

Office of Human Resources  
***1000 Leave / Absence from Work / Working  
Hours***

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# 1001 Fair Labor Standards Act



## Georgia Department of Human Services Human Resources Policy #1001

### Fair Labor Standards Act

**Release Date:** February 1, 2001

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**References:** 29 U.S.C. Chapter 8 — Fair Labor Standards Act  
29 C.F.R. Part 516 et al. — Records to be Kept by Employers  
O.C.G.A. 39-2-1 et al. — Regulation and Employment of Minors  
O.C.G.A. 45-1-7 et al. — Paid Break Time for Nursing Mothers

All employees of the Department of Human Services (DHS) are covered by the Wage and Hour provisions of the Federal Fair Labor Standards Act (FLSA) unless specifically exempted. The provisions of FLSA include guidance for establishing work periods, payment of minimum wages, hours of work, overtime compensation and required record keeping.

## Section A: Categories of Employees

1. Designations of exempt or non-exempt status are made by the DHS Office of Human Resources (OHR) based on criteria established by the FLSA. Such designations are made on an individual basis and are based on the actual work responsibilities assigned to each employee.
2. **Non-Exempt Employees**
  - a. Non-exempt employees are covered by the Wage and Hour provisions of FLSA. If a non-exempt employee works more than 40 hours in a work period, the employee is to receive time and a half FLSA compensatory time for overtime worked.
  - b. FLSA compensatory time is not granted to non-exempt employees who may have been in pay status for more than 40 hours during a work period due to a holiday or use of accrued leave, but who did not actually work more than 40 hours.
3. **FLSA Exempt Employees**
  - a. To qualify for exemption, effective July 1, 2024, employees must meet certain tests regarding their job duties and be paid on a salary basis of at least \$844/week (\$43,888/year). Effective January 1, 2025, employees must be paid on a salary basis of at least \$1,128/week (\$58,656/year), and meet certain tests regarding their job duties. Job titles do not determine exempt status.
  - b. FLSA exempt employees are not covered by the provisions of FLSA because their work assignments fall into one of the following categories:

- I. Administrative
- II. Computer
- III. Executive
- IV. Professional

#### **4. Administrative Exemption**

- a. All the following criteria must be met to qualify for the administrative employee exemption:
  - I. Effective July 1, 2024, the employee must be compensated on a salary basis of at least \$844/week (\$43,888/year). Effective January 1, 2025, the employee must be compensated on a salary basis of at least \$1,128/week (\$58,656/year).
  - II. The employee's primary duty must be the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and,
  - III. The employee's primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

#### **5. Computer Exemption**

- a. All the following criteria must be met to qualify for the computer employee exemption:
  - I. Effective July 1, 2024, the employee must be compensated on a salary basis of at least \$844/week (\$43,888/year). Effective January 1, 2025, the employee must be compensated on a salary basis of at least \$1,128/week (\$58,656/year).
  - II. The employee must be employed as a computer systems analyst, computer programmer, software engineer, or other similarly skilled worker in the computer field.
  - III. The employee's primary duties must consist of one or more of the following:
    - 1. The application of systems analysis techniques and procedures, including consulting with users to determine hardware, software, or system functional specifications; and/or,
    - 2. The design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on, and related to user or system design specifications; and/or
    - 3. The design, documentation, testing, creation, or modification of computer programs related to machine operating systems.

#### **6. Executive Exemption**

- a. All the following criteria must be met to qualify for the executive employee exemption:
  - I. Effective July 1, 2024, the employee must be compensated on a salary basis of at least \$844/week (\$43,888/year). Effective January 1, 2025, the employee must be compensated on a salary basis of at least \$1,128/week (\$58,656/year).
  - II. The employee's primary duty must be managing the enterprise or managing a customarily recognized department or subdivision of the enterprise.
  - III. The employee must customarily and regularly direct the work of at least two or more other full-time employees or their equivalent; and,

- IV. The employee must have the authority to hire or fire other employees, or the employee's suggestions and recommendations as to the hiring, firing, advancement, promotion, or the ability to modify another employee's work status must be given particular weight.

## 7. Professional Exemption

- a. All the following criteria must be met to qualify for the learned professional employee exemption:
  - I. Effective July 1, 2024, the employee must be compensated on a salary basis of at least \$844/week (\$43,888/year). Effective January 1, 2025, the employee must be compensated on a salary basis of at least \$1,128/week (\$58,656/year).
  - II. The employee's primary duty must be the performance of work requiring advanced knowledge, defined as work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment.
  - III. The advanced knowledge must be in a field of science or learning; and,
  - IV. The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

## 8. Creative Professional Exemption

- a. All the following criteria must be met to qualify for the creative professional exemption:
  - I. Effective July 1, 2024, the employee must be compensated on a salary basis of at least \$844 per week. Effective January 1, 2025, the employee must be compensated on a salary basis of at least \$1,128/week (\$58,656/year).
  - II. The employee's primary duty must be the performance of work requiring invention, imagination, originality, or talent in a recognized field of artistic or creative endeavor.

## 9. Highly Compensated Exemption

- a. Effective July 1, 2024, the total annual compensation for highly compensated employees performing office or non-manual work and paid total annual compensation of \$132,964 or more (which must include at least \$844 per week paid on a salary or fee basis) are exempt from the FLSA if they customarily and regularly perform at least one of the duties of an exempt executive, administrative or professional employee identified in the standard tests for exemption. Effective January 1, 2025, the total annual compensation for highly compensated employees will be \$151,164 or more (which must include at least \$1,128 per week paid on a salary or fee basis).

# Section B: Work Period

1. The standard FLSA work period is a fixed period of seven (7) consecutive calendar days. It does not need to coincide with the calendar week and may begin on any day and at any time.
2. A work period must be established in writing for every employee (both exempt and non-exempt) and must be on file in an accessible location. The work period must define the time of day and day of the week when the employee's work period begins and ends. (Example: Friday at 5:00 p.m. to the following Friday at 5:00 p.m.)



Exempt employees are required to have a defined work period if they assume non-exempt duties for a period of time, which may make them eligible for FLSA overtime compensa-

tion.

3. An established work period may be changed if the change is intended to be permanent and not for the purpose of avoiding the accrual of FLSA overtime.
4. Employees in the same DHS organizational unit may have different work periods.

## Section C: Time Worked

1. Time worked includes all time non-exempt employees are required to be on duty at prescribed workplaces, and all time during which non-exempt employees are suffered or permitted to work.
  - a. Non-exempt employees must be compensated for all time which supervisors know or have reason to know is being worked, not simply the time which non-exempt employees have been required or asked to work.
  - b. Supervisors are not to ignore work which non-exempt employees do on their own time. Non-exempt employees are required to report all time worked.
  - c. Non-exempt employees who work without authorization are subject to disciplinary action, up to and including separation.
2. Meal Periods - Although meal periods are not required by FLSA, it is the policy of DHS that meal periods be provided to employees unless there are specific work-related reasons for not allowing meal periods.
  - a. Meal periods are not considered work time if non-exempt employees do not perform any work-related duties for an uninterrupted period of at least 30 minutes.
  - b. Meal periods should be regularly scheduled based on non-exempt employees work assignments and the needs of the DHS organizational unit.
  - c. Non-exempt employees are not allowed to occupy their workstations during meal periods.
3. Break Periods - Short break periods are counted as time worked.
  - a. Break periods are not required by FLSA; however, up to two 15-minute break periods per day may be authorized at the discretion of supervisors, and if work assignments permit.
  - b. Supervisors may schedule break periods if determined appropriate within the DHS organizational unit.
  - c. Since break periods are work time, non-exempt employees are not authorized to lengthen a meal period, report late to work, or leave early by working through a break period.
  - d. Paid break time of a reasonable duration shall be provided to any employee who desires to express breast milk during work hours at the Agency's worksite. Employees should speak with their supervisors regarding the estimated amount of break time needed. Exempt employees shall not be required to use paid leave while taking a break for this purpose. Such break time is paid at the employee's regular rate of compensation.



Employees shall not receive paid breaks on days the employee is working away from the Agency's worksite.

4. Meetings/Training - Time spent by non-exempt employees attending meetings, training and sim-



ilar activities must be counted as time worked, unless all the following criteria are met:

- a. The attendance is outside of non-exempt employees' regular working hours.
  - b. The attendance is voluntary.
  - c. The meeting, training or similar activity is not directly related to non-exempt employees' positions; and
  - d. Non-exempt employees perform no work related to their positions while in attendance.
5. On-call Non-exempt employees, who are not required to remain on the work premises and are free to engage in personal activities, subject only to the understanding that the supervisor knows how to reach them, are not working while on-call.
- a. All time which non-exempt employees spend performing work while on-call is time worked.
  - b. If actual calls are so frequent or the on-call conditions are so restrictive that non-exempt employees are not free to use the intervening periods effectively for personal benefit, the time must be considered time worked.
6. Travel - Normal travel from home to work and return is not work time. This is true whether the non-exempt employee has a fixed workplace or works at different locations.
- a. Travel to work assignments at sites within reasonable commuting distance of the non-exempt employee's primary work site is considered in the "home to work" category and is not work time. If, however, a non-exempt employee is required to stop by the primary work site for instructions or to pick up materials, the travel from the primary work site to the work assignment must be counted as time worked.
  - b. Travel between a non-exempt employee's normal work site and another place of assignment, or travel between one assignment and another during the workday, is considered time worked.
  - c. Travel associated with a one-day assignment at a different location must be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee's normal travel between home and work.
  - d. The FLSA does not require that travel time out-of-town for overnight stay as a passenger outside of normal work hours be counted as time worked. It is the policy of DHS to count bona fide travel time of non-exempt employees which include the driver and all passengers outside normal work hours as work time.
  - e. FLSA exempt employees are not entitled to any FLSA compensation for travel time either outside of, or in addition to, their normal hours of work.



FLSA exempt employees may be allowed reasonable travel time if determined appropriate by supervisors.

## Section D: Management of Work Hours

1. Supervisors are responsible for monitoring arrival and departure times of non-exempt employees to ensure accurate records are maintained and to minimize overtime worked.
2. Non-exempt employees are not allowed to occupy their workstations before their scheduled workday begins, during meal periods, and after their workday ends.

3. Non-exempt employees are required to accurately sign in and out (recording time to the exact minute) when they arrive and leave their work areas. Non-exempt employees who fail to correctly record actual work time are subject to disciplinary action up to and including separation.
4. Exempt employees generally do not complete time sheets to record work time. Since exempt employees are paid on a salary basis, time sheets should not be kept unless they are required to comply with programmatic certification requirements.
5. Time worked by non-exempt employees should be reviewed prior to the end of the work period (when possible) to determine if overtime may occur. Non-exempt employees' work schedules may be adjusted to prevent overtime work.
6. If a non-exempt employee arrives after the scheduled reporting time, the supervisor may allow the non-exempt employee to adjust the work schedule within the work period to make up the time if tardiness seldom occurs and the adjustment is otherwise determined appropriate. If frequent tardiness occurs, the non-exempt employee should not be allowed to make up the time. The non-exempt employee may be placed on unauthorized leave without pay, placed on an attendance plan, and disciplinary action may be taken.
7. Non-exempt employees must generally receive prior approval to work overtime. In unique or emergency situations, prior approval may not always be possible. Overtime worked in these instances must be reported to the supervisor as soon as possible. Non-exempt employees may be required to explain why overtime was necessary and why pre-approval was not possible. Whether authorized or not, all overtime work must be accurately and promptly recorded.
8. Overtime may be granted for emergencies, unanticipated assignments or for special projects which cannot be completed during normal work hours. Overtime should not generally be granted for non-exempt employees when work should be completed during the workday. Supervisors should closely monitor all overtime worked in these instances.
9. A statement regarding responsibility and accountability for managing the provisions of FLSA is to be included on Performance Management Plans (PMP) of supervisors who supervise non-exempt employees. These supervisors are to be evaluated on their PMF based on compliance with FLSA.
10. Non-exempt employees are to be evaluated on their PMF regarding adherence to FLSA requirements.
11. A method for monitoring all overtime worked should be put in place in every organizational unit.

## Section E: Overtime

1. If overtime occurs (non-exempt employee works, more than 40 hours in a work period) the non-exempt employee is to receive time and a half FLSA compensatory time for the amount of overtime worked. (See exception for non-exempt fire protection and law enforcement employees in item #3 of this Section.)



FLSA compensatory time is not granted to non-exempt employees who may have been in pay status for more than 40 hours during a work period due to a holiday or use of accrued leave, but who did not actually WORK more than 40 hours. (See Policy #1006: Absence from Work)

2. FLSA exempt employees are NOT entitled to FLSA compensatory time for time worked over 40 hours in a work period. In unusual circumstances when an exempt employee is required to work an extraordinary number of hours, the manager may grant some time off within a reasonable period. Time off for exempt employees, however, should not be on an hour for hour basis.



In unique or critical circumstances, straight time overtime may be paid to FLSA exempt employees. Specific approval must be received from the Governor's Office of Planning and Budget, DHS Office of Planning and Budget Services and the OHR prior to payment for overtime work. Amount of overtime worked must be reported to the appropriate transactions center for processing payment. Records of time worked must be maintained by the DHS organizational unit.

3. The actual amount of FLSA compensatory time earned by non-exempt employees (i.e., not rounded off) and usage of FLSA compensatory time must be reported through the system in the manner that other leave is accrued and used.
4. Non-exempt employees may accrue up to a maximum of 240 hours of FLSA compensatory time (160 overtime hours worked x 12 = 240 hours of compensatory time).
5. Non-exempt employees must receive overtime payment for FLSA compensatory time accrued more than the maximum described in paragraph above.

## Section F: Compensatory Time Use and Payment

1. Non-exempt employees must be permitted to use FLSA compensatory time within a reasonable period after making the request if the granting of such time off does not unduly disrupt the operations of the DHS organizational unit.
2. Supervisors must require non-exempt employees to take FLSA compensatory time in lieu of annual leave. Non-exempt employees may request FLSA compensatory time in lieu of sick leave or personal leave.
3. FLSA compensatory time cannot be transferred between State agencies or different DHS organizational units (e.g., from a Division of Aging Services organizational unit to a Division of Child Support Services organizational unit). Transfer of FLSA compensatory time is allowed within the same organizational unit within DHS (e.g., same OFSS Facility, same County DFCS office). Payment for FLSA compensatory time must be made by the losing DHS organizational unit at the time a non-exempt employee transfers to another organizational unit within DHS or to another state agency.
4. Non-exempt employees must be paid for accrued and unused FLSA compensatory time at the higher of the following rates:
  - a. The average regular rate received by the non-exempt employee during the last three (3) years of employment; or
  - b. The final regular rate received by the non-exempt employee.
5. Monetary payment of overtime to non-exempt employees will be made only in unique or critical circumstances and must have prior approval from the Governor's Office of Planning and Budget, DHS Office of Planning and Budget Services and the OHR.
  - a. Overtime payments are calculated on an hourly rate by adding the non-exempt employee's

annual salary and supplemental pay, (i.e., shift differential, county supplement, etc.) and dividing the sum by 2,080 hours.

b. Overtime payment is calculated on the rate in effect when the overtime was earned.

