

APPENDIX D
FAMILY AND MEDICAL LEAVE AND
PREGNANCY DISABILITY/CHILDBEARING LEAVES

A. FAMILY AND MEDICAL LEAVE (FML)

1. A Librarian 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 any of the following six reasons, as described in greater detail below:
 - a. Due to the Librarian's own serious health condition (see Section A.11.)
 - b. To care for a family member with a serious health condition (see Section A.12.)
 - c. As Pregnancy Disability Leave (see Section A.13.)
 - d. As Parental Leave (see Section A.14.)
 - e. As Military Caregiver Leave (see Section A.15.)
 - f. As Qualifying Exigency Leave (see Section A.16.)

FML is unpaid leave, except as otherwise provided in this Appendix. See A.8 below.

2. Definitions

- a. Child means a biological child, adopted child, foster child, stepchild, legal ward, or child for whom the Librarian 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.
- b. Parent means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood in *loco parentis* to the Librarian when the Librarian was a child. "Parent" does not include the Librarian's grandparents or mother-in-law or father-in-law unless they stood in *loco parentis* to the Librarian when the Librarian was a child.
- c. Spouse means a partner in marriage.
- d. Serious health condition of a Librarian is an illness, injury, impairment, or physical or mental condition, that renders the Librarian unable to perform any one or all of the essential functions of the Librarian's position and involves one of the following:
 - 1) inpatient care in a hospital, hospice, or residential medical care facility, or
 - 2) continuing treatment by a health care provider for:

- a) a period of incapacity of more than three (3) consecutive calendar days, or
 - b) any period of incapacity or treatment due to a chronic serious health condition, or
 - c) any period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
- 3) A Librarian's disability or work-related injury or illness may constitute a serious health condition.
- e. Serious health condition of a family member of a Librarian is an illness, injury, impairment, physical or mental condition of the Librarian's child, parent, spouse, or same- or opposite-sex domestic partner that requires the participation of the Librarian to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity.
 - f. Health Care Provider is an individual who is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; 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 her/his duties as defined under State Law; a Christian Science practitioner; or any health care provider that the Librarian's health plan carrier recognizes for purposes of payment.

3. Eligibility Criteria for FML

- a. Librarians who have at least twelve (12) cumulative months of University service (all prior University service, including service with the UC managed Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement) and have at least 1,250 hours of actual service (as defined below) 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 FML Leave during a calendar year, except as otherwise provided in this Appendix. If the Librarian is taking FML as Military Caregiver Leave, the Librarian shall be eligible for up to twenty-six (26) workweeks of leave in a single 12-month leave period. Family and Medical Leave is unpaid leave, except as provided in this Section. All paid time off used for FML shall be deducted from the Librarian's FML entitlement.
- b. "1,250 Hours of Actual Service" means time actually spent at work and does not include any paid time off, such as vacation, compensatory time, sick leave, holidays not worked, or time spent in unrestricted on-call status.

However, for Librarians granted military leave, all hours that would have been worked had the Librarian not been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement.

4. Duration of Leave

FML shall not exceed twelve (12) workweeks in any calendar year except when it is used for Pregnancy Disability Leave or Military Caregiver Leave. If the Librarian is taking FML as Pregnancy Disability Leave, the Librarian shall be eligible for leave for the period of actual disability up to four (4) months per pregnancy. If the Librarian is taking FML for Military Caregiver Leave, the Librarian shall be eligible for up to 26 workweeks of leave in a single 12-month leave period.

For the purposes of FML, twelve (12) workweeks is equivalent to four-hundred eighty (480) hours of scheduled work for full-time career and limited appointment Librarians who are normally scheduled for an eight (8) hours per day five (5) days per workweek (8/40) schedule. While the use of FML need not be consecutive, in no event shall a Librarian's use of FML exceed a total of twelve (12) workweeks within a calendar year (or 26 workweeks in the single 12-month leave period if the Librarian is taking FML as Military Caregiver Leave or four (4) months per pregnancy if the Librarian is taking FML as Pregnancy Disability Leave).

