

Personnel Policies for Staff Members

43. Leave of Absence

September 1, 2009

A. GENERAL

An employee may be granted a pregnancy disability leave, family and medical leave, supplemental family and medical leave, work-incurred disability leave, personal leave, or curtailment leave as provided in the following sections, except that a leave of absence shall not extend beyond a predetermined separation date.

Leaves, transfers for medical reasons, or reduced work schedules granted for an employee's own health condition or the health condition of a family member, including a domestic partner, shall require written confirmation from a health care provider.

B. PREGNANCY DISABILITY LEAVE

1. An employee who is disabled from working because of pregnancy, childbirth, or related medical conditions shall be granted, upon request, a leave of absence for up to 4 months during the period of disability. Pregnancy disability leave may consist of leave without pay and/or paid leave such as accrued sick leave, vacation, and compensatory time off.

2. If an employee on an approved pregnancy disability leave also is eligible for family and medical leave under Section C, up to 12 workweeks of pregnancy disability leave shall run concurrently with family and medical leave under Federal law. Upon termination of a pregnancy disability leave that runs concurrently with Federal family and medical leave, an employee is also entitled to up to 12 workweeks of State family and medical leave for any covered reason except pregnancy or related medical conditions.

3. **Reduced Work Schedules.** When medically necessary, an employee may take pregnancy disability leave on a reduced work schedule or on an intermittent basis. The University may require an employee who is on a reduced work schedule or intermittent leave to temporarily transfer to an alternative position if the alternative position better accommodates the required work schedule than the employee's own position. Leave bank deductions shall be made for any hours or partial hours taken by an exempt employee who elects or is required to substitute paid leave for unpaid pregnancy disability leave taken on an intermittent basis or reduced schedule. An exempt employee who elects or is required to take unpaid pregnancy disability leave shall not be paid for any hours or partial hours taken on an intermittent basis or reduced schedule.

4. **Advance Notice.** Whenever possible, an employee shall provide at least 30 days advance notice. If 30 days notice is not practicable because of a medical emergency, for example, notice shall be given as soon as practicable.

5. Reinstatement. Reinstatement shall be to the same position provided that the employee returns to work within 4 months and immediately following termination of pregnancy disability leave. If the employee would have been laid off or terminated had the employee been working during the leave period, reinstatement shall be to a similar job at the same location. If a similar position is not available, the employee shall be afforded the same considerations afforded other employees who are laid off or terminated pursuant to the provisions of Staff Policy 60, Layoff and Reduction in Time from Professional and Support Staff Positions; Staff Policy 61, Release of Casual and Probationary Employees; Staff Policy 64, Termination of Career Employees--Professional and Support Staff; Staff Policy 65, Termination of Career Employees--Managers and Senior Professionals, Salary Grades I Through VII; Staff Policy 67, Termination of Career Employees--Managers and Senior Professionals, Salary Grades VIII and IX; and Staff Policy II-64, Termination of Appointment.

6. Light Duty. As an alternative to or in addition to pregnancy disability leave, the University shall temporarily modify a pregnant employee's own position or transfer a pregnant employee to a less strenuous or hazardous position upon request and with the advice of the employee's health care provider, if the temporary modification or transfer can be reasonably accommodated. A temporary modification or transfer shall not be counted toward an employee's entitlement of up to 4 months pregnancy disability leave. An employee shall be reinstated to the same or similar position pursuant to the provisions of Section B.5, above.

C. FAMILY AND MEDICAL LEAVE – DUE TO EMPLOYEE’S SERIOUS HEALTH CONDITION, TO CARE FOR A FAMILY MEMBER WITH A SERIOUS HEALTH CONDITION, FOR EMPLOYEE’S PREGANACY DISABILITY, AND FOR PARENTAL LEAVE

1. Family and medical leave is provided for an eligible employee's serious health condition, the serious health condition of the employee's child, spouse, same- or opposite-sex domestic partner, or parent, or to bond with the employee's newborn, adopted, or foster care child in accordance with State and Federal law in effect at the time the leave is granted. Leave granted for bonding purposes shall be concluded within 12 months following the child's birth or placement for adoption or foster care.

2. To care for other family members, an employee may be eligible to take other types of leave. (See Staff Policy 41, Vacation; Staff Policy 42.D., Family Illness and Bereavement; Staff Policy 43.F., Personal Leave; and Staff Policy II-43, Personal Leave.)