## **Section G: Child Labor Laws**

1. In accordance with Federal and State Laws, selected applicants under the age of 18 are required to submit an employment certificate to the hiring official prior to being employed by DHS. Employment certificates are issued by County Boards of Education or private schools, whichever is applicable.
2. The type of work that may be performed by employees under the age of 18 is restricted by Federal and State Laws. Decisions regarding the provisions of the child labor laws will be made on a case-by-case basis.
3. Failure to comply with child labor laws may result in the Department being fined up to \$10,000.00.
4. The Office of Human Resource or appropriate transactions center must be contacted prior to hiring applicants under the age of 18.

## **Section H: Recordkeeping**

All FLSA records must be kept for at least three (3) years by the DHS organizational unit unless otherwise directed. These records include, but are not limited to:

1. UNDERSTANDING CONCERNING FLSA COMPENSATORY TIME Forms (Attachment #3) signed by all new employees.
2. Written records of employees work periods.
3. Records of each non-exempt employee's daily and weekly time worked approved by the employee and supervisor.
4. The amount of FLSA compensatory time accrued by each non-exempt employee during each work period.
5. The amount of FLSA compensatory time used in each work period by each non-exempt employee; and,
6. The amount paid for FLSA compensatory time and the basis of payment.

For additional information or assistance, please contact your designated Human Resources Representative.

# 1002 Official Hours and Work Schedules



## Georgia Department of Human Services Human Resources Policy #1002

### Official Hours and Work Schedules

**Release Date:** February 1, 1995

**Revised Date:** August 14, 2024

**Next Review Date:** August 13, 2026

Leaders and employees have a shared responsibility to ensure that the mission of the Department of Human Services (DHS) is accomplished. In order to accomplish this responsibility, managers have the authority to establish and modify work hours and work schedules at any time.

## Section A: General Provisions

1. The official work hours of DHS are Monday through Friday from 8:00 a.m. to 5:00 p.m.
2. During this time, all offices should be open for business, unless administratively and/or programmatically unfeasible.
3. All organizational units are to be adequately staffed to transact business during these hours to provide services.

## Section B: Work Schedules

1. Employee work hours must be scheduled based on the needs of the organization. Managers may allow employees to work desired hours, provided that it is not detrimental to departmental operations or the workload of other employees.
2. Work schedules may vary depending upon the type of duties performed and work location.

## Section C: Alternative Work Schedules

1. Managers may establish alternative work schedules for employees.
  - a. Employees are to use their work time productively regardless of schedule variations.
  - b. Employees designated as non-exempt under the Fair Labor Standards Act (FLSA) working alternative work schedules must be adequately supervised.
  - c. Written records of work time for FLSA non-exempt employees must be maintained.
2. The following alternative work schedules may be considered:
  - a. **Staggered Reporting Time** - Employees within an organizational unit may be scheduled to

report for work at specified intervals (e.g. 8:00 a.m., 8:30 a.m., etc.).

(Example: Employee A reports to work Monday through Friday from 8:00 a.m. to 4:30 p.m., with a 30-minute lunch. Employee B reports to work Monday through Friday from 8:30 a.m. to 5:00 p.m., with a 30-minute lunch.)

- b. **Flex Time** - Employees may be permitted to report for work at varying times but must be scheduled for duty during the core hours established by the DHS organizational unit. The unit should establish and advise employees of the core hours as well as the earliest and latest times permissible for employees to report for work.

(Example: The core hours of the DHS organizational unit are 8:00 a.m. to 3:00 p.m. Employee A reports at 8:20 a.m.; observes a 30-minute meal period; leaves at 4:50 p.m. - 8 hours worked.)

- c. **Alternate Work Schedule (AWS)** - This plan covers a semi-monthly period. Employees may be permitted to work eight 9-hour days and one 4-hour day with one weekday off every other week. Employees utilizing this schedule must report to their designated office.
- d. **Compressed Work Week (CWS)** - Employees work four 10-hour days. Employees utilizing this schedule must report to their designated office.

(Example: Tuesday through Friday – Employee A reports to work Monday through Friday from 7:00 a.m. to 6:00 p.m., with an hour lunch. Monday is an off day for the employee.)



State holidays are for eight (8) hours. Employees who work nine (9) hour day or ten (10) hour day schedules, therefore, must request leave, leave without pay or work an adjusted schedule to make up the difference in time for the eight (8) hour holiday.

- e. Participation in an alternative work schedule is a privilege, not a right, and may be changed, if situations such as the following occur: work is not being completed; emergencies occur, attendance problems, etc. Employees are not permitted to combine work schedules.
- f. When possible and if appropriate, managers should give employees advance notice prior to changing work schedules.

## Section D: Telework

1. Telework is an authorized work arrangement in which some or all work is performed at an approved location other than the employee's primary (usual and customary) workplace. The alternate workplace may include the employee's home or field location.
2. Employees who telework are expected to work required hours and fulfill all responsibilities. For detailed information, please refer to DHS Policy #111: Telework.

For additional information or assistance, please contact your designated Human Resources Representative.

# 1005 Family and Medical Leave



## Georgia Department of Human Services Human Resources Policy #1005

### Family and Medical Leave

**Release Date:** November 1, 1999

**Revised Date:** April 2, 2024

**Next Review Date:** April 1, 2026

**References:** U.S. Department of Labor  
29 U.S. Code Chapter 28 — Family and Medical Leave  
29 CFR Part 825 — The Family and Medical Leave Act of 1993  
Rules of the State Personnel Board 478-1-.23 — Family and Medical Leave

The Family and Medical Leave Act (FMLA) provides job-protected leave without pay to eligible employees for the birth and care of their newborn child, placement of a child for adoption or foster care, to care for an immediate family member with a serious health condition, or for their own qualifying serious health condition. The FMLA also provides job-protected leave without pay to eligible employees due to a family member's call to active duty in the Armed Services or to care for an injured service member. It is the policy of the Georgia Department of Human Services to grant up to twelve (12) workweeks of FMLA leave during any rolling 12-month period to eligible employees or up to twenty-six (26) work weeks of military caregiver leave to care for a covered service member with a serious injury or illness.

## Section A: Use of Paid Leave

1. The Department of Human Services (DHS) permits employees to use available annual, sick, compensatory and/or personal leave while on FMLA leave in order to remain in pay status. The employee's need for leave must warrant use of sick leave if sick leave is requested. See DHS Policy #1006: Absence from Work for guidance regarding sick leave usage.

## Section B: Use of FMLA

1. Authorized officials cannot deny the use of FMLA leave when the provisions of this policy have been met. It is unlawful to interfere with, restrain, or deny the exercise of (or attempts to exercise) any right provided by the FMLA. Further, it is unlawful to discharge or discriminate against employees for opposing any practice made unlawful by the FMLA or for involvement in any proceeding relating to the FMLA. This policy does not, however, insulate any employee from disciplinary action based on conduct or performance deficiencies.

## Section C: Qualifying Reasons

1. Employees are eligible for FMLA leave for any of the following reasons:

a. Pregnancy and/or birth of the employee's child.



Pregnancy is considered a serious health condition under FMLA, and all pregnancy related absences from work [e.g., morning sickness, prenatal examinations, birth, etc.] qualify for FMLA leave and sick leave.

b. Care of the employee's newborn child.

c. The placement of a child with the employee for adoption or foster care, and to care for the child after placement.

d. A serious health condition which makes the employee unable to perform the essential functions of the position; or,

e. Care of the employee's child, spouse, stepchild, or parent who has a serious health condition.

2. A qualifying exigency arising out of a covered family member's active duty or call to active duty in the Armed Services in support of a contingency operation.

a. An employee whose spouse, (also including same-sex spouse), son, daughter or parent either has been notified of an impending call or order to active military duty or who is already on active duty may take up to 12 weeks of leave for reason related to or affected by the family member's call-up or service when it constitutes a qualifying exigency.

b. Qualifying exigencies include: (1) short notice deployment, (2) military events and related activities, (3) childcare and school activities, (4) financial and legal arrangements, (5) counseling, (6) rest and recuperation, (7) post-deployment activities, and (8) additional activities to address other events that arise out of the covered service member's active duty or call to active duty status, provided that DHS and employee agree that such leave shall qualify as an exigency and agree to both the timing and duration of the leave. The leave may commence as soon as the individual receives the call-up notice.

3. Care of an injured service member who is the employee's family member or nearest blood relative.

a. An employee may take up to 26 weeks of FMLA in a 12-month period to care for a covered service member with a serious injury or illness if the employee is the spouse, son, daughter, parent, or next of kin of the service member.

4. For the qualifying reasons for taking FMLA leave the following definitions apply:

a. "Child" means a biological child, adopted or foster child, stepchild, regardless of whether the *in loco parentis* requirement of providing day-to-day care or financial support for the child is met, legal ward, or a child of an employee standing in *in loco parentis* who is either under age 18 or is age 19 or older and incapable of self-care because of mental or physical disability. This age limit does not apply for purposes of military Family and Medical Leave.

b. "Family member" means the employee's spouse, child, or parent.

c. "Parent" means a biological parent or an individual who stands or stood *in loco parentis* to an employee when the employee was a child under age 18. "*In loco parentis*" means having day-to-day responsibility ties to care for and financially support a child. "Parent" does not



include parents-in-law.

- d. “Spouse” means a husband or wife as defined or recognized in the state where the individual was married and includes individuals in a common law marriage or same-sex marriage. The place where the marriage was entered into (referred to as a “place of celebration” rule) rather than the law of the employee’s state of residence.
- e. Common Law Marriage: The new proposed rule would also extend FMLA to common law spouses in all 50 states, as long as the relationship is legally recognized in at least one state. This includes live-in relationships between same sex and opposite sex couples.
- f. “Next-of-kin are the closest blood relative of the injured or recovering service member other than the covered service member’s spouse, parent, or children.
- g. “Covered active duty” means deployment to a foreign country as a member of the regular Armed Forces or as a result of a federal call to active National Guard or Reservist military duty in support of a contingency operation.

## Section D: Eligibility

1. In order to be eligible for FMLA, employees must:
  - a. Have been employed with **State government** for a minimum of twelve (12) months, whether consecutive or non-consecutive, within the past seven (7) years.
  - b. Time worked for the State of Georgia in any employment capacity will count toward meeting the eligibility requirements. Such employment includes full-time, part-time, temporary, seasonal, and sporadic employment, whether paid on a salaried or hourly basis, and previous employment with a temporary services agency on assignment with the state.
  - c. Have been **present at work** for a minimum of 1,250 hours during the twelve (12) months immediately preceding the beginning of the FMLA leave (does not include holidays or time away from work on paid or unpaid leave); and
  - d. Have a qualifying reason for taking FMLA leave.
2. Eligibility for FMLA leave to care for a newborn child begins on the date of birth and ends twelve (12) months after the date of birth.
3. Eligibility for FMLA leave due to the placement of a child with the employee for adoption or foster care may begin prior to the date of placement if absence from work is needed for the placement to proceed. Eligibility ends twelve (12) months after the date of placement.
4. FMLA leave for a serious health condition is limited to the time determined to be medically necessary by the attending health care provider.
  - a. FMLA leave to care for a family member with a serious health condition ends if the family member dies. The date of death is the last day that qualifies for FMLA leave.
  - b. Authorized officials may approve leave after the date of death of an employee’s family member in accordance with DHS Policy #1006: Absence from Work.
  - c. A leave of absence without pay may also be considered in accordance with DHS policy.
5. In accordance with Federal regulations, **when married individuals are both eligible State employees**, they are limited to a combined total of twelve (12) work weeks of FMLA leave for the following reasons:

- a. Bonding with the employee's newborn child within twelve (12) months from date of birth;  
or
- b. Placement of a child with the employee for adoption or foster care, or to care for the child within twelve (12) months after placement; or
- c. Care of an individual who stood in loco parentis or the employee's biological parent who has a serious health condition.
- d. Each spouse is entitled to use the difference between the amount of FMLA leave each has taken individually for one of the above reasons.

## Section E: Serious Health Condition

1. A "serious health condition" is defined as an illness, injury, impairment or physical or mental condition that involves:
  - a. Inpatient care in a hospital, hospice, or residential medical care facility, including any period of incapacity or any further treatment in connection with inpatient care.
  - b. Continuing treatment by a health care provider which includes one (1) or more of the following:
    - i. A period of incapacity of more than three (3) consecutive calendar days, and any additional treatment or period of incapacity relating to the same condition that also involves:
    - ii. Treatment two (2) or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or other referred health care services provider; or,
    - iii. Treatment by a health care provider at least once that results in a regimen of continuing treatment (e.g., prescription medication) under the supervision of the health care provider.
2. Any period of incapacity due to pregnancy, or for prenatal care.
3. Any period of incapacity or treatment due to a chronic serious health condition that requires periodic treatment, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity.
4. Any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's disease).
5. Any period of absence to receive multiple treatments (including recovery period) either for restorative surgery after an accident or other injury or for a condition that would likely result in incapacitation of more than three (3) calendar days if not treated (e.g., chemotherapy for cancer, dialysis for kidney disease, etc.)
6. Substance abuse may meet the criteria for a serious health condition. FMLA leave may be taken for substance abuse treatment or to care for a child, spouse or parent who is receiving substance abuse treatment. FMLA leave for substance abuse treatment does not prevent the Department from taking appropriate disciplinary action against an employee for conduct or performance deficiencies.

## Section F: Healthcare Provider

1. “Healthcare provider” means the following:
  - a. Doctor of Medicine or osteopathy.
  - b. Podiatrists, dentists, clinical psychologists, optometrists.
  - c. Chiropractors.
  - d. Nurse practitioners, nurse-midwives, clinical social workers.
  - e. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
  - f. Any health care provider from whom the Department or the State Health Benefit Plan will accept certification of the existence of a serious health condition to substantiate a claim for benefits; and,
  - g. Health care providers listed above who practice in a country other than the United States.