- a. Hourly Conversion for Part-time or Alternately Scheduled Librarians: For Librarians who work part-time or a schedule other than an 8/40, the number of FML hours for which the Librarian is eligible shall be adjusted in accordance with his/her normal weekly work schedule. A Librarian whose schedule varies from week to week is eligible for a pro-rated amount of FML based on his/her hours worked over the twelve (12) months immediately preceding the leave.
- b. Any leave taken by an eligible Librarian that qualifies as FML (including leave for a Work-Incurred Injury or Illness) will be designated as such by the University and will be counted against the Librarian's leave entitlement whether the leave is paid or unpaid. Such deductions will be made in increments that correspond to the amount of leave time actually taken by the Librarian (which could be weeks, days, hours, and/or partial hours).
- c. If the Librarian has exhausted his/her entitlement to FML Leave, he/she may apply for additional leave pursuant to Article 19.

5. Forms in Which FML May Be Taken

FML generally may be taken as a block leave or, in certain circumstances discussed below, on an intermittent or reduced schedule basis.

a. Librarian Requests for FML on an Intermittent or Reduced Schedule Basis

When medically necessary and supported by medical certification, the University shall grant an eligible Librarian's request for FML for the Librarian's serious health condition, to care for a family member with a serious health condition, or as Military Caregiver Leave on an intermittent or reduced schedule basis, 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 toward the Librarian's FML entitlement for the applicable year.

A Librarian may take FML for Qualifying Exigency Leave on an intermittent or reduced schedule basis.

For requests to take FML as Pregnancy Disability Leave on an intermittent or reduced schedule basis, see Section B. below.

For requests to take FML as Parental Leave on an intermittent or reduced schedule basis, see Section A.14.e. below.

b. Temporary Transfer to Accommodate Intermittent Leave or Reduced Work Schedule

When the Librarian requests FML on an intermittent or a reduced schedule basis due to the planned medical treatment for the Librarian's serious health condition or the serious health condition of a family member, the University may, at its sole, non-grievable discretion, require the Librarian to transfer temporarily to an available alternate position for which the Librarian is qualified and which better accommodates the Librarian's recurring need for leave. Such alternative position shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

6. Notification

- a. If the Librarian learns of the event giving rise to the need for FML more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the Librarian shall give the University at least thirty (30) calendar days' notice of the need for leave. A Librarian 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 Librarian provides notice.

- 1) If the need for leave is foreseeable due to the planned medical treatment of the Librarian (due to the Librarian's serious health condition or pregnancy disability) or the planned medical treatment of the Librarian's family member with a serious health condition, the Librarian shall make

reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations, subject to the approval of the health care provider.

- 2) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the Librarian 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.
- b. The University shall determine whether the Librarian meets the eligibility requirements and qualifies for an FML leave and shall, within five (5) days of that determination, notify the Librarian, in writing, whether the leave is designated or provisionally designated as FML leave. The start date of the leave, the terms of the leave and the date of return are determined when the leave is granted. Extensions, if any, up to an aggregate of 12 workweeks in a calendar year may be granted in accordance with this Section.
- c. Extensions to an FML leave may be granted, up to the aggregate maximum of twelve (12) workweeks in a calendar year (or 26 workweeks in a single 12-month leave period if FML is being taken as Military Caregiver Leave or four (4) months per pregnancy if FML is taken as Pregnancy Disability Leave). If a Librarian's need for leave continues after his or her FML entitlement has been exhausted, the Librarian may request a Personal Leave in accordance with Section Article 19, Section D.

