

GEORGIA DEPARTMENT OF JUVENILE JUSTICE	Transmittal # 12-10	Policy # 3.69
Applicability: {x} All DJJ Staff {x} Administration {x} Community Services {x} Secure Facilities (RYDCs and YDCs)	Related Standards & References: Family and Medical Leave Act of 1993 29 U.S.C. @2601, as amended by Section 585 of the National Defense Authorization Act for FY 2008, Public Law [110-181] State Personnel Board Rule 23 (Family and Medical Leave) DJJ 3.65, 3.67, 3.83	
Chapter 3: PERSONNEL	Effective Date: 4/15/12 Scheduled Review Date: 4/15/14	
Subject: MILITARY MEMBER EVENT LEAVE	APPROVED:	
Attachments: A – Qualifying Events B – Request for Family and Medical Leave C – Certification for Military Member Event Leave D – Family and Medical Leave Notice of Eligibility, Rights and Responsibilities E – Family and Medical Leave Designation Notice F – Employee Rights and Responsibilities Under the Family and Medical Leave Act G – Notice of Family and Medical Leave	 <hr/> L. Gale Buckner, Commissioner	

I. POLICY:

In accordance with the Family and Medical Leave Act, the Department of Juvenile Justice shall provide a maximum of 12 weeks of job-protected leave during a 12 month period to eligible employees for a qualifying event. The Director of Human Resources shall designate requested leave as military member event leave, subject to the provisions of this policy, whether or not the employee specifically requests the leave.

In order to qualify for military member event leave, an employee must meet both of the following conditions:

- The employee must have been employed with the State of Georgia for a minimum of 12 months; and
- The employee must have worked at least 1,250 hours during the 12 month period immediately preceding the date military member caregiver leave is to begin.

II. DEFINITIONS:

12 Month Period for a Qualifying Event: A “rolling” 12-month period measured backwards from the date an employee uses or desires to use military member event leave.

Active Duty or Call to Active Duty Status: Duty under a call or order to active duty for federal service in a foreign country. The call or order must have been issued to:

- An active or retired member of the regular Armed Forces or the Reserves;
- Any unit or unassigned member of the Reserves; or

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- Any member of the National Guard.

Military Member: An individual who is on active duty or on a call to active duty in the armed forces including the reserves and national guard. The active duty or call to active duty must be for duty in a foreign country.

Eligible Employee: Employees who have been employed with the State of Georgia for a minimum of 12 months and who have worked at least 1,250 hours during the 12 month period immediately preceding the date leave is to begin. (The 12 month employment period represents an employee’s total state employment in any branch of government. The period can incorporate one or more breaks of military provided a break in military does not exceed 7 years. The 1,250 hours does not include any absence due to paid leave or holidays, but does include any period of absence due to ordered military leave.)

Family and Medical Leave: The leave taken by an eligible employee in accordance with the provisions of the Family and Medical Leave Act. Family and medical leave may not be for a period greater than 12 weeks in any 12 month period.

Foreseeable: Any situation in which an employee knew, or reasonably should have known, of a need for leave prior to the beginning of an absence.

Paid Leave: All types of leave with pay, except sick leave, that are available for an employee’s use. Paid leave must be used in accordance with other Department policies.

Parent: An employee’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered military member. This term does not include parents “in law.”

Qualifying Event: Any of the following reasons or combinations of reasons for eligibility for military member event leave for an employee’s spouse, son, daughter, or parent:

- Short-notice deployment;
- Military events and related activities;
- Childcare and school activities;
- Financial and Legal arrangements;
- Counseling;
- Rest and recuperation;
- Post-deployment activities; or
- Other events that arise out of a military member’s active duty or call to active duty.

See Attachment A for a description of the reasons indicated above.

Qualifying Family Member: For the purpose of military member event leave, the spouse, son, daughter, or parent of a member of the armed forces, reserves, or national guard who is on active duty or call to active duty status. The active duty or call to active duty must be for duty in a foreign country.

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Reviewing Manager: The Assistant Commissioner, Deputy Commissioner, facility/office Director, or his/her designee responsible for recommending approval or disapproval of military member event leave requests. The Commissioner or his/her designee will serve as the reviewing manager for employees comprising the Commissioner's Office staff, including all Assistant Commissioners, Deputy Commissioners and Central Office Directors.

Son or Daughter: An employee's biological, adopted, or foster child, stepchild, legal ward, or a child of any age for whom the employee stood in loco parentis.

Spouse: The husband or wife of an employee as defined or recognized under State law for purposes of marriage in the State of Georgia.

