

Procedure: 4.5.1p. (III.U.7) Family and Medical Leave Act Leave [FMLA]

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September 11, 1990
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Adopted: April 2, 1987



I.PURPOSE:

The Family and Medical Leave Act (FMLA) provides eligible employees the opportunity to take job-protected leave for certain specified reasons. The maximum amount of leave an employee may use is either 12 or 26 weeks within a twelve 12-month period depending on the reasons for the leave.

II. RELATED AUTHORITY:

O.C.G.A. § 20-4-11 – Powers of the Board
O.C.G.A. § 20-4-14 – TCSG Powers and Duties

29 C.F.R. Part 825, Family and Medical Leave Act of 1993, Final Rule Published November 17, 2008

III. APPLICABILITY:

All work units and technical colleges associated with the Technical College System of Georgia.

IV. DEFINITIONS: n/a

Child (son or daughter): a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.

Child (son or daughter) of a Covered Servicemember: a biological, adopted, or foster child, a stepchild, a legal ward, or a child of for whom the covered servicemember stood in loco parentis, regardless of age.

Covered Servicemember: is a 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 that may render him/her medically unfit to perform the duties of the member's office, grade, rank, or rating.

Covered Military Member: the employee's spouse, son, daughter, or parent who is on active duty or call to active duty status.

Health Care Provider: a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices or any other person determined by the Secretary of Labor to be capable of providing health care services.

Others capable of providing health care services include only:

- podiatrists, dentists, clinical psychologists, optometrists, and chiropractors authorized to practice in the State and who are performing within the scope of their practice as defined in State law;
- nurse practitioners, nurse-midwives, clinical social workers, and physicians assistants who are authorized to practice under State law and who are performing within the scope of their practice as defined under State Law;
- Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts. In these instances, the System Office or technical college may require a second and/or third opinion by a non-Christian Scientist practitioner;
- any health care provider from whom the State of Georgia Health Benefit Plan will accept certification for the existence of a serious health condition to substantiate a claim for benefits; and,
- a health care provider as defined above who practices in a country other than the United States and who is licensed to practice in accordance with the laws and regulations of that country.

HIPAA: Health Insurance Portability and Accountability Act.

Immediate Supervisor: an individual charged with developing performance plans and managing and assessing the performance of employee(s) in those work unit(s) under his/her span of control.

Intermittent Leave: leave taken in separate periods of time due to a single illness or injury.

Need to Care For: the physical and/or psychological care of a family member or covered service-member in the following situations:

- the family member or covered service-member is unable to care for his/her basic medical, hygienic or nutritional needs, safety, or is unable to travel to the doctor, etc.;
- the family member or covered service-member is receiving inpatient or home care and the employee is needed to provide beneficial psychological comfort and reassurance;
- an employee is needed to substitute for others who are caring for the family member, or to make arrangements for changes in care such as transfer to a nursing home;
- the family member's or covered service-member's need for care is intermittent; or,
- an employee is needed only intermittently (e.g., other care is normally available, or care responsibilities are shared with another caregiver, etc.).

Next of Kin: is the nearest blood relative of a covered service-member, other than the individual's spouse, parent, son, or daughter in the following order of priority: blood relatives who have been granted legal custody of the service-member by court decree or statutory provisions; brothers and sisters; grandparents; aunts and uncles; and, first cousins, unless the service-member has specifically designated, in writing, another blood relative as his or her nearest blood relative for purpose of Military Caregiver Leave.

Parent: a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter (as defined in the term "Child"). This term does not include parents "in law".

Parent of a Covered Service-member: a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service-member.

Qualifying Exigencies: include activities such as short-notice deployment, military events, arranging alternative childcare, making financial and legal arrangements, etc., related to deployment, rest and recuperation, counseling, and post-deployment debriefings.

Reduced Schedule Leave: a leave schedule that reduces the number of hours in an employee's established work week or a normal work day.

Reviewing Manager: a manager charged with reviewing the performance plans and evaluations prepared by lower-level supervisor(s) in his/her direct line of supervision.

Serious Health Condition: is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility (i.e., inpatient care), or continuing treatment by a health care provider for a condition that prevents an employee from performing the functions of his/her job, or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, continuing treatment includes an incapacity of more than 3 consecutive, full calendar days and 2 visits to a health care provider within 30 days of the first day of incapacity or 1 visit to a health care provider and a continuing regiment of care; an incapacity caused by pregnancy or prenatal visits, a chronic condition, or permanent or long-term conditions; or, absences due to multiple treatments.

Spouse: a husband or wife in a lawful marriage including a common law marriage in Georgia and other states where it is recognized. NOTE: in Georgia, common law marriages are those that were established before January 1, 1997.

V. ATTACHMENTS:

Attachment: 4.5.1p.a1. Leave Request Form

Attachment: 4.5.1p.a2. Child's Birth, Adoption, or Foster Care Form

Attachment: 4.5.1p.a3. Certification of Health Care Provider Form for Family Member's Serious Health Condition

Attachment: 4.5.1p.a4. Certification of Health Care Provider Form for Employee's Serious Health Condition

Attachment: 4.5.1p.a5. Certification for Serious Injury or Illness of Covered Service-member for Military Family Leave

Attachment: 4.5.1p.a6. Certification of Qualifying Exigency for Military Family Leave

Attachment: 4.5.1p.a7. Notice of Eligibility and Rights and Responsibilities Form

Attachment: 4.5.1p.a8. FMLA Designation Notice

Attachment: 4.5.1p.a9. DOL Notice to Employees of Rights and Responsibilities under the FMLA

VI. PROCEDURE:

A. Employee Eligibility

To be eligible for FLMA leave, an employee must:

- 1- have worked at least 12 months for any State of Georgia agency, department, board, bureau, etc., in the preceding seven (7) years with the exception of any break-in-service occasioned by the fulfillment of an employee's National Guard or Reserve military service obligation. Note: the time served performing the military service must be counted in determining whether the employee has been employed for at least 12 months by the employer, but this provision does not provide any greater entitlement to the employee than would be available under the Uniformed Services Employment and Reemployment Rights Act (USERRA); and,

- 2- have worked at least 1,250 hours for any State of Georgia agency, department, board, bureau, etc., during the 12-month period immediately preceding the date FMLA leave is to begin except that an employee returning from fulfilling his/her National Guard or Reserve military obligation shall be credited with the hours-of-service that could have been performed but for the period of military service in determining whether the employee worked the 1,250 hours of service. Additionally, an individual re-employed following military service has the hours that would have been worked for the employer added to any hours actually worked during the previous 12-month period to meet the 1,250 requirement. Note: to determine the hours that would have been during the period military service, the employee's pre-service work schedule can generally be used for such calculations.