7. Certification and Other Supporting Documentation

- a. Certification When FML Is Taken for the Librarian's Own Serious Health Condition

When FML is requested for the Librarian's own serious health condition, the University may, at its discretion, require that a Librarian's request for leave be supported by written certification issued by the Librarian's health care provider. When certification is required by the University, such requirement shall be submitted to the Librarian in writing. Certification may be provided by the Librarian on a form given to the Librarian by the University and shall, regardless of the format in which it is provided, include:

- 1) a certification that the Librarian has a serious health condition as defined in Section A.2.d. above, and
- 2) a statement as to whether the Librarian is unable to perform any one or more of the essential assigned functions of the position, and

- 3) the date, if known, on which the Librarian's serious health condition began, the probable duration of the condition and the Librarian's probable date of return, and
- 4) whether it will be medically necessary for the Librarian to take leave intermittently or to work on a reduced leave schedule, and if so, the probable duration of such schedule, and,
- 5) if the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.

b. Certification When FML Is Taken to Care for the Librarian's Family Member

When a leave of absence is requested so that the Librarian may care for a family member with a serious health condition, the University may, at its discretion, require that a Librarian'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, such requirement shall be submitted to the Librarian in writing. Certification may be provided by the Librarian on a form given to the Librarian by the University and shall, regardless of the format in which it is provided, include:

- 1) certification that the Librarian's family member has a serious health condition as defined in Section A.2.e. above, and
- 2) a statement that the family member's serious health condition warrants the participation of the Librarian to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity, and
- 3) whether the Librarian's family member will need supervision or care over a continuous period of time, intermittently, or on a reduced leave schedule basis; the leave schedule the Librarian will need in order to provide that supervision or care; and the probable duration the Librarian will need for leave.
- 4) In addition, the Librarian will be required to certify either on the form or separately what care he/she will provide the family member and the estimated duration of the period of care.

c. Certification When FML Is Taken as Pregnancy Disability Leave

When FML is taken as Pregnancy Disability Leave, the Librarian may be required to provide certification in accordance with Section B.4. below.

d. Certification When FML Is Taken for Military Caregiver Leave

When Military Caregiver Leave is requested, the Librarian 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 health care provider (as defined in Section A.2.f. above) who is treating the covered servicemember. The certification should 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 Librarian, as well as an estimate of the leave needed to provide the care. When the covered servicemember is a covered veteran, the Librarian 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.

e. Certification When FML Is Taken for Qualifying Exigency Leave

When Qualifying Exigency Leave is requested, a Librarian may be required to provide a copy of the military member's active duty orders. Librarians may also be required to provide certification of: 1) the reasons for requesting Qualified Exigency Leave, 2) the beginning and end dates of the qualifying exigency, and 3) other relevant information.

f. Confirmation of Family Relationship

The University may, at its sole non-grievable discretion, require that a Librarian complete a Declaration of Relationship form to certify his/her relationship with the child when the Librarian is requesting FML as Parental Leave or to certify his/her relationship with the family member when the Librarian is requesting FML to care for a family member with a serious health condition. The Librarian's failure to provide a completed Declaration of Relationship form within fifteen (15) calendar days of the University's request may result in discontinuance of the leave until the required documentation is provided. If the Librarian fails to provide the completed Declaration of Relationship form within a reasonable time as requested, FML leave will be denied.

g. Questioned Medical Certifications

Should the University question the validity of the Librarian's certification for his/her own serious health condition, the University may, at its sole non-grievable discretion, require that the Librarian 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 Librarian's own health care provider, the University may, at its sole non-grievable

discretion, require a third medical opinion from a third health care provider, jointly selected by the Librarian and the University. The University shall bear the cost of the second and third opinions and the third opinion shall be final.

h. Additional Certification and/or Recertification

If additional FML is requested beyond the period supported by the certification previously provided or the circumstances of the leave have changed, the University may, at its sole non-grievable discretion, require the Librarian to obtain recertification. Also, when the certification states that the serious health condition of the Librarian or the Librarian's family member will last indefinitely, the University may, at its sole non-grievable discretion, require the Librarian to provide a new certification, but not more frequently than every thirty (30) days. Such requests for subsequent certification and/or recertification shall be in writing. If certification and/or recertification is required, the Librarian shall return the certification within fifteen (15) calendar days of the University's request, where practicable.

i. Failure to Provide the Requested Certification and/or Recertification

For FML taken as Pregnancy Disability, see Section B. below.