## Section G: Time Frames

1. Eligible employees are entitled up to twelve (12) workweeks of FMLA leave during any rolling 12-month period to eligible employees or up to twenty-six (26) work weeks of military caregiver leave to care for a covered service member with a serious injury or illness.
  - a. The twelve (12) or twenty-six (26) workweeks of FMLA leave are based on an employee’s regular work schedule. If a holiday(s) occurs during a week of FMLA leave, the holiday(s) counts toward FMLA leave as if it were a workday.
  - b. Under the rolling twelve-month period, each time an employee takes FMLA leave for any reason except military caregiver leave, DHS will measure the 12-month period backward from the date the employee uses any FMLA leave. Each time the employee takes FMLA leave, DHS will compute the amount of leave the employee has taken within the current FMLA year and subtract it from the 12 weeks of available leave, and the balance remaining is the amount of leave available to the employee for the duration of the eligibility year.
  - c. For military caregiver leave only, DHS will measure the rolling 12-month period going forward. The leave year is based on a single 12-month period and begins with the first day the employee takes leave. Any FMLA already taken for other FMLA circumstances will be deducted from the total twenty-six (26) weeks available.

## Section H: Intermittent/Reduced Leave Schedule Option

1. FMLA may be taken intermittently or on a reduced leave schedule under certain circumstances. FMLA cannot exceed 480 hours for that given year.
  - a. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason (e.g., morning sickness, prenatal examinations).
  - b. A reduced leave schedule reduces employees' normal work hours per work week or per workday.

2. FMLA may be taken intermittently or on a reduced leave schedule when medically necessary or to provide care or psychological comfort to a qualifying family member with a serious health condition. A medical statement is not required for each absence when FMLA is taken intermittently. Documentation may be required initially, and recertification may be required no more often than every thirty (30) calendar days.
3. FMLA may be taken intermittently or on a reduced leave schedule to care for a newborn child or for placement of a child for adoption or foster care **ONLY** with supervisory approval unless the absence involves a qualifying serious health condition.
4. Employees who request FMLA on an intermittent or reduced leave schedule basis may be required to temporarily transfer to an available alternative position that better accommodates recurring periods of absence.
  - a. The alternative position must have equivalent pay and benefits but is not required to have equivalent duties.
  - b. Employees must not be transferred to alternative positions in order to discourage the use of FMLA or to positions that represent a hardship (e.g., employees may not be transferred to a less desirable shift.)
  - c. When the need for intermittent leave or a reduced leave schedule ends and employees are able to return to their normal work schedules, they must be returned to their former positions or equivalent positions.
5. Only the amount of leave actually taken on an intermittent or reduced leave schedule basis may be counted toward the twelve (12) work weeks of FMLA. For example, employees who normally work five (5) days per work week and take off one (1) day for intermittent FMLA will be charged 1/5 work week of FMLA. Similarly, full-time employees who reduce a work week from forty (40) to twenty (20) hours are charged ½ work week of FMLA.

## Section I: Request

1. Employees are responsible for notifying supervisors or authorized officials of the need for FMLA.
  - a. Employees must give supervisors or authorized officials adequate notice (usually thirty [30] calendar days) when FMLA is foreseeable.
  - b. When thirty (30) calendar days advance notice is not possible, employees must give supervisors or authorized officials notice as soon as they become aware that FMLA is necessary. FMLA may be delayed when adequate notice is not provided.
  - c. If FMLA is foreseeable based on planned medical treatment, employees must make a reasonable effort to schedule the FMLA, subject to the approval of the attending health care provider, when the operations of the work unit will not be unduly disrupted.
2. When requesting FMLA, employees are to provide a completed Certification of Health Care Provider for Employee's Serious Health Condition to their designated FML Specialist or authorized officials (e.g., Human Resources Representative), unless submitting this form is not possible. The following information must be provided:
  - a. Beginning and ending dates of requested FMLA.
  - b. Request for use of annual, sick and/or personal leave or leave without pay; and,

- c. Reason for the FMLA. The reason for the absence must be explained in order to determine whether the absence qualifies for FMLA.



If employees request to use paid leave while on FMLA, they are to submit the appropriate leave request forms in addition to the Certification of Health Care Provider for Employee's Serious Health Condition.

3. Employees requesting FMLA due to adoption or foster care are to provide to their designated FML Specialist or authorized officials (e.g., Human Resources Representative) the completed Certification of Adoption or Foster Care Form or similar form, whichever is appropriate. Separate FMLA request forms and certification forms are not needed to cover each absence. These forms need to be submitted only one time, unless the circumstances regarding placement change to the extent that updated information is needed.
4. Employees requesting FMLA due to a serious health condition (including pregnancy/childbirth) must provide to their designated FML Specialist or authorized officials (e.g., Human Resources Representative) a Certification of Serious Health Condition Form, or other medical statement with similar information, completed by the attending health care provider. When a single serious health condition requires multiple absences (e.g., asthma, chemotherapy, etc.), a separate medical statement is not required for each absence.
  - a. When FMLA for a serious health condition is foreseeable, this certification should be provided before the absence begins.
  - b. When it is not possible to provide this certification before the absence begins, employees must provide the certification within fifteen (15) calendar days of the date it is requested.

## Section J: Response-Eligibility, Rights & Responsibilities Notice

1. Once an employee requests Family and Medical Leave, or once the Department becomes aware that an employee's leave may qualify for Family and Medical Leave, the Department must notify the employee, within five (5) workdays (unless extenuating circumstances occur, such as an emergency office closure) of the following:
  - a. Whether the employee meets the employment eligibility criteria for Family and Medical Leave.
  - b. Whether the employee has any remaining Family and Medical Leave available.
  - c. The employee's rights and responsibilities for taking Family and Medical Leave.
  - d. If the employee did not submit supporting documentation with a request for Family and Medical Leave OR if sufficient information is not available to determine whether FMLA should be approved, the Department should include in this notice any requirement to provide the necessary documentation and give a deadline for submission that is at least fifteen (15) calendar days after the notice is provided to the employee. During this period of time, authorized officials may conditionally approve the FMLA contingent upon receiving the required documentation.
2. If there is a question as to the validity of the certification for FMLA, and **ONLY** with the approval of the Office of Human Resource Management and Development, the employee may

be required to obtain a second opinion from a health care provider chosen by the Department and paid for by the Department.

3. Supervisors or authorized officials who do not comply with the requirements of this policy are subject to disciplinary action up to and including separation.

## Section K: Designation Notice

1. Once the Department has sufficient information to determine whether the leave qualifies for Family and Medical Leave Protection (e.g., after receiving supporting documentation), the Department must notify the employee within five (5) workdays (unless extenuating circumstances occur, such as an emergency office closure) whether the leave will be designated as Family and Medical Leave and count against the employee's entitlement.
2. The Designation Notice can be combined with the Eligibility, Rights, & Responsibilities Notice if the agency has sufficient information to designate the leave as Family and Medical Leave at the time it becomes aware of the employee's need for leave.
3. A Family and Medical Leave denial must include at least one reason for denial.
4. It is the employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) responsibility to designate FMLA as appropriate. If FMLA is determined appropriate, employees are to be placed on FMLA **even when they do not submit a request**. The employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) may learn that an absence or part of an absence, from work qualifies for FMLA either during or after the period of absence. In these circumstances, FMLA should be designated as follows:
  - a. When the employee's designated FML Specialist or authorized officials (e.g., Human Resources Representative) learn that an employee is eligible for FMLA during a period of absence, any portion of the absence from work that qualifies for FMLA should be designated as such. When FMLA is designated, medical certification is still required to confirm that the absence qualifies as FMLA.
  - b. Generally, absences from work may not be retroactively designated as FMLA after an employee has returned to work. However, FMLA may be designated retroactively under the following circumstances:
    - i. When the employee was absent for a FMLA reason, and the Department did not learn of the reason for the absence until the employee's return. The retroactive designation must be made within fifteen (15) calendar days of the employee's return to duty unless extenuating circumstances occur, such as an emergency office closure etc.
    - ii. When the Department knows the reason for leave but has not been able to confirm that the leave qualifies under FMLA. In such cases, the FMLA designation must be made promptly upon receipt of appropriate certification.
  - c. When the reason for the absence is known beforehand by the Department (e.g., pregnancy/childbirth), employees are not to be retroactively placed on FMLA after they return to work. However, if the Department does not timely designate FMLA leave, the Department may retroactively designate the absence as FMLA leave if the employer provides appropriate notice to the employee and the retroactive designation does not cause harm or injury to the employee.

# Section L: Exhaustion or Ineligible for FMLA

## 1. Definitions

- a. **Catastrophic Injury or Illness** – Means a life-threatening injury or illness of an employee or member of an employee’s immediate family, including only a child, parent, spouse or “next of kin” for covered service member which totally incapacitates the employee from work, as verified by a licensed physician, beyond the allotted six (6) months of LOA and three (3) months of Contingent Leave.
- b. **Contingent Leave** - In order to qualify an employee or member of an employee’s immediate family, including only a child, parent, spouse or “next of kin” for covered service member must be experiencing an illness which prevents the employee from working, as verified by a licensed physician. Leave of absence without pay is similar to a regular leave of absence, but only allows the employee to take three (3) months of unpaid leave (six (6) months if catastrophic illness/injury applies) and does not guarantee a position will be available for the employee’s return.
- c. **Leave of Absence** - In order to qualify an employee or member of an employee’s immediate family, including only a child, parent, spouse or “next of kin” for covered service member must be experiencing an illness which prevents the employee from working, as verified by a licensed physician. Allows an employee who has been employed with State government for a minimum of six (6) continuous months immediately prior to requesting a Leave of Absence (LOA) to take paid/unpaid time off for up to six (6) continuous months and be granted return to work if the employee returns within the terms of the leave approval.

## 2. Exhaustion of FMLA

### a. Designate LOA then Contingent Leave

- i. Compliance Management determines an employee has exhausted their 12-week Family Medical Leave (FML) entitlement and will notify the employee of appropriate next steps via written correspondence.
- ii. Compliance Management will work collaboratively with the employee’s HR Representative to designate a LOA, if appropriate.
- iii. Upon exhaustion of the allotted six (6) month LOA period, Compliance Management will work collaboratively with the employee’s HR Representative to designate a contingent leave of absence, if appropriate.
- iv. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee’s eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.

## 3. Ineligible for FMLA

### a. Move to LOA then Contingent Leave

- i. Compliance Management determines the employee is ineligible for FML.
- ii. Compliance Management will work collaboratively with the employee’s HR Representative to designate LOA for employees who have satisfied the six (6) months of employment requirement with DHS.

- iii. Upon exhaustion of the allotted six (6) month LOA period, Compliance Management will work collaboratively with the employee's HR Representative to designate a contingent leave of absence, if appropriate.
  - iv. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee's eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.
- b. Ineligible for LOA then Contingent Leave
- i. Employees who have not satisfied the six (6) continuous months of employment requirement with DHS will be deemed ineligible for a LOA.
  - ii. Compliance Management will work collaboratively with the employee's HR Representative to designate a contingent leave of absence, if appropriate.
  - iii. Upon utilization of the allotted three (3) month contingent leave of absence period, Compliance Management will review updated documentation to determine the employee's eligibility for an extended contingent leave of absence under the Catastrophic Illness exception, when appropriate.

## Section M: Pay Status Benefits

1. Employees may use paid leave (annual, sick, or personal), if appropriate, take leave without pay, or use a combination of both to cover the absence from work. Use of paid leave must comply with DHS Policy #1006: Absence from Work.
  - a. Absences due to morning sickness and other pregnancy related absences (including the two [2] weeks immediately before delivery) generally qualify for use of sick leave by female employees.
  - b. The first six (6) weeks following the birth of a child generally qualify for use of sick leave by the employee giving birth. Additional use of sick leave due to the birth of a child must be supported by a medical statement. Fathers would generally be eligible to use sick leave if their presence is needed due to the serious health condition of an eligible family member.
2. Absences related to adoption when the employee's presence is required for health-related reasons qualify for use of sick leave. Other FMLA absences related to adoption qualify for use of annual, personal leave, or authorized leave without pay.
3. Since leave donations are credited to recipients' sick leave balances, employees who are on FMLA can only use donated leave for absences that qualify for use of sick leave.
4. While on FMLA, employees who have health insurance benefits through the State Health Benefit Plan are entitled to maintain this health insurance coverage at the employee rate. If premiums change while employees are on FMLA, they are responsible for paying the new premiums.
5. In order to maintain health insurance and any benefits through the Flexible Benefits Program, employees on FMLA **with** pay (those using sick/donated, annual or personal leave) continue to pay premiums through payroll deductions.
6. Employees on FMLA **without** pay will be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payments and consequences for not making timely payments.



- a. Employees on FMLA **without** pay must complete and submit the following forms to their designated Human Resources Representative.
    - i. Request to Continue Health Benefits During Leave of Absence Without Pay.
    - ii. Disability Certification, if appropriate.
  - b. Employees with at least one (1) year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on FMLA without pay. A request to continue coverage must be made in writing to ERS prior to beginning the FMLA without pay. Coverage terminates if this written request is not received.
7. Employees must coordinate with their leadership regarding the use of paid leave. If the employee **exhausts** FML and the employee enters into a leave without pay status, health insurance and flexible benefits may be continued by paying the monthly premiums in a timely manner.

## Section N: System Entry

1. Supervisors, authorized officials or designees are to complete the Request for Personnel/Payroll Action Form to place employees on FMLA with and/or without pay. The completed forms are to be submitted to the appropriate transactions center for entry.

## Section O: Recertification

1. Employees on FMLA due to a serious health condition may be required to provide recertification of the serious health condition on a reasonable basis. Recertification cannot be required more often than every thirty (30) calendar days.

## Section P: Return to Work

1. Employees who have complied with the terms and conditions in the FMLA approval notice are entitled to return to the same position, or an equivalent position with the same pay and grade, benefits, and comparable working conditions, at the expiration of FMLA.
  - a. Employees do not retain this entitlement if at the expiration of FMLA they are unable to perform the essential functions of the position, with or without reasonable accommodation, due to physical or mental condition.
  - b. Employees on FMLA do not have greater rights to return to work than they would have if they had continuously remained at work. For example, employees who are on FMLA during a staff reduction do not have a right to return to work if they are laid off due to the staff reduction.
2. Employees returning from FMLA due to their own serious health condition must submit return-to-work documentation from the attending health care provider prior to returning to work. This statement must certify that the employee is capable of performing the essential functions of the position, with or without reasonable accommodation. Employees who do not provide a required statement or have restrictions that cannot be reasonably accommodated should not be allowed to return to work.
3. Supervisors, authorized officials, or designees are to submit completed Request for Person-

nel/Payroll Action Form to the appropriate transactions center for entry for employees returning from FMLA.