B. Qualifying Conditions

- 1- FMLA leave may be taken for the following reasons:
- 2- birth of a child or to care for a newly-born child (up to 12 weeks);
- 3- placement of a child with the employee for adoption or foster care (up to 12 weeks);
- 4- to care for an immediate family member (employee's spouse, child, or parent) with a serious health condition (up to 12 weeks);
- 5- because of an employee's serious health condition that makes him/her unable to perform his/her job (up to 12 weeks);
- 6- to care for a covered service-member with a serious injury or illness related to certain types of military service (up to 26 weeks). Refer to Paragraph VI. H. for additional information; or,
- 7- to manage certain qualifying exigencies arising because the employee's spouse, son, daughter, or parent is on duty under a call or order to active duty in the Armed Forces (e.g., National Guard or Reserves) in support of a contingency operation (up to 12 months). Refer to Paragraph VI. I. for additional information.

The maximum amount of leave that may be taken in a 12-month period for all reasons is 12 weeks with the exception of leave to care for a covered service-member which carries a maximum combined leave entitlement of 26 weeks. In these instances, leaves for all other reasons cannot constitute more than 12 of these 26 weeks.

C. Identifying the 12-Month Period

The TCSG and its associated technical colleges measure the 12-month period in which leave is taken by the "rolling" 12-month method, measured backward from the date of any FMLA leave with one exception. For leave to care for a covered service-member, the TCSG and its technical colleges calculates the 12-month period beginning on the first day the eligible employee takes FMLA leave to care for a covered service-member and ends 12 months after that date. FMLA leave for the birth or placement of a child for adoption or foster care must be concluded within 12 months of the birth or placement.

D. Using FMLA Leave

Eligible employees may take FMLA leave in a single block of time, intermittently (in separate blocks of time), or by reducing their normal work schedule when medically necessary for the serious health condition of the employee or immediate family member, or for the injury or illness of a covered service-member. Eligible employees may also take intermittent or reduced-scheduled leave for military qualifying exigencies. Unless approved by the Commissioner, Deputy Commissioner, applicable Assistant Commissioner, or technical college President (or their designee), intermittent leave is not permitted for birth of a child, to care for a newly-born child or for

placement of a child for adoption or foster care. Employees who require intermittent or reduced-schedule leave must attempt to schedule their leave so that it will not unduly disrupt system office or technical college operations.

E. Birth of a Child, Adoption or Foster Care

1- Family leave for a child's birth, adoption or foster care will:

- a) begin on the date the child is born unless the mother is previously incapacitated;
- b) in cases of adoption or foster care, begin on the date the employee's presence is needed for the placement process to begin (e.g., consultation with attorneys or doctors, appearance in court, counseling sessions, etc.), or the date the employee takes actual custody of the child;
- c) be completed within 12 months of the date of birth or placement; or,
- d) total 12 weeks during any 12-month period when both parents are eligible TCSG employees. NOTE: both parents are entitled to 12 weeks of family leave to care for a newborn, adopted, or foster child with a serious health condition.

2-Requesting family leave for a child's birth, adoption or foster care:

- a) submit a completed Request for Family Leave Form (Attachment: 4.5.1p.a1.) as soon as the leave date (or approximate leave date) is known; and,
- b) submit a Documentation of a Child's Birth, Adoption, or Foster Care Form (Attachment : 4.5.1p.a2.). The Form must be filled out completely and signed by the treating health care provider/adoption attorney/child placement agency head.

3-Leave designation:

a)for prenatal care, pregnancy, or a birth-related incapacity, an employee may request to use sick leave, annual leave, personal leave, or family leave without pay;

b)for an adopted or foster care child, an employee may request to use annual leave, personal leave, or request family leave without pay to make arrangements for the adoption or placement. Sick leave may be requested if such use for this purpose is consistent with the provisions of established State Board policy and applicable State Personnel Board Rules; and,

c)unless a serious health condition is present or other event which supports the use of sick leave (pursuant to established State Board policy and applicable State Personnel Board Rules), only annual leave, personal leave, or family leave without pay may be used by an employee to care for his/her biological, adopted, or foster child during the first year after the child's birth or placement

4. Intermittent or reduced schedule leave:

a)Intermittent or reduced schedule leave will be permitted for an employee's own incapacity related to pregnancy or prenatal care;

b)an employee may take intermittent or reduced schedule family leave to care for his/her new biological, adopted, or foster child when medically necessary as determined by a health care provider for a child's serious health condition;

c)decisions as to appropriate intermittent or a reduced schedule leave will be governed by a health care provider's determination as to medical necessity; and,

d)a reviewing manager may require an employee to temporarily transfer to an available alternative position (with equivalent pay and benefits) that better accommodates recurring periods of absence.

F. Serious Health Condition of a Qualifying Family Member

- 1) Family leave for a qualifying family member's serious health condition will begin on the date the employee's presence is necessary to provide physical and/or psychological care for the family member. The employee's family member must be incapacitated with a serious health condition.
- 2) An employee requesting family leave for the serious health condition of a family member must:
 - a) make a reasonable effort, subject to the approval of a health care provider, to schedule the treatment or supervision of the family member so as not to unduly disrupt system office or technical college operations;
 - b) submit a completed Request for Family Leave Form (Attachment: 4.5.1p.a1.). If family leave is foreseeable, the Form should be submitted as soon as the projected date of leave is known; and,
 - c) submit a completed Certification of Health Care Provider Form for Family Member's Serious Health Condition (Attachment: 4.5.1p.a3.). The Form must be filled out completely and signed by the health care provider.
- 3) In these instances, an employee may use sick leave (pursuant to established State Board policy and applicable State Personnel Board Rules), annual leave, personal leave, or family leave without pay.
- 4) Family leave for the serious health condition of a family member may not be taken on an intermittent basis or on a reduced leave schedule unless medically necessary as certified by a health care provider. The employee and his/her immediate supervisor and/or reviewing manager should attempt to develop a schedule that meets the needs of all parties without unduly disrupting system office or technical college operations. The reviewing manager may require the employee to transfer temporarily to an available alternative position (with equivalent pay and benefits) that better accommodates recurring period(s) of absence. Decisions as to appropriate intermittent or a reduced schedule will be governed by the health care provider's determination of medical necessity.