A Librarian's failure to provide the certification and/or recertification for a foreseeable leave other than Pregnancy Disability Leaves within the requested time may result in delay of the leave until the required certification is received. A Librarian's failure to provide certification for an unforeseeable leave other than Pregnancy Disability Leave within the requested time period, may result in discontinuance of the leave until the required certification is provided. If the Librarian fails to provide the required certification or recertification within a reasonable time as requested, FML leave 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.

If the Librarian fails to provide a complete and sufficient certification and/or recertification, the Librarian shall be given fifteen (15) calendar days to perfect the certification/recertification. Failure to perfect an incomplete certification and/or recertification within the requested time period may result in delay of the leave or discontinuance of the leave until the required certification and/or recertification is provided. If the Librarian fails to provide a complete and sufficient certification and/or recertification and the leave has not begun, the request for family and/or medical leave 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.

8. Use of Accrued Paid Leave

FML is unpaid, except for the use of sick leave and/or the use of accrued vacation, as provided in this Appendix:

a. A Librarian on FML for his/her own serious health condition:

- 1) shall use accrued sick leave in accordance with the University's disability plan requirements; or
- 2) Librarians not eligible for University disability benefits and not on leave due to a work-incurred injury or illness may use all accrued sick leave prior to taking leave without pay; or
- 3) if the Librarian is on FML due to a work-incurred injury or illness, he/she may use accrued sick leave and shall use all accrued vacation leave prior to taking leave without pay; or
- 4) if sick leave is exhausted, a Librarian may elect to use accrued vacation time prior to taking leave without pay.
 - a) A Librarian on 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 20 - Sick Leave, Section B., or a Librarian may elect to use accrued vacation time prior to taking leave without pay.
 - b) A Librarian on FML for Pregnancy Disability Leave may use all accrued sick leave before taking leave without pay and may use accrued vacation time before taking leave without pay.
 - c) A Librarian taking FML as Parental Leave may elect to use accrued vacation time prior to taking leave without pay.
 - d) A Librarian taking FML as Qualifying Exigency Leave may use accrued vacation time prior taking leave without pay.

9. Continuation of Health Benefits

An eligible Librarian on an approved FML shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as follows:

- a. When the Librarian is on FML that runs concurrently under the 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 Librarian is on a Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single twelve month period. For purposes of Military Caregiver Leave, the “single twelve month period” is the period beginning on the first day the Librarian takes the leave and ending twelve (12) months after that date.
- c. When the Librarian is on Qualifying Exigency Leave under FMLA: Continued coverage for a period of up to twelve (12) workweeks in a calendar year.
- d. When the Librarian is on a Pregnancy Disability Leave under the California Pregnancy Disability Leave Law (PDLL), regardless of whether any of the leave runs concurrently with 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 Librarian’s FMLA entitlement to up to twelve (12) workweeks of such coverage in a calendar year.

10. Return from FML

- a. Required Notice and Documentation
 - 1) The Librarian shall provide reasonable notice to his/her employing department of his/her anticipated return to work.
 - 2) A Librarian returning from FML for his/her own serious health condition must provide a written medical release to return to work prior to returning to work. For returns after Pregnancy Disability Leave, see Section B.5. below.
 - 3) A Librarian who has been medically released to perform the essential assigned functions of his/her job shall be reinstated in accordance with the provisions of Section A.10.b. below.
 - 4) Failure to provide a medical release to return to work may result in the delay of reinstatement until the Librarian submits the required medical release certification.
 - 5) A Librarian who has been medically released to perform the essential assigned functions of his/her job shall be reinstated in accordance with the provisions of Section A.10.b. below.
 - 6) Failure to provide a medical release to return to work may result in the delay of reinstatement until the Librarian submits the required medical release certification.

b. Reinstatement Rights

When a Librarian has been granted an approved FML for any purpose other than Pregnancy Disability Leave and returns within twelve (12) workweeks of the initiation of the leave (or within 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 a Librarian's return to work rights after Pregnancy Disability Leave, see Section B.5. below. If the Librarian would have been laid off or terminated had the Librarian remained on pay status during the leave period, the Librarian shall be afforded the considerations afforded to other Librarians who are laid off or terminated pursuant to the provisions of this Memorandum of Understanding. No Librarian with a predetermined appointment end date shall be granted a leave of absence beyond his/her appointment end date or predetermined date of separation. A Librarian who has been granted an FML for his/her own serious health condition may be required by the University to provide a written medical release to return to work prior to his/ her return to work and if required must provide a written release.