3. Eligibility. An eligible employee is entitled to up to 12 workweeks of family and medical leave during a calendar year. Furloughs and University closures of one week or longer that occur during a family and medical leave are not counted in the 12 workweeks. An employee is eligible for family and medical leave provided that:

a. the employee has at least 12 cumulative months of University service (all prior University service and military leave granted by the University, including service with and military leave granted by the Department of Energy Laboratories, shall be used to calculate the 12-month service requirement); and

b. the employee has worked at least 1,250 actual hours during the 12 months immediately preceding the commencement date of the leave (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).

An employee who is granted family and medical leave of less than 12 workweeks is not required to requalify pursuant to Section 3.b. above for subsequent family and medical leaves granted for the same qualifying reason and in the same calendar year pursuant to this Policy.

4. Documentation. Written confirmation of a family relationship may be required for leaves requested for the purpose of bonding with a newborn, adopted, or foster care child or caring for a seriously ill child, spouse, domestic partner, or parent.

5. Pregnancy Disability. If an employee on an approved family and medical leave also is eligible for pregnancy disability leave, up to 12 workweeks of Federal family and medical leave shall run concurrently with pregnancy disability leave pursuant to the provisions of Section B. above. Upon termination of the pregnancy disability leave that runs concurrently with Federal family and medical leave, the employee is also entitled to up to 12 workweeks of State family and medical leave for any covered reason except pregnancy or related medical conditions.

6. Use of Paid Leave. Family and medical leave is unpaid leave, except under the following circumstances:

a. Medical Leave. Accrued sick leave and/or vacation leave earned under Staff Policies 42, Sick Leave, and 41, Vacation, respectively, may be used during a family and medical leave granted for an employee's serious health condition. Supplemental and/or extended sick leave may be used during a family and medical leave granted to an employee who is receiving temporary disability payments under the Workers' Compensation Act, subject to Staff Policy 44, Work-Incurred Illness and Injury.

b. Family Illness Leave. Accrued sick leave may be used during a family and medical leave granted to care for a child, spouse, domestic partner, or parent with a serious health condition to the extent permitted by Staff Policy 42.D.1., Family Illness. Accrued vacation earned under Staff Policy 41, Vacation, may be used during a family illness leave except that an employee shall be required to use at least 10 percent of accrued vacation prior to taking a family illness leave without pay if the employee's vacation accrual balance is at the maximum.

c. Parental Leave for Bonding Purposes. Accrued vacation earned under Staff Policy 41, Vacation, may be used during a family and medical leave granted to care for a newborn, adopted, or foster care child, except that an employee shall be required to use at least 10 percent of accrued vacation prior to taking a parental leave without pay if the employee's vacation accrual balance is at the maximum.

7. Designation of Family and Medical Leave. The department shall designate all paid and unpaid leaves as family and medical leave if the leave meets the requirements set forth in Sections C.1 and 3.

8. **Reduced Work Schedules.** When medically necessary, an employee may take family and medical leave on a reduced work schedule or on an intermittent basis. The University may require an employee who is on a reduced work schedule or intermittent leave due to planned medical treatment to temporarily transfer to an alternative position if the alternative position better accommodates the required work schedule than the employee's own position. Leave bank deductions shall be made for any hours or partial hours taken by an exempt employee who elects or is required to substitute paid leave for unpaid family and medical leave taken on an intermittent basis or reduced schedule. An exempt employee who elects or is required to take unpaid family and medical leave shall not be paid for any hours or partial hours taken on an intermittent basis or reduced schedule.

9. **Advance Notice.** Whenever possible, an employee shall provide at least 30 days advance notice. If 30 days notice is not practicable because of a medical emergency, for example, notice shall be given as soon as practicable. Failure to comply with these notice requirements may result in postponement of family and medical leave.

10. **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 Staff Policy 60, Layoff and Reduction in Time from Professional and Support Staff Positions; Staff Policy 61, Release of Casual and Probationary Employees; Staff Policy 64, Termination of Career Employees--Professional and Support Staff; Staff Policy 65, Termination of Career Employees--Managers and Senior Professionals, Salary Grades I Through VII; Staff Policy 67, Termination of Career Employees--Managers and Senior Professionals, Salary Grades VIII and IX; and Staff Policy II-64, Termination of Appointment.

