

**ARTICLE 18  
LEAVES OF ABSENCE**

**A. GENERAL PROVISIONS**

Subject to the provisions of this Article, leaves of absence may be with or without pay, may be for medical purposes and/or non-medical reasons, and are subject to the approval of the University. Nothing shall preclude the University, on a campus-by-campus basis, from establishing, implementing, or continuing a Catastrophic Illness or Injury Leave policy covering bargaining unit employees.

**1. Definitions**

- a. Non-medical leaves of absence, with or without pay, include: Family Care Leave, leave for jury duty, voting, blood donations, administrative or legal proceedings, emergencies, and University functions.
- b. Medical Leaves with or without pay, include Pregnancy Disability Leave, Family Care/Medical Leave, and Disability Leave.
- c. FMLA is the federal Family and Medical Leave Act of 1993.
- d. CFRA is the California Family Rights Act of 1995.

**2. Use Of Family Care And Medical Leave Entitlement**

- a. If an employee eligible for a Family Care/Medical Leave takes a leave for her/his own serious health condition, (as defined in Section B.1.d. below), the absence from work shall be deducted from the employee's Family Care/Medical Leave entitlement.
- b. If an employee is ineligible for Family Care/Medical Leave or if the employee has exhausted her/his calendar year entitlement, an approved disability leave of absence may be provided for the period(s) an eligible employee is absent from work for verifiable medical reasons as provided in Section C. and Section D. of this Article.

**3. Benefit Eligibility While On Leave Without Pay**

- a. **Special Benefit Eligibility For Family Care/Medical Leaves –** An eligible employee shall have University-provided health benefits continued for the period of the Family Care/Medical Leave in accordance with Section B.9. of this Article.
- b. An approved leave without pay shall not be considered a break in service.

- c. The provisions of Article 39 - Sick Leave, Article 43 - Vacation, and Article 4 - University Benefits, shall apply when employees are on an approved leave without pay.
- d. An eligible employee on approved leave without pay, other than Family Care/Medical Leave, may elect to continue University-sponsored insurance coverages (as determined by plan documents or regulations) for the period of the leave by remitting the entire premium amount due for the period of the approved leave, in accordance with the provisions of the applicable plan(s). Regulations of the retirement systems determine the effects of leave without pay on retirement benefits. See Section B.9. below for Benefit Eligibility when an employee is on an unpaid Family Care/Medical Leave.

#### **4. Requests For Leave**

Except as provided under Section B.3. Family Care/Medical Leave Notification, and Sections E. - Military Caregiver Leave, F. - Qualifying Exigency Leave, and G. - Military Spouse/Domestic Partner Leave, requests for leaves of absence and extensions, with or without pay, shall be submitted in writing to the University. Such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. All requests for leaves of absence shall contain the requested beginning and end date of the leave, and any additional information as required.

#### **5. Duration**

- a. The start date of the leave, the terms of the leave and the date of return from the leave are determined when the leave is granted, and shall be communicated to the employee, in accordance with the provisions of this Article. Except as provided under Section B.3.b. - Family Care/Medical Leave, written confirmation shall be provided when the University determines such confirmation is appropriate.
- b. Except as provided for under Section C.1.a.2. - Pregnancy Disability, , the aggregate maximum of leaves taken in any combination shall not exceed six (6) months in any one (1) year period.
- c. No employee with a predetermined appointment end date or predetermined date of separation shall be granted a leave of absence beyond her/his appointment end date or the predetermined date of separation.

#### **6. Return To Work**

- a. **Except as provided in Section B, Family Care/Medical Leave, Section C, Pregnancy Disability Leave, and Article 21, Military Leaves, an employee who has been granted an approved leave with or without pay shall be reinstated to the same or a similar position in the same department upon expiration of the leave, in accordance with the Provisions of this Article. If the position held has been abolished or affected by layoff during the leave, the employee shall be afforded the same considerations which would have been afforded had that employee been working when the position was abolished or affected by layoff.**
- b. **Failure to provide a medical release to return to work, as required in Section B.5 and Section D.3. may result in the delay of reinstatement until the employee submits the required medical release certification.**
- c. **An employee who has exhausted her/his original leave entitlement and who has been granted additional leave under another section of this Article, shall be reinstated in accordance with the provisions of the section under which the additional leave was granted. The employee shall be advised in writing, at the time the additional leave is granted.**
- d. **An employee who fails to return to work from a leave of absence on the approved anticipated date of return shall be considered to have abandoned her/his job, in accordance with Article 35 – Resignation/Job Abandonment.**