11. FML for Librarian's Serious Health Condition

FML for the Librarian's own serious health condition is leave taken when the Librarian's own "serious health condition," as defined in Section A.2.d. above, renders the Librarian unable to perform any one or more of the essential functions of his/her position.

12. FML to Care for Librarian'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 Librarian's child, parent, spouse or same or opposite sex domestic partner who has a "serious health condition," as defined in Section A.2.e. above.

13. FML as Pregnancy Disability Leave

When a Librarian who takes Pregnancy Disability Leave pursuant to Section B. 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 PDLL.

14. FML as Parental Leave

FML taken as Parental Leave is leave taken to bond with the Librarian's newborn or a child placed with the Librarian for adoption or foster care or to attend to matters related to the birth, adoption, or placement of the child. The following special provisions apply to Parental Leave:

a. Time Limit for Parental Leave

Parental leave must be initiated and concluded within one (1) year of the birth or placement of the child with the Librarian.

b. Eligibility for Parental Leave

A Librarian taking Parental Leave must meet the eligibility requirements for FML set forth in Section A.3. above except when the Librarian is taking Parental Leave immediately following an FML taken as Pregnancy Disability Leave; in those circumstances, a Librarian who was eligible for FML under the FMLA at the beginning of her Pregnancy Disability Leave shall be granted a Parental Leave under CFRA for up to twelve (12) workweeks after her Pregnancy Disability Leave, provided that she has not exhausted her FML entitlement under CFRA for that leave year.

c. Advance Notice

The Librarian shall request Parental Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care, in order to allow the University to plan for the absence of the Librarian, but the Librarian 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 an FML taken as Pregnancy Disability Leave, shall be set at the time such Pregnancy Disability Leave commences. Parental Leave, when taken because of the adoption or placement of the child with the Librarian could commence prior to the date of placement.

d. Duration of Parental Leave

Parental Leave alone generally shall not exceed twelve (12) workweeks within a calendar year as defined in Sections A.3.a. and A.4. above. However, when an FML for Parental Leave is combined with an FML for Pregnancy Disability Leave, the total FML Leave shall not exceed seven (7) months in a calendar year. In addition, Parental leave in excess of the provisions in this Section A.14. may be granted at the University's discretion, not to exceed one year in total inclusive of any Pregnancy Disability Leave.

e. Forms in which Parental Leave May Be Taken

The University shall grant a Parental Leave of less than two (2) weeks duration on any two (2) occasions during a calendar year. The University, at its sole non-grievable 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.

15. FML as Military Caregiver Leave

An eligible Librarian 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,” consistent with the definitions of those terms in Section A.15.b. below.

a. Eligibility Criteria and Duration Specific to Military Caregiver Leave

An eligible Librarian is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single twelve-month (12-month) leave period. The Librarian must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember to be eligible for this type of leave and must meet the eligibility requirements for FML set forth in Section A.3. above.

b. Definitions Specific to Military Caregiver Leave

1) Covered servicemember means:

a) a current member of the 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 otherwise 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 Librarian 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 servicemember 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 servicemember 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 and is (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered her or him unable to perform the duties of her/his office, grade, rank, or rating; (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for Military Caregiver Leave; (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Programs for Comprehensive Assistance for Family Caregivers.
- 5) Parent of a covered servicemember means a covered servicemember's biological, adoptive, step or foster father or mother 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 blood relative 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 Librarian takes Military Caregiver Leave and ends twelve (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

Military Caregiver Leave is applied on a per-covered servicemember, per-injury basis. Eligible Librarians may take more than one (1) period of twenty-six (26) workweeks of leave if the leave is to care for a different covered servicemember or to care for the same servicemember with a subsequent serious injury or illness, except that no more than twenty-six (26) workweeks of leave may be taken within any “single twelve-month (12-month) period.”