11. **Return to Work Certification.** An employee who is granted leave for the employee's own serious health condition may be required to present medical certification prior to returning to work.

D. FAMILY AND MEDICAL LEAVE – MILITARY CAREGIVER LEAVE

1. Military Caregiver Leave is an additional type of family and medical leave provided 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 incurred in the line of duty on active duty in the Armed Forces, or who is otherwise in outpatient status or on the temporary disability retired list. “Covered servicemember”, “serious injury or illness”, and “outpatient status” are terms defined in PPSM 2.

2. An eligible employee is entitled to up to 26 workweeks of Military Caregiver Leave during a single 12-month leave period. For purposes of this type of FML only, a single 12-month leave period is the period beginning on the first day the employee takes leave to care for the covered

servicemember and ends 12 months after that date. 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. “Son or daughter of a covered servicemember”, “parent of a covered servicemember”, and “next of kin” are terms defined in PPSM 2.

3. Eligibility. An employee who is a spouse, domestic partner, son, daughter, parent or next of kin of a covered servicemember is eligible for Military Caregiver Leave if the employee meets the eligibility requirements for family and medical leave set forth in Section C.3 above.

4. Leave Entitlement. Leave is applied on a per-covered servicemember, per-injury basis. Eligible employees may take more than one period of 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 26 workweeks of leave may be taken within any “single 12-month period.”

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

This leave may 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 recurring periods of leave than does the employee’s regular position.

5. 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.

6. Substitution of Paid Leave. Military Caregiver Leave is unpaid leave, except under the following circumstances:

Accrued sick leave may be used during Military Caregiver Leave to the extent permitted by PPSM Policy 42 , Sick Leave. Accrued vacation earned under PPSM Policy 41 , Vacation, may be used during a Military Caregiver Leave except that an employee shall be required to use at least 10 percent of accrued vacation prior to taking leave without pay if the employee's vacation accrual balance is at the maximum.

7. **Advance Notice.** Whenever possible, an employee shall provide at least 30 days advance notice. If 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.

8. **Reinstatement.** Reinstatement shall be in accordance with Section C.10 of this Policy.

9. **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 for up to 26 workweeks during the leave pursuant to Section K.2 of this Policy.

E. FAMILY AND MEDICAL LEAVE – QUALIFYING EXIGENCY LEAVE

1. Qualifying Exigency Leave is an additional type of family and medical leave provided 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. “Covered military member”, “active duty”, and “call to active duty status” are terms defined in PPSM 2.

2. **Definition.** A 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:

a. Short notice deployment to address issues that arise due to the covered military member being notified of an impending call to active duty seven or fewer calendar days prior to the date of deployment;

b. Military events and activities, including official ceremonies

c. Childcare and school activities for a child of the covered military member who is either under age 18 or incapable of self-care;

d. 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 90 days after the termination of the covered military member’s active duty status;

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

f. Rest and recuperation (up to 5 days of leave for each instance) to spend time with the covered military member when he or she is on short-term, temporary rest and recuperation leave during deployment;

g. Post-deployment activities to attend ceremonies sponsored by the military for a period of 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

h. 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.

3. 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 and medical leave set forth in Section C.3 above. "Son or daughter of a covered military member" and "parent of a covered military member" are terms defined in PPSM 2.

4. Leave Entitlement. Eligible employees are entitled to up to 12 workweeks of Qualifying Exigency leave during a calendar year. Qualifying Exigency Leave may be taken on an intermittent or reduced schedule basis.

5. 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.

6. Substitution of Paid Leave. Qualified Exigency Leave is unpaid leave, except under the following circumstances:

Accrued vacation earned under PPSM Policy 41, Vacation, may be used during a Qualified Exigency Leave except that an employee shall be required to use at least 10 percent of accrued vacation prior to taking leave without pay if the employee's vacation accrual balance is at the maximum.

7. Notice. The employee shall provide notice of the need for leave as soon as practicable, pursuant to Section C.9 of this Policy.

8. Reinstatement. Reinstatement shall be in accordance with Section C.10 of this Policy.

9. 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 12 workweeks in a calendar year, pursuant to Section K.2 of this Policy.

