

Family & Medical Leave Act (FMLA)

General Provisions

Subject to the requirements of federal and state law, as such requirements may exist from time to time, the Atlanta Research and Education Foundation (AREF) is authorized to grant up to 12 weeks of family and medical leave during a 12 month period to eligible employees, in accordance with the Family and Medical Leave Act of 1993. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

An eligible employee can take up to 12 weeks of family leave or up to 26 weeks of servicemember family leave (defined below) under this policy during a 12 month period. AREF will measure the 12 month period backward from the date an employee requests FMLA leave to begin, on a rolling calendar year basis. For example, if an employee requests 12 weeks of FMLA leave beginning October 16, 2013, we would look at any FMLA time used since October 16, 2012. If in the past 12 rolling months the employee had used 6 weeks of FMLA, at this point in time they would only be eligible for 6 additional weeks of FMLA.

Eligibility

In order to qualify to take family and medical leave under this policy, all of the following conditions must be met. An employee must:

- Be employed by a covered employer and work at a worksite within 75 miles of which that employer employs at least 50 people;
- Have worked at least 12 months (which do not have to be consecutive) for the employer; and
- Have worked at least 1,250 hours during the 12 months immediately before the date Family & Medical Leave Act leave begins.

The protections afforded by USERRA extend to all military members (active duty and reserve), and all periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

Type of Leave Covered

In order to qualify as FMLA leave under this policy, the employee must be using the leave for one or more of the following reasons:

- for the birth of a son or daughter, and to care for the newborn child;
- for the placement with the employee of a child for adoption or foster care, and to care for the newly placed child;
- to care for an immediate family member (spouse, child, or parent — but not a parent "in-law") with a serious health condition; and,
- when the employee is unable to work because of a serious health condition.

"Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or,
- a period of incapacity requiring absence of more than three (3) calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or,
- any period of incapacity due to pregnancy, or for prenatal care; or,
- any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or,

- a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,
- any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

AREF may require an employee to provide a doctor's certification of a serious health condition.

FMLA Provisions for Child Care

If AREF employs both parents and each wish to take leave for the birth of a child, adoption or placement of a child for foster care, they are together entitled to a combined total of 12 weeks of leave.

Leave granted for the birth of a child, or placement of a child for adoption or foster care must not extend beyond a 12 month period beginning from the date of the event.

Servicemember Family & Medical Leave

Servicemember FMLA provides eligible employees paid, unpaid, or a combination of paid and unpaid leave for any one, or for a combination, of the following reasons:

- A "qualifying exigency" arising out of a spouse, son, daughter or parent's covered active duty or call to covered active duty in the Armed Forces in support of a contingency operation; and/or,
- To care for a spouse, child, parent or other relative for whom the employee is the next of kin who is a member of the Armed Forces, including the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability list for a serious injury or illness.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

A covered servicemember is:

- 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 otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or,
- A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veterans, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

*The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition" and includes injuries and illnesses that existed before the servicemember's active duty and were aggravated by service in the line of active duty in the Armed Forces.

A serious injury or illness for a covered veteran means an injury or illness that was incurred or aggravated by the member in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran, and is:

- A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the

servicemember unable to perform the duties of the servicemember's office, grade, rank, or rating; or,

- A physical or mental condition for which the covered veteran has received a VA Service Related Disability Rating (VASRD) of 50 percent or greater and such VASRD rating is based, in whole or in part, on the condition precipitating the need for caregiver leave; or,
- A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service or would do so absent treatment; or,
- An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Duration of Servicemember Family & Medical Leave

- When leave is due to a "qualifying exigency": An eligible employee may take up to 12 weeks of leave during any 12-month period.
- When leave is to care for an injured or ill servicemember: An eligible employee may take up to 26 weeks of leave during a single 12 month period to care for the servicemember.
- Servicemember FLMA runs concurrent with other leave entitlements provided under Federal, State and local law. If an employee is eligible for leave to care for a servicemember as well as another FMLA-eligible reason, the total combined leave may not exceed 26 weeks during that single 12 month period.

Any leave request due to a qualifying exigency must be supported by certification showing that the servicemember is on, or has been called to, covered active duty and/or Rest and Recuperation leave orders, or other documentation issued by the military.

