

Human Resources Procedures 43 – LEAVE OF ABSENCE

I. POLICY REFERENCES

UC-PPSM 41, Vacation
UC-PPSM 42, Sick Leave
UC-PPSM 43, Leave of Absence
UC-PPSM 44, Work-Incurred Illness and Injury
UC-PPSM 45, Military Leave
UC-PPSM 46, Administrative Leave
UC-PPSM 50, Professional Development
UC-PPSM 60, Layoff and Reduction in Time for Professional and Support Staff Positions
Administrative Supplement 2 (UCOP Catastrophic Leave Program)
UCOP Online Employee Database (EDB) System Manual (LOAB – Leave of Absence Bundle)
UCOP Online Payroll Time Reporting (PTR) System Manual
UC Benefits Checklists (Disability, Leave without Pay, Family and Medical Leave, Military Leave)

II. RESPONSIBILITY

The employee is responsible for requesting a leave of absence in writing. When feasible, 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. The Division or Department Head (or designee) is responsible for approving or disapproving the leave request, taking into consideration the necessity of the leave, the employee's eligibility, and other factors consistent with University policy and provisions of State and Federal laws.

The Department Head (or designee) is also responsible for ensuring that appropriate coordination has taken place between the department and the employee, that appropriate records are maintained consistent with legal requirements and University policy, and that UCOP Human Resources is consulted as appropriate.

III. PREGNANCY DISABILITY LEAVE

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 four (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.

A pregnant employee may also request temporary reassignment to a less strenuous or hazardous position upon the advice of her health care provider. If such a request can be reasonably accommodated, it must be granted. An employee may also take pregnancy disability leave on a reduced work schedule or on an intermittent basis, refer to UC-PPSM 43 (B) 3.

Pregnancy Disability Leave runs concurrently with Family Medical Leave (see Section V).

NOTE: Pregnancy Disability is considered a "serious health condition" under the Federal Family and Medical Leave Act (FMLA), but not under the California Family Rights Act (CFRA) and not for the purpose of Catastrophic Leave Program eligibility (see UCOP Human Resources Supplement C). An employee who qualifies for family and medical leave (FML) under the Federal statute during pregnancy disability is also eligible for up to 12 workweeks of family and medical leave under the State statute to care for her newborn child after her disability due to pregnancy ends.

IV. FAMILY AND MEDICAL LEAVE (FML)

A. Policy, Length, and Eligibility

1. Family and Medical Leave (FMLA) provides up to twelve (12) workweeks unpaid leave in a calendar year for the following reasons:
 - a) An employee's own serious health condition that makes the employee unable to perform his or her job;
 - b) The birth of a child or care of a newborn, newly adopted child, or a new foster care placement; or
 - c) The care of a spouse, child, or parent with a serious health condition.

In accordance with the federal regulations, a serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Any period of incapacity* for three consecutive calendar days or longer that also involves treatment two or more times by a health care provider.
- Any period of incapacity* for three consecutive calendar days or longer that also involves treatment by a health care provider and a regimen of continuing treatment under his or her supervision.
- Inpatient care in a hospital, hospice or residential medical care facility, including any period of incapacity* related to inpatient care, or any subsequent treatment in connection with inpatient care.
- Any period of incapacity* due to pregnancy or prenatal care.
- Any period of incapacity* due to a chronic serious health conditions which is under the supervision of a health care provider.

A serious health condition does not include minor illnesses such as the common cold, flu, earaches, upset stomach, or routine dental problems, orthodontic treatments, or periodontal disease. Of course, complications, if they arise, could convert a minor illness into a serious health condition. If you have a questions about whether a particular illness or injury qualifies as a serious health condition, please contact the Manager, UCOP Employee and Labor Relations (or designee).

* Incapacity is defined as the inability to work, attend school or perform other daily activities due to the serious health condition, treatment or recovery.

2. Any employee who meets both of the following criteria is eligible:
 - a) The employee must have at least twelve (12) months of University service. All prior service counts, regardless of any breaks in service; and
 - b) The employee must have worked at least 1250 hours during the twelve (12) months immediately preceding the commencement of the leave.

Whether paid or unpaid, all leaves of absence that meet the qualifications for FML should be designated by the division or department as Family and Medical Leave (FML) at the beginning of the leave period, even if the employee does not specifically request FML and even before a final determination is made on the employee's eligibility for FMLA.

B. Concurrent Leaves

The Division or Department Head (or designee) shall designate all paid and/or unpaid leaves (including accrued sick leave and vacation) due to medical reasons (including work-incurred) to run concurrently with, and be counted against, the employee's family and medical leave entitlement, provided the employee qualifies for FML and receives written notice.

FML is normally unpaid leave; however, you may request or be required to substitute paid leave (i.e., accrued vacation or sick leave, compensatory time off, or extended sick leave) for all or a portion of the unpaid leave in accordance with the appropriate policies and collective bargaining agreements.

If you have requested FML for your own serious health condition, you may be eligible during the unpaid portion of your leave for temporary disability payments under the University-Paid Disability Plan and/or the Employee-Paid Disability Plan or temporary disability payment under the Workers Compensation Act.

C. Health Benefits

Health benefits are to be continued during FML, as if the employee is on pay status. Therefore, the University will continue to pay its portion of health benefit costs for the FML period (a maximum of 12 weeks). This includes medical, dental, and optical insurance.

An employee who continues on leave beyond the initial 12 weeks of FML, and who is qualified to receive disability benefits under the University-Paid Temporary Disability Plan, is eligible for the continuation of University contributions toward medical insurance. Employees should be advised to contact UCOP Benefit Services (1-510-987-0123) to arrange to pay their normal portion of health benefit costs and/or to continue non-health benefits (i.e., life insurance).

