

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

A. FAMILY CARE AND MEDICAL LEAVE

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

1. Definitions

- a. **Parental Leave** is to care for the Librarian's newborn or a child who has been placed with the Librarian for adoption or foster care.
- b. **Family Illness Leave** is leave to care for the Librarian's child, parent, spouse or domestic partner with a serious health condition.
- c. **Medical Leave** is leave granted for the Librarian's own serious health condition which makes the Librarian unable to perform any one or all of the essential assigned functions of the Librarian's position. A Librarian disabled because of pregnancy-related conditions is covered below under Section B., Pregnancy Disability/Childbearing Leave.
- d. A **Librarian's own serious health condition** 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 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.
- e. A **serious health condition for the purposes of family illness leave** is an illness, injury, impairment, or physical or mental condition, as described in A.1.d.(1) and (2) above, which warrants the participation of the Librarian to provide supervision or care during a period of treatment or incapacity including psychological comfort.

- f. A **family member** for the purposes of family care leave is the Librarian's biological, adopted, or foster child, stepchild or legal ward who is under eighteen (18) years, a child for whom the Librarian stands in loco parentis, or an adult dependent child; a biological, foster, or adoptive parent, stepparent or legal guardian, an individual who stood in loco parentis while the Librarian was a child; spouse; or domestic partner.
- g. 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), nurse practitioner or nurse mid-wife performing within the scope of her/his duties, or Christian Science practitioner or any health care provider that the Librarian's health plan carrier recognizes for purposes of payment.
- h. "**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, a Librarian'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.

2. Eligibility Criteria

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 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 FMLA Leave during a calendar year. Family Care and Medical Leave is unpaid leave, except as provided in this Section. All paid time off used for family care and/or medical leave purposes shall be deducted from the twelve-workweek FMLA maximum. Family Care and Medical Leave shall not exceed twelve (12) workweeks in a calendar year. If the Librarian has exhausted his/her entitlement to FMLA, he/she may apply for additional leave pursuant to Article 20.

3. Notice

- a. If the Librarian 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 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 family care and/or medical leave delayed until thirty (30) days after the date on which the Librarian provides notice.

- b. If the need for leave is foreseeable due to a planned medical treatment or the supervision of a family member's medical treatment, the Librarian shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations.
- c. 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, that is, within one or two business days of when the need for leave becomes known to the Librarian.
- d. The University shall determine whether the Librarian is eligible and qualifies for a FMLA leave and shall notify the Librarian, in writing, when the leave is designated or provisionally designated as FMLA leave. The duration and 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.

4. Certification

a. For the Librarian's Own Serious Health Condition

When a leave of absence is requested for the Librarian's own serious health condition, the University may 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 addition to certifying that the Librarian has a serious health condition, include:

- 1) a statement as to whether the Librarian is unable to perform any one or more of the essential assigned functions of the position including a statement of the function(s) the Librarian is unable to perform, and
- 2) 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
- 3) whether it will be 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,
- 4) if the condition is chronic and the Librarian is presently incapacitated, the duration and frequency of episodes of incapacity.

b. If Leave is Requested for the Librarian's Family Member

When a leave of absence is requested for the serious health condition of the Librarian's family member, the University may 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 addition to certifying that the Librarian's family member has a serious health condition, include:

- 1) a statement that the family member's serious health condition warrants the participation of the Librarian to provide supervision or care during a period of the treatment or incapacity or psychological comfort, and
- 2) whether the Librarian's family member will need care intermittently or on a reduced leave schedule and the probable duration that the Librarian is needed to provide care.
- 3) In addition, the Librarian will be required to certify either on the form or separately the care he/she will provide the family member and the estimated duration of the period of care.

c. Should there be any question regarding the validity of the Librarian's certification for his/her own serious health condition, the University may, at its discretion, require the Librarian 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 Librarian's own health care provider, the University may require a third medical opinion from a third health care provider, jointly agreed to 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.

d. If additional leave is requested or should the circumstances of the leave change, the University may require the Librarian to obtain recertification. Such requests for subsequent certification may be either verbal or in writing.

e. 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. 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 Librarian fails to provide the required certification 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 FMLA leave.

- f. If the Librarian fails to provide a completed certification and/or recertification, the Librarian 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 Librarian fails to provide a complete certification/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 FMLA leave.

g. Confirmation of Family Relationship

- 1) The University may, at its discretion, require a Librarian requesting leave to care for a family member with a serious health condition or requesting Parental leave, to provide documentation of the familial relationship or proof of birth, placement for adoption or in foster care.
- 2) Failure to provide documentation within fifteen (15) calendar days of the University's request may result in delay of the leave until the required documentation is provided. If the Librarian fails to provide the required documentation 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 FMLA leave.

- h. A Librarian who has been granted a FMLA leave for his/her own serious health condition shall be returned to the same or an equivalent position when the Librarian, upon the termination of the leave, has been medically released to perform the essential assigned functions of his/her job. 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. Use of Accrued Paid Leave

Family Care and Medical Leave is unpaid, however:

- a. A Librarian on leave for his/her own serious health condition shall use accrued sick leave in accordance with the University's disability plan. Librarians not eligible for University disability benefit and not on leave due to a work incurred injury or illness may use all accrued sick leave prior to taking leave without pay. If sick leave is exhausted, a Librarian may elect to use accrued vacation time prior to taking leave without pay.

