Family and Medical Leave Act

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

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

Military Family Leave Entitlements
Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation may use their 12-week leave entitlement to address certain qualifying emergencies. Qualifying emergencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service member during a single 12-month period. 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 and that may render the service member medically unfit to perform his or her duties for which the servicemen is undergoing medical treatment, recuperation, therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list.

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

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee’s leave.
FMLA Eligibility Requirements
Employees are eligible if they have worked a minimum of 1,250 hours for a covered employer for at least one year.

Definition of Serious Health Condition
A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

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

Calculation of Leave
For every type of eligible FMLA leave except for leave to care for a covered service member who has a serious injury or illness, the college will use the “rolling calendar” method to calculate an employee’s FMLA leave duration entitlement.

The calculation of leave to care for a Covered Service member is different from other forms of FMLA leave. An eligible employee is entitled to (26) weeks of leave in a single 12 month period. The 12 month period will begin on the first day the eligible employee takes FMLA leave to care for a covered service member, and ends 12 months after that date. If an eligible employee does not take all of his or her 26 workweeks of leave entitlement during this single 12-month period, the remaining part of his or her 26 workweeks is forfeited.

Substitution of Paid Leave for Unpaid Leave
All paid leave runs concurrently with FMLA leave. Employees are required to use all forms of accrued paid leave available prior to taking unpaid FMLA leave. In order to use accrued paid leave for FMLA leave, employees must comply with the employer’s normal paid leave policies.
**Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practical and generally must comply with an employer’s normal call-in procedures. Normal call-in procedures apply to all absences from work including those for which leave under this policy may be requested. Employees are expected to complete and return a leave request form prior to the beginning of leave. Failure to provide appropriate notice and/or complete and return the necessary paperwork may result in the delay or denial of leave.

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

Employees requesting leave to care for a family member with a serious health condition, his or her own serious health condition, or military leave must provide certification from a health care provider to qualify for leave. Such certification must be provided within fifteen days of the request for leave unless it is not practical under the circumstances despite the employee’s diligent efforts. Failure to timely provide certification may result in leave being delayed, denied or revoked. In the College’s discretion, employees may also be required to obtain a second and third certification from another health care provider at College expense (except for Military Care leave). Re-certification of the continuance of a serious health condition or an injury/illness of a military service member will also be required at appropriate intervals.

Employees requesting a military emergency leave may also be required to provide appropriate active duty orders and subsequent information concerning particular Qualifying Exigencies involved.

Employees requesting leave for their own serious health condition will also be required to provide a fitness for duty certification from their health care provider prior to returning to work.

**Employer Responsibilities**

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees’ rights and responsibilities. The notice must also include the amount of leave
counted against the employees leave entitlement. If they are not eligible, the employer must provide a reason for ineligibility.

**Return to Work**

Employees returning to work at the end of leave will be placed in their original job or an equivalent job with equivalent pay and benefits. Employees will not lose any benefits that accrued before leave was taken. Employees may not, however, be entitled to discretionary raises, promotions, bonus payments or other benefits that become available during the period of leave. Employees returning to work after leave for a serious health condition may be required to fill out a fitness for duty form to certify that they can safely perform the essential functions of their job.

**Health Insurance**

The college will maintain an employee’s health insurance coverage during leave on the same basis as if he or she were still working. Employees must continue to make timely payments of their share of the premiums for such coverage. Failure to pay premiums within thirty (30) days of when they are due may result in a lapse of coverage. In this event, the College will notify the employee fifteen (15) days before the date coverage will lapse that coverage will terminate unless payments are promptly made. Alternatively, at the College’s option, the College may pay the employee’s share of the premiums during the leave and recover the costs of this insurance upon the employee’s return to work. Coverage that lapses due to non-payment of premiums will be reinstated immediately upon return to work without a waiting period. Under most circumstances, if an employee does not return to work at the end of leave, the College may require the employee to reimburse the College for health insurance premiums paid during the leave.

**Other Provisions**

Failure to Return: Employees failing to return to work or failing to make a request or accommodation for an extension of their leave prior to the expiration of the leave will be deemed to have voluntarily terminated their employment.

Alternative Employment: No employee, while on any leave of absence, shall work or be gainfully employed either for himself or herself or others unless express, written permission to perform such outside work has been granted by the college. Any employee on a leave of absence who is found to be working elsewhere without permission will be automatically terminated.

False Reason for Leave: Termination will occur if an employee gives a false reason for a leave.

Workers’ Compensation: If a work related injury or illness is covered by the FMLA, the institution will apply the provisions of the FMLA policy.
*Generally, FMLA leave is unpaid. However, the employee may elect to utilize-or the institution may require the employee to utilize his or her accrued paid sick leave and/or annual leave, as appropriate for such absences. Gordon State College requires accrued paid leave to be utilized for FMLA leave.*

Additional Resources can be found at:

http://www.usg.edu/hr/benefits/fmla

For assistance, please contact Human Resources at (678) 359-5011.