**B. FAMILY CARE AND MEDICAL LEAVE**

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

**1. Definitions**

- a. **Parental Leave is leave to care for the employee's newborn or a child who has been placed with the employee for adoption, stepchild, legal ward or foster care.**
- b. **Family Illness Leave is leave to care for the employee's child, parent, spouse or same or opposite sex domestic partner with a serious health condition.**
- c. **A Family Member for the purposes of family care leave is the employee's biological, adopted, or foster child, stepchild or legal ward who is under eighteen (18) years, a child for whom the employee 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 employee was a child; spouse; or same or opposite sex domestic partner.**

- d. **A Serious Health Condition For The Purposes Of Family Illness Leave is an illness, injury, impairment, or physical or mental condition which warrants the participation of the employee to provide supervision or care during a period of treatment or incapacity including psychological comfort.**
- e. **Medical Leave is leave granted for the employee's own serious health condition which makes the employee unable to perform any one or all of the essential assigned functions of the employee's position. An employee disabled because of pregnancy-related conditions is covered under Section C. - Pregnancy Disability, below.**
- f. **An Employee's Own Serious Health Condition is an illness, injury, impairment, or physical or mental condition, that renders the employee unable to perform any one or all of the essential functions of the employee'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.**
- g. **A 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 or, who is duly licensed as a podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to the treatment of the spine to correct a subluxation as demonstrated by x-ray to exist), physician assistant, nurse practitioner or nurse mid-wife performing within the scope of her/his duties, or Christian Science practitioner or any health care provider that the employee'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 an employee's use of accrued vacation, compensatory time, or sick leave, nor does it include time paid for holidays not worked or time spent in unrestricted on-call status (for employees granted military leave, all hours that would have been worked had the employee not**

been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement).

## **2. Eligibility Criteria And Duration**

- a. Employees who have at least twelve (12) cumulative months of University service, and have at least 1,250 hours of actual service during the twelve (12) month period immediately preceding the commencement of the leave, are eligible for and shall be granted up to a total of twelve (12) workweeks of Family Care/Medical Leave in the calendar year. For the purposes of this Article and Section, only, all prior University service, including service with the Department of Energy Laboratories, shall be used to calculate the twelve (12) month service requirement.**
- b. Family Care/Medical Leave is unpaid leave, except as otherwise provided in this Article.**
  - 1) An employee's use of her/his accrued Compensatory Time Off cannot be deducted from the twelve (12) workweek Family Care/Medical Leave maximum, and shall not be granted. All other time off used for family care and/or medical leave purposes, including Work Incurred Injury and Illness leave, shall be deducted from the twelve (12) workweek Family Care/Medical Leave maximum.**
  - 2) Family Care/Medical Leave shall not exceed twelve (12) workweeks in any calendar year.**
- c. If the employee has exhausted her/his entitlement to Family Care/Medical Leave, s/he may apply for additional leave pursuant to this Article.**

## **3. Notification**

- a. If the employee learns of the event giving rise to the need for leave more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the employee shall give the University at least thirty (30) calendar days notice of the need for leave. An employee who fails to give thirty (30) days' notice for a foreseeable leave with no reasonable basis for the delay, may have the family care and/or medical leave delayed until thirty (30) days after the date on which the employee provides notice.**
  - 1) If the need for leave is foreseeable due to a planned medical treatment or the supervision of a family member's medical treatment, the employee shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations.**

- 2) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the employee shall provide the University with as much notice as practicable and, at a minimum, within five (5) calendar days after learning of the need for leave.
- b. The University shall determine whether the employee meets the eligibility requirements and qualifies for a Family Care/Medical Leave and shall, within five (5) days of that determination, notify the employee whether the leave is designated or provisionally designated as Family Care/Medical Leave. The start date of the leave, the terms of the leave and the date of return from the leave are determined when the leave is granted.
- c. Extensions to the Family Care/Medical Leave, up to the aggregate maximum of twelve (12) weeks in a calendar year, may be granted in accordance with Section D. of this Article.

