

**ARTICLE 12**  
**LEAVES OF ABSENCE AND ACTIVE SERVICE MODIFIED DUTIES**

**A. GENERAL PROVISIONS**

Subject to the provisions of this Article and any applicable law, 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.

1. NSF shall be advised in writing of the reason(s) for denial of a leave request, and the reasons shall not be capricious or unreasonable.
2. No NSF shall be denied reappointment, promotion, continuing status or appointment, or merit increase as a result of application for, or receipt of, requested leaves.
3. No NSF shall have his or her duties unreasonably modified upon return from leave. The NSF, whenever possible, agrees to consult with and assist the department chair in the determination of the NSF'S assignment upon return from leave. For the purpose of review for reappointment the following provision shall apply:
  - a. For NSF not on continuing appointments who have been granted child bearing leave, parental leave, for at least one quarter or semester, the time need not be counted towards years of service as defined in Article 7b.A.2, at the request of the NSF.
4. No leave will be granted for any period beyond the ending date of the NSF's current appointment.
5. A paid leave of absence shall not be granted at a percentage of time greater than that of the NSF's appointment.
6. NSF on approved leaves of absence without pay may elect to continue University provided benefits in accordance with the University's benefits regulations. NSF who so elect must make arrangements with the University, prior to commencement of the leave, to pay the entire premium amount her/himself.
7. If the eligible NSF is on leave without pay for more than half of a calendar month, sick leave, vacation, seniority credit, and/or retirement service credit do not accrue in that month.
8. The University, at its sole discretion, may place an NSF on administrative leave with pay. The University will communicate the reason for the administrative leave to the NSF as soon as feasible. If the administrative leave lasts longer than twenty-one (21) calendar days, a written explanation of the intent, reason for, and expected duration of the leave will be provided no later than the twenty-first day.
9. The University shall not retaliate against NSF as a result of their requesting or being granted leave under this Article.

10. The University will provide the same assistance to NSF that it provides to other UC academic appointees with regard to obtaining disability benefits.
11. Definitions
  - a. Non-medical leaves of absence, with or without pay, may include: Family and Medical Leave (“FML”) taken for certain purposes (to care for the NSF’s parent, child, spouse or domestic partner with a serious health condition, to care for the NSF’s newborn child or a child newly placed with the NSF for adoption or foster care, Parental Leave/Baby Bonding, Military Caregiver Leave, and Qualifying Exigency Leave), as well as leave for jury duty, voting, blood donations, administrative or legal proceedings, emergencies, and professional development, including attending professional meetings and programs (See Article 9 for professional leaves).
  - b. Medical Leaves, with or without pay, may include: FML taken because of the NSF’s own serious health condition or the NSF’s pregnancy disability, Pregnancy Disability Leave (whether or not it qualifies as FML), Paid Medical Leave, and Other Leaves/Personal Leaves.
  - c. FMLA is the federal Family and Medical Leave Act of 1993.
  - d. CFRA is the California Family Rights Act of 1995.
  - e. PDLL is the California Pregnancy Disability Leave Law, which is part of the California Fair Employment & Housing Act.

**B. FAMILY AND MEDICAL LEAVE (FML)**

The provisions of Section B and the terminology used in B.1., apply only to NSF who are eligible for FML under FMLA and/or CFRA. NSF who do not meet FMLA and/or CFRA eligibility requirements may be granted leave for purposes described in this section by applying for a Paid Medical Leave or Other Leaves/Personal Leaves. The same certification requirements apply to Section D Paid Medical Leave and/or Section P Other Leaves/Personal Leaves requested for the purposes described in Section B.

1. Definitions
  - a. Family and Medical Leave (FML) is defined as a qualifying leave taken for any of the following six (6) reasons:
    - 1) Leave due to the NSF’s own serious health condition.
    - 2) Leave taken by the NSF to care for a family member, as defined in section B.1.b. below, with a serious health condition.
    - 3) Parental Leave/Baby Bonding, which is leave to bond with the NSF’s newborn or newly placed child, as described in section B.9. below.

