

Family and Medical Leave Policy

I. PURPOSE

The purpose of this policy is to implement the Family and Medical Leave Act of 1993 (FMLA), 29 USC Section 2601 et seq.

II. DEFINITIONS

For the purposes of this policy, Goucher defines all applicable terms as defined in [29 U.S. Code Section 2611](#).

III. SCOPE

Employees are eligible to take up to 12-weeks of unpaid family/medical leave within any 12-month period and to be restored to the same or an equivalent position upon their return from leave provided that they have worked for Goucher for at least one year and for at least 1,250 hours in the last 12 months.

A. 12-month Leave Period

The 12-month period in which they may take 12 weeks of leave will be calculated as a rolling 12 months. If an employee has already taken an approved FMLA leave, the subsequent leave will be calculated according to the 12 months preceding the request for leave. For example, if you have taken eight weeks of leave during the 12 months preceding the request for leave, you are entitled to four more weeks of leave. If the College is closed for one or more, but less than five, days during a week when an employee is taking family/medical leave, the full week will still be counted against the 12-week entitlement. A full five-day week in which the College is closed will not be counted against the 12-week entitlement. For employees working less than 12 months, refer to Section V. D. for additional information.

B. Credit for the Period of Military Service

Employees who have been reemployed under the United Services Employment and Reemployment Act (“USERRA”) are given credit for the period of military service toward the FMLA months- and hours-of-eligibility requirements.

C. Reasons for Leave

Eligible employees may take family/medical leave for any of the following reasons:

1. the birth of a son or daughter and in order to care for such son or daughter;
2. the placement of a son or daughter with them for adoption or foster care and in order to care for such son or daughter;

3. to care for a spouse, son, daughter, or parent with a “serious health condition;”
4. because of the employee’s own “serious health condition” which renders them unable to perform one of the essential functions of their position; or
5. Military Leave, as described below.

D. Exclusions

Leave because of reasons (1) or (2) must be completed within the 12-month period beginning on the date of birth or placement.

If Goucher employs both spouses, the two employees will be limited to a combined total of 12 weeks of leave during any 12-month period if leave is taken because of reasons (1) or (2) or to care for a parent with a serious health condition.

E. Military Leave

The FMLA also provides eligible employees with two types of leave to address circumstances affecting employees with family members in the military.

1. Qualifying Exigency

Eligible employees may take up to 12 weeks of leave for a qualifying exigency resulting from a spouse, son or daughter, or parent’s active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation.

Qualifying exigencies may include:

- i. a. Short-notice deployment – limited to 7 calendar days;
- ii. b. Certain military events;
- iii. c. Arranging for alternative childcare;
- iv. d. Addressing certain financial and legal arrangements;
- v. e. Attending certain counseling sessions;
- vi. f. Rest and recuperation leave during deployment – limited to 15 days; or
- vii. g. Attending post-deployment and reintegration briefings

2. Military Caregiver Leave

Eligible employees are permitted to take up to 26 weeks of leave to care for a covered service member during a single 12-month period that begins on the first day the employee takes leave for this reason. A covered service member is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty, which results in:

- Undergoing medical treatment, recuperation or therapy;
- Treatment as an outpatient; or
- Otherwise being on the temporary disabled list.

3. Exclusions

Note that if both parents of a covered service member work for Goucher, they are limited to a combined total 26 weeks of leave.

IV. PROCEDURES FOR USING FMLA LEAVE

A. Notice of Leave

If your need for family/medical leave is foreseeable (such as birth, adoption, foster care placement, planned medical treatment or caring for a covered service member), you must give the Office of Human Resources 30 days prior written notice. If this is not possible, and, in cases of leave due to a qualifying exigency related to covered active duty or call to covered active duty, you must at least give notice as soon as is reasonable and practicable. Failure to provide such notice may be grounds for delay or denial of leave. Where the need for leave is not foreseeable, you are expected to notify the Office of Human Resources within two business days of learning of your need for leave, except in extraordinary circumstances. "Request for Family/Medical Leave" forms are available at <https://www.goucher.edu/human-resources/fmla-leave-request>.

If the leave is for the birth of a child or for the placement of a child for adoption or foster care, the total length of the leave must be specified at the time the notice is given.

If the leave is related to a qualifying exigency arising from covered active duty or call to covered active duty, the Office of Human Resources has forms available for your use.

B. Medical Certification

If you are requesting leave because of your own, a covered service member, or an eligible family member's serious health condition, you must provide appropriate medical certification. You may obtain a medical certification form from the Office of Human Resources. Failure to provide required medical certification in a timely manner may result in denial of leave until it is provided. Except for certifications relating to a covered service member, Goucher, at its expense, may require an examination by a second health care provider designated by Goucher. If the second health care provider's opinion conflicts with the original medical certification, Goucher, at its expense, may require a third, mutually agreeable, health care provider to conduct an examination and provide a final and binding opinion. Except for certifications relating to a covered service member, the College may require subsequent medical recertification on a reasonable basis or otherwise provided by the FMLA.

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, Goucher will ask physicians to exclude any genetic information when responding to requests for medical information as part of FMLA. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

C. Reporting While on Leave

If you take leave because of your own serious health condition, to care for an eligible family member with a serious health condition, to care for a covered service member or because of a qualifying exigency, you must contact the Office of Human Resources each month regarding the status of the health condition or qualifying exigency and your intention to return to work.