## Section Q: Posting FMLA Notice

1. Information regarding FMLA and procedures for filing complaints of violations can be found in Attachment #7 — Employee Rights under the Family and Medical Leave Act.
2. DHS organizational units are to permanently post the notice in prominent locations where notices to employees and applicants are customarily displayed and are to post such revised notices as they become available.

## Section R: Concerns with Process

1. Employees who believe that their FMLA requests have not been processed correctly should discuss their concerns with Human Resources.

## Section S: Pay Status Benefits

1. Employees may use paid leave (annual, sick, or personal), if appropriate, take leave without pay, or use a combination of both to cover the absence from work. Use of paid leave must comply with DHS Policy #1006: Absence from Work.
  - a. Absences due to morning sickness and other pregnancy related absences (including the two [2] weeks immediately before delivery) generally qualify for use of sick leave by female employees.
  - b. The first six (6) weeks following the birth of a child generally qualify for use of sick leave by the employee giving birth. Additional use of sick leave due to the birth of a child must be supported by a medical statement. Fathers would generally be eligible to use sick leave if their presence is needed due to the serious health condition of an eligible family member.
2. Absences related to adoption when the employee's presence is required for health related reasons qualify for use of sick leave. Other FMLA absences related to adoption qualify for use of annual, personal leave, or authorized leave without pay
3. Since leave donations are credited to recipients' sick leave balances, employees who are on FMLA can only use donated leave for absences that qualify for use of sick leave.
4. While on FMLA, employees who have health insurance benefits through the State Health Benefit Plan are entitled to maintain this health insurance coverage at the employee rate. If premiums change while employees are on FMLA, they are responsible for paying the new premiums.
5. In order to maintain health insurance and any benefits through the Flexible Benefits Program, employees on FMLA **with** pay (those using sick/donated, annual or personal leave) continue to pay premiums through payroll deductions.
6. Employees on FMLA **without** pay will be advised of the cost for maintaining health insurance and any benefits through the Flexible Benefits Program, arrangements for making payments and consequences for not making timely payments.
  - a. Employees on FMLA **without** pay must complete and submit the following forms to Human

Resources representative.

- i. Request to Continue Health Benefits During Leave of Absence Without Pay.
  - ii. Disability Certification, if appropriate.
- b. Employees with at least one (1) year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on FMLA without pay. A request to continue coverage must be made in writing to ERS prior to beginning the FMLA without pay. Coverage terminates if this written request is not received.

## **Section T: Confidentiality**

1. Medical information related to FMLA is strictly confidential and is available to individuals on a “need to know” basis only. Supervisors should not request FMLA related medical information from employees.

For additional information or assistance, please contact your local Human Resources Representative.

### **1005 A1 Certification of Healthcare Provider for Employee’s Serious Health Condition**

### **1005 A2 Certification of Healthcare Provider for Family Member’s Serious Health Condition**

### **1005 A3 Certification of Adoption or Foster Care**

### **1005 A4 Certification of Serious Injury or Illness of a Current Servicemember**

### **1005 A5 Certification of Qualifying Exigency for Military Leave**

### **1005 A6 Return to Work Release**

### **1005 A7 Employee Rights Under FMLA**

# 1006 Absence from Work



## Georgia Department of Human Services Human Resources Policy #1006

### Absence from Work

**Release Date:** February 1, 1993

**Revised Date:** April 24, 2024

**Next Review Date:** April 23, 2026

**References:** Rules of the State Personnel Board 478-1-.16 — Absence from Work  
O.C.G.A. §38-3-90 et seq. — Disaster Volunteer Leave  
O.C.G.A. §45-20-31 — Organ/Bone Marrow Donation Leave  
O.C.G.A. §45-20-30 — Blood Donation Time  
O.C.G.A. §1-4-1 — Holidays  
O.C.G.A. §21-2-404 — Voting Leave  
O.C.G.A. §34-1-3 — Court Leave

The Department of Human Services (DHS) recognizes value in providing a reasonable amount of time off to assist employees with balancing work and personal needs. To be a responsible steward of public funds, however, the State must account for any pay provided to employees for time not worked. Paid time off must be charged to appropriate paid leave, compensatory time (as applicable), or paid holiday time. This policy defines the available types of paid and unpaid leave and the eligibility for each. It further provides a framework for leave, compensatory time, and holiday administration.

## Section A: Definitions

1. For the purposes of this policy, the following terms and definitions apply in addition to those in Rule 478-1-.02, Terms and Definitions:
  - a. **“Immediate family”** means the employee’s spouse, child, parent, grandparent grandchild, brother, and sister, including active step and in-law relationships. Immediate family also includes any other person who resides in the employee’s household and is recognized by law as a dependent of the employee.
  - b. **“Workday”** means a day an employee is regularly scheduled to work.

## Section B: General Provisions

1. Absences from work will be charged to available annual, sick, or personal leave only on days on which eligible employees would otherwise work and receive pay.
2. Employees who are away from their regular worksite on official business are in work status and are not charged leave.

3. Employees are to be charged leave only for the time during which they are absent from work and are not to be required to remain away from duty as a matter of convenience for the purpose of charging leave.
4. Leave cannot be used before it is accrued or converted.

## Section C: Annual Leave Accrual

1. Non-temporary salaried employees who are regularly scheduled to work twenty (20) or more hours per week, are eligible to accrue annual leave as defined in this policy.
2. The following employees are not eligible to accrue annual leave:
  - a. Temporary employees,
  - b. Hourly employees, and,
  - c. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
3. Eligible employees accrue annual leave at the **end of each pay period** provided they are in pay status for the required amount of time. Accrued annual leave will be available for use at the beginning of the pay period after it is earned.
4. Eligible full-time employees accrue annual leave at the end of each semi-monthly pay period provided they are in pay status for at least forty (40) hours. This minimum period is prorated for part-time employees by the percentage of time worked. The percentage of time worked is determined by dividing the scheduled work hours per work week by forty (40).
5. Eligible employees who are not in pay status for the minimum amount of time in a pay period do not accrue annual leave for that pay period.
6. Eligible employees accrue annual leave at the following rates, depending on length of continuous service:
  - a. Full-time employees:
    - I. **5 hours** per pay period: 0 to 60 months (semimonthly)
    - II. **6 hours** per pay period: 60+ to 120 months (semimonthly)
    - III. **7 hours** per pay period: 120+ months (semimonthly)
  - b. Eligible employees begin accruing annual leave at the appropriate higher rate on the **first day of the pay period** after completing the required months of continuous service.
  - c. The "length of continuous service" begins on the first day an employee reports for work in a position entitled to earn leave. Accrual is based on continuous, unbroken service. If there is a break in service, the "length of continuous service" starts over on the date of rehire, and employees begin to accrue annual leave at the lowest semi-monthly accrual rate.
  - d. When the first day of the pay period is a regularly scheduled non-workday and an employee reports to work on the first workday of the pay period, the length of continuous service is calculated from the first day of the pay period.
  - e. Eligible part-time employees accrue annual leave at the end of each semi-monthly pay period at the rates specified for full-time employees prorated by the percentage of time

worked. (e.g., An employee in pay status for thirty [30] hours per week accrues 75% of the full-time accrual amount.) Leave is carried to three (3) decimal places.

7. Eligible employees can accumulate up to a maximum of 360 hours of annual leave. Any annual leave in excess of 360 hours is placed in a forfeited status but may be restored in cases of illness or disability. Leave accrued beyond 360 hours is forfeited at the close of business on the last day of the month. (See Section F)

## **Section D: Annual Leave Usage**

1. Annual leave may be used for any purpose.
2. Unless an emergency exists, employees must request and receive approval from their supervisors before using annual leave.
3. Employees are responsible for planning time off well in advance and notifying their supervisors as soon as possible in order to minimize the interruption to workflow while employees are away.
4. Employees are not required to give specific reasons for requesting annual leave unless a situation such as the following applies:
  - a. The leave is for an unscheduled/emergency absence,
  - b. The DHS organizational unit is short staffed or has a major assignment pending, or,
  - c. The employees are under the restrictions of an Attendance Plan.
5. Employees are required to use FLSA compensatory time (as applicable) before using annual leave.

## **Section E: Requesting Annual Leave**

1. Annual leave request must be submitted to an employee's supervisor.
2. Supervisors are responsible for approving annual leave request. Prior to approving requests for annual leave, they must consider factors, including, but not limited to:
  - a. workloads,
  - b. deadlines,
  - c. priorities,
  - d. office coverage, and,
  - e. leave requested by other employees.
3. Supervisors should make reasonable efforts to grant employees' annual leave requests; however, supervisors are not required to grant requested annual leave when the leave would:
  - a. disrupt work schedules,
  - b. leave an office uncovered,
  - c. inconvenience the work force or public, or,
  - d. contribute to employees' not meeting performance expectations.

- e. Emergency annual leave requests should be reviewed on a case-by case basis. Supervisors are to determine whether the absence will be charged to annual leave or unauthorized leave without pay.

## **Section F: Annual Leave Lump Sum Payment and Annual Leave Payout**

1. Employees, who are granted a leave of absence without pay for at least thirty (30) calendar days, may be paid in lump sum for all accrued and unused annual leave that has not been forfeited, up to a maximum of 360 hours.
2. When employees have a break in service, all accrued and unused annual leave that has not been forfeited, up to a maximum of 360 hours, will be paid in lump sum to the employees. A “break in service” is a separation from service for a period of one or more days. Leave of absence without pay and suspensions are not considered breaks in service.
3. When a separation date has been set administratively to permit employees to be paid in lump sum payment, the pay status of employees will not be extended for the purpose of granting a holiday or an unanticipated non-workday occurring after the last day in pay status.
4. When employees notify supervisors of separation, they must not be continued on the payroll in leave with pay status for the purpose of increasing the rate of leave accrual or the rate at which accrued leave would be paid.
5. Lump sum payments are paid at the salary last received by employees.
6. Forfeited annual leave is not considered lump sum leave and is lost when there is a break in service.
7. If employees return to State government, forfeited annual leave may be used for retirement credit purposes.


## **Section G: Sick Leave Accrual**

1. Non-temporary salaried employees who are regularly scheduled to work twenty (20) or more hours per week, are eligible to accrue sick leave as defined in this policy.
2. The following employees are not eligible to accrue sick leave:
  - a. temporary employees,
  - b. hourly employees, and
  - c. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
3. Eligible employees accrue sick leave at the end of each pay period provided they are in pay status for the required amount of time. Accrued sick leave will be available for use at the beginning of the pay period after it is earned.
4. Eligible full-time employees accrue five (5) hours of sick leave at the end of each semi-monthly pay period provided they are in pay status for at least forty (40) hours. The accrual rate does not increase with years of service.

5. The rate of accrual and minimum period during which part-time employees must be in pay status in order to accrue sick leave at the end of the pay period are prorated by the percentage of time worked. Leave is carried to three (3) decimal places.
6. Eligible employees who are not in pay status for the minimum amount of time in a pay period do not accrue sick leave for that pay period.
7. Eligible employees can accumulate up to a maximum of 720 hours of sick leave. Any sick leave in excess of 720 hours is placed in a forfeited status but may be restored in cases of illness or disability. Leave accrued beyond 720 hours is forfeited at the close of business on the last day of the month.

## Section H: Sick Leave Usage

1. Upon receiving supervisory approval, an employee may use sick leave for absences due to the following:
  - a. Personal illness or disability,
  - b. Exposure to contagious disease, when attendance on duty would endanger the health of others,
  - c. Dental or medical care; and,
  - d. Dental or medical care, illness, accident, or death in the immediate family which requires the employee's presence. "Immediate family" means the employee's spouse, child, parent, grandparent, grandchild, brother, and sister, including active step and in-law relationships. Immediate family also includes any other person who resides in the employee's household and is recognized by law as a dependent of the employee.

 Generally, sick leave due to the death of an immediate family member should not exceed five (5) workdays unless the employee is under the care of a healthcare provider due to a serious health condition (i.e., depression, etc.).
2. Sick leave for medical or dental care should be limited to the time necessary for the appointment(s) and related travel.
3. Employees who are injured/ill for at least three (3) workdays during a period of annual leave may substitute sick leave for annual leave during the period of injury/illness.
  - a. In order to substitute sick leave for annual leave, employees must submit a request to their supervisor within two (2) weeks of returning to work.
  - b. A statement from their health care provider that justifies the use of sick leave may be required.
4. Employees who are receiving Short-term or Long-term Disability Insurance benefits through the Flexible Benefits Program cannot use sick leave at the same time. (Employees may use sick leave during the qualifying period) Employees must request to use annual or personal leave or request to be placed in a leave without pay status in order to receive Short-term or Long-term Disability Insurance payments.
5. Employees may request to use FLSA compensatory time (as applicable) in lieu of sick leave. Employees are not, however, required to use FLSA compensatory time prior to sick leave.



6. When there is a break in service, accrued sick leave balances are generally lost. Forfeited leave is also lost when there is a break in service.
7. If employees return to State government, lost sick leave balances may be restored after 24 months' consecutive employment and forfeited sick leave may be used for retirement credit purposes.
8. Employees are to contact their supervisor or other designated official as soon as possible when sick leave is needed. When employees are incapacitated, supervisors may accept calls regarding the employees' status from other individuals.
9. DHS organizational units may establish procedures for requesting sick leave based on the needs of the organization.

## **Section I: Evidence for Use of Sick Leave**

1. Employees may be required to report each day by telephone to their supervisor or other designated official and to provide satisfactory evidence for use of sick leave.
  - a. Satisfactory evidence may include a Certification of Serious Health Condition Form, or other medical statement with similar information, completed by the attending health care provider when the reason for leave qualifies as a serious health condition under family and medical leave.
  - b. Employees cannot be required to provide evidence for use of fewer than 17 hours of sick leave in a 30-calendar day period unless they have demonstrated excessive or abusive use of sick leave.
2. Excessive and/or abusive use of sick leave is considered a pattern of intermittent, short-term use of sick leave. Establishment of this pattern includes, but is not limited to:
  - a. Frequent use of sick leave in conjunction with holidays, scheduled off days or paydays,
  - b. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak workload,
  - c. Requesting sick leave for an absence for which annual leave previously been denied,
  - d. Frequent occurrences of illness during the workday,
  - e. Peculiar and increasingly improbable excuses,
  - f. Repetitive use of fewer than 17 hours of sick leave in 30 calendar day periods; and,
  - g. Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., Attendance Plan).
3. An opinion from a health care provider of the Department's choice may be sought if questions arise regarding an attending health care provider's statement. Approval must be received from the Office of Human Resources (OHR) prior to seeking this opinion.