F. SUPPLEMENTAL FAMILY AND MEDICAL LEAVE

If the need for a family and medical leave that is in progress continues beyond 12 workweeks, a regular status employee shall be entitled to supplemental leave for up to 12 workweeks or until the end of the calendar year, whichever is less. The aggregate of pregnancy disability leave, family and medical leave, and supplemental family and medical leave shall not exceed 7 months

during the calendar year except as required by law. Supplemental family and medical leave is an extension of leave granted pursuant to Section C., Family and Medical Leave, except that:

1. continuation of health plan coverage (medical, dental, and optical) shall be in accordance with each plan's requirements for leaves with and without pay; and
2. reinstatement shall be pursuant to the provisions of Section I, Personal Leave.

G. MILITARY SPOUSE/DOMESTIC PARTNER LEAVE

1. 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” for this leave when the employee’s spouse or domestic partner is on leave from a period of military conflict. “Qualified leave period” for this type of leave 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. “Qualified member” and “Period of military conflict” are terms defined in PPSM 2.

2. **Eligibility.** To be eligible, an employee must satisfy all of the following criteria: a. be a spouse or domestic partner of a “qualified member” (as defined in PPSM 2); 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.

3. **Substitution of Paid Leave.** This leave is unpaid leave, except under the following circumstances:

Accrued vacation earned under PPSM Policy 41, Vacation, may be used during a Military Spouse/Domestic Partner Leave except that an employee shall be required to use at least 10 percent of accrued vacation prior to taking leave without pay if the employee's vacation accrual balance is at the maximum.

H. WORK-INCURRED ILLNESS AND INJURY LEAVE

An employee who is off pay status and receiving temporary disability payments under the Workers' Compensation Act may be granted, at the discretion of the department head, a leave without pay for all or part of the period during which such temporary disability payments are received, except that an employee who also is eligible for family and medical leave shall be granted leave pursuant to Section C, Family and Medical Leave.

I. PERSONAL LEAVE

A career employee may be granted a leave without pay for personal reasons in accordance with local guidelines. Reinstatement shall be to the same or, at the department's discretion, a similar position in the same department 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 other employees who are laid off or terminated pursuant to the provisions of Staff Policy 60, Layoff and Reduction in Time from Professional and Support Staff Career Positions; Staff Policy 64, Termination of Career Employees--Professional and Support Staff; Staff Policy 65, Termination of Career Employees--Managers and Senior Professionals, Salary Grades I Through VII; Staff Policy 67, Termination of Career Employees--Managers and Senior Professionals, Salary Grades VIII and IX; and Staff Policy 61, Release of Casual and Probationary Employees.

J. CURTAILMENT LEAVE

1. Leave without pay may be granted when the University, at the discretion of the Chancellor or Laboratory Director, elects to curtail its operations on a location-by-location basis for periods of specific duration, including but not limited to periods of time for energy/cost savings; transitional, seasonal, or holiday periods in the academic calendar; or the occurrence of emergency situations that adversely affect normal University operations. Up to three days of an unpaid curtailment leave shall be considered time on pay status for the purpose of accruing vacation credits and sick leave.

2. Use of Paid Leave. An employee may elect to substitute accrued vacation and/or accrued compensatory time off for leave without pay. For the purpose of curtailment leave, employees with insufficient vacation accrual balances may use up to three days of vacation credits prior to their actual accrual.

K. EFFECT ON BENEFITS

1. Periods of approved leave without pay are not counted as University service except as provided in specific policies (see Staff Policies 40, Holidays; and 42, Sick Leave). Such leaves do not constitute a break in service.

2. An employee on an approved family and medical 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 12 workweeks in a calendar year.

3. For the effect of a leave without pay on retirement and group insurance plans, refer to the group insurance and retirement system regulations.

4. Accrued vacation shall be used prior to a leave without pay unless otherwise requested by the employee and approved by the department head, except that an employee shall not be required to exhaust accrued vacation prior to a leave without pay granted for the employee's own health condition or pregnancy disability, or for family illness leave and parental leave except as provided in Section C.4.b-c, Family Illness Leave and Parental Leave. In addition, an employee shall not be required to use vacation prior to a curtailment leave without pay.

Applicability: All Staff Members, except that Sections I and K.4 do not apply to Senior Managers.