

ARTICLE XVI
LEAVES OF ABSENCE

Section A: GENERAL PROVISIONS

If applicable state or federal law requires the University to offer any leave in a manner that would be more generous to employees than is currently provided in this Article, the University will comply with the law.

1. Definition

In accordance with the provisions of this Article, a leave of absence, with or without pay, may be approved by the University for medical purposes and/or non-medical reasons.

a. If an employee eligible for Family and Medical Leave (FML) (as defined in Section B.1.b. below) takes FML for his/her own serious health condition or pregnancy disability, the absence from work shall be deducted from the employee's FML entitlement, as appropriate.

b. Approved non-medical leaves of absence include Personal Leave and FML taken for certain purposes (to care for a family member with a serious health condition, as Parental leave, as Military Caregiver Leave, and as Qualifying Exigency Leave). Such leaves may be with or without pay as provided in this Article.

c. Approved non-medical leaves of absence with pay include leaves for jury duty, voting, blood donations, administrative or legal proceedings, and some military leaves, as provided in this Article.

2. Benefit Eligibility While on Leave Without Pay

a. Approved leave without pay shall not be considered a break in service.

b. If an employee is on approved leave without pay for more than fifty percent (50%) of the full-time working hours in the calendar month, sick leave, and length of service do not accrue. An eligible employee on approved leave without pay may elect to continue University-sponsored insurance coverage (as determined by plan documents or regulations) for the period of the leave by remitting, in accordance with the provisions of the applicable plan(s), the entire premium amount due for the period of the approved leave. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.

c. Special benefit eligibility for FML – See Section B.1.g. below.

3. Requests for Leave

Except as provided under Section B.1.c. below with regard to Notice for Family and Medical

Leaves, requests for leaves of absence and extensions, with or without pay, shall be submitted in writing to the University. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. All requests for leaves of absence shall contain the requested beginning date, end date, and estimated duration of the leave, and any additional information as required.

4. Duration

The duration, terms of the leave and the date of return are determined when the leave is granted, and shall be communicated to the employee, in accordance with the provisions of this Article. Except as provided under Section B., Family and Medical Leave, written confirmation shall be provided when the University determines such confirmation is appropriate. Except as provided for elsewhere in this Article, the total aggregate of leaves of absence taken in any combination, granted under this Article, shall not exceed six (6) months, except as may be otherwise required by law.

5. Return to Work

a. Except as provided in Section B., Family and Medical Leave, and Section C., Pregnancy Disability Leave, an employee who has been granted an approved leave with or without pay shall be reinstated to the same or a similar position in the same department upon expiration of the leave, in accordance with the provisions of this Article. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been on pay status when the position was abolished or affected by layoff.

b. An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.

c. An employee shall not be granted a leave of absence beyond the ending date of the employee's appointment or predetermined date of separation.

d. An employee who fails to return to work from a leave of absence on the approved anticipated date of return shall be considered to have abandoned his/her job, if such failure to return exceeds five (5) consecutive working days of the approved anticipated return date.

Section B: FAMILY AND MEDICAL LEAVE

An employee who is eligible for Family and Medical Leave (FML) and has not exhausted his or her FML entitlement for the leave year, as discussed below, may take FML for an of the following six reasons, as described in greater detail below:

- Due to the employee's own serious health condition (Section B.2.)
- To care for a family member with a serious health condition (Section B.3.)
- As Pregnancy Disability Leave (Section B.4.)

- As Parental Leave (Section B.5.)
- As Military Caregiver Leave (Section B.6.)
- As Qualifying Exigency Leave (Section B.7.)

1. General Provisions for FML

a. Definitions

- 1) "Serious health condition" is an illness, injury (including, but not limited to, on-the-job injuries), impairment, or physical or mental condition that involves either inpatient care or continuing treatment, including, but not limited to, treatment or substance abuse.
 - a) "Inpatient care" means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an "inpatient" when a health care facility formally admits him or her to the facility with the expectation that he or she or will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
 - b) "Incapacity" means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
 - c) "Continuing treatment" means ongoing medical treatment or supervision by a health care provider, as defined below.
- 2) "Child" means a biological, adopted child, foster child, stepchild legal ward, or child for whom the employee stands *in loco parentis*, provided that the child is either under 18 years of age or incapable of self-care because of a mental or physical disability.
- 3) "Parent" means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood *in loco parentis* to the employee when the employee was a child.
- 4) A "health care provider" is an individual who is licensed in California, or is duly licensed in another State or jurisdiction, to hold either a physician's and surgeon's certificate or an osteopathic physician's and surgeon's certificate, or who is duly licensed as a podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to the treatment of the spine to correct a subluxation as demonstrated by x-ray to exist), physician assistant, nurse practitioner or nurse mid-wife performing within the scope of his/her duties, as defined under State law, a Christian Science practitioner, or any health care provider that the employee's health plan carrier recognizes for purposes of payment.
- 5) "1,250 Hours of Actual Service" means time actually spent at work and does not include any paid time off including, but not limited to, an employee's use of

accrued vacation, compensatory time, or sick leave, nor does it include time paid for holidays not worked or time spent in unrestricted on-call status.