## **Section J: Sick Leave Denial**

1. Sick leave may be denied for reasons including, but not limited to, the following:
  - a. Excessive or abusive use of sick leave (See Section I),

- b. Failure to follow procedures for reporting the absence or requesting the use of leave; or,
  - c. Falsification of documents.
2. Supervisors should carefully review the request prior to denying the sick leave and should be able to support the decision to deny the request.

## Section K: Medical Examination

1. Under limited circumstances and only with the approval of the OHR (see note below), an authorized official may direct an employee to undergo a medical (physical and/or psychiatric) examination at the expense of the Department.
2. This examination may be required prior to:
  - a. approving use of accrued leave,
  - b. approving a leave of absence without pay,
  - c. allowing an employee to return from leave with pay, or
  - d. allowing an employee to return from a leave of absence without pay.



Only the OHR Deputy Commissioner may authorize medical examinations.

3. An employee is required to authorize the release of the results of the medical examination to an authorized official in OHR. The results must be considered confidential and are to be shared with individuals only on a “need to know” basis.
4. Upon receipt of the results, a determination regarding request for use of leave, leave of absence without pay or return to work will be made.
5. If a determination is made to not allow the employee to return to work, appropriate action, which includes but is not limited to, the following should be taken.
  - a. The employee may be allowed to use accrued leave.
  - b. The employee may request and be granted an authorized (regular) or contingent leave of absence without pay.
  - c. The employee may be referred to a treatment program.
6. If a determination is made to allow the employee to return to duty, the employee may be returned with or without reasonable accommodation.

## Section L: Converting Sick Leave to Personal Leave Eligibility

1. Employees who have accumulated more than 120 hours of sick leave as of November 30 of any year are eligible to convert up to 24 hours of sick leave in excess of 120 hours to personal leave. This conversion must be made no later than December 31 of that year for use in the following year.
2. Eligible employees must utilize the electronic process in TeamWorks and or SMILE to ensure their request to convert 24 hours of sick leave to personal for the next calendar year is properly documented prior to December 31. Once sick leave is converted to personal leave, it cannot be

changed back.

## **Section M: Personal Leave Usage**

1. Personal leave may be used for any reason upon receiving supervisory approval of the leave request.
2. Employees must use FLSA compensatory time (as applicable) prior to any other leave.
3. Personal leave is only available for use by employees during the calendar year following the conversion request. Any personal leave that is not used during the calendar year (by December 31) is lost.
4. Personal leave is lost when there is a break in service.
5. Normally, employees will need to provide at least 24 hours advance notice of intent to use personal leave.
6. Employees are not required to give specific reasons for requesting personal leave, unless a situation such as the following applies:
  - a. the leave is for an unscheduled/emergency absence,
  - b. the DHS organizational unit is short staffed or has a major assignment pending, or,
  - c. the employees are under the restrictions of an Attendance Plan.
7. Supervisors must make every reasonable effort to grant requests to use personal leave.
8. Employees cannot use annual, sick, or personal leave during periods of absence in which they are receiving state-funded wage substitutes, including, but not limited to Workers' Compensation benefits.

## **Section N: Restoring Forfeited Leave**

1. Annual and/or sick leave forfeited during the current period of employment may be restored to cover periods of absence due to employees' personal illness/disability or the illness/disability of immediate family members. All paid leave and compensatory time (as applicable) must be exhausted prior to restoring forfeited leave.
2. Employees are to submit written requests to their supervisors, which outline the circumstances that support the restoration of forfeited leave. Supporting documentation, which may include a statement from the attending health care provider, should be included unless the reason for absence has satisfactorily been established.
3. Supervisors are to forward restoration of forfeited leave requests to their designated HR Representative for review and approval.

## **Section O: Creditable Service Retirement**

1. Employees who are members of the Employees' Retirement System (ERS) may receive creditable service toward retirement for forfeited annual and sick leave, sick leave that was previously lost due to a break in service and current accumulated and unused sick leave if the above totals at least 960 hours.

2. Members of ERS who are on leaves of absence without pay due to a physical or mental illness, sickness or disorder caused by a job-related disease/accident may submit a request to purchase up to twelve (12) months of service in a five (5) year period by paying employee contributions plus interest within the first six (6) months of return to duty.

## **Section P: Leave Transfer**

1. When employees transfer without a break in service between positions entitled to earn leave; annual, sick, and personal leave balances and forfeited leave transfer with the employees.
2. DHS will accept leave balances transferred from other state agencies.
3. Unused leave and the record of forfeited leave will not transfer into an Executive branch agency from the County Board of Health, Community Service Boards or Board of Health Community Operated Programs. Transferring employees are considered new hires for purposes of graduated annual leave accrual. An exception applies to classified employees whose unused sick, annual, and personal leave and record of forfeited leave will transfer into the Executive branch.
4. If leave is accrued at a different rate with the previous employer, the employee will not be given credit for more leave than the employee could have earned if continuously employed with DHS.

## **Section Q: Secondary Employment**

1. Employees who are employed in two positions within State government at the same time, and are entitled to earn leave in both positions, accrue and use leave independently in each position. When employment ends in one of the positions, but not both, leave balances are handled as follows:
  - a. Lump sum pay is paid for all accrued and unused annual leave. Any accrued sick and personal leave balances are lost.

## **Section R: Restoration of Leave**

1. The following leave provisions apply to eligible employees who are reinstated or re-employed with DHS within one year of the effective date of a staff reduction, that resulted in their separation from employment.
  - a. Any previously accumulated and unused sick leave will be restored,
  - b. Any forfeited leave accumulated at the time of the staff reduction will also be credited to employees, but can only be restored and used under the conditions identified in Section N; and,
  - c. The period of absence between the date of separation and the date of re-instatement or re-employment will not be considered a break in service for the purpose of graduated leave accrual.
2. If an employee with previous state service returns to work on or after July 1, 2003, and remains employed for two consecutive years, the employee is eligible to regain accrued sick leave divested when the employee's previous period of service ended. The employee must submit a request for the restoration of divested leave and must provide documentation of the amount of

divested sick leave. This provision does not apply to forfeited leave.

## Section S: Short-Term Leave Without Pay

1. Managers should consult with the designated Human Resources Representative before allowing an employee to take leave without pay (LWOP) for any reason.
2. Employees may be placed on Short-Term Leave Without Pay for various reasons. This leave without pay may be either authorized or unauthorized, as indicated below. Short-Term Leave Without Pay must not continue for more than ten consecutive workdays in a continuous period of absence. A Request for Personnel/Payroll Action Form must be completed to place employees on Leave Without Pay.
3. Authorized Leave Without Pay:
  - a. Employees who are absent with supervisory approval, but do not have accrued leave to cover their absence, are to be placed in a non-pay status for the period of absence.
  - b. Employees who are absent with supervisory approval and choose not to use available paid leave are to be placed in a non-pay status for the period of absence.
4. Unauthorized Leave Without Pay:
  - a. Employees who are absent without supervisory approval are to be placed in a non-pay status instead of allowing them to use accrued leave for the period of absence. Employees absent without approval are subject to disciplinary action, up to and including separation.
  - b. FLSA exempt employees can be placed on Short-term/Other Leave Without Pay for absences from work, as indicated above.
  - c. The act of placing an employee on unapproved leave without pay is not, in and of itself, considered a disciplinary action.
5. When employees are absent from work on Leave Without Pay for the maximum period of ten consecutive workdays, one of the following must occur:
  - a. Employees must return to work;
  - b. Appropriate leave or leave without pay must be requested and approved;
  - c. Leave of Absence Without Pay must be requested or,
  - d. Employees must be terminated from employment.
6. Request:
  - a. Employees are to submit written requests for leave without pay to their supervisor. The request must include the following information:
    - I. Reason for the leave without pay,
    - II. Start date; and,
    - III. Return date.
    - IV. Any other information relevant to the request.
  - b. Clarification may be required from the employee prior to a determination being made on the request for leave without pay.

## 7. Review:

- a. Requests for leave without pay will be reviewed and determinations made based on the following:
  - I. reasons for the leave without pay,
  - II. amount of time requested,
  - III. employees' documented performance, behavior, and attendance records,
  - IV. needs of the organization,
  - V. employees' years of service; and
  - VI. previous accommodation efforts by the organization.
- b. Supervisors are to provide written decisions to employees concerning requests for leave without pay in ten business days.
- c. If leave without pay is approved, the notification is to specify the terms and conditions of the approval, including the following:
  - I. Start date,
  - II. Return date; or,
  - III. The terms for return (e.g., return-to-work statement from the attending health care provider).

## Section T: Leave of Absence

1. Leave of absence (LOA) should be coordinated and designated by an authorized Human Resources Representative only.
2. Leave of absence will not be approved for:
  - a. attending school (unless attendance is short-term and directly benefits DHS);
  - b. relocation,
  - c. incarceration; or,
  - d. accepting another job.
3. Leave of absence does not cause a break in continuous employment.
4. Leave of Absence:
  - a. If a leave of absence is approved, the position which the employee occupied, or a position of equal grade and pay is held for the employee's return.
  - b. At the expiration of a leave of absence, the employee will be returned to work without loss of any rights, if the employee has complied with the terms and conditions outlined in the notice of approval.
  - c. Due to the needs of DHS organizational units for maintaining coverage, requests for leave of absence should be closely reviewed in accordance with the provisions of DHS Policy #1005: Family and Medical Leave.
5. Contingent Leave of Absence:

- a. If a contingent leave of absence is approved, the position which the employee occupied is not held.
  - b. The DHS organizational unit may fill the position from which an employee is on a contingent leave of absence.
  - c. The employee may return to work only if a "suitable vacancy," as defined in the notice of approval, is available at the expiration of the leave.
  - d. Since contingent leave of absence does not guarantee an employee the right to return to work at the expiration, it may not be considered a reasonable accommodation under the Americans with Disabilities Act, as amended.
6. Family and Medical Leave (FMLA):
- a. When absence from work is due to a family and medical leave qualifying reason, employees should be placed on available family and medical leave (with or without pay) prior to placement on leave of absence.
  - b. If family and medical leave has been exhausted or is otherwise not available, employees may request leave of absence.
  - c. If family and medical leave has already been granted and used, requests for additional leave will be reviewed in accordance with the provisions of DHS Policy #1005: Family and Medical Leave.
7. Medical Examination:
- a. If a supervisor wants to request that an employee undergo a medical examination (physical and/or psychiatric), it must be approved by OHR. The manager should notify the OHR Deputy Director. The OHR Deputy Director must notify the OHR Deputy Commissioner for final approval.
  - b. This examination may be required prior to:
    - I. approving use of accrued leave,
    - II. approving a leave of absence,
    - III. allowing an employee to return from leave with pay, or
    - IV. allowing an employee to return from a leave of absence.
  - c. The only OHR official who can authorize medical examinations is the OHR Deputy Commissioner.
  - d. For circumstances outlined under Section 8(a), an employee is required to authorize the release of the results of the medical examination to OHR. The results are confidential and are to be shared with individuals only on a "need to know" basis as determined by OHR.
  - e. Upon receipt of the results, a determination regarding the employee's request for use of leave, a leave of absence, or return to work will be issued.
  - f. If it is determined the employee will not be allowed to return to work, appropriate action, which includes but is not limited to, the following should be taken.
    - I. The employee may be allowed to use accrued leave.
    - II. The employee may request and be granted FML, a leave of absence, or contingent leave.
    - III. The employee may be referred to a treatment program.

IV. The employee may be terminated.

g. If it is determined the employee will return to work, the employee may return to perform the essential functions of their job, with or without reasonable accommodations.

8. Worker's Compensation:

a. Employees who are absent from work due to work-related injuries, illnesses and/or exposures to occupational disease covered under Workers' Compensation may request to be placed on Workers' Compensation-funded leave or the employee can utilize their accrued leave. Employees cannot receive both Workers' Compensation payments and their normal salary. The employee must complete the Leave Election Form and submit it to their designated Workers' Compensation claims specialist. The [Leave Election Form](#) can be found as an attachment to DHS Policy #1702: Leave and Payment for Workers' Compensation and Special Injury Claims.

9. Benefits:

a. While on leave of absence without pay, employees may maintain their health insurance coverage through the State Health Benefit Plan and their flexible benefits through Georgia Breeze.

I. Employees should contact the State Health Benefit Plan and/or Georgia Breeze to determine the cost of maintaining their health insurance and flexible benefits.

II. The following forms must be completed and submitted to the employee's Human Resources Representative to continue health insurance coverage:

1. Request to Continue Health Benefits During Leave of Absence without Pay (SHPB 66-003) Form, which can be found on the Georgia Department of Community Health website at [www.dch.georgia.gov/](http://www.dch.georgia.gov/).

2. Disability Certification Form (SHBP 66-005), if applicable. Form can be found on the Georgia Department of Community Health website at [www.dch.georgia.gov/](http://www.dch.georgia.gov/).

3. A Certification of Serious Health Condition Form or other document containing similar information from the attending health care provider which supports the request for absence may be accepted.

b. Employees with at least one year of participation in the Group Term Life Insurance Program under the Employees' Retirement System (ERS) may retain coverage while on leave of absence without pay. A request to continue coverage must be made in writing to ERS prior to beginning the leave of absence without pay. Coverage terminates if this written request is not filed.

c. Employees who accept employment outside of State government or who are on active duty with the Armed Forces are not eligible to continue coverage.