- 4) Pregnancy Disability Leave, as described in section C. below, when the NSF is also eligible for leave under the FMLA.
  - 5) Military Caregiver Leave, as discussed in greater detail in section H below.
  - 6) Qualifying Exigency Leave, as discussed in greater detail in section I below.
- b. A “Family Member” for the purposes of FML is the NSF’s parent, child, spouse, or domestic partner. Child means the NSF’s biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the NSF stands in loco parentis, who is under 18 years of age or incapable of self-care because of a mental or physical disability. Parent includes the NSF’s biological parent, foster parent, adoptive parent, stepparent, legal guardian, or an individual who stood in loco parentis to the NSF when the NSF was a child. Spouse includes same or opposite sex spouse. Domestic partner includes same or opposite sex domestic partner.
- c. A “Serious Health Condition” for the purposes of FML is an illness, injury, impairment, or physical or mental condition that involves either inpatient care (as defined in B.1.d.1. below) or continuing treatment (as defined in B.1.d.3. below) and that warrants the participation of the NSF to provide supervision or care (which may include psychological care or comfort) during the period of treatment or incapacity (as defined in B.1.d.2. below).
- d. The NSF’s “Own Serious Health Condition” is an illness, injury, impairment, or physical or mental condition that renders the NSF unable to perform any one or all of the essential functions of the NSF’s position and involves either inpatient care or continuing treatment.
- 1) “Inpatient care” means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an “inpatient” when a health care facility formally admits him or her to the facility with the expectation that he or she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
  - 2) “Incapacity” means the inability to work, attend school, or perform other regularly daily activities due to a serious health condition, its treatment, or the recovery that it requires.
  - 3) “Continuing treatment” means ongoing treatment or supervision by a health care provider.

- e. 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 NSF’s health plan carrier recognizes for purposes of payment.
- f. “1,250 Hours Of Actual Service” means time actually spent at work and does not include any paid time off or sick leave. For NSF granted military leave, all hours that would have been worked had the NSF 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. Except as set forth in this section, NSF who have at least twelve (12) cumulative months of University service (all prior University service, including service with UC-managed Department of Energy Laboratories, shall be used to calculate the 12-month service requirement) 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 FML in the calendar year.
- b. FML is unpaid leave, except as otherwise provided in this Article.
  - 1) Except as set forth below, time off used for FML purposes, including Work Incurred Injury and Illness leave that qualifies as FML, shall be deducted from the NSF’s twelve (12) workweek FML maximum entitlement. For Military Caregiver Leave, the maximum entitlement is twenty-six (26) workweeks in a single 12-month leave period, as defined in §H.3.g. below. For Pregnancy Disability Leave, the maximum entitlement is four (4) months per pregnancy.
  - 2) FML shall not exceed twelve (12) workweeks in any calendar year, except in the case of Military Caregiver Leave, Pregnancy Disability Leave, or combined leaves for Pregnancy Disability Leave and Parental Leave/Baby Bonding.
  - 3) If the NSF has exhausted her/his entitlement to FML or is otherwise ineligible for FML, the NSF may still be eligible for a leave to cover the absence from work for verifiable medical reasons as referenced in section D, Paid Medical Leave /

Sick Leave, and/or section, P Other Leaves/Personal Leaves, which may be paid or unpaid.

3. FML Notification

- a. If the NSF learns of the event giving rise to the need for FML more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the NSF shall give the University at least thirty (30) calendar days notice of the need for leave. An NSF who fails to give thirty (30) days' notice for a foreseeable leave with no reasonable basis for the delay may have the FML delayed until thirty (30) days after the date on which the NSF provides notice.
  - 1) If the need for FML is foreseeable due to the planned medical treatment of the NSF or that of her/his family member the NSF shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations.
  - 2) If the need for FML is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the NSF shall provide the University with as much notice as practicable.
- b. The University shall determine whether the NSF meets the eligibility requirements to qualify for FML and shall, within five days of that determination, notify the NSF whether the NSF is eligible for FML. The designation notice shall include the start date of the leave, the anticipated return date from the leave, and other terms of the leave. If the leave is being denied, the designation notice will so indicate.
- c. Extensions to the FML, up to the applicable aggregate maximum for the calendar year, may be granted in accordance with section B.4.e.

4. Certification

- a. For FML taken due to the NSF's Own Serious Health Condition - When FML is requested for the NSF's own serious health condition, the University may, at its discretion, require that the NSF's request for leave be supported by written certification issued by the NSF's health care provider. When certification is required by the University, such requirement shall be made to the NSF in writing. Certification may be provided by the NSF on a form given to the NSF by the University and shall be provided within fifteen (15) calendar days following the University's request. Regardless of the format in which it is provided, the certification shall include:
  - 1) certification that the NSF has a serious health condition as defined in section B.1.d, above, and