b. Eligibility Criteria and Duration

- 1) Employees who have at least twelve (12) cumulative months of University service (all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement) and have at least 1,250 hours of actual hours worked during the twelve-month period immediately preceding the commencement of the leave are eligible for and shall be granted FML.
- 2) Family and Medical Leave is unpaid leave, except as otherwise provided in Section B.1.f. of this Article. All paid time off used for FML purposes shall be deducted from the employee's maximum FML entitlement. Such deductions shall be made in increments that correspond to the amount of leave actually taken by the employee (which could be weeks, days, hours, and/or partial hours).
- 3) Family and Medical Leave shall not exceed twelve (12) workweeks in the leave year unless it is used for Pregnancy Disability Leave or Military Caregiver Leave. If the employee is taking FML as Pregnancy Disability Leave, the employee shall be eligible for FML for the period of actual disability up to four (4) months per pregnancy. If the employee is taking FML for Military Caregiver Leave, the employee shall be eligible for up to twenty-six (26) workweeks in a single 12-month leave period, as defined in Section B.6.b.8. below. If the employee has exhausted his/her entitlement to FML, he/she may apply for additional leave pursuant to this Article.
 - a) For purposes of FML only, twelve (12) workweeks is equivalent to four-hundred eighty (480) hours of scheduled work for full-time career and floater employees who are normally scheduled for an eight (8) hours per day five (5) days per workweek (8/40) schedule.
 - b) For employees who work part-time or a schedule other than 8/40, the number of FML hours to which the employee is eligible shall be adjusted in accordance with his/her normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a pro-rated amount of FML based on his/her hours worked over the previous twelve (12) months preceding the leave.
- 4) When medically necessary and supported by medical certification, the University shall grant an eligible employee's request for a reduced work schedule or intermittent leave including absences of less than one (1) day. When granted, the University will count only the time actually spent on the intermittent leave or reduced work schedule towards the employee's FML entitlement.
- 5) When the employee requests an intermittent leave or reduced work schedule because the employee is undergoing planned medical treatment for his/her serious health condition or because the employee's family member is undergoing planned medical treatment for a serious health condition, the University may, at its discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified

and which better accommodates the employee's recurring period of leave. Such transfer shall not act to discourage the employee from taking leave or otherwise work a hardship on the employee. Such transfer shall have the equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

c. Notice

- 1) If the employee learns of the event giving rise to the need for leave more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the employee shall give the University at least thirty (30) calendar days' notice of the need for leave. An employee who fails to give thirty (30) days' notice for a foreseeable leave with no reasonable basis for the delay may have the FML leave delayed until thirty (30) days after the date on which the employee provides notice.
 - a) If the need for leave is foreseeable due to planned medical treatment of the employee (due to the employee's serious health condition or pregnancy disability) or the planned medical treatment of the employee's family member with a serious health condition, the employee shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations.
 - b) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the employee shall provide the University with as much notice as practicable and, at a minimum, notify the University within five (5) calendar days after learning of the need for leave.
- 2) The University shall determine whether the employee is eligible and qualifies for an FML leave and shall notify the employee, in writing, when the leave is designated or provisionally designated as FML. The start date of the leave, the terms of the leave and the date of return from the leave are determined when the leave is granted.
- 3) Extensions to an FML leave, if any, may be granted up to the aggregate of twelve (12) workweeks in a calendar year (26 workweeks in a single 12-month period if FML is being taken as Military Caregiving Leave or four (4) months per pregnancy if FML is taken as Pregnancy Disability Leave). If an employee's need for leave continues after his or her FML entitlement has been exhausted, the employee may be eligible for a leave as a reasonable accommodation of a disability (if FML was taken due to the employee's own serious health condition or as Pregnancy Disability Leave) or may request a Personal Leave.

d. Certification and Other Supporting Documentation

- 1) Certification When FML Is Taken for the Employee's Own Serious Health Condition.