#### **4. Certification**

##### **a. For the Employee's Own Serious Health Condition**

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

- 1) certification that the employee has a serious health condition as defined in Section B.1.f., above, and
- 2) a statement as to whether the employee is unable to perform any one or more of the essential assigned functions of the position including a statement of the function(s) the employee is unable to perform, and
- 3) the date on which the employee's serious health condition began, if known, the probable duration of the condition and the employee's probable date of return, and
- 4) whether it will be medically necessary for the employee to take leave intermittently or to work on a reduced work schedule, and if so, the probable duration of such schedule, and
- 5) if the condition is chronic and the employee is presently incapacitated, the duration and frequency of episodes of incapacity.

**b. For the Employee's Family Member**

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

- 1) certification that the employee's family member has a serious health condition as defined in Section B.1.d., above, and
- 2) a statement that the family member's serious health condition warrants the participation of the employee to provide supervision or care during a period of the treatment or incapacity or psychological comfort, and
- 3) whether the employee's family member will need care intermittently or on a reduced work schedule and the probable duration that the employee is needed to provide care.
- 4) In addition, the employee will be required to certify either on the form or separately the care s/he will provide the family member and the estimated duration of the period of care.

**c. Confirmation of Family Relationship**

The University may, at its sole non-grievable discretion, require an employee 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. The employee's failure to provide documentation within fifteen (15) calendar days of the University's request may, at the sole non-grievable discretion of the University, result in either:

- 1) a delay of the leave until the required documentation is provided or
- 2) if the leave has not begun, it will be denied. If the leave has begun, the leave will not be designated as Family and Medical Care Leave and may be discontinued by the University.

**d. Questioned Medical Opinions**

Should the University question the validity of the employee's certification for her/his own serious health condition the University may, at its sole non-grievable discretion, require the employee to obtain a second medical opinion from a second health care provider selected by the University. Should the second medical opinion differ from the opinion of the employee's own health care provider, the University may, at its sole non-grievable discretion, require a third medical opinion from a third health care provider, jointly agreed to by the employee and the University. The University shall bear the cost of the second and third opinions, and the third opinion shall be final.

**e. Additional Certification and/or Recertification**

If additional leave is requested or should the circumstances of the leave change, the University may, at its sole non-grievable discretion, require the employee to obtain recertification. Such requests for subsequent certification and/or recertification may be either verbal or in writing.

- 1) If certification and/or recertification is required, the employee shall return the certification within fifteen (15) calendar days of the University's request, where practicable.
- 2) Failure to provide certification and/or recertification for a foreseeable leave within the requested time may result in delay of the leave until the required certification is received. Failure to provide certification for an unforeseeable leave within the requested time period may result in discontinuance of the leave until the required certification is provided. If the employee fails to provide certification, the leave is not Family Care/Medical Leave and will be denied as family care leave, in accordance with the provisions of Section B.4.c.2.

**f. Failure to Provide Complete Certification and/or Recertification**

If the employee fails to provide a completed certification and/or recertification, the employee shall be given fifteen (15) calendar days to perfect the certification and/or 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 employee fails to provide a complete certification and/or recertification, the leave is not Family Care/Medical Leave and will be denied in accordance with the provisions of Section B.4.c.2.

**5. Return From Family Care/Medical Leave For Own Health Condition**

- a. The employee shall provide reasonable notice to her/his employing department of her/his anticipated return to work.

- b. An employee who has been granted a Family Care/Medical Leave for her/his own serious health condition, must provide a written medical release to return to work prior to returning to work.
- c. The employee who has been medically released to perform the essential assigned functions of her/his job, shall be returned in accordance with the provisions of Section B.10.
- d. Failure to provide a medical release to return to work may result in the delay of reinstatement until the employee submits the required medical release certification.

**6. Use Of Accrued Paid Leave**

Family Care/Medical Leave is unpaid, except for the use of sick leave and/or the use of accrued vacation, as provided in this Article:

- a. An employee on leave for her/his own serious health condition:
  - 1) shall use accrued sick leave in accordance with the University's disability plan requirements; or
  - 2) if not eligible for University disability benefits and not on leave as a result of a work-incurred injury or illness, shall use all accrued sick leave prior to taking leave without pay; or
  - 3) if on leave due to a work-incurred injury or illness, may use accrued sick leave as provided in Article 45 - Work Incurred Injury or Illness.
- b. An employee on leave for her/his own serious health condition shall use accrued vacation time prior to taking leave without pay, if all accrued sick leave has been exhausted, except that when the Family Care/Medical Leave runs concurrently with Pregnancy Disability Leave, the use of vacation time is at the option of the employee.
- c. An employee on Family Care Leave for Family Illness may use sick leave in accordance with Article 39 - Sick Leave, Section B.3., and shall use accrued vacation time prior to taking leave without pay.