- 2) a statement as to whether the NSF is unable to perform one or more of the essential assigned functions of her/his position due to the serious health condition, and
  - 3) the date on which the NSF's serious health condition began, if known, the probable duration of the condition, and the NSF's probable date of return, and
  - 4) whether it will be medically necessary for the NSF to take leave intermittently or to work on a reduced work schedule, and if so, the probable frequency and duration of the NSF's need for leave.
- b. For FML taken to care for the NSF's Family Member - When an NSF requests FML to care for a family member with a serious health condition, the University may, at its discretion, require that the NSF'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 NSF in writing. Certification may be provided by the NSF on a form given to the NSF by the University and shall be provided within fifteen (15) calendar days following the University's request. Regardless of the format in which it is provided the certification shall include:
- 1) certification that the NSF's family member has a serious health condition as defined in section B.1.c., above, and
  - 2) a statement that the family member's serious health condition warrants the participation of the NSF to provide supervision or care (which may include psychological care or comfort) during the period of treatment or incapacity, and
  - 3) whether it is medically necessary for the NSF to take leave intermittently or on a reduced work schedule to care for the family member and the probable frequency and duration of the NSF's need for leave to provide such care.
- c. Confirmation of Family Relationship – The University may require an NSF requesting FML to care for a family member with a serious health condition or requesting FML as Parental Leave/Baby Bonding, Military Caregiver Leave, or Qualifying Exigency Leave, to provide a declaration confirming the familial relationship. The University may, at its sole discretion, delay or deny a request for leave, or discontinue a leave which is in progress, if the NSF fails to provide this declaration within fifteen (15) calendar days of the University's request.
- d. Questioned Medical Opinions – If the University has reason to doubt the NSF's certification for her/his own serious health condition, the University may require that the NSF obtain a second

medical opinion from a second health care provider selected by the University.

- 1) Should the second medical opinion differ from the opinion of the NSF's own health care provider, the University may require a third medical opinion from a third health care provider, jointly agreed to by the NSF and the University.
- 2) The University shall bear the cost of the second and third opinions, and the third opinion shall be final.
- 3) The second medical opinion shall be in the same format as the original certification. No medical records may be required to be released to the University, although a limited release of the medical records between the two health care providers may be necessary. The University will provide a copy of the second and, if applicable, third medical opinion to the NSF at no cost to her/him.

e. Additional Certification and/or Recertification – If additional leave is requested or should the circumstances of the leave change, the University may require that the NSF obtain recertification. Such requests for subsequent certification and/or recertification shall be in writing.

- 1) If the University requires certification and/or recertification the NSF shall return the certification within fifteen (15) calendar days of the University's request, where practicable.
- 2) The University may deny or delay a request for an extension or change in the leave until the NSF provides the required certification.

f. Failure to Provide a Complete and Sufficient Certification and/or Recertification – If the NSF fails to provide a complete and sufficient certification and/or recertification, the University shall provide the NSF fifteen (15) calendar days to perfect the certification and/or recertification.

- 1) Failure to perfect an incomplete or insufficient certification and/or recertification within the requested time may result in delay of the leave or discontinuance of the leave until the NSF provides the required certification and/or recertification.
- 2) If the NSF fails to provide a complete and sufficient certification and/or recertification, the leave is not considered FML and will be denied in accordance with the provisions of section B.3.b. However, the University may grant a Personal Leave of Absence to the NSF at its discretion.

5. Return From FML Taken For Own Serious Health Condition

- a. The NSF shall provide reasonable notice to her/his department of her/his anticipated return to work.
  - b. An NSF who has been granted FML for her/his own serious health condition may be required to provide a written medical release to return to work prior to returning to work.
  - c. The NSF who has been medically released to perform the essential assigned functions of her/his job, with or without reasonable accommodation, shall be returned to the same position or an equivalent position.
  - d. Failure to provide a medical release to return to work may result in the delay of reinstatement until the NSF submits a required medical release certification.
6. Use Of Paid Leave – FML is unpaid except for the use of accrued sick leave or accrued vacation leave (for those NSF who accrue sick leave and vacation leave) and/or the use of Paid Medical Leave as provided in this Article:
- a. An NSF on FML for her/his own serious health condition:
    - 1) if eligible for University disability benefits, shall use accrued sick leave or Paid Medical Leave in accordance with section D below and in accordance with the University's disability plan requirements;
    - 2) if not eligible for University disability benefits, may elect to use accrued sick leave or Paid Medical Leave in accordance with section D below instead of taking FML leave without pay; or
    - 3) if on leave due to a work-incurred injury or illness, an NSF may use accrued sick leave or Paid Medical Leave in accordance with section D below.
  - b. An NSF on FML for her/his own serious health condition may use accrued sick leave, accrued vacation leave, and/or Paid Medical Leave in accordance with section D below.
  - c. An NSF on FML to care for a family member with a serious health condition may use accrued sick leave and/or accrued vacation leave.
  - d. An NSF taking FML as Parental Leave/Baby Bonding may use accrued sick leave, accrued vacation leave or FML leave without pay.
  - e. An NSF's use of accrued sick leave and/or accrued vacation leave when taking FML as Military Caregiver Leave is addressed in section H.7 below.