10. Time Limitations:

a. Regular and contingent leave of absence without pay should be approved for short periods of time unless specific circumstances support approving a longer absence. Approval cannot exceed 12 months.

b. A continuous leave of absence without pay may include any combination of the following:

I. Regular,



II. Contingent (and any approved extensions),

III. Short-term/non-medical related.

## Section U: State Compensatory Time

1. State compensatory time may be granted to FLSA non-exempt employees under circumstances described in this policy. FLSA exempt employees are not entitled to State compensatory time.
  - a. State compensatory time is time off from work earned by non-exempt employees who are in pay status for more than 40 hours during a seven-day FLSA work period but have not actually worked more than 40 hours during the work period (See Attachment #1). When non-exempt employees work more than 40 hours during an FLSA work period, the provisions of the Fair Labor Standards Act apply.
  - b. State compensatory time does not apply when employees are required to work on a holiday.
2. Both the manager and FLSA non-exempt employee are responsible for ensuring the employee does not exceed 40 hours in pay status during the FLSA work period. Management has the following options available in managing state compensatory time:
  - a. The employee's schedule may be adjusted by the manager by scheduling time off for the employee prior to the end of the FLSA work period to avoid the accrual of state compensatory time (as applicable).
  - b. If accrued leave was used during the work period, the amount of accrued leave charged may be adjusted by the manager if the adjustment is made prior to the end of the FLSA work period and if the adjustment will not result in the employee losing personal leave. The employee must be advised of any adjustments.
  - c. Allow the employee to accrue state compensatory time (as applicable).
3. Accruing and using compensatory time:
  - a. FLSA non-exempt employees accrue state compensatory time (as applicable) on a "straight-time" basis equivalent to the actual amount of time worked.
  - b. Employees cannot accumulate more than 240 hours of state compensatory time.
  - c. Employees should be scheduled to use state compensatory time (as applicable) within 60 calendar days. Employees are not entitled to be paid for the lost time.
  - d. State compensatory time is not transferable between DHS organizational units or State agencies.
  - e. State compensatory time is lost when employees leave the DHS organizational unit in which the state compensatory time was earned (e.g., transfer, separation, resignation, etc.). Employees are not entitled to be paid for the lost time.
4. Employees are required to keep accurate records of all time worked.
  - a. Managers are required to frequently review records of time worked.
  - b. Employees who earn state compensatory time are not to maintain the official record for their accrued state compensatory time. The Agency is required to maintain the employee's official record of accrued state compensatory time.
  - c. Records of state compensatory time are to be kept for a three (3) year period.

## Section V: Disaster Volunteer Leave

1. Employees who are certified disaster service volunteers are eligible for leave with pay in order to participate in specialized disaster relief activities based on the following conditions:
  - a. There must be a disaster within Georgia or a neighboring state with a reciprocal agreement that has been declared by the President or a State Governor.
  - b. The American Red Cross must request the employees' services.
  - c. Employees are to submit written requests for disaster volunteer leave along with supporting documentation to their supervisor. Requests will be reviewed and either approved or denied on a case-by-case basis.
  - d. Disaster volunteer leave may be granted for up to fifteen (15) workdays (not to exceed 120 work hours) in a 12-month period.



Employees who do not qualify for disaster volunteer leave, but want to participate in disaster relief activities, may request to use annual leave, personal leave, compensatory time (as applicable), or leave without pay.

## Section W: Organ and Bone Marrow Donor Leave

1. A leave of absence with pay for thirty (30) workdays will be granted to employees who donate an organ for transplantation.
  - a. For purposes of this policy, 'organ' means a human organ, including an eye, that can be transferred from the body of one person to the body of another.
  - b. Employees requesting leave to donate an organ must submit medical documentation to their designated FML Specialist or authorized official (e.g., Human Resources Representative). This statement must certify that the employee is donating an organ for transplantation.
  - c. If the organ donation does not take place, any absence will be charged to accrued leave, personal leave, compensatory time (as applicable) or leave without pay.
2. A leave of absence with pay for seven (7) workdays will be granted to employees who donate bone marrow for transplantation.
  - a. Employees requesting leave to donate bone marrow must submit medical documentation to their designated FML Specialist or authorized official (e.g., Human Resources Representative). This statement must certify that the employee is donating bone marrow for transplantation.
  - b. If the bone marrow donation does not take place, any absence will be charged to accrued leave, personal leave, compensatory time (as applicable) or leave without pay.

## Section X: Blood Donation Leave

1. Employees are to be allowed time during work hours to donate blood, blood platelets or granulocytes (white blood cells) through the pheresis process.



Pheresis is a procedure in which blood is drawn from a donor and separated into its com-

ponents, some of which are retained. The remainder is returned by transfusion to the donor.

- a. Employees must request and receive prior approval from their supervisors to be away from the work area for blood donation. Supervisors may schedule the time to be used for this purpose based on the needs of the organization.
- b. Time away from work is for the purpose of donating blood, platelets, or granulocytes and to recover from the donation. Employees who do not use the time allowed, as specified below, at the time of each donation, do not accrue any right to utilize the leave or payment at any other time.
  1. Up to two (2) hours per donation [no more than eight (8) hours per year] may be granted when employees donate blood.
  2. Up to four (4) hours per donation [no more than sixteen (16) hours per year] may be granted when employees donate blood platelets or granulocytes through the pheresis process.
- c. Employees who donate blood, platelets or granulocytes on non-work time are not to receive time off from work due to the donation.

## Section Y: Observing Holidays

1. The State observes 13 public holidays each calendar year on dates declared by the Governor. State offices are closed, and employees do not report for work on declared holidays, except as noted in Section Y 3(c).
2. A schedule showing the actual dates that DHS organizational units will be closed to observe State holidays for the coming year will be published annually on the Team Georgia website.
3. Holiday Eligibility:
  - a. Salaried employees are eligible for holiday pay.
  - b. The following employees are ineligible for holiday pay.
    - I. Temporary employees,
    - II. Hourly employees,
    - III. Active, salaried, non-temporary employees who are rehired retirees with the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
    - IV. Part-time salaried employees are not paid for a holiday that falls on a day they would not have otherwise been scheduled to work. For example, a part-time employee who is scheduled to work Mondays, Wednesdays, and Fridays, would not be paid for a holiday that falls on a Thursday.
    - V. In emergency situations or to meet essential business needs, an agency may require one or more employees to work on a holiday. Employees scheduled to work on a holiday who fail to report for any portion of the scheduled duty and whose absence is not authorized, will not be granted additional compensation or time off for the holiday. Such employee may be subject to leave without pay for the scheduled time not worked and/or other appropriate disciplinary measures.

- c. To be eligible for pay on a State holiday, an employee must be in pay status for the full scheduled work shift on either the workday immediately before or immediately after the holiday. “Pay status” means either working or taking approved paid time off.
  - d. Employees are not paid for a holiday that occurs the day before they enter or reenter State service.
  - e. Employees are not paid for a holiday that occurs the day after they leave State employment.
  - f. Employees are not paid for a holiday that occurs on their last day of State employment unless the holiday is at the end of their normal workweek.
4. Alternative Work Schedules and Holiday Pay:
- a. Employees eligible for a paid holiday receive pay for the time they would otherwise have worked that day, up to a maximum of eight (8) hours.
  - b. Employees on alternative work schedules can make up the additional time by:
    - I. Revert to a standard 8 hour workday during the week of the holiday or for a 2-week cycle for employees on a 9 day-80 hour workday schedule,
    - II. Use paid leave to supplement the holiday pay and receive full pay for the day; or,
    - III. Work additional time during the week of the holiday to remain in pay status the full workweek.
5. Equivalent Time Off or Deferred Holiday Payout:
- a. Equivalent time off or deferred holiday time will be made available to employees who would otherwise have been eligible for a paid holiday but were either required to work on part or for the entire holiday. This excludes part-time employees whose scheduled day off occurred on a holiday are not given equivalent time off or additional compensation for the holiday.
  - b. Equivalent time off to observe the holiday will not exceed the time actually worked on the holiday or eight hours, whichever is less.
  - c. Employees may be required to use deferred holiday time before using annual leave, sick leave, personal leave, or compensatory time (as applicable).
  - d. Employees who are unable to take equivalent time off within 365 calendar days after a holiday will be paid for the holiday.
  - e. Employees who separate from DHS will be paid for any deferred holiday time not used or paid out prior to separation.
  - f. Employees will not be paid for a holiday in advance of the observance of the holiday.
  - g. An employee scheduled to work on a holiday who, without prior approval, fails to report for any portion of the scheduled duty will not be granted deferred holiday time for the time (if any) that was worked on the holiday. Such employee may be subject to leave without pay for the scheduled time not worked and/or other appropriate disciplinary measures.

## Section Z: Court Leave

- 1. DHS recognizes employees' obligation to perform civic duties when summoned as a potential juror or witness and grants time off to employees for such purposes.

2. An employee may not be discharged, disciplined, or otherwise penalized because the employee is absent from employment for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee.
3. Leave Request and Supporting Documentation:
  - a. An employee who is summoned to perform jury duty or to serve as a witness during scheduled work time and needs to be absent from work is expected to provide a copy of the summons, subpoena, or other court order to their supervisor, when requesting leave.
  - b. Since employees typically will not know in advance how much time will be required to fulfill their court obligation, employees may be required to update their supervisor at reasonable intervals concerning the time needed for absence from duty.
4. Paid Court Leave Eligibility:
  - a. Paid court leave is granted to non-temporary salaried employees for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process which requires the attendance of the employee during scheduled work hours. Such paid time off is not charged to an employee's accrued leave.
  - b. The following employees are not eligible for paid court leave:
    - I. All temporary employees,
    - II. All hourly employees, and
    - III. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
5. Jury Duty:
  - a. Eligible employees will receive paid court leave while on jury duty for the time they are otherwise scheduled to work. Employees will be paid only for the time they are required to appear by the court, plus any additional time that is reasonably necessary, in the opinion of the agency, for the employee to prepare for or return from jury duty.
  - b. Employees will not receive any compensation for time spent serving as a juror that exceeds the employee's regular work schedule.
  - c. Employees may keep any juror fees and travel allowances they receive from the court.
6. Court Attendance and Witness Duty Leave:
  - a. An employee summoned to appear as a witness or required by a court to attend a proceeding will typically be paid in the same manner as an employee serving on a jury. However, an employee will not receive paid court leave to attend a trial, arbitration hearing, or other judicial proceeding in which they are:
    - I. Charged with a crime,
    - II. A plaintiff or defendant,
    - III. Voluntarily appears as a witness,
    - IV. A witness in a case arising from or related to their secondary employment or outside business activity,

- V. Testifying for a fee as an expert witness; or,
  - VI. Have other personal or familial interest in the proceeding.
7. When paid court leave is not applicable, the employee must use annual leave, personal leave, compensatory time (as applicable), deferred holiday time, or take leave without pay.
  8. Return from Court Leave:
    - a. Employees are required to report back to work as soon as they are released from jury duty or other court ordered appearance if the release occurs before the end of the scheduled workday. Management may require verification from the court showing the time served. Failure to return timely from court leave is treated as an unexcused absence.
    - b. Employees who are required to appear in court on behalf of the Department are in work status. No leave or leave without pay will be charged.
    - c. Employees who are summoned to appear in court on a State observed holiday or on a scheduled day off, are not entitled to additional time off.

## Section AA: Voting Leave

1. DHS encourages employees to exercise their right to vote in all federal, state, and local elections. Non-temporary salaried employees may be granted paid time off to vote, up to a maximum of two (2) hours per Election Day, as provided in this section. Paid voting leave is not charged to an employee's accrued leave.
2. Voting Leave Eligibility:
  - a. Paid voting leave is available to employees when their work schedule does not allow them at least two (2) hours (including travel) to vote either before or after work. Employees who are scheduled to begin work at least two (2) hours after the polls open or end work at least two (2) hours before the polls close are not eligible for voting leave.
  - b. Paid voting leave is not available for voting midday. It must be used either at the beginning or end of the employee's regular workday.
  - c. Active, salaried, non-temporary employees who are rehired retirees of the Employees' Retirement System of Georgia are not eligible for voting leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.
3. Voting leave covers only the time necessary to give an employee two (2) hours either before or after work to vote. For example, an employee whose work schedule allows only 1½ hours to vote either before or after work would be eligible for 30 minutes of voting leave.
4. For those employees not eligible for voting leave, agencies have the discretion to arrange flexible work schedules for voting purposes. Agencies may also allow employees to use other available paid leave, other than sick leave, if they are not eligible for voting leave or need more than two (2) hours to vote.
5. Employees may be allowed paid voting leave on early voting days, if it determines that doing so minimally disrupts normal operations. This at the supervisor discretion.
6. Requesting Voting Leave:
  - a. Employees are responsible for requesting and obtaining approval from their supervisor in advance of taking time off to vote and should schedule the time off in a manner that mini-

mally disrupts normal agency operations.

## Section BB: Education Support Leave

1. To supplement work-life balance options for State employees, the State provides up to eight (8) paid hours of leave per calendar year to eligible employees for the purpose of promoting education in Georgia. Such leave is in addition to, and not charged against, an employee's accrued leave.
2. Education support leave may be taken in increments up to eight (8) hours throughout the calendar year or at one time.
3. Eligibility:
  - a. All eligibility criteria defined below must be met before an employee can use education support leave.
    - I. Any non-temporary, full-time employee may request to use and be considered for education support leave.
    - II. Only activities directly related to student achievement and academic support will qualify for education support leave. Such activities may range from early care and learning through higher education. DHS maintains the authority to determine, whether an activity would qualify for education support leave.
    - III. To use education support leave, an employee may be, but is not required to be, the parent of a student.
    - IV. Employees must not receive pay for services they perform while using education support leave.
    - V. Employees must receive prior approval from their supervisor before providing the services for which they are requesting education support leave. The supervisor may require written verification from a school administrator, teacher, or other official prior to approval.
    - VI. Supervisor maintains discretion to approve or deny requests for education support leave based on operational needs or other reasons, such as conduct, attendance, or unsatisfactory work performance.
    - VII. Supervisors should ensure denials are applied consistently for all similarly situated employees.
    - VIII. Use of education support leave for any political purpose or agenda is prohibited.
    - IX. Education support leave does not accumulate, and unused leave does not roll over into subsequent calendar years. Eligible employees may request to use education support leave for qualifying absences that occur during their regular scheduled work hours, up to a total of eight (8) hours in any calendar year. The supervisor maintains discretion to approve or disapprove such requests.
    - X. Employees can use no more than eight (8) paid hours of education support leave in a calendar year regardless of transfer from one State employer to another.
    - XI. Education support leave carries no cash value if unused. There will be no payout for unused education support leave upon termination.

XII. Education support leave is not available to support education outside of the State of Georgia.

4. Ineligible:

a. The following employees are ineligible for education support leave:

I. Temporary employees,

II. Active, salaried, non-temporary employees who are rehired retirees with the Employees' Retirement System of Georgia while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

## Section CC: Paid Parental Leave

To enhance work-life balance for employees, the State provides full-time employees, as well as hourly employees who meet the criteria noted in subsection 1(b)(ii) below, with up to 120 hours of paid parental leave in a 12-month period. Paid parental leave is not charged against an employee's accrued leave.