G. Serious Health Condition of an Employee

- 1) Family leave for an employee's serious health condition begins on the date the employee is unable to perform the essential functions of his/her position. To qualify for family leave, an employee must be incapacitated with a serious health condition.
- 2) An employee requesting family leave for his/her serious health condition must:
 - a) make a reasonable effort, subject to the approval of a health care provider, to schedule his/her treatment so as not to unduly disrupt system office or technical college operations;
 - b) submit a completed Request for Family Leave Form (Attachment 4.5.1p.a1). If family leave is foreseeable, the Form should be submitted as soon as the projected date of leave is known; and,
 - c) submit a completed Certification of Health Care Provider Form for Employee's Serious Health Condition (Attachment: 4.5.1p.a4.). The Form must be filled out completely and signed by the health care provider.

- 3) An employee may use sick leave (pursuant to established State Board policy and applicable State Personnel Board Rules), annual leave, personal leave, or family leave without pay.
- 4) Family leave for an employee's serious health condition may be taken on an intermittent or a reduced schedule basis if medically necessary as certified by a health care provider. The employee and his/her immediate supervisor and/or reviewing manager should attempt to develop a schedule that meets the needs of all parties without unduly disrupting system office or technical college operations. The reviewing manager may require the employee to transfer temporarily to an available alternative position (with equivalent pay and benefits) that better accommodates recurring period(s) of absence.

H. Military Caregiver Leave

1-Permits eligible employees to care for certain family members who have sustained serious injuries or illnesses in the line of duty while on active duty. The family member must be a "covered service member".

2-Is not available to care for former members of the Armed Forces or the National Guard or Reserves, or for service members on the permanently disability retired list.

3-To be eligible for Military Caregiver Leave, an employee must be a spouse, son, daughter, parent, or next of kin of the covered service member and meet all other eligibility requirements.

4-An eligible employee may take up to 26 workweeks of Military Caregiver Leave to care for a covered service-member in a single 12-month period. This period begins on the first day leave is taken to care for a covered service-member and ends 12 months thereafter, regardless of the method used to determine leave availability for other FMLA-qualifying reasons. If an employee does not exhaust his/her 26 workweeks of leave during a "single 12-month period", the remainder is forfeited.

5-Military Caregiver Leave applies on a per-injury basis for each service-member. Therefore, an eligible employee may take separate periods of leave for each covered service-member, and/or for each serious injury or illness of the same covered service-member. No more than 26 workweeks of leave may be taken in any single 12-month period.

6-Within the single 12-month period, an eligible employee may take a combined total of 26 weeks of FMLA leave including up to 12 weeks of leave for any other FMLA-qualifying reason (e.g., birth of a child, the serious illness of a family member, a qualifying exigency, etc.). For example, during the "single 12-month period", an eligible employee may take up to 16 weeks of FMLA leave to care for a covered service member when combined with up to 10 weeks of FMLA leave to care for a newborn child.

7-An employee requesting Military Caregiver Leave must:

- a) submit a Request for Family Leave Form (Attachment 4.5.1p.a1). If the need for leave is foreseeable, the Form should be submitted as soon as the projected date of leave is known; and,
- b) submit a completed Certification for Serious Injury or Illness of Covered Service-member for Military Family Leave (Attachment: 4.5.1p.a5.). The Form must be filled out completely and signed by the health care provider within 15 days.

- c) An employee may use sick leave (pursuant to established State Board policy and applicable State Personnel Board Rules), annual leave, personal leave, or family leave without pay in these instances.
- d) Family leave for this purpose may be taken on an intermittent or a reduced schedule basis if medically necessary as certified by a health care provider. The employee and his/her immediate supervisor and/or reviewing manager should attempt to develop a schedule that meets the needs of all parties without unduly disrupting system office or technical college operations. The reviewing manager may require the employee to transfer temporarily to an available alternative position (with equivalent pay and benefits) that better accommodates recurring period(s) of absence.

I. Qualifying Exigency Leave

- 1) Eligible employees may take Qualifying Exigency Leave to manage certain “exigencies” arising out of a “covered military member’s” (i.e., the employee’s spouse, son, daughter, or parent) call or order to active duty.
- 2) Up to 12 weeks of Qualifying Exigency Leave is available in any 12-month period.
- 3) Although Qualifying Exigency Leave may be combined with leave for other FMLA-qualifying reasons, the total of such leave cannot exceed 12 weeks in any 12-month period with the exception of military caregiver leave referenced in Paragraph VI. H.
- 4) Individuals who can be ordered to active duty include retired members of the Regular Armed Forces, certain members of the retired Reserve, and various other Reserve members, including the Ready Reserve, the Selected Reserve, the Individual Ready Reserve, the National Guard, state military, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve, and Coast Guard Reserve.
- 5) Although Qualifying Exigency Leave is available to an eligible employee whose close family member is called up from status as a retired member of the Regular Armed Forces, it is not available for a close family member on active duty or on call to active duty as a member of the Regular Armed Forces.
- 6) A call to active duty refers to a federal call to active duty. A state call to active duty is not covered unless under order of the President of United States pursuant to applicable laws.
- 7) Qualifying Exigency Leave is available under the following circumstances:
 - a) **Short-notice deployment:** to address any issue that arises out of short notice (within seven days or less) of an impending call or order to active duty;
 - b) **Military events and related activities:** to attend any official military ceremony, program, or event related to active duty or a call to active duty status or to attend certain family support or assistance programs and information briefings;
 - c) **Childcare and school activities:** to arrange for alternative childcare; to provide childcare on an urgent, immediate need basis; to enroll a child in or transfer a child to a new school or daycare facility; or, to attend meetings with staff at a school or daycare facility;
 - d) **Financial and legal arrangements:** to make or update various financial or legal arrangements; or, to act as the covered military member’s representative before a federal, state, or local agency in connection with service benefits;
 - e) **Counseling:** to attend counseling (by someone other than a health care provider) for the employee, the covered military member, or for a child or dependent when necessary as a result of duty under a call or order to active duty;
 - f) **Temporary rest and recuperation:** to spend time with a covered military member who is on short-term, temporary rest and recuperation leave during the period of deployment. Eligible employees may take up to five (5) days of leave for each instance of rest and recuperation;

- g) **Post-deployment activities:** to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of up to 90 days following termination of the covered military member's active duty status. This also encompasses leave to address issues that arise from the death of a covered military member while on active duty status;
 - h) **Mutually agreed leave:** other events that arise from the close family member's duty under a call or order to active duty, provided that the system office or technical college and the employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of such leave.
- 8) An employee requesting Qualifying Exigency Leave must:
- a) submit a Request for Family Leave Form (Attachment: 4.5.1p.a1.). If the need for leave is foreseeable, the Form should be submitted as soon as the projected date for leave is known; and,
 - b) submit a completed Certification of Qualifying Exigency for Military Family Leave Form (Attachment: 4.5.1p.a6.). The Form must be completed within 15 days and include appropriate supporting documentation (e.g., a copy of the covered military member's active duty orders or other military documentation indicating the appropriate military status and the dates of active duty status, along with a statement setting forth the nature and details of the specific exigency, the amount of leave needed, the employee's relationship to the military member, etc.).
- 9) An employee may use annual leave, personal leave, or family leave without pay in these instances.

