

## **ARTICLE 16. Leaves of Absence**

### **A. General**

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

Leaves, transfers, or reduced work schedules granted for an employee's own health condition or the health condition of a family member 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 remained on pay status 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 Article 19, Layoff and Reduction in Time, Article 18, Discipline & Dismissal, and Article 6, Limited 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.4, above.

### C. Family and Medical 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, 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. Nothing in this Section shall be construed to limit the application of the Family Medical Leave Act (FMLA) or the California Family Rights Act (CFRA) as the same may be amended from time to time (including without limitation, by the National Defense Authorization Act for FY 2008 (NDAA), Pub. L. 110-181).

2. Eligibility. An employee is entitled to up to 12 workweeks of family and medical leave during the 12-month leave year, provided that:

a. the employee has at least 12 cumulative months of University service (all prior University service, including service with 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.

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

a. Accrued vacation earned under Article 13, Vacation, may be used at the employee's option for leave granted for the employee's own serious health

condition or for pregnancy disability. Accrued vacation shall be used during a leave granted for any other covered reason.

b. Accrued sick leave earned under Article 12, Sick Leave, may be used during a family and medical leave granted for an employee's serious health condition and to the extent permitted by Article 12.F.6., Family Illness, during a family and medical leave granted to care for a child, spouse, domestic partner or parent with a serious health condition.

c. 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 Article 14.

The department head shall designate all paid and unpaid leaves as family and medical leave if the leave meets the requirements set forth in Section C.1-2.

4. 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 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.

5. 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.

6. 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 remained on pay status 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 19, Layoff and Reduction in Time, Article 18, Discipline & Dismissal, and Article 6, Limited Appointment.

7. 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. 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 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 family and medical leave shall be reinstated pursuant to the provisions of Section F, Personal Leave.

E. 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.

F. 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 remained on pay status during the leave prior, the employee shall be afforded the same considerations afforded other employees who are laid off or terminated pursuant to the provisions of Article 19, Layoff and Reduction in Time, Article 18, Discipline & Dismissal, and Article 6, Limited Appointment.

G. Effect on Benefits

1. Periods of approved leave without pay are not counted as University service except as provided in specific policies (see Article 11, Holidays, Article 13, Vacation, and Article 12, Sick Leave). Such leave do not constitute a break in service.
2. An employee on an approved family and medical leave, pursuant to Article 16, Section C., 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.

#### H. Catastrophic Leave Donation Program

1. Employees are eligible to participate in the Catastrophic Leave Donation Program, as recipients and donors, consistent with the local campus guidelines.

2. Employees may submit an application for the Catastrophic Leave Donation Program when they have exhausted all but their last 40 hours of paid leave.

#### ADMINISTRATIVE LEAVE

##### A. General

Eligible employees may be granted administrative leave to participate in specified University and civic activities, or because of natural or other emergencies. Administrative leave status shall not be required for exempt employees for absences of less than one full day or less than that portion of a day during which an employee on less than full-time pay status is normally scheduled to work when the absence occurs because of activities covered by this policy.

##### B. Leaves applying to non-exempt employees only

1. Jury and Witness Duty, Including Grand Jury Duty. A full-time or part-time employee on any shift or work schedule shall be granted administrative leave for actual time spent on jury duty or as a witness when served with a subpoena and in related travel, not exceed the number of hours in the employee's normal work day and the employee's normal work week.

Administrative leave granted for jury or witness duty shall be with pay if the employee is appointed to a career position. Otherwise, administrative leave granted for jury or witness duty shall be without pay.

2. University Proceedings. When a non-exempt employee is required to attend administrative or legal proceedings on behalf of the University, attendance is counted as time worked.

3. Voting Privileges. A non-exempt employee shall be granted leave with pay, up to a maximum of two hours, for voting in a statewide primary or general election if the employee does not have time to vote outside of working hours. Any additional time off shall be without pay.

4. Other Administrative Leaves. A non-exempt employee may be granted leave with pay during regularly scheduled hours of work to attend University meetings or functions as designated by the Chancellor, or up to 2 hours to donate blood.

C. Emergencies

An employee may be granted administrative leave with pay due to natural or other emergencies for the period of time authorized by the Chancellor.