**7. Duration**

For the purposes of Family Care/Medical Leave, only, twelve (12) workweeks is equivalent to four-hundred eighty (480) hours of scheduled work for full-time career and limited appointment employees who are normally scheduled for an eight (8) hours per day five (5) days per workweek (8/40) schedule. While the use of Family Care/Medical Leave need not be consecutive, in no event shall an employee's aggregate use of Family Care/Medical Leave exceed a total of twelve (12) workweeks within a calendar year.

**a. Hourly Conversion for Part-time or Alternately Scheduled Employees**

For employees who work part-time or a schedule other than an 8/40, the number of Family Care/Medical Leave hours to which the employee is eligible shall be adjusted in accordance with her/his normal weekly work schedule. An employee whose schedule varies from week to week is eligible for a pro-rated amount of Family Care/Medical Leave based on her/his hours worked over the previous twelve (12) weeks preceding the leave.

**b. Employee Requests for Reduced Work Schedules / Intermittent Leaves**

When medically necessary and supported by medical certification, the University shall grant an eligible employee's request for a reduced work schedule or intermittent leave including absences of less than one (1) day. When granted, the University will count only the time actually spent on the intermittent leave or reduced work schedule toward the employee's Family Care/Medical Leave entitlement for the applicable year.

**c. Alternate Assignments to Accommodate Intermittent Leave or Reduced Work Schedule**

When the employee requests an intermittent leave or a reduced work schedule, the University may, at its sole, non-grievable discretion, require the employee to transfer temporarily to an available alternate position for which the employee is qualified and which better accommodates the employee's recurring period of leave. Such transfer shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

**8. Parental Leave**

Parental Leave is a form of Family Care/Medical Leave to care for the employee's newborn or a child placed with the employee for adoption, stepchild, legal ward or foster care. Such leave must be initiated and concluded within one (1) year of the birth or placement of the child. The University shall grant a Parental Leave subject to the limitations described below. If requested and taken immediately following a Pregnancy Disability Leave, an employee eligible for FMLA/CFRA at the beginning of her Pregnancy Disability leave shall be granted the unused portion of CFRA/FMLA leave for Parental Leave purposes, up to a maximum of twelve (12) workweeks. The amount available for use is determined by the amount which the employee has previously used under CFRA/FMLA in the calendar year.

**a. Requests for Parental Leave**

The employee shall request Parental Leave sufficiently in advance of the expected birth date of the child or placement of a child for adoption or foster care to allow the University to plan for the absence of the employee, but the employee shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Leave shall be set at the time such leave commences, or if requested in conjunction with a Family Care/Medical Leave on account of the pregnancy/childbearing disability, shall be set at the time such Family Care/Medical Leave commences. Parental Leave, when taken for adoption, stepchild, legal ward or foster care, could commence prior to the date of placement.

**b. Duration**

Parental Leave, alone, shall not exceed twelve (12) workweeks within a calendar year as defined in Section B.2.b.2. and B.7., above. However, when Parental Leave is combined with a leave for pregnancy-related and/or childbearing disability only, the total Family Care/Parental Leave shall not exceed seven (7) months in a calendar year.

- 1) An employee on Parental Leave shall use accrued vacation time prior to taking leave without pay.
- 2) The University shall grant a Parental Leave of less than two (2) weeks duration on any two (2) occasions during a calendar year.
- 3) 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.

**9. Continuation Of Health Benefits**

An eligible employee who is on an approved Family Care and/or Medical Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as if s/he were on pay status for a period of up to twelve (12) workweeks in a calendar year. However, an employee on an approved Pregnancy Disability Leave who is dually eligible for leave under the federal Family and Medical Leave Act and the California Family Rights Act, shall be entitled for 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. Other group insurance coverage and retirement benefits shall be continued in accordance with the provisions of the applicable group insurance and retirement system regulations.

**10. Return To Work**

When an employee has been granted an approved Family Care/Medical Leave of Absence and returns within twelve (12) workweeks of the initiation of the leave, s/he shall be reinstated to the same or an equivalent position upon expiration of the leave. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the employee shall be afforded the same considerations which would have been afforded had the employee been working when the position was abolished or affected by layoff. No employee with a predetermined appointment end date or predetermined date of separation shall be granted a leave of absence beyond her/his appointment end date or the predetermined date of separation. An employee who has been granted a Family Care/Medical Leave for her/his own health condition, may be required by the University to provide a written medical release to return to work prior to her/his return to work.