III. ELIGIBILITY FOR MILITARY MEMBER EVENT LEAVE:

- A. An eligible employee who is a qualifying family member will be entitled to up to 12 weeks of military member event leave in a 12 month period because of a qualifying event (see Attachment A) of a military member. Eligibility will be calculated according to the 12 month period, as defined by this policy. The leave described in this paragraph will only be available during a 12-month period.
1. The combined leave total under the provisions of this policy and the provisions of DJJ 3.65, Family and Medical Leave will be a maximum of 12 weeks during a 12 month period.
 2. If both parents of a military member are employees of DJJ, the combined leave total of both parents under the provisions of this policy and the provisions of DJJ 3.65, Family and Medical Leave will be a maximum of 12 weeks during a 12 month period.
- B. Employees must use available paid leave for military member event leave. (Sick leave cannot be used for military member event leave.) An absence that exceeds available paid leave will be designated as military member event leave without pay.
- C. The right to military member event leave will begin on the date the employee is first absent for a qualifying event.
- D. Leave due to a qualifying event may be taken on an intermittent or reduced leave schedule basis.

IV. REQUESTING MILITARY MEMBER EVENT LEAVE:

- A. When the need for military member event leave is foreseeable:
1. The employee must provide their local Human Resources representative with at least 30 calendar days written notice and provide the following:
 - Request For Family and Medical Leave (Attachment B);
 - Certification for Military Member Event Leave (Attachment C); and

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- Service member's military orders.
2. Following the employee's request, the employee will be provided a completed Family and Medical Leave Notice of Eligibility, Rights and Responsibilities with a preliminary approval within 5 business days of their request. (See Section VI.)
 3. Failure to Provide Documentation:
 - a. The employee will be placed on military member event family leave without pay. The use of any form of paid leave will not be authorized during this period.
 - b. If the necessary supporting documentation is provided, the employee will be placed in paid leave status, to the extent that paid leave is available and appropriate, as of the date the documentation is received.
 - c. If the necessary supporting documentation is not provided within 15 business days of the beginning of the absence, the employee may be terminated as a presumptive resignation.
- B. When the need for military member event leave is unforeseeable:
1. An employee must notify his/her supervisor as soon as the need for leave has been determined. When military member event leave is needed for an emergency, notice may be given by telephone, facsimile, other electronic means, or through a spokesperson for the employee. The supervisor must immediately notify the local Human Resources representative.
 2. The employee must submit the documentation specified in paragraph IV.A.1. above within 15 business days of receipt of a completed Notice of Eligibility, Rights and Responsibilities.
 3. Failure to Provide Documentation:
 - a. The employee will be placed on military member event family leave without pay. The use of any form of paid leave will not be authorized during this period.
 - b. If the necessary supporting documentation is provided, the employee will be placed in paid leave status, to the extent that paid leave is available and appropriate, as of the date the documentation is received.
 - c. If the necessary supporting documentation is not provided within 15 business days of receipt of a completed Notice of Eligibility, Rights and Responsibilities, the employee may be terminated as a presumptive resignation.

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4. In situations where justifiable and verifiable circumstances prevent an employee from providing supporting documentation within the time frames indicated above, the employee, through the local Human Resources representative, may make a request to the Director of Human Resources for an extension.

V. DESIGNATION OF LEAVE AS MILITARY MEMBER EVENT LEAVE:

A. Employee Provides Prior Notice of Absence:

1. When the employee has not requested military member event leave for the absence, the immediate supervisor will notify the local Human Resources representative that the reason(s) for the employee's absence may qualify as military member event leave.
2. The local Human Resources representative will send the following to the employee within 5 business days:
 - Family and Medical Leave Notice of Eligibility, Rights and Responsibilities (Attachment D); and
 - Request for Family and Medical Leave (Attachment B); and
3. Failure to Provide Documentation:
 - a. The employee will be placed on military member event leave without pay. The use of any form of paid leave will not be authorized during this period.
 - b. If the necessary supporting documentation is provided, the employee will be placed in paid leave status, to the extent that paid leave is available and appropriate, as of the date the documentation is received.
 - c. If the necessary supporting documentation is not provided within 15 business days of receipt of a completed Notice of Eligibility, Rights and Responsibilities, the employee may be terminated as a presumptive resignation.