When FML is requested for the employee's own serious health condition, the University may, at its discretion, require that an employee's request for leave be supported by written certification issued by the employee's health care provider. When certification is required by the University, the University shall inform the employee of this requirement in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format in which it is provided, in addition to certifying that the employee has a serious health condition, as defined in Section B.1.a.1. above, include:

- a) A statement as to whether the employee is unable to perform any one or more of the essential assigned functions of the position; and
 - b) The date, if known, on which the employee's serious health condition began, the probable duration of the condition and the employee's probable date of return; and
 - c) Whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced work schedule, and if so, the probable duration of such schedule; and,
 - d) If the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.
- 2) Certification When FML Is Taken to Care for the Employee's Family Member with a Serious Health Condition

When FML is requested so that the employee may care for a family member with a serious health condition, the University may at its discretion require that an employee's request for leave be supported by written certification issued by the family member's health care provider. When certification is required by the University, the University shall inform the employee of this requirement in writing. Certification may be provided by the employee on a form given to the employee by the University and shall, regardless of the format in which it is provided, in addition to certifying that the employee's family member has a serious health condition, as defined in Section B.1.a.1 above, include:

- a) A statement that the family member's serious health condition warrants the participation of the employee to provide supervision or care (which includes psychological comfort) during a period of the treatment or incapacity; and
 - b) Whether the employee's family member will need supervision or care over a continuous period of time, intermittently or on a reduced schedule basis; the leave schedule the employee will need in order to provide that care; and the probable duration that the employee will need leave to provide that care.
 - c) In addition, the employee will be required to certify either on the same form or separately the care he/she will provide the family member and the estimated duration of the period of care.
- 3) Certification When FML Is Taken as Pregnancy Disability Leave. When FML is taken as Pregnancy Disability Leave, the employee may be required to provide a certification in accordance with Section C.6. below.
- 4) Certification When FML Is Taken as Military Caregiver Leave. When Military Caregiver Leave is requested, the employee may be required to provide a certification completed by an authorized health care provider of the covered servicemember, which includes health care providers affiliated with the Department of Defense, the Veterans Administration, and TRICARE, as well as any other health care provider (as defined in Section B.1.a.4. above) who is treating the covered servicemember. The certification shall provide information

sufficient to establish entitlement to Military Caregiver Leave, including information establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave and that he or she has a covered relationship with the employee, as well as an estimate of the leave needed to provide the care. When the covered servicemember is a covered veteran, the employee may be required to provide information establishing his or her veteran status, the date of separation from the Armed Forces, and that separation was other than dishonorable.

- 5) Certification When FML Is Taken As Qualifying Exigency Leave. When Qualifying Exigency Leave is requested, an employee may be required to provide a copy of the military member's active duty orders. Employees may also be required to provide certification of (1) the reasons for requesting Qualifying Exigency Leave, (2) the beginning and end dates of the qualifying exigency, and (3) other relevant information.
- 6) Confirmation of Family Relationship. The University may, at its discretion, require that an employee complete a Declaration of Relationship form to certify his/her relationship with the family member when the employee is requesting FML to care for a family member with a serious health condition or to certify his/her relationship with the child when the employee is requesting FML as Parental Leave. The employee's failure to complete a Declaration of Relationship form within fifteen (15) days of the University's written request may, at the discretion of the University, result in discontinuance of the leave until the required documentation is provided or, if the leave has not yet begun, a delay in the start date of the leave. If the employee fails to provide a completed Declaration of Relationship form within a reasonable period of time as requested, FML leave will be denied.
- 7) Questioned Medical Certifications. Should the University have a good faith, objective reason to doubt the validity of the employee's certification for his/her own serious health condition, the University may, at its discretion, require the employee to obtain a second medical opinion from a second health care provider selected by the University. Should the second medical opinion differ from the opinion of the employee's own health care provider, the University may, at its discretion, require a third medical opinion from a third health care provider, jointly agreed to by the employee and the University. The University shall bear the cost of the second and third opinions and the third opinion shall be final. If a second or third opinion is sought, the University shall provide the employee with a copy of the opinion at no cost to the employee, upon the employee's request.
- 8) Additional Certification and/or Recertification. If additional leave is requested or should the circumstances of the leave change, the University may, at its discretion, require the employee to obtain recertification. Such requests for subsequent certification may be either verbal or in writing.
 - a) If certification and/or recertification is required, the employee shall return the certification within fifteen (15) calendar days of the University's written request, where practicable.
 - b) Failure to provide certification for a foreseeable leave within the requested time may result in delay of the leave until the required certification is received. Failure to provide certification for an unforeseeable leave within the requested time period may result in discontinuance of the leave until the required certification is provided. If the employee fails to provide the required certification, the leave is not FML and will be

denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML leave.

- 9) Failure to Provide a Complete and Sufficient Certification or Recertification. If the employee fails to provide a complete and sufficient certification and/or recertification, the employee shall be given fifteen (15) calendar days to perfect the certification/recertification. Failure to perfect an incomplete certification/recertification within the requested time period may result in delay of the leave or discontinuance of the leave until the required certification/recertification is provided. If the employee fails to provide a complete and sufficient certification/recertification, the leave is not FML and will be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML leave.

e. Return from FML Taken for Employee's Own Serious Health Condition.