**C. PREGNANCY DISABILITY LEAVE**

**1. Duration**

During the period of verified pregnancy-related and/or childbearing disability, an employee is entitled to and the University shall grant up to four (4) months of Pregnancy Disability Leave for pregnancy/childbearing disability purposes.

**a. Duration**

If the employee is eligible for Family Care/Medical Leave, pursuant to Section B, above, such leave shall be deducted from an employee's federal Family and Medical Leave entitlement..

1) If the pregnancy-related/childbearing medical disability continues beyond four (4) months, a medical disability leave of absence may be granted in accordance with Section D., below, for a total medical absence not to exceed six (6) months.

2) Additionally, the employee may be eligible for Parental Leave, pursuant to Section B.8., above, to care for her newborn child. The total Family Care Leave, when combined with a Pregnancy Disability Leave, shall not exceed seven (7) months in a calendar year.

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



health plan coverage (medical, dental, and vision) 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.

**D. DISABILITY LEAVES OTHER THAN FMLA/CFRA/PREGNANCY DISABILITY ENTITLEMENT**

A disability leave of absence is the period(s) an eligible career employee is granted leave from work for medical reasons in accordance with Section D.1., below. This leave includes the combined use of accrued sick leave and the disability leave of absence without pay in accordance with the provisions of this Article and Article 39 - Sick Leave. Disability leaves of absence with or without pay are provided for leaves due to non-work related illnesses or injuries.

**1. Eligibility**

An employee may be eligible for a disability leave of absence with or without pay when s/he has exhausted her/his twelve (12) workweek Family Care/Medical Leave entitlement in a calendar year, or s/he is not otherwise eligible for Family Care/Medical Leave, or the employee has exhausted her four (4) month entitlement under Pregnancy Disability Leave, and s/he:

- a. is medically incapable of performing the essential assigned functions of her/his job due to a non-work related illness or injury; and
- b. has furnished evidence of disability satisfactory to the University.

**2. Duration**

- a. When the use of accrued sick leave and a disability leave of absence without pay are combined, a disability leave may be granted by the University for a total period of verified disability not to exceed six (6) months.
- b. An employee granted a disability leave who is also applying for University disability for non-work related disability purposes shall use all accrued sick leave in accordance with the University's disability plan prior to taking leave without pay.
- c. In the event that the employee's accrued sick leave is greater than six (6) months, a disability leave of absence without pay in addition to the use of all accrued sick leave, shall not be granted.
- d. If an extension to a disability leave of absence within the total six (6) month period is not granted, an employee will be medically

separated in accordance with Article 20 - Medical Separation of this Agreement.

- e. An employee who is receiving long term disability payments from a retirement system to which the University contributes will be medically separated on the basis of medical condition in accordance with Article 20 - Medical Separation of this Agreement.

### 3. Return To Work

The employee shall not be reinstated from a medically-related leave of absence until a medical release certification is provided to the University within the time limits specified by the department. A medical release certification shall include a statement by the employee's health care provider of the employee's ability to perform the essential functions of the position.

## E. 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 to care for a family member who is a "covered servicemember" 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 26 workweeks of Military Caregiver Leave during a single 12-month leave period. The employee must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember to be eligible for this type of leave and must meet the eligibility requirements for Family Care and Medical Leave set forth in Section B.2.a.

### 2. Definitions

- a. "Covered servicemember" 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 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.**
- c. **“Serious injury or illness” means an injury or illness (a) incurred or aggravated by the covered servicemember in the line of duty on active duty in the Armed Forces that may render the servicemember 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 or illness is occurring within five (5) years of the date the veteran left the Armed Forces.**
- d. **“Parent of a covered servicemember” means a covered servicemember's biological, adopted, or foster parent or any other individual who stood in loco parentis to the covered servicemember. The term does not include parents “in law”.**
- e. **“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.**
- f. **“Next of kin” means (a) the nearest blood relative of the covered servicemember (other than the covered servicemember's spouse, domestic partner, parent, son or daughter) or (b) the person who the covered servicemember has designated in writing as his or her nearest blood relative for purposes of Military Caregiver Leave.**
- g. **“Single 12-month leave period” means the period beginning on the first day the employee takes leave to care for the covered servicemember and ends 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 servicemember, per-injury basis. Eligible employees 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 (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 servicemember during this single twelve (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 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 servicemember, 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 periods 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 servicemember 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 servicemember provide that information) including information establishing that the servicemember is a covered servicemember 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 servicemember.

