

ARTICLE 23 – LEAVES OF ABSENCE WITHOUT PAY

In accordance with the provisions of this Article, a leave of absence without pay may be approved by the University.

A. Requests for Leave

1. Except as provided under Family Care and Medical Leave Notification, requests for leaves of absence and extensions 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, including intermittent leave, shall contain the requested beginning date, end date and estimated duration of the leave and any additional information as required.
2. The duration, terms and the date of return shall be determined when the leave is granted. Except as provided elsewhere in this Article, the total leaves of absence taken in any combination shall not exceed six (6) months.
3. An employee shall not be granted a leave of absence beyond the ending date of the employee's appointment or predetermined date of separation.

B. Benefit Eligibility While on Leave

1. Approved leave without pay shall not be considered a break in service.
2. If an employee is on approved leave without pay for more than fifty percent (50%) of the full-time working hours in a calendar month, sick leave and length of service do not accrue. Vacation leave accrues based on the number of hours on pay status.
3. An employee on an approved FMLA leave shall be entitled to continue participation in health plan coverage (medical, dental and optical) as if on pay status for a period of up to twelve (12) workweeks in the leave year.
4. An employee on an approved non-FMLA leave without pay may elect to continue University-sponsored insurance coverage (as determined by plan documents) for the period of leave at the employee's expense.
5. An employee's request for leave without pay shall not be unreasonably denied if the employee has exhausted his/her vacation leave and compensatory time off.

C. Types of Leave

Family Care and Medical Leave

Family Care Leave includes Parental Leave and Family Illness Leave. Medical Leave is provided for the employee's own serious health condition.

1. **Eligibility.** Employees who have at least twelve (12) cumulative months of University service and 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 up to a total of twelve (12) workweeks of Family Medical Leave (FMLA) during the leave year. For employees who work part-time or a schedule other than an 8/40, the number of FMLA leave hours to which the employee is eligible shall be adjusted in accordance with his/her normal weekly work schedule.

2. **Notice.** The employee shall give the University at least thirty (30) calendar days notice of the need for leave if the leave is foreseeable. The employee shall make reasonable efforts to schedule the medical procedure so as not to unduly disrupt University operations. An employee who fails to provide thirty (30) days notice with no reasonable basis for the delay, may have the leave delayed until thirty (30) days after the date on which the employee provided notice.

If the need for the leave is unforeseeable, or occurs prior to the anticipated date, the employee shall provide as much notice as practicable, but at least two business days of when the need for the leave became known to the employee.

3. **Certification.** For a leave for the employee's own serious health condition, the University may require that an employee provide written certification from the employee's health care provider. The certification shall include: a statement that the employee has a serious health condition, a statement regarding what functions of the employee's position the employee is unable to perform, the date the serious health condition commenced (if known), probable duration of the condition, whether it will be necessary for the employee to take intermittent leave or work on a reduced leave schedule, probable return date and any other information related to the employee's condition and the employee's need for leave.

For a leave for the employee to care for a family member the University may require that an employee provide written certification from the family member's health care provider. The certification shall include: a statement that the family member's serious health condition warrants the participation of the employee to provide supervision or care during the period of treatment or incapacity, the probable duration of the employee's need to provide care and whether the employee's family member will need care from the employee intermittently. In addition, the employee may be required to certify the care that he/she will provide to the family member.

If there is any question regarding the validity of the certification for the employee's own serious health condition, the University may, at its discretion, require the employee to obtain a second medical opinion from a health care provider selected by the University. If the second opinion differs from the first opinion, the University may require a third medical opinion from a health care provider jointly agreed to by the employee and the University. The University shall bear the cost of the second and third opinion(s).

If additional leave is requested or circumstances change, the University may require recertification.

Certifications or recertifications shall be returned to the University within fifteen (15) calendar days, if practicable. Failure to provide it within that time period may result in delay, discontinuance or denial of the leave until the certification/recertification is received. The University may, at its discretion, require an employee requesting family care leave or parental leave to provide documentation of the familial

relationship or proof of birth, placement for adoption or foster care. Failure to provide such documentation within fifteen (15) calendar days may result in delay, discontinuance or denial of the leave until the documentation is received.

4. **Use of Accrued Paid Leave.** Family Care and Medical Leave is unpaid, however, an employee on medical leave for his/her own serious health condition shall use accrued sick leave in accordance with the University's disability plan or as provided in Article 19 - Work Incurred Injury or Illness. Employees not eligible for University disability benefits and not on leave 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 leave prior to taking leave without pay.

An employee on Family Care Leave for Family Illness may use sick leave in accordance with Article 18. E. 7, Sick Leave or an employee may elect to use accrued vacation leave prior to taking leave without pay.

An employee on Family Care Leave for Parental Leave may elect to use accrued vacation leave prior to taking leave without pay.

If an employee's vacation leave accrual is at maximum, the employee will be required to use at least ten percent (10%) of the vacation leave prior to taking leave without pay for any Family Care and Medical Leave.