J. Notice and Medical Certification (Employee or Close Family Member)

- 1) When seeking FMLA leave, an employee must provide:
- a) sufficient information for the system office or technical college to determine if the requested leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, a family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or other circumstances supporting the need for military family leave. An employee must also inform the system office or technical college if the requested leave is for a reason for which FMLA leave was previously taken or certified;
 - b) if the need for leave is foreseeable, this information must be provided 30 days in advance of the anticipated beginning date of the leave. If the need for leave is not foreseeable, this information must be provided as soon as is practicable and in compliance with the system office or technical college's normal call-in procedures, absent unusual circumstances;
 - c) medical certification supporting the need for leave due to a serious health condition affecting an employee or his/her immediate family member within 15 calendar days of the system office or technical college request to provide the certification (additional time may be permitted in some circumstances). If an employee fails to provide such certification, the system office or technical college may delay the commencement of leave, withdraw any designation of FMLA leave, or deny the leave and place the employee in a leave without pay status consistent with applicable State Board policy and State Personnel Board Rules. In these instances, the employee may also be subject to disciplinary action as provided in applicable State Board Policy or other action permitted by State Board or technical college procedures. Second or third medical opinions and periodic re-certifications may also be required;
 - d) periodic reports as deemed appropriate during the leave regarding an employee's status and intent to return to work;

- e) medical certification of an employee's fitness for duty before returning to work, if the leave was due to a serious health condition. The system office or technical college will require this certification to address whether an employee returning from a period of leave under these provisions can perform the essential functions of his/her position; and,
 - f) in situations where justifiable and verifiable circumstances prevent an employee from providing supporting and/or required documentation within the times frames referenced in this Procedure, the employee may request an extension through System Office or technical college Human Resources Director/Coordinator. If approved, paid leave (if requested and available) may be substituted for any unpaid leave initially designated for the absence.
- 2) If the certification is incomplete or insufficient, the system office or technical college must notify the employee in writing regarding what information is necessary to make the certification complete and sufficient, and provide the employee 7 calendar days to cure any deficiencies (unless this time period is not practicable despite the employee's diligent, good-faith efforts).
 - 3) If the deficiencies are not resolved, the system office or technical college may contact the employee's health care provider directly for verification and clarification, as opposed to obtaining additional information beyond that required by the certification form. Contact may be made by the system office or technical college Human Resources Director/Coordinator or other Human Resources representative. The employee's immediate supervisor is not permitted to engage in these discussions.
 - 4) While an employee's permission is not needed to contact the healthcare provider purely for verification purposes, the system office or technical college must obtain the employee's authorization for clarification of "individually-identifiable" health information, consistent with HIPAA.
 - 5) Should an employee refuse to cure noted deficiencies or grant the system office or technical college permission to contact the health care provider, the provisions of Paragraph J. 1. c. apply.

K. Recertification of Medical Conditions

- 1) The reviewing manager or system office or technical college Human Resources Director/Coordinator may require a recertification (from the employee's health care provider) regarding the medical condition(s) that initially supported an employee's request for family leave for his/her own use.
- 2) A recertification may be requested at reasonable intervals, but not more often than every 30 days, unless: the employee requests an extension of leave; circumstances described by the previous certification have significantly changed (e.g., the duration of the illness, the nature of the illness, complications, etc.); or, the system office or technical college receives information that places doubt upon the continuing validity of the initial/most recent certification.
- 3) As with the initial certification, an employee has 15 calendar days to provide a requested certification. All requirements and consequences outlined in this Procedure will apply to requests for a recertification. The employee will be responsible for all costs associated with the recertification and no second or third opinions may be requested.
- 4) In instances in which the duration of an employee's condition is "lifetime" or "unknown", the system office or technical college, may request a recertification every 6 months in conjunction with the employee's absence.

L. Second or Third Medical Opinions

- 1) If the system office or technical college has reason to doubt the validity of a submitted medical certification, the employee may be required to obtain a second opinion at the expense of the system office or technical college. Pending receipt of the medical opinion, the employee is provisionally entitled to the benefits of the Act.
- 2) The system office or technical college may designate the health care provider to furnish the second opinion, provided the selected health care provider is not employed on a regular basis at the system office or technical college.
- 3) If the opinions of the employee's and the system office or technical college's designated health care providers differ, the system office or technical college may require the employee to obtain certification from a third health care provider, at the expense of the system office or technical college. The third opinion is binding.
- 4) The third health care provider must be designated or approved jointly by the system office or technical college and the employee. Both parties must act in good faith in reaching this determination. If the system office or technical college does not attempt, in good faith, to reach an agreement, the system office or technical college will be bound by the first certification. If the employee does not attempt act in good faith to reach agreement, the employee will be bound by the second certification.
- 5) The system office or technical college must provide the employee with a copy of the second and third medical opinions upon request. Requested copies must be provided within 5 business days unless extenuating circumstances prevent such action.
- 6) The system office or technical college must reimburse the employee for all reasonable expenses associated with obtaining the second and third medical opinion.
- 7) Unlike other forms of medical certification, the system office or technical college may not require a second or third opinion or recertification of military caregiver-leave medical certifications.

M. Notice of Eligibility and Rights and Responsibilities

- 1) When an employee's request for family leave, or when the system office or technical college acquires knowledge that an employee's leave may be for an FLMA-qualifying reason, the system office or technical college must notify the employee, in writing, of the employee's eligibility to take family leave within 5 business days, absent extenuating circumstances.
- 2) All FMLA absences for the same qualifying reason are considered a single leave and employee eligibility (as to the reason for leave) does not change during the applicable 12-month period.
- 3) The eligibility notice (Attachment: 4.51p.a7.) must be completed by the system office or technical college in its entirety and state whether the employee is eligible for family leave. If the employee is not eligible, all reasons why must be noted.