D. Notification

The Employee Database (EDB) Preparer or Reviewer is advised to contact the Manager, UCOP Employee and Labor Relations (or designee) before initiating FMLA actions.

1. *Employee Notice Requirements (Advance Notification)*

- a) An employee is advised to give thirty (30) days advance notice if the absence is foreseeable.
- b) The department representative (or EDB preparer) should complete the following Leave of Absence Request form and forward a copy to the employee indicating approval or denial of the leave.

2. *Department Notice Requirements (in cases where there has been no advance employee notification)*

- a) If an employee has not previously requested a leave, and has been absent for three days or more for personal or family illness reasons for a serious health condition, the department must provide written notice that the leave has been provisionally designated as FMLA within two (2) working days.
- b) If the department does not have sufficient information (e.g., no medical certification) to determine whether the leave qualifies as FMLA, provisional designation of FMLA should be made, subject to verification.
- c) Except for the following two situations, leave may not be designated as family and medical leave after the employee has returned to work:
 - If a supervisor learns about the FMLA-qualifying reason for the employee's absence within 2 working days after the employee has returned to work. This situation may arise when an employee has been out on sick leave for a brief period of time (e.g., 4 days).

- If a supervisor is unable to confirm that the leave qualifies as family and medical leave until after the employee returns to work. This situation may arise when medical certification is not received in a timely manner or the employee's department is in the process of obtaining second and third medical opinions. In such instances, the supervisor should make a preliminary designation and so notify the employee at the time leave begins or as soon as the reason for the leave becomes known. Upon receipt of the required information, the preliminary designation becomes final. If the medical certification, however, fails to confirm that the reason for the absence was an FMLA-qualifying reason, the supervisor must provide the employee with written notice that the preliminary designation has been withdrawn.

E. Certification

The employee must provide his or her supervisor with medical evidence (certification) of a serious health condition from a health care provider for the employee's own serious health condition, or from the health care provider of the ill family member. An employee may also be requested to provide certification of the need for leave for the purpose of having a child placed with the employee for adoption or foster care. A male employee may also be requested to provide certification for requesting parental leave.

F. Supplemental Family and Medical Leave

If the need for 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 leave 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 leave year. An employee who has been granted supplemental FML shall be reinstated pursuant to the provisions of (UC-PPSM 43, Section F.

To request supplemental family and medical leave, an employee must provide at least two weeks advance written notice to the supervisor that the employee will need supplemental leave, along with the necessary medical certification. Additional medical certification to support the supplemental leave request, including the proposed duration of such leave, must be provided to the division or department (or designee) at the end of each month of leave in order to qualify for each additional month's leave. The employee will also be required to provide a Return-to-Work Certification form (or doctor's release) upon returning to work, including any restrictions and the anticipated duration of said restrictions.

G. Reinstatement and Return to Work

- a) The employee is entitled to reinstatement to the same or an equivalent position.
- b) An employee absent for 3 days or longer on FML due to her/his own serious health condition, is required to provide a date certain Return to Work Certification form completed by the employee's health care provider or doctor's release to the division or department (or designee) upon his or her return to work. The division or department (or designee) may also require a return to work certification form or doctor's release for non-serious health conditions resulting in absences of three (3) days or more.

Medical leaves should have a departmental focus of active and early intervention to promote and encourage an early and safe return to work and should include, as appropriate, exploration of alternatives such as light duty. (See Administrative Guidelines for Reasonable Accommodation)

H. Stay At Work/ Return to Work (SAW/RTW) Program

The University of California UPD (University Paid Disability) and EDP (Employee Paid Disability) plans allow you to stay at, or return to, work on a part-time basis while still receiving partial disability benefits. Eligible employees must be covered by the employee-paid portion of the Short-term Disability Program in order to meet the basic qualifications of this program. Please contact UCOP Benefits Services for more details about this program.

VI. PERSONAL LEAVE

A. Request for Personal Leave

A career employee may request, and the Division or Department Head (or designee) may grant the employee, a personal leave without pay for up to six (6) months. In granting the leave, the best interests of the University as well as the interests of the employee shall be considered. Personal leaves may be granted for reasons such as extended illness, needed to provide care for family members, or educational and professional development that will directly increase job effectiveness.

In special situations, a personal leave for temporary employment outside the University may be approved provided that the outside work is in the interest of public service and/or will be beneficial to the University upon the employee's return.

B. Extension of Personal Leave

Following consultation with the Manager, UCOP Employee and Labor Relations (or designee), a Division or Department Head (or designee) may also approve a request for an extension of up to six (6) months for a total leave not to exceed twenty-four (24) months.

C. Reinstatement from Personal Leave

An employee who has been granted a personal leave Employees shall be reinstated 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. An employees who would have been laid off or terminated had he or she remained on pay status during the leave period shall be afforded the same considerations afforded other employees who are laid off or terminated pursuant to the provisions of UC-PPSM 60, Layoff and Reduction in Time from Professional and Support Staff Career Positions; UC-PPSM 64, Termination of Career Employees Professional and Support Staff; UC-PPSM 65, Termination of Career Employees Managers and Senior Professionals; and UC-PPSM 61, Release of Limited Appointment and Probationary Employees.

VII. RECORDS

An employee's medical information must be kept in a file separate from his or her personnel file. All FMLA-related records including, but not limited to medical records, leave request forms, and records of disputes, if any, must be retained for three (3) years and made available to the Department of Labor upon request.