Any questions regarding servicemember FMLA leave should be directed to Human Resources.

Use of Accrued Annual and Sick Leave

The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this policy.

FMLA and paid leave run concurrently, not in addition to one another (i.e., taking annual and sick leave at the beginning of FMLA leave does not extend the 12 weeks of FMLA leave by the length of the annual/sick leave).

An employee who is taking leave because of their own serious health condition or to give birth to a child shall exhaust any accrued sick and annual leave prior to being eligible for unpaid leave.

An employee who is taking leave for the birth, adoption, or foster care of a child, or to care for a seriously ill spouse, child, or parent must use all accrued sick and annual leave prior to being eligible for unpaid leave.

Employee Benefits During Leave

An employee may continue medical, dental and vision benefits under the same conditions and at the same cost as if the employee had continued to work.

If the employee chooses not to return to work for reasons other than a continued serious health condition, AREF will require the employee to reimburse the Foundation the amount it paid for the employee's health insurance during the leave.

Employees whose FMLA leave runs concurrently with the use of paid leave time will continue to have individual premiums paid by the Foundation. However, family benefit premiums, if applicable, will continue to be deducted from the employee's pay as if the employee were still working. Benefit premiums due during unpaid FMLA leave time will be invoiced to the employee. Employees choosing not to retain medical and or dental coverage during FMLA leave will have their benefits reinstated on the same terms as prior to taking the leave without any qualifying period.

Failure to Make Timely Health Insurance Premium Payments

If an employee fails to pay health insurance premiums within 30 days of invoice date, the employee's health insurance coverage and any family coverage, if applicable, will be terminated retroactively to the date that the premium was due. Upon the employee's return from FMLA leave all health insurance coverage will be reinstated on the same terms as prior to taking the leave without any qualifying period.

Employee Status After Leave

An employee who takes a leave under this policy will be returned to the same or an equivalent position with the same benefits and terms of employment.

Certification of the Serious Health Condition

AREF may ask that the employee provide certification of the serious health condition to the AREF HR Manager. Certification must be provided by a qualified, licensed physician, as determined by the State of Georgia. Failure to provide certification may result in a denial of the leave.

Certification of the serious health condition shall include: the date when the condition began, its expected duration, diagnosis, and a brief statement of treatment. For the employee's own medical condition, the certification must also include a statement that the employee is unable to perform work of any kind or a statement that the employee is unable to perform the essential functions of the employee's position. For a seriously ill family member, the certification must include a statement that the patient requires assistance and that the employee's presence would be beneficial or desirable.

AREF, at its own expense, has the right to ask for a second opinion. If it becomes necessary to resolve a conflict between the original and the second opinion, AREF, at its own expense, may require the opinion of a third doctor. This third opinion will be considered final.

Genetic Information Nondiscrimination Act of 2008 (GINA)

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to a request for medical information.

"Genetic information" as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or embryo lawfully held by an individual or family member receiving assistive reproductive services.

Return to Work Intent

AREF may require an employee on FMLA leave to periodically report his/her status and the intention of the employee to return to work, and may also require recertification of the medical condition. An employee taking leave due to the employee's own serious health condition is required to obtain certification that the employee is able to resume work prior to the return from any FMLA leave. Employees who return to work from a family leave of absence within or on the business day following the expiration of the 12 weeks are entitled to return to their job or an equivalent position without loss of benefits or pay.

Procedure for Requesting Family & Medical Leave

Except where leave is not foreseeable, all employees requesting leave under this policy must submit the request in writing to the AREF HR Manager 30 days prior to the commencement of leave. The dates of leave must be included in the notice.

If it is not possible to give 30 days' notice, the employee must give as much notice as is feasible.

An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to Foundation operations. If an employee fails to provide 30 days' notice for foreseeable leave with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date AREF receives notice.

FMLA leave may be taken intermittently under some circumstances. This will be determined on a case-by-case basis, relative to the employee's normal workweek. This must be arranged with the immediate supervisor and AREF Human Resources.

AREF will not retaliate against any employee for requesting Family Medical Leave regardless of whether or not the leave is granted.

This policy is administered in accordance with the Family & Medical Leave Act, the regulations interpreting it and any applicable state law.

Any questions regarding leave eligibility and benefits under the Family & Medical Leave Act should be directed to Human Resources.