- f. An NSF's use of accrued sick leave and/or accrued vacation leave when taking FML as Qualifying Exigency Leave is addressed in I.5 below.
- 7. Duration - Although the use of FML need not be consecutive, in no event shall an NSF's aggregate use of FML exceed a total of twelve (12) workweeks within a calendar year, except as provided above in section B.2. The number of FML hours to which the NSF is eligible shall be prorated in accordance with the percentage of her/his appointment and with her/his normal weekly work schedule.
- 8. NSF Requests for Reduced Work Schedule/Intermittent Leave - When medically necessary and supported by medical certification, the University shall grant an eligible NSF'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 leave pursuant to the intermittent or reduced work schedule against the NSF's FML entitlement.
- 9. FML Parental Leave/Baby Bonding - Parental Leave/Baby Bonding must be initiated and concluded within one (1) calendar year of the birth or placement of the child. The University may also grant Non-FML Parental Leave Without Pay, pursuant to Section K below.
  - a. If requested and taken immediately following a Pregnancy Disability Leave, an NSF eligible for FML under the FMLA/CFRA at the beginning of her Pregnancy Disability leave shall be granted the unused portion of FMLA/CFRA leave for Parental Leave/Baby Bonding purposes, up to a maximum of twelve (12) workweeks in a calendar year. The amount available for use is determined by the amount of FMLA/CFRA time that the FMLA/CFRA eligible NSF has previously used in the calendar year.
    - 1) Requests for Parental Leave/Baby Bonding - The NSF shall request Parental Leave/Baby Bonding sufficiently in advance of the expected birth date of the child or placement date of an adopted or foster care child to allow the University to plan for the absence of the NSF, but the NSF shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Leave/Baby Bonding shall be set at the time such leave commences, or if requested in conjunction with a FML taken as Pregnancy Disability Leave, shall be set at the time such Pregnancy Disability Leave commences. In the event Pregnancy Disability Leave is extended beyond the anticipated date of return by the NSF's health care provider, then the NSF is expected to communicate with the University about her/his new anticipated date of return. Parental Leave/Baby Bonding, when taken for the adoption of a child

or placement of a child with the NSF, could commence prior to the date of placement to take care of matters related to the adoption or placement of the child.

- 2) Duration – Parental Leave/Baby Bonding, 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/Baby Bonding is combined with FML taken as Pregnancy Disability Leave, the total amount of FML shall not exceed seven (7) months in a calendar year.
  - a. The University shall grant a Parental Leave/Baby Bonding of less than two (2) weeks duration on any two (2) occasions during a calendar year.
  - b. The University may require that any additional Parental Leave/Baby Bonding requested during this same time period be for a minimum duration of two (2) weeks, unless otherwise required by law.
10. Continuation Of Health Benefits while on FML - An eligible NSF who is on an approved FML (when FML is taken for her/his own serious health condition, to care for a family member with serious health condition, as Parental Leave/Baby Bonding, or as Qualifying Exigency Leave), with or without pay, shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as if the NSF were on pay status for the period of the leave, up to twelve (12) workweeks in a calendar year. If FML is taken as Military Caregiver Leave, the NSF will be entitled to such benefits continuation for up to twenty-six (26) workweeks in a single 12-month leave period, as defined in §H.3.g. An NSF on an approved Pregnancy Disability Leave, shall be entitled to such benefits continuation for up to four months in the twelve (12) month period that begins on the date that the Pregnancy Disability Leave begins, regardless of whether she is eligible to have any portion of this leave counted as FML under the FMLA. Other group insurance coverage shall be administered in accordance with the provisions of the applicable group insurance regulations.
11. Return To Work - When an NSF has been granted an approved FML for any reason other than Pregnancy Disability Leave and returns within twelve (12) workweeks of the initiation of the leave (or within twenty-six (26) workweeks if FML is taken as Military Caregiver Leave), the NSF shall be reinstated to the same or an equivalent position upon expiration of the leave. For reinstatement immediately after Pregnancy Disability Leave, see §C.5. below. NSF who return to work at the conclusion of their combined Pregnancy Disability Leave and Parental Leave/Baby Bonding shall be reinstated to their same or an equivalent position. If the position has been abolished or otherwise affected by layoff and an equivalent position is not available, the NSF shall be afforded the same

considerations which would have been afforded had the NSF been on pay status when the position was abolished or affected by layoff. Return to work provisions do not apply to the NSF if return is sought after the ending date of the NSF's current appointment.