1. Eligibility:

a. Eligibility for paid parental leave is based on one of the following qualifying life events:

I. birth of the employee's child;

II. placement of a minor child for adoption with the employee; or

III. placement of a minor child for foster care with the employee.

b. To be eligible to use paid parental leave for a qualifying life event, an employee must meet one of the two following criteria:

I. if salaried, the employee must have six continuous months of employment with an employing entity (as defined in O.C.G.A. 45-20-17(a)(2)(A)); or,

II. if hourly, the employee must have worked 700 hours for an employing entity (as defined in O.C.G.A. 45-20-17(a)(2)(A)) in the six months immediately preceding the first requested paid parental leave date.

2. Ineligible:

a. Rehired retirees of the Employees' Retirement System of Georgia, whether salaried or hourly, are not eligible for paid parental leave while receiving retirement annuity payments during the first 1,040 hours of work performed in the calendar year.

3. Usage of Paid Parental Leave:

a. An eligible employee may take a maximum of 120 hours of paid parental leave in a rolling 12-month period. The rolling period will be measured backward from the first date of leave taken. The amount of leave in a rolling 12-month period cannot exceed 120 hours, regardless of the number of qualifying events that occur during that period and regardless of transfers between employing entities (as defined in O.C.G.A. § 45-20-17(a)(2)(A)). DHS is responsible for conducting due diligence to ensure an employee has not exhausted the 120-hour allotment prior to approval of paid parental leave.

b. Leave may be taken as needed and in increments of less than eight hours, using the same



minimum period DHS has established for other forms of paid leave.

4. If an employee eligible for paid parental leave is also eligible for leave under the federal Family and Medical Leave Act (FMLA), DHS requires paid parental leave to run concurrently with FMLA leave.
5. DHS requires employees to submit appropriate supporting documentation for the use of paid parental leave. Any required supporting documentation shall be the same as that required for the use of federal family and medical leave, for the same qualifying event.
6. Any paid parental leave remaining 12 months after the initial qualifying event shall not carry over for future use.
7. Unused paid parental leave shall have no cash value and shall not be paid out at the time of the employee's separation from employment.
8. Employees cannot be paid for short-term disability and PPL at the same time.

For additional information or assistance, please contact your designated Human Resources Representative.

## 1006 A1 State Compensatory Time Example



**Georgia Department of Human Services**  
**Human Resources Policy #1006 A1**  
State Compensatory Time Example

If a non-exempt employee works beyond their scheduled work hours in a work period, when there was a State holiday or used their accrued leave, they may be in pay status for more than 40 hours during the work period, but not have actually worked more than 40 hours.

The example below illustrates the above scenario and provides options that are available to supervisors to manage state compensatory time.

A non-exempt employee with a work period from Saturday at 5:00pm to the following Friday at 5:00pm worked the schedule outlined in the below table.

Day	Hours	Time Category
Saturday	6 (Normally a day off)	Pay Status
Sunday	0	Day Off
Monday	8	Sick Leave
Tuesday	8	Pay Status
Wednesday	8	Pay Status
Thursday	10	Pay Status
Friday	8	Pay Status

1. Since the employee actually worked only 40 hours during the work period, the employee is not entitled to FLSA overtime.
2. The employee was in pay status for 48 hours during the work period due to the sick leave; therefore, eight (8) hours of state compensatory time is earned.

**The supervisor has the following options:**

1. The employee's schedule may be adjusted by scheduling eight (8) hours of off time for the employee prior to the end of the work period.
2. The employee's schedule may be adjusted by scheduling eight (8) hours of off time for the employee prior to the end of the work period.
3. Allow the employee to accrue state compensatory time.

## **1006 A2 Divested Sick Leave Restoration Application**

## **1006 A3 Paid Parental Leave Request Form**

# 1009 Military Leave



## Georgia Department of Human Services Human Resources Policy #1009

### Military Leave

**Release Date:** December 16, 2002

**Revised Date:** May 29, 2020

**References:** U.S.C. Title 38, Chapter 43 — Uniformed Services Employment and Reemployment Rights Act of the Uniformed Services  
O.C.G.A. 38-2-279 — Rights of Employees on Military Duty  
Rules of the State Personnel Board 478-1-19 — Military Leave

Eligible Department of Human Services (DHS) employees are authorized to be absent from work while engaged in the performance of military duty and while going to and from such duty.

## Section A: General Provisions

1. For the purposes of this policy, the following terms and definitions apply:
  - a. “Ordered military duty” includes any military duty performed in the service of the State or of the United States pursuant to orders issued by a State or federal authority, including but not limited to attendance at any service school or schools conducted by the Armed Forces of the United States as a voluntary member of the National Guard, Georgia State Defense Force, or any reserve force or reserve component of the Armed Forces of the United States.
  - b. An employee who performs ordered military duty is eligible for military leave, whether paid or unpaid.
  - c. In general, an employee may be absent for ordered military duty for a cumulative period of up to five (5) years and retains reemployment rights with his/her agency. The five (5) year period includes only the time the employee spends actually, performing ordered military duty. A period of absence from employment before or after performing ordered military duty does not count against the five-year limit.
  - d. An employee is eligible to receive leave to attend training for a period(s) of up to a total of six months during any four-year period.
  - e. Time served while on military leave will not be considered a break in service and will be credited for purposes of seniority, length of employment service, annual leave or holiday privileges, or for any other right or privilege of employment.

## Section B: Absence for Examination Purposes

1. An employee who is absent from work because he/she is ordered to report for a pre-induction or other examination to determine physical or other fitness for service in the Armed Forces of the United States will be granted a leave of absence without pay as required by law. In order to receive pay, an employee may request that the absence be charged against accrued annual leave or personal leave.

## Section C: Timely Notice of Leave

1. Employees are expected to provide their supervisor with as much notice as possible of their anticipated date of release from duty and return to work.
  - a. This notice requirement will be excused only if precluded by military necessity or if giving the notice is otherwise impossible or unreasonable.
  - b. Supervisors must be given a copy of the military orders in advance of military leave whenever possible.
  - c. In the event of an emergency that prevents advance notice, supervisors are to be notified of ordered military duty and provided a copy of the orders as soon as possible.
  - d. Employees on military leave are responsible for ensuring that their supervisors receive timely notification of changes in the duration of ordered military duty.
  - e. This notice requirement will be excused only if precluded by military necessity or if giving the notice is otherwise impossible or unreasonable.
2. Letters approving military leave should be sent to employees from supervisors, as outlined in the Sample Military Approval Letter ([Attachment #1](#)).
3. A Request for Personnel/Payroll Action Form is to be completed placing the employee on military leave with and/or without pay. This form along with a copy of the military orders and letter approving the military leave is also to be forwarded for placement in the official personnel file.

## Section D: Pay and Benefits

1. An employee who performs ordered military duty is entitled to his/her base pay and other compensation for up to a total of 144 hours of military leave in any one federal fiscal year while he/she is on military leave.
2. In the event the Governor declares an emergency and orders an employee to military duty as a member of the National Guard, while performing such duty, the employee will be paid his/her base pay and other compensation for an additional 96 hours of military leave in any one federal fiscal year while he/she is on military leave.
3. The employee may be required to provide a copy of his/her military orders or annual training schedule in order to be paid any military leave.
4. If the period of ordered military duty extends beyond the period covered by paid military leave as described in this section; the employee will be granted an authorized leave of absence without pay as required by law. Agencies may allow employees to use accrued annual leave, personal leave, holiday time, and/or compensatory time for absences due to military duty after

paid military leave has been exhausted.

5. An employee who is scheduled to work for less than 40 hours per week is eligible for prorated paid military leave based on his/her regular work schedule.
6. An employee reinstated following ordered military duty will be entitled to seniority, status, pay and all other benefits as if the employee had not been absent, in compliance with applicable federal law.
7. While on paid or unpaid military leave, an employee may continue to receive the same health care benefits as when he/she was an active employee for up to 24 months. If the military leave is unpaid, the employee will be responsible for directly paying the premium plus an administrative fee assessed by the State Health Benefit Plan.

## **Section E: Rights and Contributions Under Retirement System**

1. An employee on military leave, whether paid or unpaid, may continue to contribute to the State's pension or retirement system as if they had been present and continuously engaged in the performance of their duties. The amount of required contributions will be deducted from the salary or other compensation paid while an employee is on military leave. If the required contributions exceed the amount of such compensation, the available amount will be applied towards the required contributions and the employee can pay the difference.

## **Section F: Reemployment Rights**

1. DHS will reemploy an employee after a period of military service, provided the employee complies with applicable federal law, including the advance notice requirement and a timely notification of intent to return to employment, and other qualifying conditions.
  - a. Upon completing a period of ordered military service, an employee must notify their supervisor of the intent to return to the employment position by either reporting to work or submitting a timely application for reemployment according to the following schedule:
    - I. One (1) regularly scheduled workday from discharge for employees who served for less than 31 days;
    - II. Fourteen (14) calendar days of discharge by employees who served more than 30 days but less than 181 days; or
    - III. Ninety (90) calendar days of discharge by employees whose military duty lasted more than 180 days or longer
2. Whether the employee is required to report to work or submit a timely application for reemployment depends upon the length of service. Extenuating circumstances may permit an employee a longer period to make a request for reemployment.
3. For an employee to be reinstated to their former position, they must be able to perform the essential functions of the position with or without reasonable accommodation. If the employee is no longer able to perform the essential functions because of disability sustained during this service, the employee will be considered for another position within DHS for which they are qualified unless the agency's circumstances have changed as to make it impossible or unreason-

able to do so.

4. Additionally, the employee must have received an honorable or general discharge. The employee must provide DHS with a certification of completion of military service duly executed by an officer of the applicable force of the Armed Forces of the United States or by an officer of the applicable force of the organized militia.
5. A qualified employee who has been on military leave for 90 days or less will be re-instated to the position left, with the employee's seniority, status, and pay adjusted for any promotions, pay increases, or other benefits he/she would have earned had they not been on military leave.
6. A qualified employee who served for 91 days or more may or may not be reinstated to the exact same position held prior to going on military leave. An employee who is not reinstated to their former position will be reemployed in a position with like seniority, status, and pay that takes into account any promotions, pay increases or other benefits they would have been eligible for had they not been on military leave.

## Section G: Protection from Discharge

1. An employee returning from military leave and who served for more than 30 days but less than 181 days may not be discharged except for cause for 180 days after his/her reemployment. An employee returning from military leave and who served more than 180 days may not be discharged except for cause for a period of one year after his/her reemployment.

## Section H: Workforce Replacement

1. Supervisors who must hire replacement workers for employees who are on military leave should inform the replacements that they are filling in for employees who are on military leave and may be reassigned or terminated, when the employees return.

For additional information or assistance, please contact your local Human Resource Office, or email [DHS-Policies@dhs.ga.gov](mailto:DHS-Policies@dhs.ga.gov).

## 1009 A1 Sample Military Leave Approval Letter



Georgia Department of Human Services  
Human Resources Policy #1009 A1  
Sample Military Leave Approval Letter

**[Insert Date]**

Dear **[Insert Employee Name]**:

This acknowledges receipt of your military orders that indicate you have been called to active duty

beginning \_\_\_\_\_ and ending \_\_\_\_\_. If subsequent military orders lessen or extend the period of active duty, you are to provide a copy of those orders to me as soon as possible.

You will be placed on military leave with pay beginning \_\_\_\_\_ through \_\_\_\_\_, and will be paid for eighteen (18) workdays (not to exceed 144 work hours). Effective \_\_\_\_\_, you will be placed on military leave without pay for the remainder of your active duty.

While on military leave without pay, health insurance and flexible benefits may be continued by paying the monthly premiums. You may elect to discontinue health insurance coverage while you are on military leave without pay. If you elect to discontinue coverage, there will be no forms to complete. However, please be advised if you do discontinue coverage your dependents will not be covered. Upon your return to work, health insurance coverage will resume on the first of the month following the appropriate premium deduction.

If you decide to continue health insurance benefits while on military leave without pay you must complete the attached Request to Continue Health Benefits during Leave of Absence without Pay Form and attach a copy of the military orders. All premium payments (check or money order) should include your social security number and are to be made payable to the State Health Benefit Plan for \$\_\_\_\_\_. This includes a \$1.00 processing fee. Prepayment of the first premium is required and should be mailed on or about the first of \_\_\_\_\_ for \_\_\_\_\_ coverage.

Please mail your first payment to \_\_\_\_\_ the DHS Benefits Coordinator in the Office of Human Resources. Subsequent monthly payments for health insurance premiums do not require submission of forms with the payment and should be sent no later than the 15th of the month directly to:

State Health Benefit Plan  
P.O. Box 38342  
Atlanta, Georgia 30334

You may elect to discontinue your flexible benefits. If you elect to discontinue coverage, there will be no forms to complete. Upon your return to work, flexible benefits coverage will resume on the first of the month following the appropriate premium deduction.

If you elect to continue your flexible benefits while on military leave without pay, all payments (checks or money orders) should include your social security number and are to be made payable to the Flexible Benefits Program in the amount of \$\_\_\_\_\_. Please mail this payment directly to:

Flexible Benefits Program  
Suite 1016, West Tower  
200 Piedmont Avenue  
Atlanta, GA 30334-5600

The above payment should arrive no later than the 20th of each month beginning with the first payment in \_\_\_\_\_ for \_\_\_\_\_ coverage.

You may elect to continue Group Term Life Insurance through the Employees' Retirement System (ERS) while on military leave without pay. You must provide ERS with a written notice to extend the

coverage of group life insurance prior to your leave without pay. A copy of the form is attached for your use. The request will not be valid until received in the ERS office. Premiums in the amount of 1% of the monthly salary prior to the leave accumulate each month while on leave without pay and are due at the time of refund or retirement.

Attached is a copy of DHS Human Resources Policy #1009 - Military Leave your information. This policy provides the time frames for returning to work with the Department of Human Services following completion of your military leave as well as other information.

If you return to work following military leave you may pay contributions to the Employees' Retirement System and Deferred Compensation Program for the time period that the contributions were not paid during the military leave. You should contact the Employees' Retirement System and Deferred Compensation Program regarding applicable time frames.

Should you have any questions on the above, please contact \_\_\_\_\_ at \_\_\_\_\_ (phone number).