- 1) An employee who has been granted FML for his/her own serious health condition shall provide his/her employing department reasonable notice of his/her anticipated return to work.
- 2) The employee must provide a written medical release to return to work prior to returning to work.
- 3) The employee who has been medically released to perform the essential assigned functions of his/her job shall be returned in accordance with the provisions of Section B.1.h.
- 4) Failure to provide a medical release to return to work may result in the delay of reinstatement until the employee submits the required medical release.

f. Use of Accrued Paid Leave

FML is unpaid, except for the use of accrued sick leave, accrued vacation, and/or compensatory time, as provided in this Section.

- 1) An employee taking FML for his/her own serious health condition shall use accrued sick leave in accordance with the University's disability plan requirements or as may be required in connection with a work-incurred injury or illness before taking FML leave without pay. Employees not eligible for University disability benefits and not on FML due to a work-incurred injury or illness shall use all accrued sick leave prior to taking leave without pay. If sick leave is exhausted, an employee may elect to use accrued vacation time and/or compensatory time prior to taking FML leave without pay.
- 2) An employee taking FML to care for a family member with a serious health condition or taking FML as Military Caregiver Leave may use sick leave in accordance with Article XIII-Sick Leave, Section D., or an employee may elect to use accrued vacation time and/or compensatory time prior to taking FML leave without pay. However, if the employee's vacation leave accrual is at maximum, the employee will be required to use at least ten percent (10%) of the vacation leave credit prior to taking FML leave without pay.
- 3) An employee taking FML as Pregnancy Disability Leave shall be required to use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the employee may elect to use accrued vacation time and/or compensatory time prior to taking FML leave without pay.
- 4) An employee taking FML as Parental Leave may elect to use accrued vacation time and/or compensatory time prior to taking FML leave without pay.
- 5) An employee taking FML as Qualifying Exigency Leave may elect to use accrued vacation time and/or compensatory time prior to taking FML without pay.

g. Continuation of Health Benefits

- 1) An eligible employee who is on an approved FML leave shall be entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status as follows:
 - a) When the employee is on FML that runs concurrently under the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA): Continued coverage for up to twelve (12) workweeks in a calendar year.
 - b) When the employee is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single 12-month leave period, as defined in Section B.6.b.8. below.
 - c) When the employee is on a Qualifying Exigency Leave under the FMLA: Continued coverage for up to twelve (12) workweeks in a calendar year.
 - d) When the employee is on a Pregnancy Disability Leave under the California

Pregnancy Disability Leave Law (PDLL), regardless of whether any of the leave runs concurrently under the FMLA: Continued coverage for up to four (4) months in a twelve-month period. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage provided for that portion of the leave will count towards the employee's FMLA entitlement for up to twelve (12) workweeks of such coverage in a calendar year.

e) When the employee is on FML under the CFRA that does not run concurrently under the FMLA (e.g., Parental Leave after an employee's FMLA entitlement has been exhausted): Continued coverage for up to twelve (12) workweeks in a calendar year.

2) Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

h. Return to Work

When an employee has been granted an approved FML leave for any purpose other than Pregnancy Disability Leave and returns within twelve (12) workweeks of the initiation of the leave (or within twenty-six (26) workweeks if the FML was taken for Military Caregiver Leave), he/she shall be reinstated to the same or an equivalent position upon expiration of the leave. For an employee's return to work rights after Pregnancy Disability Leave, see Section C.7. below. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations that would have been afforded had the employee been working (rather than on leave) when the position was abolished or affected by layoff. No employee with a predetermined appointment end date or predetermined date of separation shall be granted a leave of absence beyond his/her appointment end date or the predetermined date of separation.

2. FML for Employee's Serious Health Condition

FML for the employee's own serious health condition is leave taken when the employee's own "serious health condition," as defined in Section B.1.a.1. above, renders the employee unable to perform any one or more of the essential functions of the employee's position.

3. FML to Care for Employee's Family Member with a Serious Health Condition

FML to care for a family member with a serious health condition is leave to care for the employee's child, parent, spouse, or same or opposite sex domestic partner who has a "serious health condition," as defined in Section B.1.a.1. above.

4. FML as Pregnancy Disability Leave

When an employee who takes Pregnancy Disability Leave pursuant to Section C below is eligible for FML, her Pregnancy Disability Leave will be counted against her FML entitlement under the FMLA as well as her Pregnancy Disability Leave entitlement under the PDLL.