N. Designation Notice

- 1) If the system office or technical college has sufficient information to determine whether a leave is FMLA-qualifying, the employee must be notified in writing of this decision within 5 business days using Attachment: 4.5.1p.a8. FMLA Designation Notice.
- 2) The completed notice must include information regarding whether paid leave will be used during the period of absence and accompanying fitness-for-duty certification requirement. Pursuant to the provisions of Paragraph J. 1. e., an employee must provide a fitness-for-duty certificate from his/her health care provider before returning to work. Therefore, to properly address an employee's ability to perform the essential functions of his/her job upon return from FLMA leave, the system office or technical college must include a list of those functions or attach a job description to the designation notice.

- 3) The designation notice need only be provided once for each qualifying reason during the applicable 12-month period.
- 4) The amount of leave (such as the number of hours, days, or weeks) to be counted against the FMLA entitlement must be specified if known at the time the system office or technical college designates the leave as FLMA qualifying. If this is not possible at the time the designation is made (e.g., the leave is unforeseeable), the system office or technical college must provide this information upon request by the employee, but no more often than once in a 30-day period and only if leave was taken during that period. The amount of leave notice must be made in writing no later than the following payday.
- 5) If both military caregiver and the serious health condition of a family member leave apply, the system office or technical college must designate the leave as military caregiver leave to permit up to 26 weeks of leave.
- 6) Failure to provide required notice may constitute interference with, restraint of, or denial of the exercise of an employee's FMLA rights and subject the TCSG and its technical colleges to potential liability for compensation and benefits lost by reason of the violation.
- 7) The system office or technical college may retroactively designate leave, provided that the system office or technical college's failure to designate such leave in a timely manner has not caused harm or injury to the employee. In all instances in which leave qualifies for FMLA protection, the system office or technical college and the employee may mutually agree to the retroactive designation.

O. General Provisions

- 1) The DOL Notice to Employees of Rights Under the FMLA (Attachment: 4.5.1p.a9.) must be posted prominently so that it can be readily seen by applicants and employees. A copy of the notice should be provided to all newly hire employees.
- 2) To the extent required by law, the system office and its associated technical colleges will inform an employee whether he/she is eligible for leave under the FMLA. If otherwise eligible, the system office or technical college will provide an employee with a notice that specifies any additional information required as well as his/her rights and responsibilities. If an employee is not eligible, the system office or technical college will provide a reason for the ineligibility. The system office or technical college will also inform an employee if leave will be designated as FMLA-protected and, to the extent possible, note the amount of leave counted against his/her leave entitlement. If the system office or technical college determines that the leave is not FMLA-protected, the employee will be notified.
- 3) Upon returning from FMLA leave, an employee will typically be restored to his/her original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.
- 4) The FMLA makes it unlawful for any employer to interfere with, restrain, or deny the exercise of any right provided under the FMLA, or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA, or for involvement in any proceeding under or relating to the FMLA. While the TCSG and its technical colleges encourage its employees to bring any concerns or complaints about compliance with the FMLA to the attention of the system office or technical college Office of Human Resources, applicable FMLA regulations require all covered employers to advise employees that they may file a complaint with the U.S. Department of Labor or bring a private lawsuit against the TCSG. Additionally, the FMLA does not impact any Federal or State law pertaining to discrimination, or supersede any State or local law which provides greater family or medical leave rights.
- 5) Medical information obtained as a result of an employee's serious health condition, as well as all medical information gathered during an employee's employment with the system office or technical college, is considered confidential. Access to this information, which is housed separately from work-related documents collected during the scope of an

individual's employment and retained in an employee's personnel file, is restricted to system office/technical college representatives having a legitimate business reason to view the materials.

- 6) An employee's failure to return to work as scheduled after FMLA leave or who (without authorization) exceeds the 12-week entitlement or the 26-week entitlement in the case of military caregiver leave, will be subject to disciplinary action consistent with applicable State Board policy.
- 7) An employee providing false or misleading information or intentionally omitting material information in connection with an FMLA leave will be subject to disciplinary action consistent with applicable State Board policy.

VII. RECORD RETENTION:

Medically-related documents associated with a short- or long-term leave/leave of absence (with or without pay) taken pursuant to the FMLA must be maintained in an employee's medical file for a period of 7 years after he/she departs from state employment. Other time and leave documents/records not kept in an employee's personnel file should be retained for a period of 3 years after he/she departs from state employment.

Attachment: 4.5.1p.a1. Technical College System of Georgia

**FAMILY AND MEDICAL LEAVE ACT
LEAVE REQUEST FORM**

Employee's Name: _____ Employee ID#: _____

Work Location: _____

Dates of Leave Requested: _____ through _____

Reason for FMLA Leave (check all that apply):

- Birth of a child and to care for the newly-born child, or placement of a child with the employee for adoption or foster care
- To care for an immediate family member (employee's spouse, child or parent) with a serious health condition
- Your own serious health condition
- Because of a qualifying exigency arising out of the fact that your spouse; son or daughter; parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves
- Because you are the spouse; son or daughter; parent; next of kin of a covered servicemember with a serious injury or illness

Type and Number of Hours Of Leave Requested For The Purpose Identified Above (check all that apply, if available):

- Annual Leave: _____ hours
- Unpaid family and medical leave
- Sick Leave: _____ hours
- Personal Leave: _____ hours

To receive paid leave during all or part of an FMLA leave, employees must satisfy the provisions of the State Board policy governing the use of leave as well as applicable State Personnel Board Rules.

Is intermittent leave or reduced work schedule requested? If yes, explain why it is needed and the leave schedule proposed:

Intention To Return To Work When The Leave Ends (select one):

- Employee will not be returning to work.
- Employee intends to return to work.

Authorization, Certification, and Signatures:

Who provided information to complete form (if other than employee)? _____

Name of person who completed form: _____ Date: _____

I certify that the above information is true and correct to the best of my knowledge. I understand that any misrepresentation concerning the above facts can result in the delivery of disciplinary action pursuant to the Positive Discipline Policy.