B. Employee Does Not Provide Prior Notice of Absence:

1. If an employee's immediate supervisor learns after a period of leave has begun, but before the employee has returned to duty, that the leave may qualify as military member event leave, the supervisor will notify the local Human Resources representative.
2. The local Human Resources representative will send the following to the employee within 5 business days:
 - Family and Medical Leave Notice of Eligibility, Rights and Responsibilities (Attachment D); and

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- Request for Family and Medical Leave (Attachment B).
3. Failure to Provide Documentation:
- a. The employee will be placed on military member event family leave without pay. The use of any form of paid leave will not be authorized during this period.
 - b. If the necessary supporting documentation is provided, the employee will be placed in paid leave status, to the extent that paid leave is available and appropriate, as of the date the documentation is received.
 - c. If the necessary supporting documentation is not provided within 15 business days of receipt of a completed Notice of Eligibility, Rights and Responsibilities, the employee may be terminated as a presumptive resignation.
- C. An absence may be designated as military member event leave after an employee has returned to duty only if one of the following circumstances is applicable:
- The employee was absent for a qualifying event and the immediate supervisor or local Human Resources representative did not learn the reason for the absence until on or after the employee's return. The retroactive designation must be made within 2 business days of the employee's return to duty.
 - The employee takes leave for a qualifying event but the Department was not aware of the reason and the employee desires that the leave be counted as military member event leave. The employee must notify his/her immediate supervisor within 2 business days after returning to work of the reason for the leave. Absent this notification, the employee may not subsequently assert military member event leave protections for the absence.
 - The immediate supervisor or local Human Resources representative is aware of the reasons for the leave, but has not been able to confirm that the leave qualifies as military member event leave. The Department will make a preliminary designation of military member event leave and notify the employee of this decision. If subsequent information confirms that the absence is qualifying, the preliminary decision stands.
- D. If the Department has sufficient information and fails to designate the absence as military member event leave (and provide proper notification to the employee), the Department may not designate the leave retroactively. In such circumstances, the employee is subject to the full protections of the Act, and none of the absence preceding notice to the employee of the designation may be counted against the employee's military member event leave entitlement.

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VI. APPROVAL / DENIAL OF REQUEST:

- A. When the local Human Resources representative learns that a leave of absence qualifies as military member event leave, the local Human Resources representative must, within 5 business days:
- Notify the employee’s supervisor of the request and inform the supervisor of the requested begin and end dates of the leave;
 - Review the information provided;
 - E-mail information identifying the employee and the dates and reason(s) for the leave to the Director of Human Resources;
 - Send the following to the employee: Family and Medical Leave Notice of Eligibility, Rights and Responsibilities (Attachment D) and Request for Family and Medical Leave (Attachment B);
 - Send the Family and Medical Leave Designation Notice (Attachment E); and
 - Send a copy of both Notices to the Office of Human Resources.
- B. The Office of Human Resources will review the information provided and either approve or deny the military member event leave request unless a determination cannot be made without additional information from the employee. The final determination will be forwarded to the local Human Resources representative.
- C. The decision of the Office of Human Resources is final.
- D. The local Human Resources representative will notify the employee that his/her request for military member event leave has been approved or denied. If the request is approved, the written notification will specify the terms and conditions of the military member event leave as well as the employee’s right to return to duty. If the request is denied, the written notification will specify the reasons for the denial.
- E. The local Human Resources representative will notify the employee’s supervisor of the final determination.

VII. USE OF PAID OR UNPAID LEAVE:

- A. Employees must use all available paid leave for periods of military member event leave, except sick leave. Such paid leave must comply with the State Personnel Board Rules and Department policy.
- B. Any period of military member event leave that exceeds available paid leave will be designated as military member event family leave without pay.
- C. During a period of military member event leave, paid leave will be used in the following order:
- FLSA Compensatory Time;
 - Deferred Holiday Time; then
 - Annual/Personal Leave and State Compensatory Time.

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Annual/Personal Leave and State Compensatory Time may be used in any order that is consistent with other Department leave policies.

- D. Any combination of unpaid family and medical leave, unpaid military member event leave, authorized leave without pay, or contingent leave without pay for the same qualifying condition will not initially exceed 12 continuous months. (See DJJ 3.67, Leave Without Pay)

VIII. RETURN TO WORK:

- A. At the end of military member event leave, the employee will be returned to his/her former position or to a position of equal grade and pay, without loss of any rights or status.
- B. The employee will have no greater rights than those in effect prior to the start of military member event leave.
- C. Failure to Return to Work After Military Member Event Leave:

Any employee who fails to return to duty at the expiration of an approved military member event leave and who has not received an approved extension of the leave will be separated in accordance with DJJ 3.83, Separation from Employment.

IX. GENERAL PROCEDURES:

- A. Department of Juvenile Justice employees will not interfere with, restrain, or deny the exercise of or the attempt to exercise the provisions of this policy. 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.
- B. Eligibility for military member event leave will not prevent an employee from receiving disciplinary action based on conduct or performance deficiencies.
- C. The Employee Rights and Responsibilities Under the Family and Medical Leave Act poster (Attachment F) and Notice of Family and Medical Leave (Attachment G) must be permanently and prominently posted on the official bulletin board of each office/facility.
- D. The Director of Human Resources will advise managers and employees on questions pertaining to this policy.

X. LOCAL OPERATING PROCEDURES REQUIRED: NO