### **C. PREGNANCY DISABILITY LEAVE**

1. Duration - An NSF is entitled to, and the University shall grant, up to four (4) months of Pregnancy Disability Leave for disability related to pregnancy, childbirth, and related medical condition. Pregnancy Disability Leave may also be used for prenatal care. If the NSF is eligible for FMLA under the FMLA, pursuant to Section B. above, such leave shall be deducted from an NSF's FMLA entitlement.
  - a. If the disability related to pregnancy, childbirth or related medical condition continues beyond four (4) months, a medical disability leave of absence may be granted in accordance with Section B.2.b.3.
2. Pregnancy Disability Leave is normally without pay. However, an NSF may receive pay during the Pregnancy Disability Leave according to the following:
  - a. An NSF who does not accrue sick leave and who has served in her title or any other UC academic title for at least for at least 12 consecutive months will receive at least her approved base salary for up to six (6) weeks while she is unable to perform her normal University obligations.
  - b. A NSF who does not accrue sick leave and who has not served in her title or any other UC academic title for at least 12 consecutive months will receive at least her approved base salary for approximately the period which would be accrued during the appointment in accordance with the accrual rates as follow:
    - 1) Eligible academic-year appointees accrue sick leave only during the months of their service period, at the rate of one working day per month for full-time service, including leaves with pay.
    - 2) Eligible appointees at 50 percent or more time accrue sick leave at a proportionate rate; appointees at less than 50 percent time do not accrue sick leave.
  - c. Any NSF who accrues sick and/or vacation leave may use accrued sick leave and/or accrued vacation leave to substitute her pay during the Pregnancy Disability Leave.
  - d. The NSF is eligible to receive Short-Term Disability coverage during this leave in accordance with the provisions of that benefit, including being required to use available accrued sick leave in accordance with the University's Disability Plan.

3. Reduced Work Schedule - When medically necessary, and supported by medical certification, the University shall grant an NSF Pregnancy Disability Leave on a reduced work schedule or on an intermittent basis including absences of less than one (1) day. Only the time actually spent on the intermittent or reduced leave schedule shall be counted against the NSF's entitlement of four (4) months of pregnancy disability leave.
4. Return To Work - An NSF who has been granted Pregnancy Disability Leave shall be reinstated to the same position from which the leave was taken provided that the NSF returns to work immediately upon termination of the Pregnancy Disability Leave and provided that the aggregate duration of all leaves granted for a given pregnancy does not exceed four (4) months. If the same job has been abolished or affected by layoff, the NSF shall be reinstated to a comparable position. If a comparable position is not available, the NSF shall be afforded the same considerations which would have been afforded had that NSF been on pay status when the position was abolished or affected by layoff. The date of reinstatement is generally determined when the leave is granted but may be adjusted, as necessary, given the length of time the NSF is actually disabled. Return to work provisions do not apply if return is sought after the ending date of the NSF's current appointment.
5. Continuation Of Health Benefits - An NSF on an approved Pregnancy Disability Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as if on pay status for up to four (4) months in the twelve (12) month period that begins on the date that the Pregnancy Disability Leave begins, regardless of whether she is eligible to have any portion of this leave counted as FML under the FMLA. Other group insurance coverage shall be continued in accordance with the provisions of the applicable group insurance regulations.

**D. PAID MEDICAL LEAVE / SICK LEAVE**

1. NSF who have a full-time appointment for at least a full academic year (three quarters or two semesters) who are unable to work for reasons of personal illness, injury, or disability shall be granted paid medical leave as follows:
  - a. Eligible NSF with fewer than ten (10) years of employment in the bargaining unit at the same campus who do not accrue sick leave shall be eligible for a maximum of two (2) quarters or one (1) semester of consecutive or intermittent paid medical leave within a ten-year period for personal injury, illness or disability.
  - b. Eligible NSF with ten (10) or more years of employment in the bargaining unit at the same campus who do not accrue sick leave shall be eligible for a maximum of three (3) quarters or two (2) semesters of consecutive or intermittent paid medical leave within each subsequent 10-year period, for personal injury, illness or disability.

- c. The University will not grant paid medical leave beyond the end date of an NSF's term appointment except in cases of reappointment.
- d. Paid medical leave does not accrue and, if unused within the 10-year period, is not carried over to any subsequent 10-year period, nor is the unused portion used to calculate University of California Retirement Plan (UCRP) service credit.
- e. University of California Retirement Plan (UCRP) service credit accrues while an NSF is on a UC-paid medical leave in accordance with UCRP provisions.
- f. NSF may also be eligible for employer-paid Short-Term Disability Plan benefits and, if enrolled, for University of California employee-paid Supplemental Disability Plan benefits.

2. Sick Leave for Fiscal Year Appointees

a. Eligibility

NSF in Fiscal year appointments on pay status for at least fifty percent (50%) of full time are eligible to accumulate sick leave credit based on the percentage of time on pay status up to a maximum of one (1) working day per month for full time service. Sick leave may be accrued without limit. Sick leave is earned during leave with pay. Sick leave is credited at the end of the month it is earned.

b. Use of accumulated sick leave

- 1) NSF are expected to use sick leave in keeping with normally approved illness of a family member or bereavement. Accumulated sick leave may be used for temporary disability related to pregnancy, childbirth, and recovery there from.
- 2) NSF may be required to submit satisfactory proof of illness or disability.
- 3) Sick leave shall not be used prior to the time it is credited nor shall sick leave be used beyond a predetermined separation date.
- 4) Regularly scheduled days off and University administrative holidays shall not be charged against sick leave.
- 5) While receiving injury or health compensation under the Worker's Compensation Act, an absent NSF may also receive sick leave benefits provided the total of the sick leave pay and worker's compensation does not exceed the employee's regular salary for the period.

