMLA), as amended, an eligible employee may be entitled to up to 12 work weeks of leave during any 12-month period for one or more of the following reasons:

- the birth of a child and to care for the newborn child within one year of birth;
- the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- to care for the employee’s spouse, child, or parent who has a serious health condition;
- a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- any qualifying exigency arising out of the fact that the employees’ spouse, son, daughter, or parent is a covered military member on “covered active duty;” or
- twenty-six (26) workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employees is the service member’s spouse, son, daughter, parent, or next of kin (military caregiver leave).

To be eligible for FMLA leave, the employee must been employed by Augusta University (AU) for at least 12 months total (not necessarily the last twelve (12) months); and worked at least 1,250 hours during the 12-month period immediately preceding the commencement of such leave.

The purpose of this policy is to ensure that the policy governing the granting and use of leave under the FMLA at Augusta University is consistent with the policies and procedures of the Board of Regents of the University System of Georgia, and applicable federal and state laws.

#### **AFFECTED STAKEHOLDERS**

*Indicate all entities and persons within the Enterprise that are affected by this policy:*

- Alumni     Faculty     Graduate Students     Health Professional Students  
 Staff     Undergraduate Students     Vendors/Contractors     Visitors  
 Other:

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**Executive Sponsor: Enterprise Vice President for Human Resources**

**Next Review: 5/2023**

## DEFINITIONS

***Serious Health Condition.*** See [Serious Health Condition](#).

**Qualifying Exigency.** The Department of Labor (DOL) had identified nine broad categories of qualifying exigencies. If the military member is on covered active duty, the employee may take FMLA leave for the following qualifying exigencies:

- Short notice deployment
- Military events and related activities
- Childcare and related activities
- Care of the military member's parent
- Financial and legal arrangements
- Counseling
- Rest and recuperation
- Post-deployment activities

**Rolling Year.** In accordance with the University System of Georgia FMLA policy, Augusta University 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.

## PROCESS & PROCEDURES

**Advance Notice & Documentation of Need for Leave.** To be entitled to leave, employees must give at least 30day advance notice for foreseeable leave, or as much notice as possible and practicable. To request leave, employees are expected to complete and submit to their supervisor the “Family & Medical Leave Request” form. The Supervisor will complete the form and forward to Human Resources. Documentation of the need for leave may be required by the institution by having the healthcare 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 his/her employer within the time frame requested, unless it is not practicable to do so despite the employee’s diligent, good-faith efforts.

AU has the right to designate leave as FMLA leave any time off that qualifies as such, even if the time is not specifically requested as FMLA leave by the eligible employee. AU should review employee absences of 3 days or more to determine whether FMLA time should be designated.

**Unpaid Leave.** FMLA leave is unpaid (employers are not required to grant such leave as paid time off). However, AU requires that employees utilize — their accrued paid sick leave and/or annual leave, as appropriate, for such absences.

**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. AU has the discretion to determine whether to allow intermittent leaves for birth, adoption, or foster placement — or whether such leaves must be continuous.

**Benefits Continuation During Leave.** Whether utilizing paid or unpaid time, employees may continue their insurance benefits during FMLA leave by paying their portion of the premium.

**Job Reinstatement.** An employee generally has a right to return to the same position, or an equivalent position in terms of pay, benefits, and working conditions following a period of family and medical leave. Certain “key 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 economic injury to the operations of the employer.

**Returning To Work After FMLA Leave.** Employees may be required to present a fitness-for-duty clearance from their healthcare provider before being reinstated to active duty upon completion of FMLA leave for their own serious health condition. The “FMLA Return to Work Medical Evaluation” form is available for this purpose.

Employees are expected to return to work by the end of the approved FMLA leave. If the employee does not return — and if failure to return is not due to a continued or new documented qualifying serious health condition — the employee may be required to reimburse the institution for the employer portion of the health coverage premiums that it paid on the employee’s behalf during the leave.

**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.

**If An Employee Is Unable To Return To Work.** If an employee is not able to return to work by the end of the approved FMLA leave, he or she still 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 leave combined exceed twelve (12) months unless the qualifying event is to care for an injured military service member, provided the injury was obtained while the service member was on active duty. If an employee does not return and is not granted additional leave, employment ends on the last day of the approved FMLA leave.

## REFERENCES & SUPPORTING DOCUMENTS

All forms below can be found on the website at: [FMLA Forms](#)

- FMLA Leave Request – This is the form that the employee requesting the Family & Medical Leave is expected to complete and submit to their supervisor.
- Form WH-380-E – Certification of Health Care Provider for Employee’s Serious Health Condition. This form is to be presented to the physician treating the employee or qualifying family member for completion and then submitted to Human Resources.
- FMLA Return to Work Medical Evaluation- This form is to be presented to the treating physician for certification that the employee may return to work.

Additional information on FMLA can be found on the following DOL website:

[https://www.dol.gov/whd/fmla/fact\\_sheets.htm](https://www.dol.gov/whd/fmla/fact_sheets.htm)

## RELATED POLICIES

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## APPROVED BY:

Executive Vice President for Academic Affairs and Provost, Augusta University

Date: 4/27/2020

President, Augusta University

Date: 5/19/2020