5. FML as Parental Leave

FML as Parental Leave is leave taken to bond with the employee's newborn or a child placed with the employee for adoption or foster care or to attend to matters related to the birth, adoption,

or place or placement of the child. Such leave must be initiated and concluded within one (1) year of the birth or placement of the child. The University will grant Parental Leave subject to the limitations described below. If requested and taken immediately following a Pregnancy Disability Leave, an employee eligible for leave under the FMLA/CFRA at the beginning of her Pregnancy Disability Leave shall be granted the unused portion of her FMLA and CFRA leave entitlements for Parental Leave purposes for up to twelve (12) workweeks provided that the employee has not exhausted those leave entitlements for that leave year.

a. Requests for Parental Leave

The employee shall request Parental Leave sufficiently in advance of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee, but the employee shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with Pregnancy Disability Leave under the FMLA, shall be set at the time such Pregnancy Disability Leave commences. Parental Leave, when taken for adoption or foster care, could commence prior to the date of placement.

b. Duration

Parental Leave, alone, shall not exceed twelve (12) workweeks in a calendar year as set forth in Section B.1.b.3. However, when Parental Leave is combined with a Pregnancy Disability Leave under the FMLA, the total FML Leave shall not exceed seven (7) months in the leave year.

The University shall grant a Parental Leave of less than two (2) weeks duration on any two (2) occasions during the calendar year. The University, at its discretion, may require that any additional Parental Leave requested during this same time period be for a minimum duration of two (2) weeks, unless otherwise required by law.

6. FML as Military Caregiver Leave

An employee may take Military Caregiver Leave to care for a family member who is a “covered servicemember” undergoing medical treatment, recuperation or therapy for a serious injury or illness incurred in the line of duty, consistent with the definition of those terms in Section B.6.b. below. With the exception of Eligibility Criteria and Duration, Definitions Specific to Military Caregiver Leave, and Leave Entitlement, which are specifically addressed in this Section B.6, the General Provisions for FML set forth in Section B.1. above shall apply to Military Caregiver Leave.

a. Eligibility Criteria and Duration

An eligible employee is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single 12-month leave period. The employee must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember to be eligible for this type of FML leave and must meet the eligibility requirements for FML set forth in Section B.1.b.1. above.

b. Definitions Specific to Military Caregiver Leave

- 1) "Covered servicemember" means (a) a current member of the regular Armed Forces (including a member of the National Guard or Reserves) who, because of a "serious injury or illness," is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is on the temporary disability retired list; or (b) a "covered veteran" who is undergoing medical treatment, recuperation, or therapy for a "serious injury or illness."
- 2) "Covered veteran" means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes Military Caregiver Leave to care for a covered veteran.
- 3) "Outpatient status" means the status of a servicemember assigned to (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- 4) "Serious injury or illness" means:
 - a) For a current member of the Armed Forces (including a member of the National Guard or Reserves): an injury or illness that was incurred by the covered service member in the line of duty on active duty in the Armed Forces or that existed before the beginning of the covered servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces and that may render the covered medically unfit to perform the duties of his or her office, grade, rank, or rating;
 - b) For a covered veteran: an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran.
- 5) "Parent of a covered servicemember" means a covered servicemember's biological, adopted, step, or foster parent or any other individual who stood *in loco parentis* to the covered servicemember. The term does not include parents "in-law."
- 6) "Son or daughter of a covered servicemember" means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood *in loco parentis* and who is of any age.
- 7) "Next of kin" means (a) the nearest blood relative of the covered servicemember (other than the covered servicemember's spouse, domestic partner, parent, son, or daughter) or (b) the person who the covered servicemember has designated in writing as his or her nearest blood relative for purposes of Military Caregiver Leave.
- 8) "Single 12-month leave period" means the period beginning on the first day the employee takes leave to care for the covered servicemember and ends 12 months after that date.

(This leave period differs from the calendar year definition of the leave year used for determining eligibility for other types of FML at the University.)

c. Leave Entitlement

- 1) Leave entitlement is applied on a per-covered servicemember, per-injury basis. Eligible employees may take more than one period of 26 workweeks of leave if the leave is to care for a different covered servicemember or to care for the same covered servicemember with a subsequent serious injury or illness, except that no more than 26 workweeks of leave may be taken within any “single 12-month leave period.”
- 2) If an eligible employee does not use all of his or her 26 workweeks of leave entitlement to care for a covered servicemember during this single 12-month leave period, the remaining part of the 26 workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.
- 3) As with other types of FML, this leave may also be taken on an intermittent or reduced schedule basis. If the need for intermittent or reduced schedule leave is foreseeable based on the planned medical treatment of the covered servicemember, the employee may be required to transfer temporarily, during the period that the intermittent or reduced schedule is required, to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee’s regular position.

