

Policy Approval/Review Form

This form is used for the approval, amendment, removal or review of a Gordon State College policy. Once authorized with the President's Signature, the policy will be posted to the Gordon State Website. This approval form will be filed in the Office of the President with Cabinet minutes noting approval.

Policy Title *	Family Medical Leave Act (FMLA)
Department	Human Resources
Policy Editor	Creché Navarro
Request Type	New ☐ Amended ☒ Removed ☐ Reviewed ☒

OBJECTIVE (Briefly state your purpose.)

GSC FMLA policy is based on a federal law that has not changed since 1993 and a USG Policy that has not been updated since 2009; however, certain portions of our policy needed clarification so that employees are more clearly aware of their rights & responsibilities under the policy. The revised policy also more clearly outlines supervisor, human resources, and institutional responsibilities under the policy.

RESOURCES AND CONSULTATION (Briefly describe the resources (i.e. website, link) used in developing, amending, removing, or reviewing the policy. Include names of other individuals who assisted with this change.)

USG HR FMLA Policy
 USG FMLA Benefits Webpages
 2 DOL Fact Sheets #28 Family Medical Leave Act & Military Provisions under the Family and Medical Leave Act
 FMLA2019-1-A: DOL Clarification on Requests to Delay FMLA Leave

COMMUNICATION PLAN (Identify how information about how the policy will be communicated to the college as well as training plans if applicable.)

Policy will be added to the GSC Policies Page as well as the HR Policies Page; Employees will be notified of update policy via HR newsletter, staff council meetings, and (possibly) faculty senate meetings; Relevant information will be updated in handbooks; Supervisors will be informed of the update as well as their responsibilities via PAC meeting.

Authorizations

Dean or Supervisor Signature and Date: _____

Cabinet Sponsor (VP) Signature and Date: _____
 Madelyn Brown Digitally signed by Madelyn Brown
 Date: 2021.03.12 06:52:04 -05'00'

President Signature and Date: _____

***Policy Template must be submitted with this form.**



Policy Name:	Family Medical Leave Act (FMLA)				
Section #:		Section Title:	Human Resources		
Responsible Cabinet Member:	Madelyn Brown	Proposed:		Adopted:	
Responsible Office:	Human Resources	Reviewed:	2/7/21	Revised:	2/7/21
Contact:	Creché Navarro	Approved:	3/10/21	Webpage:	

1. **Policy Statement**

Gordon State College complies with the provisions of the federal Family and Medical Leave Act.

2. **Reason for Policy**

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

3. **Who Should Read this Policy**

All Gordon State College employees should be aware of this policy.

4. **Resources**

USG HRAP Policy:

https://www.usg.edu/hr/assets/hr/documents/HRAP_Family_and_Medical_Leave_Act_Time_Away_from_Work.pdf

DOL Fact Sheet#28: The Family Medical Leave Act

<https://www.dol.gov/sites/dolgov/files/WHd/legacy/files/whdfs28.pdf>

DOL Fact Sheet #28M: The Military Family Leave Provisions under the Family and Medical Leave Act

<https://www.dol.gov/agencies/whd/fact-sheets/28m-fmla-military-family>

FMLA2019-1-A: DOL Clarification on Requests to Delay FMLA Leave

https://www.dol.gov/sites/dolgov/files/WHd/legacy/files/2019_03_14_1A_FMLA.pdf

USG FMLA Benefits Page: <https://www.usg.edu/hr/benefits/fmla>

5. **Definitions**

Continuous Leave: Leave taken during a continuous period of time.

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

Family Leave: Leave as defined by the Family and Medical Leave Act that allows 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 "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).

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
- Nurse-midwives
- Clinical social workers
- Any health care provider from whom the University System's health care plans will accept certification of the existence of a serious health condition

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

Intermittent Leave: Leave taken in increments as small as one hour.

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

Reduced Work Schedule: Leave that allows employees to reduce the number of hours worked per day or per week. Reduced hours count toward 12-week FMLA allowance.

Serious Health Condition: A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

For more details on serious health conditions, visit the USG FMLA Benefits Page:
https://www.usg.edu/hr/benefits/fmla/fmla_terms_and_definitions#serious

Single 12-month period: Used for military caregiver leave and begins on the first day the employee takes leave for this reason and ends 12 months later.

6. The Policy

Medical Family Leave Entitlement

The federal Family Medical Leave Act (FMLA) requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for 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*

*Spouses employed by the University System of Georgia are jointly entitled to a *combined* total of twelve work weeks of family leave for these situations.

Military Family Leave Entitlements

The military family leave provisions of the Family and Medical Leave Act (FMLA) entitle eligible employees of covered employers to take FMLA leave for any "qualifying exigency" arising from the foreign deployment of the employee's spouse, son, daughter, or parent with the Armed Forces, or to care for a service member with a serious injury or illness if the employee is the service member's spouse, son, daughter, parent or next of kin.

Qualifying Exigency Leave

A covered employer must grant an eligible employee up to 12 workweeks of unpaid, job-protected leave during any 12-month period for qualifying exigencies that arise when the employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

Covered active duty means:

- for members of the **Regular** Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or
- for members of the **Reserve** components of the Armed Forces (members of the National Guard and Reserves), duty during deployment of the member with the Armed Forces to a foreign country under a call or order to active duty in support of a contingency operation.

Qualifying exigencies for which an employee may take FMLA leave include making alternative child care arrangements for a child of the deployed military member, attending certain military ceremonies and briefings, or making financial or legal arrangements to address the military member's absence.

Military Caregiver Leave

A covered employer must grant an eligible employee up to a total of **26 workweeks** of unpaid, job-protected leave during a “single 12-month period” to care for a covered service member with a serious injury or illness. The employee must be the spouse, son, daughter, parent, or next of kin of the covered service member.

A covered service member is either:

- a **current** member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on the temporary disability retired list, for a serious injury or illness, or
- a **veteran** of the Armed Forces (including the National Guard or Reserves) discharged within the five-year period before the family member first takes military caregiver leave to care for the veteran and who is undergoing medical treatment, recuperation, or therapy for a qualifying serious injury or illness. A veteran who was dishonorably discharged does not meet the FMLA definition of a covered service member.

For a current service member, a serious injury or illness is one that may render the service member medically unfit to perform his or her military duties. For a veteran, a serious injury or illness is one that rendered the veteran medically unfit to perform his or her military duties, or an injury or illness that qualifies the veteran for certain benefits from the Department of Veterans Affairs or substantially impairs the veteran’s ability to work. For veterans, it includes injuries or illnesses that were incurred or aggravated during military service but that did not manifest until after the veteran left active duty.

Special Considerations:

- If at any time this policy conflicts with USG policy or federal law, precedence will be given to federal law and USG policy, respectively.