Employee's Signature

Date

Supervisor's Signature

Date

Attachment: 4.5.1p.a2. Family and Medical Leave Act

Documentation of Child's Birth, Adoption or Foster Care Form

Employee's Name:	Employee ID #:
------------------	----------------

For Birth of a Child:

Physician/ Provider:	
Address:	
Phone No.:	
Mother's Name:	
<input type="checkbox"/> This is to certify the mother named above is expected to give birth on:	<input type="checkbox"/> This is to certify the mother named above gave birth on:
<hr/>	<hr/>
(date)	(date)
Health Care Provider's Signature: (No Stamp Please)	Date:

For Adoption/ Foster Care:

Foster Care of Adoption Agency/ Attorney:	
Address:	
Phone No.:	
<input type="checkbox"/> This is to certify the child will be placed for adoption with the above named employee on:	<input type="checkbox"/> This is to certify the child will be placed for foster care with the above named employee on:
<hr/>	<hr/>
(date)	(date)
Child Placement Agency Representative/ Attorney Signature: (No Stamp Please)	Date:

Attachment: 4.5.1p.a3.

Family and Medical Leave Act

CERTIFICATION OF HEALTH CARE PROVIDER FOR FAMILY MEMBER'S SERIOUS HEALTH CONDITION

Section I – For completion by the System Office or Technical College

INSTRUCTIONS: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Please complete Section I before giving this form to your employee. An employer may not ask an employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. The system office or technical college must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

System Office/Technical College Contact Information: _____

Section II: For completion by the Employee

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your family member or his/her medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave to care for a covered family member with a serious health condition. If requested by the system office or technical college, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. You must be provided at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

Name of family member for whom you will provide care: _____
First Middle Last

Relationship of family member to you: _____

If family member is your son or daughter, his/her date of birth: _____

Describe the care you will provide to your family member and estimate leave needed to provide care:

Employee Signature

Date

Section III: For completion by the Health Care Provider:

INSTRUCTIONS to the HEALTH CARE PROVIDER: The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Page 4 provides space for additional information should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/Medical specialty: _____

Telephone: (____) _____ Fax: (____) _____

Part A – Medical Facts

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility? Yes No If so, dates of admission: _____

Date(s) you treated the patient for condition:

Was medication, other than over-the-counter medication, prescribed? Yes No

Will the patient need to have treatment visits at least twice per year due to the condition? Yes No
Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)? Yes No If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No If so, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the patient needs care (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

Part B – Amount of care needed

When answering these questions, keep in mind that your patient’s need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

4. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? Yes No

Estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? Yes No

Explain the care needed by the patient and why such care is medically necessary: _____

5. Will the patient require follow-up treatments, including any time for recovery? Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

6. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery? Yes No

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary: _____

7. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? Yes No

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode.

Does the patient need care during these flare-ups? Yes No

Explain the care needed by the patient, and why such care is medically necessary: _____

Additional Information:
(Identify question number with your additional answer.)

Signature of Health Care Provider
(No Stamps Please)

Date

[Attachment: 4.5.1p.a4.]

Family and Medical Leave Act

CERTIFICATION OF HEALTH CARE PROVIDER FOR EMPLOYEE'S SERIOUS HEALTH CONDITION

Section I – For completion by the System Office or Technical College

INSTRUCTIONS: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. An employer may not ask an employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. The system office or technical college must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Employer name and contact: _____

Employee's job title: _____ Regular work schedule: _____

Employee's essential job functions: _____

Check if job description is attached:

Section II: For completion by the Employee

INSTRUCTIONS to the EMPLOYEE: Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by the system office or technical college, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 20 C.F.R. § 825.313. You must be provided at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: _____
First Middle Last

Section III: For completion by the Health Care Provider:

INSTRUCTIONS to the HEALTH CARE PROVIDER: Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/Medical specialty: _____

Telephone: (____) _____ Fax: (____) _____

Part A – Medical Facts

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Mark below as applicable:

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility? _____ No _____ Yes. If so, dates of admission:

Date(s) you treated the patient for condition:

Will the patient need to have treatment visits at least twice per year due to the condition? Yes No

Was medication, other than over-the-counter medication, prescribed? Yes No

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapy)? Yes No If so, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No If so, expected delivery date: _____
3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition? Yes No

If so, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment):

Part B – Amount of Leave Needed

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? Yes No

If so, estimate the beginning and ending dates for the period of incapacity: _____

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? Yes No

If so, are the treatments or the reduced number of hours of work medically necessary? Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? Yes No If so, explain:

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode.

**Additional Information:
(Identify question number with your additional answer.)**

Signature of Health Care Provider

Date

(No Stamps Please)

Family and Medical Leave Act

CERTIFICATION FOR SERIOUS INJURY OR ILLNESS OF COVERED SERVICEMEMBER FOR MILITARY FAMILY LEAVE

INSTRUCTIONS: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. An employer may not ask an employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. § 825.310. The system office or technical college must generally maintain records and documents relating to medical certification, recertifications, or medical histories of employees or employees' family members, created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Section I: For completion by the EMPLOYEE and/or the COVERED SERVICEMEMBER for whom the Employee is Requesting Leave.

INSTRUCTIONS to the Employee or Covered Servicemember: Please complete Section I before having Section II completed. The FMLA permits an employer to require that an employee submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a serious injury or illness of a covered servicemember. If requested by the system office or technical college, your response is required to obtain or retain the benefit of FMLA-protected leave. 29 C.F.R. §§ 2613, 2614(c)(3). Failure to do so may result in a denial of an employee's FMLA request. 29 C.F.R. § 825.310(f). You must be provided at least 15 calendar days to return this form.

Section II: For completion by a UNITED STATES DEPARTMENT OF DEFENSE ("DOD"), HEALTH CARE PROVIDER or a HEALTH CARE PROVIDER who is either: (1) a United States Department of Veteran's Affairs ("VA") health care provider; (2) a DOD TRICARE network authorized private health care provider; or (3) a DOD non-network TRICARE authorized private health care provider.

INSTRUCTIONS to the Health Care Provider: The employee listed on Page 2 has requested leave under the FMLA to care for a family member who is a member of the Regular Armed Forces, the National Guard, or the 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. For purposes of FMLA leave, a serious injury or illness is one that was incurred in the line of duty on active duty that may render the servicemember medically unfit to perform the duties of his or her office, grade, rank, or rating.

A complete and sufficient certification to support a request for FMLA leave due to a covered servicemember's serious injury or illness includes written documentation confirming that the covered servicemember's injury or illness was incurred in the line of duty on active duty and that the covered servicemember is undergoing treatment for such injury or illness by a health care provider listed above. Answer, fully and completely, all applicable parts. Several questions seek a response as to frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of

the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave.