If an eligible Librarian does not use all of his or her twenty-six (26) workweeks of leave entitlement to care for a covered servicemember during this single twelve-month (12-month) leave period, the remaining part of the twenty-six (26) workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

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 Librarian may be required to transfer temporarily, during the period that the intermittent or reduced leave schedule is required, to an available alternative position for which the Librarian is qualified and which better accommodates recurring periods of leave than does the Librarian’s regular position.

16. FML as Qualifying Exigency Leave

Qualifying Exigency Leave is an additional type of FML available to eligible Librarians. If the military member is the spouse, domestic partner, son, daughter or parent of the Librarian, the Librarian may take Qualifying Exigency Leave to attend to any “qualifying exigency” while the military member is on covered activity duty or call to covered active duty status.

a. Definitions Specific to Qualifying Exigency Leave

- 1) Son or daughter on covered active duty or call to covered active duty status means the Librarian’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the Librarian stood in *loco parentis*, who is

on covered active duty or call to covered active duty status, and who is of any age.

- 2) Covered active duty or call to covered active duty status means:
 - a) For purposes of members of the Regular Armed Forces: duty during the deployment of the member with the Armed Forces to a foreign country.
 - b) For purposes of a member of the Reserve component of the Armed Forces: duty during the deployment of the military member of the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to 10 U.S.C. sections 12302, 12304, 12305, or 12406; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- 3) Reserve component of the Armed Forces include the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve, and retired members of the Regular Armed Forces or Reserves who are called up in support of a contingency operation pursuant to 10 U.S.C. sections 12302, 12304, 12305, or 12406; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- 4) Qualifying exigency is defined as any one of the following, provided that the activity relates to military member's covered active duty or call to covered active duty status:
 - a) Short notice deployment to address issues that arise due to the covered military member being notified of an impending call to 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 the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time that Qualifying Exigency Leave is to commence;
 - 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 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 Librarian, for the military member, or for the child of the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time the Qualifying Exigency Leave is to commence;
- f) Rest and Recuperation (up to fifteen (15) days of leave for each instance) to spend time with the military member who is on short-term, temporary Rest and Recuperation leave during the period of deployment;
- g) Post-deployment activities, including (a) attendance at ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's covered active duty status and (b) addressing issues that arise from the death of the military member while on covered active duty status;
- h) Arranging for care for the parent of the military member or providing care for the parent on an urgent, immediate need basis (but not on a routine, regular, or everyday basis), where the parent is incapable of self-care and is the biological, adoptive, step, or foster father or mother of the military member, or any other individual who stood in *loco parentis* to the military member when the military member was under eighteen (18) years of age; and
- i) Additional activities related to the military member's active duty or call to active duty status when the employer and Librarian agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

B. PREGNANCY DISABILITY/CHILDBEARING LEAVE

During the period when a Librarian is disabled because of pregnancy, childbirth, or related medical condition, she is entitled to and the University shall grant her request for Pregnancy Disability Leave. Pregnancy Disability Leave may also be used for prenatal care.

For a Librarian disabled by pregnancy, childbirth, or related medical condition, no eligibility requirements apply, such as minimum hours worked or length of service. If the Librarian is eligible for FML, pursuant to Section A. above, such leave shall be deducted from a Librarian's FML entitlement under the federal FMLA as well as her entitlement under the PDLL.

Pregnancy Disability Leave may be taken as a block leave or, when medically advisable, on an intermittent or reduced schedule basis. Only the amount of leave time actually taken may be counted against the Librarian's Pregnancy Disability Leave entitlement.