5. **Duration.** Family Care and Medical Leave shall not exceed twelve (12) workweeks in any calendar year and the leave year shall commence on January 1 of each year. In the event the University policy and/State or Federal Law result in a different date of commencement for this twelve-month period, the commencement period for employees in this bargaining unit shall conform to the commencement date generally applicable to other University employees.

Parental Leave

Parental Leave is a leave to care for the employee's newborn or a child placed with the employee for adoption or foster care and shall be initiated and concluded within one (1) year of the birth or placement of the child. The University will grant a parental leave subject to the limitations described below.

1. **Requests.** The employee shall request Parental Leave sufficiently in advance of the expected birth date or placement of the child to allow the University to plan for the absence of the employee. The anticipated return date shall be set at the time such leave commences.
2. **Duration.** Parental leave shall not exceed twelve (12) workweeks in the leave year. When parental leave is combined with a leave for pregnancy-related and/or pregnancy disability, the total Family Care/Parental Leave shall not exceed seven (7) months in a leave year.

Parental Leave For School Activities

See Appendix K to this Agreement.

Pregnancy Disability Leave

During the period of verified pregnancy-related disability and/or childbearing disability, an employee is entitled to and the University shall grant up to four (4) months of Pregnancy Disability Leave. If the employee is entitled to FMLA leave, such leave shall be deducted from an employee's FMLA leave entitlement.

If the pregnancy-related/childbearing medical disability continues beyond four (4) months, a personal leave of absence may be granted in accordance with the provisions in this Article, for a total medical absence not to exceed six (6) months. Additionally, the employee may be eligible for Parental Leave, pursuant to this Article, to care for a newborn child. The total Family Care Leave when combined with Pregnancy Disability Leave shall not exceed seven (7) months in the leave year.

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 prior to taking leave without pay.

When medically necessary and supported by medical certification, the University shall grant an employee Pregnancy Disability Leave on a reduced work schedule or an intermittent basis.

Personal Leave

An employee in a career position may be granted a personal leave for the employee's convenience, subject to the operational needs and requirements of the University. Such leaves shall not normally exceed six (6) months and may be granted for reasons such as extended illness; need to provide care for members of the family; education which will directly increase job effectiveness; adoption of children; or in addition to leave for childbearing as provided in this Article. In special situations, temporary employment or to provide volunteer duty in times of natural disaster outside the University may be approved as a personal leave provided that the outside work is in the interest of public service and/or will be beneficial to the University upon the employee's return.

At the sole discretion of a department head, a personal leave may be extended up to twelve (12) months.

D. Reinstatement

An employee granted a Family Care and Medical Leave shall be reinstated to the same or similar position in the same department upon expiration of the leave if the employee returns to work immediately following the twelve (12) workweeks of Family Care and Medical Leave. An employee granted Pregnancy Leave shall be reinstated to the same position in the same department upon expiration of the leave if the employee returns to work immediately following the up to four (4) months of Pregnancy Disability Leave. If the position 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.

An employee who has exhausted his/her original leave entitlement and who has been granted additional leave under Personal Leave, shall be reinstated to the same or similar position in the same department upon expiration of the leave. An employee who has been granted a leave for his/her own serious health condition shall provide a medical release in order to return to work. Failure to provide the release may result in the delay or denial of reinstatement.

E. Definitions

(For purposes of the Family Care and Medical Leave Section of this Article only)

1. The leave year is the year in which the employee is eligible for up to 12 workweeks of leave.
2. The qualifying year is the 12-month period immediately preceding the date on which the employee requests to commence a leave and in which the employee must have worked 1,250 hours to be eligible for Family Care and Medical Leave.
3. Parental leave is leave to care for a newly born or newly adopted child or placement of a foster child.
4. Family illness leave is leave to care for the employee's child, parent or spouse with a serious health condition.
5. Medical leave is leave for the employee's own serious health condition that makes the employee unable to perform any of the essential assigned functions of the employee's position.
6. Child means a biological, adopted or foster child, a step child, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or an adult dependent child.
7. Parent means a biological, foster or adoptive parent, a stepparent, a legal guardian or an individual who stood *in loco parentis* to the employee when the employee was a child. Parent does not include the employee's grandparents, or mother-in-law or father-in-law.
8. Spouse means a partner in marriage.
9. Employee's serious health condition means an illness, injury, impairment, physical or mental condition that makes an employee unable to perform any of the essential assigned functions of his/her position and involves one of the following:
 - a. inpatient care in a hospital, hospice, or residential medical care facility, or
 - b. continuing treatment by a health care provider for a period of incapacity of more than three (3) consecutive calendar days, or any period of incapacity or treatment due to a chronic serious health condition, or any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
10. A serious health condition for the purpose of family illness is an illness, injury, impairment, physical or mental condition of the employee's child, parent, or spouse

which warrants the participation of the employee to provide supervision or care during the period of treatment or incapacity.

11. Health care provider means an individual who is licensed in California or is duly licensed in another state or jurisdiction in various medical disciplines as defined by law.

12. 1,250 hours of actual work does not include any paid time off.