ARTICLE 17
MILITARY LEAVE

A. Temporary Military Leave for Active-Duty Training

1. Temporary military leave for active-duty training shall be granted to any employee who as a member of a reserve component of the Armed Forces of the United States (the federally recognized National Guard, the federally recognized Air National Guard, the Officer's Reserve Corps, the Regular Army Reserve, the Air Force Reserve, the Enlisted Reserve Corps, the Naval Reserve, the Marine Corps Reserve, the Coast Guard Reserve, and the Public Health Reserve (when serving with the Armed Forces) is ordered to full-time active military duty for training for a period not to exceed one hundred eighty (180) calendar days, including time spent traveling to and from such duty. Such leave is not granted for inactive duty such as regular weekly or monthly meetings or drills required to maintain reserve status. However, unpaid leave may be granted for such meetings and drills or the employee may elect to use vacation leave.

2. Eligibility for Pay

An employee granted leave for military reserve training is entitled to receive regular University pay for up to thirty (30) calendar days, but not to exceed the actual period of active duty for training, provided.

   a) The employee has at least twelve (12) months of continuous Universally service immediately prior to granting of the leave (any prior full-time military service shall be included in calculating this University service requirement); and

   b) Such payment, in addition to University payment for extended military leave and for military leave for physical examination, does not exceed thirty (30) calendar days' pay in any one fiscal year.

3. The University may require verification of an employee’s military orders.

4. Part-time Employee

An eligible part-time 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.

5. Ineligible Employees

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

6. Benefits

An employee on leave for military reserve training 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, but shall not accrue vacation or sick leave or receive holiday pay for any month in which the employee is not on pay status at least fifty percent (50%) of the working
hours of the month. 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.

B. Extended Military Leave

1. 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.

2. 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 to the initial period of the leave and any extensions thereof in accordance with Section B, leave shall be granted for a period of up to six (6) months from the date of release from duty.

3. Eligibility for Pay

An employee granted extended military leave is entitled to receive regular University pay for the first thirty (30) calendar days of leave provided:

   a) The employee has at least twelve (12) months of continuous University service immediately prior to the leave (any prior full-time military service shall be included in calculating this University service requirement);

   b) Such payment, in addition to University payment for military reserve training leave and for military leave for physical examinations, does not exceed thirty (30) calendar days pay in any one fiscal year.

4. The University may require verification of an employee’s military orders.

5. Benefits

An employee granted extended military leave shall at the same time the leave commences receive a lump-sum payment for earned salary, accrued vacation, and accrued overtime or compensatory time. 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. At the end of the one hundred eighty (180) day period, vacation credits retained on the records 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 during the one hundred eighty (180) day period.

6. Sick leave credit shall be retained on the records. Retirement benefits and service credit shall be in accord with the provisions of the applicable retirement system.

7. An employee shall receive length-of-service benefits related to employment that would have been granted had the employee not been absent, except that the employee shall not receive credit towards completion of a probationary period (see section B8), nor shall the employee accrue vacation or sick leave or receive holiday pay for any month
in which the employee is not on pay status at least fifty percent (50%) of the working hours of the month while on Extended Military Leave.

8. **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.

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

b) 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.

9. **Reinstatement**

a) Following release from active duty, an employee granted extended military leave 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.

b) Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee’s position during the military leave.

C. **Emergency National Guard Leave**

1. 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 B.

2. **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 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 military reserve training leave, extended military leave, and military leave for physical examinations.

3. **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 is over, but shall not accrue vacation or sick leave or receive holiday pay for any month in which the employee is not on pay status at least fifty percent (50%) of the working hours of the month.

4. **Reinstatement**

   a) Following release from active duty, an employee granted leave for emergency National Guard duty 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.

   b) Upon reinstatement, an employee shall receive salary range adjustments applicable to the employee’s position granted during military leave.

D. **Physical Examination**

   1. Military leave with pay shall be granted to an employee in accordance with A.2.b and B.3.b., 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. The University may require verification of an employee’s military orders to report for a physical examination.

   2. The University may grant leave without pay for further physical examinations required for military service or the employee may change such time off to accrued sick leave, accrued vacation or accrued compensatory time off.

E. **Defense Work**

   Military leave without pay may be granted to an employee who is called or volunteers to serve in scientific research and development under the auspices of the federal government during a war or comparable period of national emergency. An employee granted such leave shall be eligible for the benefits set forth in sections B.5 of this Article and shall have the right to return to University service within six (6) months following termination of such defense work or the cessation of the war or period of national emergency, whichever occurs first. However, such an employee shall not be eligible for thirty (30) calendar days’ pay for military leave.

F. **Military Caregiver Leave**

   Military Caregiver Leave is an additional type of Family Care and Medical Leave available to eligible employees. An employee may take Military Caregiver Leave for a family member who is a “covered service member” undergoing medical treatment, recuperation or therapy for a “serious injury or illness.”