7. FML as Qualifying Exigency Leave

If the eligible employee is the spouse, domestic partner, son, daughter or parent of a military member, the employee may take Qualifying Exigency Leave to attend to any “qualifying exigency” while the military member is on “covered active duty or call to covered active duty status” (or has been notified of an impending call or order to covered active duty). With the exception of Eligibility and Definitions Specific to Qualifying Exigency Leave, which are specifically addressed in this Section B.7, the General Provisions for FML set forth in Section B.1. above shall apply to Qualifying Exigency Leave.

a. Eligibility

An employee who is the spouse, domestic partner, son, daughter or parent of a military member is eligible for Qualifying Exigency Leave if the employee meets the eligibility requirements for FML set forth in Section B.1.b.1. above.

b. Definitions Specific to Qualifying Exigency Leave

- 1) “Covered active duty or call to covered active duty status” means (a) in the case of a member of the regular Armed Forces, duty during the deployment to a foreign country or (b) in the case of a member of the Armed Forces Reserve, duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation as defined by the FMLA.
- 2) “Qualifying exigency” is defined as any one of the following, provided that the activity relates to the military member’s covered active duty or call to covered active duty status:

- a) Short notice deployment to address issues that arise due to a military member being notified of an impending call to covered active duty seven (7) or fewer calendar days prior to the date of deployment.
- b) Military events and activities, including official ceremonies.
- c) Childcare and school activities for a child of a military member who is either under age 18 or incapable of self-care.
- d) Financial and legal arrangements to address the military member's absence or to act as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status and for the ninety (90) days after the termination of the military member's covered active duty status.
- e) Counseling (provided by someone other than a health care provider) for the employee, for the military member, or for the child of the military member who is either under age 18 or incapable of self-care.
- f) Rest and recuperation (up to fifteen (15) days of leave for each instance) to spend time with a military member who is on short-term temporary rest and recuperation leave during deployment.
- g) Post-deployment activities to attend ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's covered active duty and to address issues that arise from the death of a military member while on covered active duty status.
- h) Parental care for the parent of the military member when the parent is incapable of self-care.
- i) Additional activities related to the military member's covered active duty or call to covered active duty status when the employer and the employee agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

Section C: PREGNANCY DISABILITY LEAVE

1. Eligibility

For an employee disabled because of pregnancy, childbirth, or related medical condition, no eligibility requirements apply, such as minimum hours worked or length of service.

2. Duration

During the period when an employee is disabled because of verified pregnancy, childbirth, or related medical condition, an employee is entitled to and the University shall grant up to four (4) months of Pregnancy Disability Leave for such purposes. If the employee is eligible for FML, pursuant to Section B above, such leave shall be deducted from an employee's leave entitlement under the federal FMLA as well as her leave entitlement under the PDLL.

- a. If the employee continues to be disabled by pregnancy, childbirth or related medical condition beyond four (4) months, a leave of absence may be granted as a reasonable accommodation of a disability for a total medical absence not to exceed six (6) months, or as may otherwise be required by law.
 - b. Additionally, the employee may be eligible for Parental Leave, pursuant to Section B.5. above, to care for her newborn child. The total FML taken for a combination of Pregnancy Disability Leave and Parental Leave shall not exceed seven (7) months in the leave year.
3. Pregnancy Disability Leave may consist of leave with or without pay; however, an employee shall be required to use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the employee may elect to use accrued vacation time and/or compensatory time prior to taking leave without pay.
 4. When medically necessary, and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. Only the time actually taken as leave on the intermittent or reduced leave schedule shall be counted towards the employee's entitlement of up to four (4) months of Pregnancy Disability Leave per pregnancy.
 5. Transfer and Other Reasonable Accommodations as Alternatives to Or in Addition to Pregnancy Disability Leave

- a. Transfer at the Request of the Employee

As an alternative to or in addition to Pregnancy Disability Leave, the University shall temporarily transfer a pregnant employee to a less strenuous or hazardous position upon the request of the employee when such transfer is medically advisable according to when such transfer is medically advisable according to the employee's health care provider, if the transfer can be reasonably accommodated. For the purpose of this section, a temporary transfer includes a temporary modification of the employee's own position to make it less strenuous or hazardous. A temporary transfer under this section is considered time worked and shall not be counted toward an employee's entitlement of up to four (4) months of Pregnancy Disability Leave, unless the employee is also on a reduced work schedule or an intermittent leave schedule. When the employee's health care provider certifies that the transfer is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section C.7. below.