Section I – For completion by the Employee and/or the Covered Servicemember for whom the Employee is Requesting Leave.

(This section must be completed first before any of the below sections can be completed by a health care provider.)

Part A - Employee Information

Name and Address of Employer (this is the employer of the employee requesting leave to care for covered servicemember):

Name of Employee Requesting Leave to Care for Covered Servicemember:

First Middle Last

Name of Covered Servicemember (for whom employee is requesting leave to care):

First Middle Last

Relationship of Employee to Covered Servicemember Requesting Leave to Care:

Spouse Parent Son Daughter Next of Kin

Part B – Covered Servicemember Information

1. Is the Covered Servicemember a current member of the Regular Armed Forces, the National Guard or Reserves? Yes No

If yes, please provide the covered servicemember’s military branch, rank and unit currently assigned to:

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as a medical hold or warrior transition unit)? Yes No

If yes, please provide the name of the medical treatment facility or unit: _____

Attachment: 4.5.1p.a5.

2. Is the Covered Servicemember on the Temporary Disability Retired List (TDRL)? Yes No

Part C – Care to be Provided to the Covered Servicemember

Describe the care to be provided to the Covered Servicemember and an Estimate of the leave needed to provide the care:

Section II: For completion by a United States Department of Defense (“DOD”) Health Care Provider or a Health Care Provider who is either : (1) a United States Department of Veterans Affairs (“VA”) Health Care Provider; (2) a DOD TRICARE Network Authorized Private Health Care Provider; or (3) a DOD Non-Network TRICARE Authorized Private Health Care Provider.

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). (Please ensure that Section I above has been completed before completing this section.) Please be sure to sign the form on the last page.

Part A – Health Care Provider Information

Health Care Provider’s Name and Business Address:

Type of Practice/Medical Specialty: _____

Please state whether you are either: (1) a DOD health care provider; (2) a VA health care provider; (3) a DOD TRICARE network authorized private health care provider; or (4) a DOD non-network TRICARE authorized private health care provider: _____

Telephone: (____) _____ Fax: (____) _____ E-mail: _____

Part B – Medical Status

1. Covered Servicemember's medical condition is classified as (check one of the appropriate boxes):
 - (VSI) Very Seriously Ill/Injured** – Illness/injury is of such a severity that life is imminently endangered. Family members are requested at bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)
 - (SI) Seriously Ill/Injured** – Illness/injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)
 - Other Ill/Injured** – A serious injury or illness that may render the servicemember medically unfit to perform the duties of the member's office, grade, rank, or rating.
 - NONE OF THE ABOVE** – (Note to Employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a "serious health condition" under § 825.113 of the FMLA. If such leave is requested, you may be required to complete DOL FORM WH-380 or an employer-provided form seeking the same information.)
2. Was the condition for which the Covered Servicemember is being treated incurred in the line of duty on active duty in the armed forces? Yes No
3. Approximate date condition commenced: _____
4. Probable duration of condition and/or need for care: _____
5. Is the covered servicemember undergoing medical treatment, recuperation, or therapy? Yes No
 If yes, please describe medical treatment, recuperation, or therapy:

Part C – Covered Servicemember's Need for Care by Family Member

1. Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? ____ Yes ____ No
 If yes, estimate the beginning and ending dates for this period of time: _____
2. Will the covered servicemember require periodic follow-up treatment appointments? Yes No

Attachment: 4.5.1p.a5.

If yes, estimate the treatment schedule: _____

3. Is there a medical necessity for the covered servicemember to have periodic care for these follow-up treatment appointments? Yes No
4. Is there a medical necessity for the covered servicemember to have periodical care for other than scheduled follow-up treatment appointments (e.g., episodic flare-ups of medical condition)? Yes No

If yes, please estimate the frequency and duration of the periodical care:

Signature of Health Care Provider

Date

(No Stamps Please)

Attachment: 4.5.1p.a6.

Family and Medical Leave Act

**CERTIFICATION OF QUALIFYING EXIGENCY
FOR MILITARY FAMILY LEAVE**

Section I – For completion by the System Office or Technical College

INSTRUCTIONS: The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA leave due to a qualifying exigency to submit a certification. Please complete Section I before giving this form to your employee. An employer may not ask an employee to provide more information than allowed under FMLA regulations, 29 C.F.R. § 825.309.

System Office or Technical College Contact Information: _____

Section II: For completion by the Employee

INSTRUCTIONS to the EMPLOYEE: Please complete Section II fully and completely. The FMLA permits an employer to require that you submit a timely, complete, and sufficient certification to support a request for FMLA leave due to a qualifying exigency. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Your response is required to obtain a benefit under 29 C.F.R. § 825.310. While you are not required to provide this information, failure to do so may result in a denial of your request for FMLA leave. You must be provided at least 15 calendar days to return this form.

Your name: _____
 First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

 First Middle Last

Relationship of covered military member to you: _____

Period of covered military member’s active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided my employer with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

Part A – Qualifying reason for leave

1. Describe the reason you are requesting FMLA leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counsellor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None available

Part B – Amount of Leave Needed

1. Approximate date exigency commenced: _____

Probable duration of exigency: _____

2. Will you need be absent from work for a single continuous period of time due to the qualifying exigency? Yes No

If so, estimate the beginning and ending dates for the period of absence:

3. Will you need to be absent from work periodically to address this qualifying exigency? Yes No
Estimate schedule of leave, including the dates of any scheduled meetings or appointments:

Estimate the frequency and duration of each appointment, meeting, or leave event, including any travel time (i.e., 1 deployment-related meeting every month lasting 4 hours):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per event.

Part C

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state, or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address, and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by the system office or technical college to verify that the information contained on this form is accurate.

Name of Individual: _____ Title: _____

Organization: _____

Address: _____

Telephone: (____) _____ Fax: (____) _____

E-mail: _____

Describe nature of meeting: _____

Part D

I certify that the information I provided above is true and correct.

Signature of Employee

Date

Attachment: 4.5.1p.a7.

Family and Medical Leave Act

**NOTICE OF ELIGIBILITY AND
RIGHTS & RESPONSIBILITIES**

(For Completion by the System Office or Technical College)

In general, to be eligible for FMLA leave an employee must have worked for any State of Georgia agency, department, etc. for at least 12 months and must have worked at least 1,250 hours in the 12 months preceding the leave.