3. Reporting

Once a month, each NSF shall report sick leave used to the appropriate office. Once a month, the University shall report to each NSF on the accrual and use of sick leave.

4. Sick leave retirement credit

Upon retirement, accumulated sick leave shall be converted to retirement service credit in accordance with retirement system policies in effect at the time of the NSF's retirement.

**E. BEREAVEMENT LEAVE**

1. The University shall grant an NSF's request for bereavement leave due to the death of a family member as defined in section E.2., below. The period of such leave shall be up to three (3) days per occurrence, and NSF shall receive up to three (3) days' pay for bereavement leave. Nothing in this section shall preclude the University from granting a longer period of unpaid bereavement leave.
2. Family member (including step-family member) for the purpose of bereavement leave is defined as one's mother, father, sister, brother, parent-in-law, spouse, domestic partner, parent of domestic partner, grandparent, grandchild, child, son/daughter-in-law, adopted or foster child (including children of a domestic partner or legal ward who is under 18 years). Parent includes a biological, foster, or adoptive parent, step-parent, legal guardian, or an individual who stood in loco parentis to the NSF when the NSF was a child.

**F. JURY DUTY**

An NSF shall be eligible for paid jury duty leave when summoned for required jury duty service. The NSF shall provide the University with verification of jury duty service. The University will not provide paid jury duty leave absent verification of service.

**G. MILITARY LEAVE**

The University shall provide military leave for NSF who are called to active U.S. military service according to applicable University military leave policy or as required by applicable law.

**H. MILITARY CAREGIVER LEAVE**

1. Military Caregiver Leave is an additional type of FML available to eligible NSF. An NSF may take Military Caregiver Leave to care for a family member or "next of kin" who is a "covered servicemember" undergoing medical treatment, recuperation or therapy for a serious injury or illness.
2. An eligible NSF is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single 12-month leave period. The NSF 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.
3. Definitions

- a. "Covered servicemember" means
  - 1) A current member of the United States Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary retired list; or
  - 2) A "covered veteran" who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness. A "covered veteran" is an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible NSF takes FML care for the covered veteran.
- 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 (a) for a current member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was 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; and (b) for a veteran of the Armed Forces, an injury or illness that was incurred or aggravated in the line of duty on active duty in the Armed Forces and manifested itself before or after the member became a veteran.
- d. "Parent of a covered servicemember" means a covered servicemember's biological, adopted, or foster parent, stepparent, or any other individual who stood in loco parentis to the covered servicemember when the covered servicemember was a child. 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 when that person was a child, and who is of any age.
- f. "Next of kin" means either (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 NSF takes leave to care for the covered servicemember and ends 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.)
4. Eligibility - An NSF 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 NSF meets the eligibility requirements for FML set forth in Section B.2.a.
5. Counting Leave
  - a. Leave is applied on a per-covered servicemember, per-injury basis. Eligible NSFs may take more than one 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 12-month period."
  - b. If an eligible NSF does not use all of his or her twenty-six (26) workweeks of leave entitlement to care for a covered servicemember during this single 12-month leave period, the remaining part of the twenty-six (26) workweeks entitlement to care for the covered servicemember for that serious injury or illness is forfeited.
  - c. As with most other types of FML, 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 NSF 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 NSF is qualified and which better accommodates recurring periods of leave than does the NSF's regular position.
6. Documentation and Certification - NSF 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, NSF may be required to provide certain information (or have the covered servicemember provide that information) establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave, his or her

relationship with the NSF, and an estimate of the leave needed to provide the care.

7. Substitution of Paid Leave - Military Caregiver Leave is unpaid leave, except an NSF who accrues sick leave and vacation leave may use accrued sick leave, accrued vacation or take leave without pay. .
8. Advance Notice - Whenever possible, an NSF shall provide at least 30 days advance notice. If thirty (30) calendar 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.
9. Reinstatement - Reinstatement shall be to the same position from which the leave is taken 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 NSF returns to work immediately following termination of the leave. If the NSF would have been laid off or terminated had the NSF remained on pay status during the leave period, the NSF shall be afforded the same considerations afforded to other NSFs who are laid off or terminated. Reinstatement provisions do not apply if return is sought after the ending date of the NSF's current appointment.
10. Continuation of Health Benefits - An NSF 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.

## **I. QUALIFYING EXIGENCY LEAVE**

Qualifying Exigency Leave is an additional type of FMLA available to eligible NSFs. An eligible NSF who is the spouse, domestic partner, son, daughter or parent of a "military member" may take Qualifying Exigency Leave to attend to any "qualifying exigency" when the-military member is on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty).