- b. Transfer to Reasonably Accommodate the Employee's Need for Intermittent or Reduced Work Schedule

When the employee's health care provider states that it is medically advisable for the employee to take Pregnancy Disability Leave on an intermittent or reduced schedule basis, the University may, at its discretion, transfer the employee temporarily to an available alternative position that meets the needs of the employee, provided the employee meets the qualifications of the alternative position. Any alternative position shall have the equivalent rate of pay and benefits, and shall better accommodate the employee's leave requirements than her current position. Only the time actually taken as leave on an intermittent or reduced schedule basis shall be counted towards the employee's entitlement of up to four (4) months of Pregnancy

Disability Leave per pregnancy. When the employee's health care provider certifies that the intermittent or reduced schedule leave is no longer medically advisable, the University shall return the employee to her same position or a comparable position in accordance with Section C.7. below.

c. Other Reasonable Accommodations

If the employee's health care provider certifies that reasonable accommodations other than transfer and/or leave on an intermittent or reduced schedule basis are medically advisable, the University shall engage in the interactive process with the employee to identify and implement the reasonable accommodation(s) that are appropriate under the circumstances.

6. Certification

a. When an employee requests a reasonable accommodation, transfer, or leave due to pregnancy, childbirth, or related medical condition, the University may, at its discretion, require that the employee's request be supported by a medical certification issued by the employee's health care provider.

b. When a medical certification is requested in connection with the employee's request for reasonable accommodation or transfer, it shall contain the following: (1) a description of the reasonable accommodation or transfer requested, (2) a statement describing the medical advisability of the requested reasonable accommodation or transfer, and (3) the date on which the need for reasonable accommodation or transfer became or will become medically advisable and the estimated duration of the need for the reasonable accommodation or transfer.

c. When a medical certification is required in connection with an employee's request for leave, it shall contain the following: (1) a statement that the employee needs to take Pregnancy Disability Leave because she is disabled by pregnancy, childbirth, or related medical condition, and (2) the date on which the employee became disabled because of pregnancy and the estimated duration of the need for leave.

d. Failure to provide certification for reasonable accommodation, transfer or leave within the requested period of time period or as soon as reasonably possible under the circumstances may result in delay of the reasonable accommodation, transfer, or leave until the required certification is provided.

e. The University may, at its discretion, require that an employee provide a written medical release prior to returning to work if she will be returning to work immediately following Pregnancy Disability Leave.

7. Return to Work After Pregnancy Disability leave

a. The date of reinstatement from the Pregnancy Disability Leave is typically determined by agreement between the University and the employee when the leave is granted. If the actual reinstatement date differs from the original agreement or no agreement was made and the employee is returning directly from Pregnancy Disability Leave, the University shall reinstate the employee within two (2) business days or, when two (2) business days is not feasible, as soon as possible after the employee notifies the University of her readiness to return.

b. If the employee is returning to work immediately following the end of the Pregnancy Disability Leave, she shall not be reinstated from her Pregnancy Disability Leave until a written medical release is provided to the University within the time limits specified by the Department. A medical release shall include a statement by the employee's health care provider of the employee's ability to perform the essential functions of the position, with or without reasonable accommodation.

c. An employee who has been granted a temporary transfer and/or Pregnancy Disability Leave shall be reinstated to the same position provided that the employee returns to work immediately upon termination of the Pregnancy Disability Leave and provided that the aggregate duration of all leaves granted for a given pregnancy does not exceed four (4) months. If the same job has been abolished or affected by layoff, the employee shall be reinstated to a comparable position if the employee would have been entitled to the comparable position if she had been continuously working rather than on leave. If a comparable position is not available on the employee's scheduled date of reinstatement but a comparable position or positions becomes available within sixty (60) days thereafter, the University shall notify the employee of the position(s). If the employee is reinstated within that sixty-day (60-day) period, the period between the employee's originally scheduled date of reinstatement and her actual reinstatement shall not be counted for purposes of any employee pay or benefits.

8. Continuation of Health Benefits

An employee on Pregnancy Disability Leave shall be entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status as set forth in Section B.1.g.1.d. above, whether or not the Pregnancy Disability Leave also qualifies as FML under the FMLA. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

Section D: MILITARY LEAVE

An employee is entitled to Reserve Training Leave for Inactive Duty, Temporary Military Leave for Active Duty Training, Extended Military Leave, Emergency National Guard Leave and Military Leave for Physical Examinations provided that the employee gives advance verbal or written notice of the leave except when such notice is precluded by military necessity, impossibility or unreasonableness. In any event, the University may require verification of an employee's military orders for leaves of thirty (30) or more days.