Sincerely,

**[Employee's Supervisor Signature]**

**[Insert Employee's Supervisor Name]**



# 1010 Leave Donation



## Georgia Department of Human Services Human Resources Policy #1010

### Leave Donation

**Release Date:** November 30, 2010

**Revised Date:** September 20, 2019

**References:** State Personnel Board Rules - Leave Donation  
DHS Human Resources Policies

**Next Review Date:**

The leave donation program has been established to permit eligible employees to donate or receive leave from other employees within the Agency who will be absent from work for an extended period due to personal illness/disability or the illness/disability of a qualifying family member. Eligible DHS employees (recipients) may request that other DHS employees (donors) donate **their** annual, sick or personal leave for use by the recipient as sick leave.

## Section A: General Provisions

1. The donation of leave is voluntary.
2. Donated leave can only be credited to an employee of the same State Agency. DHS employees cannot donate leave to or receive donated leave from non-DHS employees.
3. Employees must request and be approved for appropriate leave during the extended absence in order to be considered for participation in the leave donation program.
4. For purposes of this policy, an employee is considered to be on “approved leave without pay” if the employee is on Family and Medical Leave (FML) Without Pay or, if ineligible for FML, the employee has requested and received approval for an Authorized (Regular) Leave of Absence Without Pay.
5. If the employee is on approved Family and Medical Leave Without Pay or Authorized (Regular) Leave of Absence Without Pay, or in pay status using donated leave, the position which the employee occupied or a position of equal grade and pay, benefits and comparable working conditions is held for the employee’s return.
6. All types of donated leave (annual, personal and sick leave) are credited to a recipient’s sick leave balance.
7. Donated leave can only be used by recipients for absences that qualify for sick leave (see [Policy #1006](#)).
8. The identity of donors is confidential and will not be provided by individuals administering the donation process to the recipient or to any other individual unless necessary to administer the

donation or required by law.

## Section B: Eligible Recipient

All criteria listed below must be met for an employee to be eligible to solicit and use leave donations.

1. The employee must be employed in a position entitled to earn and use leave.
2. The employee must have been continuously employed by a state agency in position(s) entitled to earn and use leave for at least twelve (12) months immediately preceding the request to solicit leave donations.
3. The employee must either be in pay status or on approved leave without pay in order to solicit leave donations. (See Section A.4. and Section D.1.)



**An employee who is absent without pay, but has not requested and specifically been approved for FML or Authorized (Regular) Leave of Absence Without Pay, is not eligible to solicit or use leave donations.**

4. In order to use leave donations, the employee must have exhausted all annual, personal, sick and forfeited leave and all available compensatory time.
5. The employee must have been on approved leave without pay for forty (40) consecutive hours prior to crediting and using donated leave. (See Section A.4.)



**If the employee accrues leave before going on leave without pay, said accruals can be deferred until the previously referenced forty (40) hour leave without pay requirement has been satisfied.**

6. The employee can ONLY use donated leave while absent for the specific sick leave purpose for which the donations were solicited (i.e., due to personal illness/disability or for the necessary care due to the illness/disability of a spouse, child, parent, brother, sister or any other person who resides in the employee's household and is recognized by law as a dependent of the employee).
7. The employee is NOT eligible to solicit or use leave donations if on a contingent leave of absence without pay.
8. The employee is NOT eligible to solicit or use leave donations if the employee was on an attendance plan or undergoing disciplinary or other corrective action for leave abuse or misuse in the twelve (12) month period preceding the request.
9. The employee is NOT eligible to solicit or use leave donations for a absence due to a job-related injury or illness for which Workers' Compensation benefits may be received or a disability incurred while committing a felony or assault.
10. The employee CANNOT solicit leave donations after returning to work in order to retroactively cover a period of absence. Due to the nature of intermittent leave, leave donations are also not appropriate to cover intermittent absences from work.

## Section C: Eligible Donor

In accordance with the Rules of the State Personnel Board, a donor must meet all criteria listed below in order to be eligible to donate leave to a DHS employee.

1. The donor must be a DHS employee.
2. The donor must have been continuously employed for at least twelve (12) months by a state agency in a position(s) entitled to earn and use leave.
3. The donor must have a balance of at least sixty (60) hours of annual leave after donation, if donating annual leave.
4. The donor must have a balance of at least sixty (60) hours of sick leave after donation, if donating sick leave.

## Section D: Request

1. A DHS employee may request to solicit leave donations no more than forty (40) calendar days prior to going into an authorized leave without pay status.
2. A completed DHS REQUEST TO SOLICIT LEAVE DONATIONS Form (See [Attachment #1](#)) must be submitted to the employee's immediate supervisor by the employee (or the employee's designee if the employee is unable to personally submit the request).
  - a. The request must describe the reason for soliciting donated leave.
  - b. A medical statement supporting the need for absence must be submitted with the request.



**The medical information contained in the statement must be considered confidential and is to be shared with individuals only on a need-to-know basis. The statement is to be maintained in a confidential file separate from the employee's personnel file.**

3. The immediate supervisor is to forward the DHS REQUEST TO SOLICIT LEAVE DONATIONS Form to the appropriate approving manager (e.g., Division/Office Director, or designee) for review and approval.

## Section E: Determination


1. Approval of a request to solicit leave donations is at the discretion of the approving manager based on the provisions of this policy.
2. When reviewing the request, the approving manager should consider the following:
  - Reason for absence;
  - Employee's years of service;
  - Employee's documented performance, behavior and attendance records; and,
  - Needs of the organization.
3. If the request to solicit leave donations is determined inappropriate, the approving manager, human resource/personnel representative or designee will notify the employee of the denial in

writing.

4. If the request is determined appropriate, the approving manager will designate an employee who will develop a DHS SOLICITATION FOR LEAVE DONATIONS NOTICE (See Attachment #2) to post/circulate.

## Section F: Solicitation Notice

1. The DHS SOLICITATION FOR LEAVE DONATIONS NOTICE must include the following:
  - a. posting date,
  - b. the deadline to receive leave donations,
  - c. the employee's name and work location,
  - d. the reason leave donations are requested, and
  - e. the human resource/personnel office, or DHS organizational unit, responsible for receiving leave donations.
2. The employee, or the employee's designee, must agree in writing that the solicitation notice is satisfactory prior to circulating the notice.
3. The approving manager, human resource/personnel representative, leave keeper or designee, will circulate the solicitation notice to the extent necessary in order to encourage donations for at least ten (10) work days.

 **If employees do not receive the maximum amount of donated leave, they may request that the solicitation notice be circulated one additional time during the period of absence or within a three month period, whichever is less, to encourage additional donations not to exceed 520 hours.**

## Section G: Making a Donation

1. Leave can only be donated in response to a specific solicitation.
2. Leave donations must be made in whole eight (8) hour increments.
3. A donor can donate any amount of personal leave.
4. A donor can donate any amount of annual leave, as long as the donor has at least 60 hours of annual leave after donation.
5. A donor can donate up to 120 hours of sick leave in a calendar year, as long as the donor has at least 60 hours of sick leave after donation.
6. A donation cannot be made from a forfeited leave balance.
7. No exceptions to the leave donation limits are made for employees who are leaving State government and wish to donate sick leave that would otherwise be lost. In accordance with the Rules of the State Personnel Board, departing employees can only donate up to a maximum of 120 hours of sick leave in a calendar year, and a balance of 60 hours of sick leave must remain after donation.
8. A donor must complete a DHS LEAVE DONATION AUTHORIZATION Form (See Attachment #3)

to:

- a. authorize the deduction of leave from an accrued balance;
  - b. identify the recipient; and,
  - c. specify the type and amount of leave to be donated.
9. This completed form must be submitted to the leave keeper who maintains the leave records for the donor. This leave keeper will then do the following:
- a. certify the donor's leave balance(s);
  - b. make appropriate adjustments to the donor's leave balance(s) on the DAILY RECORD OF LEAVE USED, or similar form;
  - c. provide the original of the DHS LEAVE DONATION AUTHORIZATION Form directly to the recipient's human resource/personnel office, or other designated individual, by the posted deadline date. The donated leave will be added to the recipient's sick leave balance. (NOTE: the form may be faxed prior to mailing the original for information purposes); and,
  - d. report to the donor's human resource/personnel office, or other designated individual, the amount of leave to be deducted from the donor's leave balance(s) in the system.
10. The recipient's human resource/personnel office, or other designated individual, will stamp the date and time of receipt on the DHS LEAVE DONATION AUTHORIZATION Form to determine the order of donations.

## **Section H: Crediting Donated Leave**

1. All types of leave donations, up to a maximum of 520 hours, will be credited as sick leave to a recipient in the order received, and on an as-needed basis.
2. Donations received after the maximum has been reached or after the posted deadline will not be accepted and will be returned to the appropriate donor(s).
3. While using donated leave, the recipient will accrue annual and sick leave if in pay status for the required number of hours in a pay period. This newly accrued leave must be used prior to continuing to use donated leave.
4. The recipient will be advised in writing by the appropriate human resource/personnel office, or other designated individual, of the amount of leave donated.
5. Each individual leave donation will be credited in its entirety. (See exceptions and limitations, below.) Leave donated in excess of what is needed by the recipient will be returned to the donor(s); however, if a portion of a leave donation is needed, the remainder, up to forty (40) hours, will not be returned to the donor.
  - a. An exception occurs when a leave donation from one donor would result in over 520 hours being received. In this case, the recipient's sick leave balance is credited up to the maximum, and the excess leave is returned to the donor.
  - b. Once a recipient has returned to duty, no more than forty (40) hours of previously donated leave may be retained for the recipient's use.

## Section I: Multiple Donations

1. Multiple donations will be permitted for the same recipient; however, no recipient will be credited with more than 1,040 hours of donated leave in any consecutive two (2) calendar year period.
2. Multiple donations can be solicited for the same absence if the recipient receives and uses the maximum of 520 hours of donated leave and continues to be absent. [REWORDED]
  - a. The recipient must submit a new DHS REQUEST TO SOLICIT LEAVE DONATIONS Form, and
  - b. A new DHS SOLICITATION FOR LEAVE DONATIONS NOTICE must be posted/circulated.
  - c. The recipient will not be required to be in an additional authorized leave without pay status for a period beyond the eighty (80) hours required for the initial leave donation solicitation.
3. If multiple donations are solicited for different absences, the recipient must meet all requirements for soliciting leave donations for each solicitation, including the requirement to be on authorized leave without pay for eighty (80) consecutive hours prior to receiving donated leave.

## Section J: Placement on Family and Medical Leave (FML)

1. Supervisors must determine if an employee using donated leave is absent for a reason that also qualifies for FML. (See [DHS Human Resource/Personnel Policy #1005 - Family and Medical Leave](#).)
2. If the employee meets all eligibility criteria for FML, the supervisor must notify the employee of placement on FML, and forward a REQUEST FOR PERSONNEL/PAYROLL ACTION to OHR for entry.
3. An employee may be placed on FML without a request from the employee.

## Section K: Return to Work

1. If an employee was receiving donated leave due to personal illness or disability, the employee may be required to submit a return-to-work statement from the attending health care provider prior to returning to work.
2. This statement must certify that the essential functions of the position can be performed with or without reasonable accommodation.
3. Employees who do not provide a “required” statement to their supervisor should not be allowed to return to work.

## Section L: Prohibited Activity

1. No employee will threaten, coerce or attempt to threaten or coerce another employee for the purpose of interfering with rights involving the donation, receipt or use of leave. Such prohibited acts will include, but not be limited to, promising to confer or conferring a benefit such as appointment, promotion or salary increase, or making a threat to engage in, or engaging in an

act of retaliation against an employee.

2. Any employee who violates the Prohibited Activity Section will be subject to disciplinary action up to and including dismissal.

For additional information or assistance, please contact your local Human Resource Office, or email [DHS-Policies@dhs.ga.gov](mailto:DHS-Policies@dhs.ga.gov).

## **1010 A1 Leave Solicitation Notice**

## **1010 A2 Leave Donation Authorization**

# 1014 Hourly Employment



## Georgia Department of Human Services Human Resources Policy #1014

### Hourly Employment

**Release Date:** March 16, 2009

**Revised Date:** November 19, 2024

**Next Review Date:** November 18, 2026

**References:** Fair Labor Standards Act (FLSA)  
O.C.G.A. 45-18-1, et. seq. Employees' Insurance & Benefits Plans  
O.C.G.A. 47-2-1, et. seq. Employees' Retirement System  
DHS Human Resources Policy #1001 - Fair Labor Standards Act

This policy establishes requirements for the Georgia Department of Human Services (DHS) hourly employment, to include compliance with the Fair Labor Standards Act (FLSA) and Georgia laws defining eligibility for state benefits. It is intended to improve accountability for oversight of the hourly employment program.

## Section A: General Provisions

An hourly employee should not average more than twenty-nine (29) hours per work week for a period of more than eight months. If the director's/administrator's intention is that an hourly employee work more than twenty-nine (29) hours per week for longer than eight months, the employee must be placed on a regular, salaried position, with eligibility for state benefits. Each hourly employee must have a designated work period in accordance with FLSA and DHS policy [1001 Fair Labor Standards Act](#). Unless otherwise designated, this work period shall be 6:00 a.m. Monday to 6:00 a.m. the following Monday.

1. Each hourly employee must access the DHS Time Keeping System, on a daily basis. The supervisor must certify that the time recorded is an accurate reflection of the hours worked by the employee during the period covered.
2. The immediate supervisor of each hourly employee is responsible for ensuring that the Department receives value for each hour claimed by and paid to the employee. The immediate supervisor must review and approve the employee's time sheet on a weekly basis.
3. An hourly employee may not work more than twenty-nine (29) hours in a work week without the written approval of the director/administrator of the applicable DHS organizational unit. The written approval must specifically describe the circumstances requiring that the employee work more than twenty-nine (29) hours in the week, and the expected duration of such a work schedule. The written approval must be forwarded to [OHRPersonnelRecords@dhs.ga.gov](mailto:OHRPersonnelRecords@dhs.ga.gov) for placement in the employee's personnel file. All hours worked in excess of twenty-nine (29)



hours in a week must be compensated in accordance with FLSA.

4. Prior to the employment of an hourly employee at a rate of \$25.00 or more, the director/administrator of the applicable DHS organizational unit shall prepare and submit to the designated Human Resources Representative a written description of the employee's job functions. The designated Human Resources Representative shall forward the request to the Office of Human Resources (OHR) Deputy Director and OHR Director for review and response. OHR shall determine whether the proposed hourly employment relationship is the most effective and economical means of obtaining the needed service. This description shall be maintained in the employee's personnel file.
5. OHR will conduct random audits to ensure the continuing use of each hourly position is in compliance with this policy. Violations of this policy will be presented to the appropriate DHS Division Director for corrective action.

For additional information or assistance, please contact your designated Human Resources Representative.