   1. **Eligibility Criteria and Duration.**

      An eligible employee is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single twelve (12) month leave period. The employee must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered service member to be eligible for this type of leave and must meet the eligibility requirements for Family Care and Medical Leave set forth in Section B.2.a.
2. Definitions

a) “Covered service member” means (a) a current member of the regular Armed Forces (including a member of the Reserves; a member of the National Guard; or a member of the Armed Forces, the National Guard, or the Reserves who is on the temporary disability retired list) who has a “serious injury or illness” incurred or aggravated in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is on the temporary disability retired list or (b) a veteran of the armed Forces (including the National Guard or the Reserves), provided that the veteran is undergoing medical treatment, recuperation, or therapy for a “serious injury or illness” that was incurred or aggravated in the line of duty on active duty within five (5) years of the date on which the veteran left the Armed Services.

b) “Outpatient Status” means the status of a service member assigned to (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.

c) “Serious Injury or Illness” means an injury or illness (a) incurred or aggravated by the covered service member in the line of duty on active duty in the Armed Forces that may render the service member medically unfit to perform the duties of his or her office grade, rank, or rating or (b) of a veteran of the Armed Forces (including the National Guard and the Reserves), provided that the veteran’s injury or illness was incurred or aggravated in the line of duty on active duty and that the medical treatment, recuperation, or therapy that the veteran is receiving for that injury is occurring within five (5) years of the date the veteran left the Armed Forces.

d) “Parent of a covered service member” means a covered service member's biological adopted, or foster parent or any other individual who stood in loco parentis to the covered service member. The term does not include parents “in law”.

e) “Son or daughter of a covered service member” means the covered service member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered service member stood in loco parentis, and who is of any age.

f) “Next of kin” means (a) the nearest blood relative of the covered service member (other than the covered service member's spouse, domestic partner, parent, son or daughter) or (b) the person who the covered service member has designated in writing as his or her nearest blood relative for purposes of Military Caregiver Leave.

g) “Single twelve (12) month leave period” means the period beginning on the first day the employee takes leave to care for the covered service member 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.)

3. Leave Entitlement

Leave is applied on a per-covered service member, per-injury basis. Eligible employees may take more than one period of twenty-six (26) workweeks of leave if
the leave is to care for a different covered service member or to care for the same service member 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 (12) month period.” If an eligible employee does not use all of his or her twenty-six (26) workweeks of leave entitlement to care for a covered service member during this single twelve (12) month leave period, the remaining part of the twenty-six (26) workweek entitlement to care for the covered service member for that serious injury or illness is forfeited. As with other types of Family Care and Medical Leave, 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 service member, the employee 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 employee is qualified and which better accommodates a recurring period of leave than does the employee's regular position.

4. Documentation and Certification

Employees may be required to provide a certification completed by an authorized health care provider of the covered service member that provides information necessary to establish entitlement to Military Caregiver Leave. In addition, employees may be required to provide certain information (or have the covered service member provide that information) including information establishing that the service member is a covered service member for purposes of Military Caregiver Leave, his or her relationship with the employee, and an estimate of the leave needed to provide the care. The employee may also be required to provide confirmation of a covered family relationship between the employee and the service member.

5. Use of Accrued Paid Leave

Military Caregiver Leave is unpaid leave, except an employee may use sick leave in accordance with Article 14 – Sick Leave and shall use accrued vacation time prior to taking leave without pay.

6. Advance Notice

Whenever possible, an employee shall provide at least thirty (30) days’ advance notice. If thirty (30) days’ notice is not practicable, notice shall be given as soon as practicable. Failure to comply with this notice requirement may result in postponement of leave.

7. Reinstatement

Reinstatement shall be to the same position or, at the department’s discretion, to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment provided that the employee returns to work immediately following termination of the leave. If the employee would have been laid off or terminated had the employee been working during the leave period, the employee shall be afforded the same considerations afforded to other employees who are laid
off or terminated pursuant to the provisions of Article 20 – Layoff and Reduction in Time.

8. **Continuation of Health Benefits**

An employee on an approved Military Caregiver Leave shall be entitled to continue participation in health plan coverage (medical, dental, and optical) as if on pay status during the leave.

G. **Qualifying Exigency Leave**

Qualifying Exigency Leave is an additional type of Family Care and Medical Leave available to eligible employees. If the employee is the spouse, domestic partner, son, daughter or parent of a “covered military member” the employee may take Qualifying Exigency Leave to attend to any “qualifying exigency” while the covered military member is on active military duty or has been notified of an impending call or order to active military duty in the Armed Forces.