TO: _____

FROM: _____

DATE: _____

Part A - Notice of Eligibility

On _____, you informed us that you needed leave beginning on _____ for:

- The birth of a child, to care for the newborn child, or placement of a child with you for adoption or foster care
- Your own serious health condition
- Because you are needed to care for your spouse; child; parent due to his/her serious health condition
- Because of a qualifying exigency arising out of the fact that your spouse; son or daughter; parent is on active duty or call to active duty status in support of a contingency operation as a member of the National Guard or Reserves
- Because you are the spouse; son or daughter; parent; next of kin of a covered servicemember with a serious injury or illness

This Notice is to inform you that you:

- Are eligible for FMLA leave (See Part B below for Rights and Responsibilities).
- Are **not** eligible for FMLA leave because (only one reason need be checked, although you may not be eligible for other reasons):

- You have not met the FMLA's 12-month length of service requirement. As of the first date of requested leave, you will have worked approximately _____ months towards this requirement.
- You have not met the FMLA's 1,250-hours-worked requirement.
- You do not work and/or report to a site with 50 or more employees within 75 miles.

If you have any questions, contact _____ or view the FMLA poster located in _____.

Part B – Rights and Responsibilities for Taking FMLA Leave

As explained in Part A, you meet the eligibility requirements for taking FMLA leave and still have FMLA leave available in the applicable 12-month period. **However, for us to determine whether your absence qualifies as FMLA leave, you must return the following information to us by _____.** (If a certification is requested, the system office or technical college must allow at least 15 calendar days from receipt of this notice; additional time may be required in some circumstances.) If sufficient information is not provided in a timely matter, your leave may be denied. Please be advised that you must provide:

- Sufficient certification to support your request for FMLA leave. A certification form that sets forth the information necessary to support your request is is not enclosed. You must return the certification form within 15 calendar days of our request to provide the certification (additional time may be permitted in some circumstances). If you fail to do so, we may delay the commencement of your leave, withdraw any designation of FMLA leave, or deny the leave. If your leave is denied, your absence would be treated in accordance with applicable State Board policies relating to leave and time and attendance. Additionally, you may be subject to disciplinary action.
- Sufficient documentation to establish the required relationship between you and your family member.
- Other information needed: _____

- No additional information requested

If your leave does qualify as FMLA leave, you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

- Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on an unpaid leave. If premium payment(s) are not made in a timely manner, your health insurance coverage may be impacted.

- Consistent with State Board Policy and applicable State Personnel Board Rules, you may use available **sick**, **annual**, or **personal leave** during your FMLA absence or you may request placement on family leave without pay. While in a paid or unpaid leave status, your leave will be considered protected and count against your FMLA leave entitlement.
- While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every _____. (Indicate interval of periodic reports, as appropriate for the particular leave situation.)

If the circumstances of your leave change, and you are able to return to work earlier than the date indicated on this form, you will be required to notify us at least two workdays prior to the date you intend to report for work.

Information Regarding Family and Medical Leave

If your leave does qualify as FMLA leave, you will have the following **rights** while on FMLA leave:

- You have a right under the FMLA for up to 12 weeks of unpaid leave in a “rolling” 12-month period measured backward from the date of any FMLA leave taken.
- You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered servicemember with a serious injury or illness. This single 12-month period commenced on _____.
- Your health benefits must be maintained during any period of FMLA leave under the same conditions as if you continued to work, subject to conditions established by the State Health Benefit Plan.
- You will typically be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
- Consistent with State Board Policy, applicable State Personnel Board Rules, and the provisions of the Family Leave Procedure, you have the ability to use accrued annual leave, personal leave or, as applicable, sick leave during a FMLA absence. If you do not meet the requirements for taking paid leave or paid leave is not available or has been exhausted, you will be placed on family leave without pay.

For a copy of conditions applicable to sick/annual/other leave usage, please refer to _____ available at _____.

Applicable conditions, if any, for use of paid leave: _____

When the above information is obtained, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and counted towards your FMLA entitlement. If you have any questions, please do not hesitate to contact _____ at _____.

Attachment: 4.5.1p.a8.

Family and Medical Leave Act

DESIGNATION FORM

(For Completion by the System Office or Technical College)

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the employer must inform the employee of the amount of leave that will be counted against an employee's FMLA leave entitlement. To determine whether leave is covered under FMLA, the system office or technical college may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employee must be informed, in writing, what additional information is necessary to make the certification complete and sufficient.

TO: _____

FROM: _____

DATE: _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on _____ and decided:

Your FMLA leave request is approved. All leave taken for this reason will be designated as FMLA leave (subject to the maximum amount of FMLA available to you).

The FMLA requires that you notify us as soon as practicable if dates of your scheduled leave change or are extended, or were initially unknown. Based on the information you have provided thus far, we are providing the following information regarding the amount of time that will be counted against your leave entitlement:

Provided there is no deviation from your anticipated leave schedule, the following number of hours, days, or weeks will be counted against your leave entitlement: _____.

Because the schedule of the leave you will need is uncertain, it is not possible to provide the hours, days, or weeks that will be counted against your FMLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30-day period.).

Please be advised (check if applicable):

- You have requested to use sick, annual, and/or personal leave during your FMLA leave. All such leave taken will count against your FMLA leave entitlement.
- You have requested to be placed on family leave without pay during this absence and all time spent in this employment status will count against your FMLA leave entitlement.
- You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. Should you not return this certification as requested, you may no longer be entitled to reinstatement under FMLA. A list of the essential functions of your position or a copy of your job description **is** **is not** attached. If attached, the fitness-for-duty certification must address your ability to perform these functions.



Additional information is needed to determine if your FMLA leave request can be approved:

- The certification you provided is not complete and sufficient to determine whether your leave should be considered FMLA-qualifying. Unless it is not practical to do so under the particular circumstances of your absence (despite your diligent, good faith efforts), you must provide the following information no later than _____ (provide at least seven calendar days). Failure to follow through as requested may result in the denial of your leave.

(Specify information needed to make the certification complete and sufficient.)

- We are exercising our right to have you obtain a second or third opinion medical certification at our expense. Further detail will be provided at a later time.



- Your FMLA leave request is Not Approved.
- The FMLA does not apply to your leave request.
- You have exhausted your FMLA leave entitlement in the applicable 12-month period.

**EMPLOYEE RIGHTS & RESPONSIBILITIES
UNDER THE FAMILY AND MEDICAL LEAVE ACT**

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying exigencies. 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.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee has continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of 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.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees must also inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

Any employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