- b. A Librarian on Family Care Leave for Family Illness may use sick leave in accordance with Article 21 - Sick Leave, Section B. or a Librarian may elect to use accrued vacation time prior to taking leave without pay.
- c. A Librarian on Family Care Leave for Parental Leave may elect to use accrued vacation time prior to taking leave without pay.

6. Duration

- a. Family Care and Medical Leave shall not exceed twelve (12) workweeks during a calendar year. In the event University policy and/or State or Federal law result in a different date of commencement for this twelve-month period, the commencement period for Librarians in this bargaining unit shall conform to the commencement date generally applicable to other non-bargaining unit Librarians.
- b. When medically necessary and supported by medical certification, the University shall grant an eligible Librarian's request for a reduced work schedule or intermittent leave including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted towards the Librarian's entitlement of twelve (12) workweeks in the calendar year.
- c. When the Librarian requests an intermittent leave or a reduced work schedule, the University may, at its 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 period of leave. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

7. Parental Leave

Parental Leave is a form of Family Care and Medical Leave to care for the Librarian's newborn or a child placed with the Librarian 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. If requested and taken immediately following a Pregnancy Disability/Childbearing Leave, a Librarian eligible for leave under the Family and Medical Leave Act/California Family Rights Act (CFRA) at the beginning of her Pregnancy Disability Leave shall be granted a Parental Leave for up to twelve (12) workweeks provided that the Librarian has not exhausted her FMLA/CFRA leave entitlement for that calendar year.

- a. Requests for Parental Leave: The Librarian 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 Librarian. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in

conjunction with a FMLA leave on account of the pregnancy/childbearing disability, shall be set at the time such FMLA leave commences. Parental Leave, when taken for adoption or foster care, could commence prior to the date of placement.

- b. Duration: 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 the calendar year.
- c. The University shall grant a Parental Leave of less than two (2) weeks duration on any two (2) occasions during the calendar year.
- d. Parental leave in excess of the provisions in this Section 7 may be granted at the University's discretion, not to exceed one year in total inclusive of any Pregnancy Disability and/or Childbearing Leave.

8. Continuation of Health Benefits

- a. A Librarian on an approved FMLA leave shall be entitled, if eligible, 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 calendar year.
- b. A Librarian on an approved Pregnancy Disability/Childbearing Leave, who is also eligible for leave under the federal Family and Medical Leave Act and the California Family Rights Act, shall be entitled to up to twelve (12) workweeks of health plan coverage for the combined Pregnancy Disability Leave/Parental Leave which runs concurrently with FMLA and/or CFRA.
- c. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

9. Return to Work

When a Librarian has been granted an approved FMLA leave of absence and returns within twelve (12) workweeks of the initiation of the leave, he/she shall be reinstated to the same or an equivalent position upon expiration of the leave. 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. A Librarian shall not be granted a leave of absence beyond the ending date of the Librarian's appointment or predetermined date of separation.

B. PREGNANCY DISABILITY/CHILDBEARING LEAVE

1. During the period of verified pregnancy-related and/or childbearing disability, a Librarian is entitled to and the University shall grant up to four (4) months of Pregnancy Disability Leave for pregnancy/childbearing disability purposes. If the Librarian is eligible for FMLA leave, such leave shall be deducted from a Librarian's federal FMLA leave entitlement. Upon termination of the Pregnancy Disability Leave, which runs concurrently with FMLA, a Librarian shall also be entitled to up to twelve (12) workweeks of leave under the CFRA for any covered reason except leave for a pregnancy-related medical condition provided the Librarian has not exhausted her FMLA/CFRA leave entitlement for that calendar year.
2. If the pregnancy-related/childbearing medical disability continues beyond four (4) months, a disability leave of absence may be granted in accordance with Article 20, Section C, Special Two-Month Leave, for a total medical absence not to exceed six (6) months. Additionally, the Librarian may be eligible for Parental Leave, pursuant to Section A.7., above, to care for a newborn child. The total Family Care Leave when combined with a Pregnancy Disability Leave, shall not exceed seven (7) months in the calendar year.
3. Pregnancy Disability Leave may consist of leave with or without pay; however, a Librarian shall 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.
4. When medically necessary, and supported by medical certification, the University shall grant a Librarian Pregnancy Disability Leave on a reduced work schedule or on an intermittent basis including absences of less than one day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted against the Librarian's entitlement of four (4) months.
5. As an alternative to or in addition to Pregnancy Disability Leave, the University shall temporarily transfer a pregnant Librarian to a less strenuous or hazardous position upon the request of the Librarian and with the advice of 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 shall not be counted against a Librarian's entitlement of up to four (4) months of pregnancy disability leave, unless the Librarian is also on a reduced work schedule or an intermittent leave schedule.
6. A Librarian who has been granted a temporary transfer and/or Pregnancy Disability Leave shall be reinstated to the same job provided 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 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. The date of reinstatement is determined when the leave is granted.

7. Continuation of Health Benefits

A Librarian on Pregnancy Disability/Childbearing Leave who is also eligible for leave under the FMLA and CFRA, shall be entitled, if eligible, to continue participation in health plan coverage (medical, dental, and optical) as if on pay status for up to twelve (12) workweeks in the calendar year. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.