D. Intermittent and Reduced Schedule Leave

Leave taken because of your own or an eligible family member's serious health condition and leave taken to care for an eligible service member may be taken intermittently (in separate blocks of time) or on a reduced leave schedule (reducing the usual number of hours you work per workweek or workday) only if medically necessary. Leave taken because of a qualifying exigency may be taken intermittently or on a reduced leave schedule provided the employee provides a copy of a certification that may be required by the Secretary of Labor. If leave is unpaid, Goucher will reduce your salary based on the amount of time actually worked. In addition, while you are on an intermittent or reduced schedule leave for reasons of medical necessity or to care for a qualified service member, and the leave is foreseeable based on planned medical treatment, Goucher may temporarily transfer you to an alternative position that better accommodates your recurring leave and which has equivalent pay and benefits. Goucher will not transfer you to an alternative position if you are taking leave because of a qualifying exigency.

Leave taken because of the birth or adoption of a child or the placement of a child with you for foster care may not be taken intermittently or on a reduced leave schedule.

Employees who take intermittent leave for planned medical treatment must make a reasonable effort to schedule such treatment so as to not unduly disrupt Goucher's operations.

E. Returning from Leave

If you take leave because of your own serious health condition, you are required to provide medical certification that you are fit to resume work. Employees failing to provide the required certification will not be permitted to resume work until it is provided. Employees taking intermittent leave are not required to obtain such certification, unless expressly requested by the College.

V. PAY, BENEFITS, AND PROTECTIONS DURING LEAVE

A. Medical Benefits

During an approved family/medical leave, Goucher will maintain your existing Goucher health benefits (if applicable). If paid leave is substituted for unpaid family/medical leave, the College will deduct your portion of the health plan premium as a regular payroll deduction. If a portion of your leave is unpaid, you must remit your portion of the health plan premium on a monthly basis to the Office of Human Resources by the first of each month. If your premium payment is more than 30 days late, your health insurance may be canceled, or at Goucher's option, Goucher may pay your share of the premiums during your family/medical leave, and deduct these payments from your paycheck when you return to work. If your health coverage is discontinued, it will be restored when you return to work, as directed by Plan rules.

If you elect not to return to work at the end of the leave period, you will be required to reimburse Goucher for the cost of the premiums paid by Goucher for providing coverage during your leave, unless you cannot return to work because of your own serious health condition, or a serious health condition of an eligible family member or a covered service member, or other circumstances beyond your control. (Deciding to stay at home with a well, newborn child would not be beyond your control, but staying home because of a serious health condition would be).

B. Retirement Plan Benefits

During an approved family/medical leave, Goucher will continue to make the usual employer contributions on the basis of salary paid and to deduct from your salary the employee contribution to your retirement plan on the basis of salary paid, for employees who receive this benefit.

C. Job Protection

You will be restored to your former position or an equivalent position when you return to work at the conclusion of a family/medical leave. However, you are not entitled to any greater right of reinstatement than if you had been continuously employed during the leave period. For example, if you were hired for a specific term or only to perform work on a specific project and the term or project is over and Goucher would not otherwise have continued to employ you, you are not entitled to reinstatement. If there are reductions in the work force while you are on family/medical leave and your position is eliminated, then you will not be restored to your position.

If the Associate Vice President for Human Resources determines that your former position cannot be held open for the duration of the leave, the Associate Vice President for Human Resources will restore you to an equivalent position. If this determination is made after the family/medical leave begins, then the Associate Vice President for Human Resources will notify you of the decision and of the equivalent position to which you will be assigned upon your return. If you wish to keep your former position, you have the right to return to work within ten working days after being notified.

Goucher reserves the right to deny job restoration to key employees if such denial is necessary to prevent substantial and grievous economic injury to the operations of the employer.

D. Application to Nine/Ten/Eleven Month Employees

Employees who work less than a twelve-month schedule will not have those weeks counted against the 12 weeks of family/medical leave. The employee is eligible for the full 12 weeks of FMLA leave even if the serious health condition or birth occurs during the period when they are not scheduled to work (if the employee otherwise meets the eligibility requirements for FMLA leave).

E. Use of Available Paid Leave

If you request leave due to your own serious health condition, for the birth of a child, for the placement of a child with you for adoption or foster care, or to care for an eligible family member or covered service member with a serious health condition, Goucher requires you to use all of your available sick and/or vacation leave (for which you will be paid). In addition, if an employee is on workers' compensation leave, workers' compensation leave and FMLA leave will run concurrently. The remaining portion of your family/medical leave is unpaid.

If you request family/medical leave because of a qualifying exigency, Goucher requires you to use all of your available vacation leave (for which you will be paid).¹

The substitution of paid leave time for unpaid leave time does not extend the 12-week or 26-week leave period.

VI. NON-FMLA LEAVE FOR CARE OF A DOMESTIC PARTNER

The FMLA does not provide leave for care of a domestic partner as defined by the [Marriage Domestic Partner affidavit](#) (available on Inside Goucher/Benefits/Health Insurance). To the extent that an employee requires extended leave to care for a domestic partner who has a serious health condition, as that term is defined by the FMLA, the employee will be provided 12 weeks of unpaid leave. If an employee has taken FMLA leave in the preceding 12 months prior to requesting leave for care of a domestic partner, the employee's entitlement to leave for care of a domestic partner will be reduced by any FMLA leave that the employee had previously used. To the extent an employee is eligible for other forms of leave, that leave will run concurrently. The employee will be entitled to the same rights, benefits, and protections as described under this policy.

VII. RESPONSIBLE DEPARTMENT

[Office of Human Resources](#)

VIII. CONTACT

The Associate Vice President for Human Resources is responsible for questions regarding this policy.

IX. RELATED POLICIES

Faculty Leave Policy

¹ Note that if you are a spouse, parent, stepparent, child, stepchild, or sibling of a service member, you may take leave from work on the day that a service member is leaving for or returning from active duty outside the United States, and you are not required to use paid vacation leave for such leave.