1. Eligibility for Pay and Benefits

a. General Provisions

An employee granted reserve training leave for inactive duty, temporary military leave for active-duty training or extended military leave is entitled to receive regular University pay for the first thirty (30) calendar days of such leave in any one fiscal year, but not to exceed the actual period of service, provided:

- 1) The employee has at least twelve (12) months of continuous University service immediately prior to the granting of the leave (any prior full-time military service shall be included in calculating this University service requirement); and
- 2) Such payment for reserve training, temporary and extended military leave in any combination, in addition to any University payment for military leave for physical examinations, does not exceed the pay due for a period of thirty (30) calendar days in any one fiscal year.

b. Part-time Employee - An eligible part-time employee shall receive pay in proportion to the average percent of full-time worked during the three (3) completed monthly pay periods immediately preceding the leave.

c. Ineligible Employee - An employee not eligible for military leave pay may have such absence charged to accrued vacation or accrued compensatory time off, or the military leave may be without pay.

d. Service Credit and Benefits - An employee on temporary military leave for active-duty training or extended military leave who is not on pay status shall receive length-of-service credit, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal laws. Such employee shall accrue vacation and sick leave and receive holiday pay only in accordance with Article XIV, Vacation Leave, Article XIII, Sick Leave and Article XII, Holidays. If on pay status, provided that the employee returns to University service at the expiration of the leave in accordance with applicable State and Federal Laws, the employee shall receive regular benefits. Retirement benefits and service credit shall be continued in accordance with the provisions of the applicable retirement system regulations. Health benefits may be continued at the employee's request and expense for a limited period of time as outlined under the University's groups insurance regulations.

2. Reserve Training Leave for Inactive Duty

Reserve training for inactive duty shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, must perform inactive duty such as weekly or monthly meetings or weekend drills.

3. Temporary Military Leave for Active-Duty Training

Temporary military leave for active-duty training shall be granted to any employee who, as a member of a reserve component of the United States Armed Forces, is ordered to full-time active military duty for training for a period not to exceed one hundred eighty (180) days,

including time spent traveling to and from such duty.

4. Extended Military Leave

Extended military leave shall be granted to an employee who enlists or is ordered into active duty in the United States Armed Forces or a reserve component or who is ordered into active Federal military duty as a member of the National Guard or Naval Militia. Such leave shall be granted for active-duty service of any length or for active duty training in excess of one hundred eighty (180) days.

a. Period of Leave. An employee shall be granted extended military leave for the initial period of enlistment, service, or tour of duty for a period not to exceed five (5) years. In addition, leave shall be granted for a period up to six (6) months from the date of release from duty if the employee requests such extension.

b. Service Credit and Benefits. An employee granted extended military leave shall receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time off. Upon written request, an employee may elect to retain accrued vacation on the records for a period not to exceed one hundred eighty (180) days. Vacation credits retained on the records in excess of one-hundred eighty (180) days shall be paid out at the pay rate in effect at the time of payment, taking into account any salary increases that may have occurred in the previous one-hundred eighty (180) day period.

c. Sick leave credit shall be retained on the records.

d. Probationary Employee. An employee who was serving a probationary period at the time extended military leave became effective shall be required to complete the probationary period upon reinstatement.

1) If the probationary employee served in active military service for a period of more than thirty (30) days he/she shall not be separated from employment by management action except for cause for six (6) months from the date of reinstatement.

2) If the probationary employee served in active military service for a period in excess of one hundred eighty (180) days, he/she shall not be separated from employment by management except for cause for one (1) year from the date of reinstatement.

5. Emergency National Guard Leave

Military Leave shall be granted to an employee who, as a member of the National Guard, is called to active duty by proclamation of the Governor during a state of emergency. An employee who, as a member of the National Guard, is called to active federal military duty at the request of the President of the United States is not eligible for emergency National Guard leave, but shall be granted extended military leave as set forth in Section D.4.

a. Eligibility for Pay. An employee granted military leave for emergency National Guard duty is entitled to receive regular University pay for a period not to exceed thirty (30) calendar days in any one (1) fiscal year. An employee is eligible for pay regardless of the

length of University service, and such pay is in addition to any University payment for reserve training leave, temporary military leave for active-duty training, extended military leave, and military leave for physical examinations.

b. Benefits. An employee on military leave with pay for emergency National Guard duty shall receive all benefits related to employment which are granted when an employee is on pay status. If not on pay status, the employee shall receive length-of-service credit, provided that the employee returns to University service immediately after the emergency service is over. Such employee shall accrue vacation and sick leave and receive holiday pay in accordance with Article XIV, Vacation Leave, Article XIII, Sick Leave and Article XII, Holidays.

6. Physical Examination

Military leave with pay shall be granted to an employee in accordance with D. 1., regardless of length of service, when the employee is required to take a pre-induction or pre-enlistment physical examination to fulfill a commitment under a Selective Service or comparable law, or during a period of war or comparable national emergency.

a. Time off for other physical examinations in connection with military service may be charged to accrued sick leave, accrued vacation leave, or accrued compensatory time off, or shall be without pay.

b. The University may require verification of an employee's military orders to report for a physical examination.

7. Reinstatement

Following release from military service, an employee shall have such right to return, and only such right, as may be required by State and Federal law in effect at the time the employee applies for reinstatement. Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee's position during the military leave as provided by the Agreement.