### **1. Definitions**

- a. "Covered active duty or call to covered active duty status" means (1) in the case of a member of the Regular Armed Forces, duty during the deployment to a foreign country or (2) in the case of a member of the Armed Forces Reserve, duty during the deployment to a foreign country under a Federal call or order to active duty in support of a contingency operation, during a war, or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation as defined by the FMLA.
- b. "Parent of a military member" means a military member's biological, adopted, or foster parent, stepparent, or any other individual who

stood in loco parentis to the military member when the military member was a child. The term does not include parents “in-law.”

- c. “Son or daughter of a military member” means a military member’s biological, adopted, or foster child, stepchild, legal ward, or a child for whom the military member stood in loco parentis when the person was a child, and who is of any age.
- d. “Qualifying exigency” is defined as any one of the following, provided that the activity relates to the military member’s covered active duty or call to covered active duty status:
  - 1) Short notice deployment to address issues that arise due to a 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 military member who is either under age 18 or incapable of self-care
  - 4) Financial and legal arrangements to address the military member’s absence or to act as the military member’s representative for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status and for the ninety (90) days after the termination of the military member’s covered active duty status
  - 5) Counseling (provided by someone other than a health care provider) for the NSF, for the military member, or for a child of the military member who is either under age 18 or incapable of self-care
  - 6) Rest and recuperation (up to fifteen (15) days of leave for each instance) to spend time with a 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 military member’s covered active duty and to address issues that arise from the death of a military member while on covered active duty status
  - 8) Parental care for the parent of the military member when the parent is incapable of self-care
  - 9) Additional activities related to the military member’s covered active duty or call to covered active duty status when the University and the NSF agree that such activity qualifies as

an exigency and agree to both the timing and duration of the leave.

2. Eligibility - An NSF who is the spouse, domestic partner, son, daughter, or parent of a military member is eligible for Qualifying Exigency Leave if the NSF meets the eligibility requirements for FML set forth in section B.2.a. above.
3. Counting Leave - Eligible NSF are entitled to up to twelve (12) workweeks of Qualifying Exigency leave during a calendar year. As with most other FML Qualifying Exigency Leave may be taken on an intermittent or reduced schedule basis.
4. Documentation and Certification - NSF may be required to provide a copy of the military member's active duty orders. NSF 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. Substitution of Paid Leave – Qualifying Exigency Leave is unpaid leave, except an NSF who accrues vacation leave may use accrued vacation leave or take leave without pay. Qualified Exigency Leave is unpaid leave.
6. Notice - The NSF shall provide notice of the need for leave as soon as practicable.
7. Reinstatement - Reinstatement shall be to the same position from which the leave was taken 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 NSF returns to work immediately following termination of the leave. If the NSF would have been laid off or terminated had the NSF remained on pay status during the leave period, the NSF shall be afforded the same considerations afforded to other NSF who are laid off or terminated. Reinstatement provisions do not apply to NSF if return is sought after the ending of the NSF's current appointment.
8. Continuation of Health Benefits - An NSF 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.

#### **J. MILITARY SPOUSE/DOMESTIC PARTNER LEAVE**

An NSF 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 NSF’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 NSF 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 NSF 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 of the NSF’s intention to take the leave, within two (2) business days of receiving official notice that the qualified member will be on leave from deployment, 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 NSF.
  
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 active duty, as defined in California Military & Veterans Code section 395.10.
  
3. Substitution of Paid Leave – This leave is unpaid leave, except that an NSF who accrues vacation leave may use accrued vacation leave or take leave without pay.

## **K. NON-FML PARENTAL LEAVE WITHOUT PAY**

1. Description and Eligibility

An NSF is eligible for a full-time or part-time parental leave without pay for up to one year to care for a child. The child may be the NSF’s child or that of a spouse or domestic partner.

The University will not grant a parental leave without pay beyond the end date of an NSF’s term appointment.
  
2. Interaction with Family and Medical Leave Entitlement

An NSF who is eligible for FML shall be granted an unpaid leave to care for a newborn child or a child newly placed for adoption or foster care. Up to 12 workweeks of the parental leave shall run concurrently with FML. Parental leave under State and Federal law has the following additional obligations and benefits.

(a) Timing

Parental leave granted pursuant to the FMLA and/or the CFRA must be concluded within 12 months following the child's birth or placement.

(b) Effect on Benefits

A benefits eligible NSF on a FML, with or without pay, shall be entitled to continue participation in health coverage (medical, dental, and vision) as if on pay status for a period of up to 12 workweeks during a calendar year. Other group insurance coverage and retirement benefits shall be administered in accordance with the provisions of the applicable group insurance and retirement system regulations.