1. Duration

- a. A Librarian is entitled to Pregnancy Disability Leave for the period of actual disability up to four (4) months per pregnancy.
- b. If the Librarian continues to be disabled by pregnancy, childbirth or related medical condition beyond four (4) months, a disability leave of absence may be granted in accordance with Article 19, Section C, Special Two-Month Leave.
- c. Following Pregnancy Disability Leave, the Librarian may be eligible for Parental Leave, pursuant to Section A.14, 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 a calendar year.

2. Use of Accrued Leave

Pregnancy Disability Leave may consist of leave with or without pay; however, a Librarian shall be required to use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the Librarian may elect to use accrued vacation time prior to taking leave without pay.

3. Transfer and Other Reasonable Accommodations As Alternatives To Or In Addition To Pregnancy Disability Leave

- a. Transfer at the Request of the Librarian. The University shall temporarily transfer a pregnant Librarian to a less strenuous or hazardous position upon the request of the Librarian when such transfer is medically advisable

according to the Librarian'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 Librarian'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 against a Librarian's entitlement of up to four (4) months of Pregnancy Disability Leave, unless the Librarian is also taking leave on an intermittent or reduced schedule basis. When the Librarian's health care provider certifies that the transfer is no longer medically advisable, the University shall return the Librarian to her same position or a comparable position in accordance with Section B.5. below.

- b. Transfer to Reasonably Accommodate Librarian's Need for Intermittent or Reduced Schedule Leave. When the Librarian's health care provider states in a medical certification that it is medically advisable for the Librarian to take Pregnancy Disability Leave on an intermittent or reduced schedule basis, the University may, at its sole non-grievable discretion, transfer the Librarian temporarily to an available alternative position that meets the needs of the Librarian, provided the Librarian meets the qualifications of the alternative position. When the Librarian's health care provider certifies that the intermittent or reduced schedule leave is no longer medically advisable, the University shall return the Librarian to her same position or a comparable position in accordance with Section B.5. below.
- c. Other Reasonable Accommodations. If the Librarian's health care provider certifies that reasonable accommodation(s) 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 Librarian to identify and implement the reasonable accommodation(s) that are appropriate under the circumstances.

4. Certification

- a. When a Librarian requests a reasonable accommodation, transfer, or leave due to pregnancy, childbirth, or related medical condition, the University may, at its discretion, require that the Librarian's request be supported by written medical certification issued by the Librarian's health care provider.
- b. When a medical certification is requested in connection with the Librarian's request for reasonable accommodation or transfer, it shall contain the following: (a) a description of the requested accommodation or transfer, (b) a statement describing the medical advisability of the requested reasonable accommodation or transfer, and (c) the date on which the need for reasonable accommodation became or will become medically advisable and the estimated duration of the reasonable accommodation or transfer.

- c. When a medical certification is requested in connection with a Librarian's request for leave, it shall contain the following: (a) a statement that the Librarian needs to take Pregnancy Disability Leave because she is disabled by pregnancy, childbirth, or a related medical condition, and (b) the date on which the Librarian became disabled because of pregnancy and the estimated duration of the leave.
- d. Failure to provide certification for reasonable accommodation, transfer, or leave within the requested time period or as soon as reasonably possible under the circumstances may result in delay of the leave until the required certification is provided.
- e. The University may, at its discretion, require that a Librarian returning to work immediately following Pregnancy Disability Leave provide a written medical release prior to returning to work.

5. Reinstatement After Pregnancy Disability Leave

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

A Librarian who has taken Pregnancy Disability Leave shall be reinstated to the same position, provided that the Librarian 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 Librarian shall be reinstated to a comparable position if the Librarian would have been entitled to the comparable position if she had been continuously working. If a comparable position is not available on the Librarian's scheduled date of reinstatement but a comparable position or positions become available within sixty (60) days thereafter, the University shall notify the Librarian of the position(s). If the Librarian is reinstated within that sixty-day (60-day) period, the period between the Librarian's originally scheduled date of reinstatement and her actual reinstatement shall not be counted for purposes of any employee pay or benefits.

6. Continuation of Health Benefits

A benefits-eligible Librarian on Pregnancy Disability Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as set forth in Section A.9. above, whether or not the Pregnancy Disability Leave also qualifies as FML.