1. **Definitions**

   a) “Covered military member” is an individual who is on “active duty or call to active duty status” and is either (a) a member of a regular component of the Armed Forces who is deployed in or returning from a foreign country due to service with the Armed Forces, (b) a member of the reserve components (Army National Guard of the United States, Army Reserve, Navy Reserve, Air National Guard of the United States, Air Force Reserve, or Coast Guard Reserve), or (c) a retired member of the regular Armed Forces or the Reserves.

   b) “Parent of a covered military member” means a covered military member’s biological, adopted, or foster parent or any other individual who stood in loco parentis to the covered military member. The term does not include parents “in law”.

   c) “Son or daughter of a covered military member” means a covered military member’s biological adopted, or foster child, stepchild, legal ward, or a child for whom the covered military member stood in loco parentis, and who is of any age.

   d) “Active duty or call to active duty status” means duty under a call or order to active duty (or notification of an impending call or order to active duty) in the Armed Forces.

   e) “Qualifying exigency” is defined as any one of the following provided that the activity relates to the covered military member’s active duty or call to active duty status;

      1. 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;

      2. Military events and activities, including official ceremonies;
(3) Childcare and school activities for a child of the covered military member who is either under age 18 or incapable of self-care;

(4) Financial and legal arrangements to address the covered military member’s absence or to act as the covered military member’s representative for purposes of obtaining, arranging, or appealing military service benefits while the covered military member is on active duty or call to active duty status and for the ninety (90) days after the termination of the covered military member’s active duty status.

(5) Counseling (provided by someone other than a health care provider) for the employee, for the covered military member, or for the child of the covered military member who is either under age 18 or incapable of self-care;

(6) Rest and recuperation (up to 5 days of leave for instance) to spend time with the covered military member who is on short-term, temporary rest and recuperation leave during deployment;

(7) Post-deployment activities to attend ceremonies sponsored by the military for a period of ninety (90) days following termination of the covered military member’s active duty and to address issues that arise from the death of the covered military member while on active duty status; and

(8) Additional activities related to the covered military member’s active duty or call to active duty status when the employer and employee agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

2. Eligibility

An employee who is the spouse, domestic partner, son, daughter, or parent of a covered military member is eligible for Qualifying Exigency Leave if the employee meets the eligibility requirements for Family Care and Medical Leave set forth in Section B.2.a.

3. Leave Entitlement

Eligible employees are entitled to up to twelve (12) workweeks of Qualifying Exigency leave during the calendar year. As with any other Family Care and Medical Leave, Qualifying Exigency Leave also may be taken on an intermittent or reduced schedule basis.

4. Documentation and Certification

Employees may be required to provide a copy of the covered military member’s active duty orders. Employees may also be required to provide certification of (1) the reasons
5. **Use of Accrued Paid Leave**

Qualified Exigency Leave is unpaid leave, except that an employee shall use accrued vacation time prior to taking leave without pay.

6. **Notice**

The employee shall provide notice of the need for leave as soon as practicable.

7. **Reinstatement**

Reinstatement shall be to the same position or, at the department’s decision, to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment provided that the employee returns to work immediately following termination of the leave. If the employee would have been laid off or terminated had the employee been working during the leave period, the employee shall be afforded the same considerations afforded to other employees who are laid off or terminated pursuant to the provisions of Article 20 – Layoff and Reduction in Time.

8. **Continuation of Health Benefits**

An employee on an approved Qualified Exigency 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 a calendar year.

**H. Military Spouse/Domestic Partner Leave**

An employee who is a spouse or domestic partner of a member of the Armed Forces, National Guard, or Reserves may take this leave during a “qualified leave period” when the employee’s spouse or domestic partner is on leave from a period of military conflict. “Qualified leave period” means the period during which the “qualified member” is on leave from deployment during a period of military conflict. An eligible employee shall be entitled to up to a maximum of ten (10) days of unpaid leave during a qualified leave period.

1. **Eligibility**

To be eligible, an employee must satisfy all of the following criteria:

   a. Be a spouse or domestic partner of a “qualified member” (defined below);

   b. Perform services for the University for an average of twenty (20) or more hours per week;

   c. Provide the University with notice, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, of the employee’s intention to take the leave; and

   d. Submit written documentation certifying that the qualified member will be on leave from deployment during the time that the leave is being requested by the employee.
2. **Definitions**

   a) “Qualified member” means a person who is any of the following:

   1. A member of the Armed Forces of the United States who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, or

   2. A member of the National Guard who has been deployed during a period of military conflict, or

   3. A member of the Reserves who has been deployed during a period of military conflict.

   b) “Period of military conflict” means either of the following: a. A period of war declared by the United States Congress, or b. A period of deployment for which a member of a reserve component is ordered to activity duty, as defined in Military & Veterans Code section 395.10.

   c) Substitution of Paid Leave. This leave is unpaid leave, except that an employee shall use accrued vacation time prior to taking leave without pay.