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# Federal Family and Medical Leave Act Policy

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### Effective:

**Last Updated:** August 1, 2021 (format only)

**Responsible University Office:** Human Resources

**Policy Contact:** Director Benefits & Wellness

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## Notice:

Effective August 1, 2021 this policy was converted into an easily accessible standalone PDF document. This policy still remains in Part II of the Policies and Procedures Manual and no changes were made to this policy when it was converted to the standalone PDF document.

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## Policy

In accordance with the federal Family and Medical Leave Act of 1993 (FMLA), Gonzaga's policy is to grant up to 12 weeks of unpaid, job-protected leave during a rolling 12-month period to eligible employees, and up to 26 weeks in compliance with the expansion of the FMLA under The Support for Injured Service Members Act of 2007. The leave may be paid, unpaid or a combination of both depending on the circumstances of the leave and available paid leave accruals.

### A. Eligibility

An eligible employee must have one year of service and have worked at least 1,250 hours during the 12 months preceding the leave request.

### B. Types and Duration of Leaves Covered

An eligible employee is entitled to 12 weeks (26 weeks to care for an injured or ill service member) under this policy during a rolling 12-month period.

1. Care for an employee's child after birth, adoption, or foster care placement. The leave must be completed within 12 months of the date of birth or placement. The right to take leave under

FMLA applies equally to male and female employees. A father, as well as a mother, can take family leave for the birth, placement for adoption or foster care of a child. If both parents work for Gonzaga the leave is a combined total of 12 weeks.

2. Care for an immediate family member with a serious health condition.
3. Employee's serious health condition that renders the employee unable to perform his or her job functions.
4. Care for needs of an immediate family member called to active duty, or on active duty, in the Armed Forces. Needs may include helping the family member prepare for the departure or caring for the children of the service member. The leave may commence as soon as the individual receives the call-up notice. Employees must provide proof of the qualifying family member's call-up or active military service before leave is granted.
5. Care for an immediate family member who is a wounded veteran, or an immediate family member who is injured or ill, or recovering from an injury or illness suffered while on active military duty, and who is unable to perform the duties of the service member's office, grade, rank or rating. This leave may extend to up to 26 weeks in a 12-month period. If more than one family member works for Gonzaga and each wishes to care for the same injured or ill service member, the leave is combined to a total of 26 weeks.

Employees must provide certification of the family member's injury, recovery or need for care.

### **C. Procedures**

1. Employees applying for Family and Medical Leave must complete a Leave of Absence Request Form. This form must be accompanied by the Certification of Health Care Provider form for a medical leave or proof of the qualifying family member's call-up or active military service or certification of the military family member's injury or illness. The Leave of Absence Request form and Certification of Health Care Provider forms are available in HR or on the website at [www.gonzaga.edu/benefits](http://www.gonzaga.edu/benefits).
2. Request for leave should be submitted 30 days in advance. If 30-day's notice is not possible notice must be given as soon as possible.
3. Employees are required to use all available paid leave (i.e.; sick, personal leave and/or vacation, when applicable) before going to unpaid status.
4. Gonzaga has the right to require a second medical opinion from a health care provider selected, and paid for, by Gonzaga for the serious illness of an employee, or non-service member family member. A third opinion may also be required. The selected health care provider may not be employed on a regular basis by Gonzaga.
5. While on leave, employees are requested to report periodically to their supervisor regarding the status of the medical condition, and their intent to return-to-work.

## **D. Definitions**

1. "Serious health condition" is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.
2. An "immediate family member" includes:
  - a. Employee's spouse;
  - b. "Son" or "daughter" is any child under 18 who is the biological child of the employee, who is adopted by the employee, or whom the employee supervises on a day-to-day basis and for whom the employee is financially responsible. A "son" or "daughter" is also a child over 18 who is incapable of self-care because of a qualifying disability. For care of needs, or care for an injured or ill service member, a son or daughter can be over age 18.
  - c. Parent is a biological parent or individual who assumed day-to-day and financial responsibility for the employee when the employee was a child (not parent-in-law);
  - d. Next-of-kin of the injured or recovering service member is defined as the closest blood relative.
3. A "health care provider" is any doctor of medicine or osteopathy, podiatrist, optometrist, and any nurse practitioner, or nurse midwife performing within the scope of his or her practice as defined under state law.
4. The "12-month period" will be calculated by determining the amount of leave used by an employee for the 12 months prior to each day for which leave is requested and subtracting that number from the total days equal to 12 work weeks (or 26 weeks for the care of the ill or injured service member.) This is referred to as the "rolling" method of calculation. Employees will be advised when requesting leave of the amount of Family and Medical Leave they have available.

## **E. Health Benefits**

1. Health benefits will be continued during the leave on the same basis as before the leave. The employee is required to continue to pay the employee portion of any health insurance premiums normally deducted from the employee's paycheck and shall pay such amounts at the time contributions are normally deducted. All the amounts due Gonzaga because of unreimbursed health benefits provided during the leave will be deducted from the employee's pay upon return. NOTE: The Washington State Family Care Rule that extends protected leave for parent-in-laws and grandparents does not include continuation of medical and dental benefits paid by Gonzaga during unpaid leave periods.
2. An employee may self-pay on other group benefits during the unpaid leave.

## **F. Intermittent Leave or a Reduced Work Schedule**

1. The employee may take FMLA leave in 12 consecutive weeks, may use the leave intermittently (take it periodically when needed over the year), or under certain circumstances may use the leave to reduce the work week or workday, resulting in a reduced hour schedule. In all cases, the leave may not exceed a total of 12 weeks over a 12-month period or 26 weeks for the care of the ill or injured service member.
2. For intermittent leave or leave on a reduced hour schedule, there must be a medical need for the leave as documented by the Certification of Health Care Provider form for a serious health condition.
3. An employee needing intermittent leave or leave on a reduced hour schedule must attempt to schedule their leave as not to disrupt departmental operations.
4. Gonzaga may temporarily transfer an employee to an available alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule.

## **G. Reinstatement**

1. An employee taking leave under this policy will be returned to the employee's same position or to an equivalent position, unless the employee would have been terminated in the absence of any leave.
2. Before returning from a leave for the employee's serious health condition, the employee must have a medical release from a health care provider authorizing the return and stating any applicable work restrictions.
3. Upon receiving notice that the employee is not returning to employment with Gonzaga, or should the employee simply fail to return or return to employment with Gonzaga for fewer than thirty days after leave has ended, the employee shall owe Gonzaga the cost of any benefits provided during leave, including both the employer and any employee premiums. No such amount shall be owed if there is a recurrence or onset of a serious health condition.

*Information on the Washington Family Leave Act and Washington Family Care Act can be found in Part 1, Section IV: Absence from Work*