3. An NSF on a parental leave not covered by State or Federal family and medical leave law is responsible for the continuation of benefits during any unpaid portion of the leave.

## L. VACATION

1. Definition

Vacation is paid time off from University obligations for the purpose of rest and rehabilitation.

2. Eligibility

- a. NSF on academic year appointments do not accrue vacation.
- b. NSF on fiscal year appointments at fifty percent (50%) of full-time or more for at least six months accrue vacation.

3. Accrual and Use

- a. Eligible full-time NSF accrue vacation at the rate of two (2) working days a month. Eligible part-time NSF accrue vacation at a proportionate rate of full time credit.
- b. Vacation allowance shall not accrue during a leave of absence without pay. Vacation credit shall be accrued by the NSF on a leave of absence with pay.
- c. Accrued vacation shall be used at a time or times in keeping with the program of work being conducted by the NSF, and approved by the designated University official.

- d. Regularly scheduled days off and the University administrative holidays shall not be charged against vacation time.
- e. Except when a campus allows the use of anticipated vacation in times of holiday closures, and NSF may not anticipate vacation, that is, vacation is limited to the vacation time actually accrued by the date set for the NSF's vacation.
- f. Records showing accrual and usage of vacation leave credit will be maintained for the NSF.

**M. 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.

**N. 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.

**O. WITNESS LEAVE**

Witness Leave is leave with pay for time spent attending administrative or legal proceedings on behalf of the University or appearing as a subpoenaed witness in an administrative or legal proceeding. Leave shall be granted for the actual time spent in proceedings and in related travel not to exceed the NSF's normal workday and work week. Leave with pay will not be granted when a NSF is a plaintiff or defendant in a proceeding unrelated to University employment, is called or subpoenaed as a paid expert witness not on behalf of the University or is called or subpoenaed because of duties for another employer. All NSF are eligible to apply for leaves in accordance with other leaves with or without pay.

**P. OTHER LEAVES/PERSONAL LEAVES**

- 1. Other leaves/Personal Leaves may be granted with or without pay at the University's sole discretion or if required by applicable law.
- 2. NSF who wish to take a leave of absence shall submit a timely request for leave to the appropriate University administrator with sufficient specific information to allow the University to make a decision. The application shall identify the period of the leave and whether the leave requested is with or without pay.
- 3. Such leaves shall normally not exceed one calendar year. In exceptional circumstances, such leaves may be extended at the sole discretion of the University.

**Q. ACTIVE SERVICE-MODIFIED DUTIES – FAMILY ACCOMMODATIONS FOR CHILDBEARING AND CHILDREARING**

1. Definition: Active service-modified duties is a period during which normal duties may be reduced so that an NSF can prepare for and/or care for a newborn child or a child under age five newly placed for adoption or foster care. During a period of active service modified duties, the NSF is on active service and is expected to perform some portion of his or her normal duties. A period of active service-modified duties is not a leave of absence.
2. Eligibility:
  - a. To be eligible for active service-modified duties, an NSF must be responsible for 50 percent or more of the care of a child. The child may be the NSF's child or that of a spouse or domestic partner. An NSF is eligible for a period of active service-modified duties for each event of birth or placement. The birth or placement of one or more children at the same time constitutes a single event of birth or placement. Eligibility for a period of active service-modified duties shall normally extend from 3 months prior to 12 months following the birth or placement.
  - b. An NSF who is a birth mother and who has a full-time appointment for at least one full academic year (three quarters or two semesters) or for the entire fiscal year (four quarters) is eligible for a total period of active service-modified duties of two quarters (or two semesters), which includes any time taken for paid childbearing leave (up to 6 weeks), to enable her to recover fully from the effects of pregnancy and childbirth and to prepare for and/or care for the newborn child. If she gives birth during the summer or an off-duty term, she is eligible for a total period of active service-modified duties of two quarters (or two semesters).
  - c. An eligible NSF who is not the birth mother and who has a full-time appointment for at least one full academic year (three quarters or two semesters) or for the entire fiscal year (four quarters) is eligible for active service-modified duties of one quarter (or one semester).
3. Submission of Request: An NSF shall submit a written request to the department chair or unit head of the need for a period of active service-modified duties. The request must include a written statement by the NSF certifying that he or she is responsible for 50 percent or more of the care of a newborn child or a child under age five newly placed for adoption or foster care. The department chair and/or equivalent will discuss the proposed modifications with the NSF. The determination of the modified duties, such as assignment of additional resources, is at the sole non-grievable discretion of the University.
4. The University will not grant any active service-modified duties beyond the end date of an NSF's term appointment.

## **R. GRIEVABILITY AND ARBITRABILITY**

1. The provisions of this Article are subject to Article 32 — Grievance Procedure.
2. Only sections A.1, A.2, A.3, and A.9, and the procedural issues of this article, are subject to Article 33 — Arbitration.