**5. Use of Accrued Paid Leave**

Military Caregiver Leave is unpaid leave, except an employee may use sick leave in accordance with Article 39 – 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 16 – 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.

### **F. 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 activity 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 to 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 eighteen (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 eighteen (18) or incapable of self-care;**
6. **Rest and recuperation (up to five (5) days of leave for each 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 a calendar year.**

As with other Family Care and Medical Leaves, 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 for requesting Qualified Exigency Leave, (2) the beginning and end dates of the qualifying exigency, and (3) other relevant information.

**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 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 16 – 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.

**G. 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 20 or more hours per week;**
- c. Provide the University with notice, within two 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 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:**
  - 1. A period of war declared by the United States Congress, or**
  - 2. 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.**

**3. Substitution of Paid Leave**

**This leave is unpaid leave, except that an employee shall use accrued vacation time prior to taking leave without pay.**

**A. PERSONAL LEAVE OF ABSENCE WITHOUT PAY**

1. A non-probationary career employee may be granted a Personal Leave of Absence without Pay at the sole non-grievable discretion of the University. Such leave shall not exceed six (6) calendar months. Personal Leave without Pay shall not be considered a break in service and shall not determine eligibility for benefits except that the regulations of the retirement systems must be specifically checked to determine the effects of such leave without pay on retirement benefits.
2. The University at its sole non-grievable discretion may approve extension of a personal leave of absence without pay for a total leave of not normally more than twelve (12) months.

**B. LEAVES OF ABSENCE WITH PAY**

**1. Jury Duty/Grand Jury Duty**

A full-time employee in a career position on any shift or work schedule shall be granted leave with pay for actual time spent on jury service and in related travel, not to exceed the number of hours in the employee's normal work day and the employee's normal workweek. A part-time employee in a career position shall be granted leave with pay for actual time spent on jury service and in related travel which occur during the employee's regularly scheduled hours of work. When an employee's scheduled jury duty hours do not generally coincide with the employee's scheduled shift, the University will, upon request of the employee and subject to operational needs, change the employee's shift assignment. In the event the employee's shift assignment is changed to a shift which has a shift differential, such differential shall not apply when the change in assignment is made to accommodate the employee's jury duty.

**2. Voting**

An employee shall be granted leave with pay, up to a maximum of two (2) hours, for voting in a statewide primary or general election if the employee is scheduled to work eight (8) hours or more on that day and does not have time to vote outside of working hours.

**3. Blood Donations**

An employee may be granted leave with pay, up to a maximum of two (2) hours, for donating blood during regularly scheduled hours of work.

**4. Administrative Or Legal Proceedings**

- a. When an employee is attending administrative or legal proceedings as directed by the University or is subpoenaed by the University to appear as a witness in an administrative or legal proceeding, leave without loss of straight time pay will be granted for actual time spent

in the proceedings and in related travel not to exceed the number of hours in the employee's normal work day and workweek.

- b. An employee subpoenaed by the State or a political subdivision thereof when the State or political subdivision is prosecuting a person for an offense which the employee, by virtue of being on University premises during scheduled work hours, witnessed, shall be granted leave without loss of straight time pay for actual time spent in the proceedings and in related travel time not to exceed the employee's normal work day and workweek.
- c. The granting of leave without loss of straight time pay status for other employment-related situations where an employee has been subpoenaed shall be at the sole non-grievable, non-arbitrable discretion of the University.

**5. Emergencies**

In the event of natural or man-made emergencies, an employee may be granted leave with straight time pay during regularly scheduled hours of work for the period of time authorized by the University. The granting of such leave and the period of time shall be at the sole, non-grievable discretion of the University.

**6. University Functions**

At the sole, non-grievable discretion of the University and on a campus by campus or within a campus basis, an employee may be granted leave during regularly scheduled hours of work to attend Commencement exercises, Charter Day exercises and other University meetings or functions as designated by the University. Such leave, when granted, shall be without loss of straight-time pay.

- C. Bargaining unit employees may participate, as donors and recipients, in Catastrophic Leave programs according to local campus/hospital/LBNL procedures and Article 39, Sick Leave, Section G.