



# PPSM-2.210: Absence from Work

**MANAGEMENT CONSULTATION: FEBRUARY 19, 2021-MARCH 5, 2021**

<b>Responsible Officer:</b>	VP - Human Resources
<b>Responsible Office:</b>	HR - Human Resources
<b>Issuance Date:</b>	9/23/2014
<b>Effective Date:</b>	7/1/2014
<b>Scope:</b>	Professional & Support Staff, Managers & Senior Professionals, and Senior Management Group Members

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## D. Leaves Related to Life Events

This section describes the variety of leaves offered to University employees to accommodate their need to take time away from work due to life events.

### 1. Family and Medical Leave (FML) – General Provisions

The following provisions apply to Family and Medical Leave as described in Sections III.D.2, III.D.3, III.D.4, III.D.5, III.D.6, and III.D.7 unless otherwise indicated.

To be eligible for Family and Medical Leave, an employee must have:

- been employed by the University for at least a total of 12 months; and
- worked at least 1,250 hours in the 12 months immediately preceding the start of the leave. (For employees granted military leave, all hours that would have been worked had the employee not been ordered to military duty are included for the purpose of calculating the 1,250 hours of actual work.)

An eligible employee may take unpaid Family and Medical Leave of up to a total of twelve (12) workweeks in a calendar year (or, for Military Caregiver Leaves, for

a period of up to twenty-six (26) workweeks in a single 12-month period) under certain conditions, as described in the applicable Life Event sections below. Furloughs and University closures of one week or longer that occur during an employee's Family and Medical Leave are not counted toward the 12-work week limit (or, for Military Caregiver Leave, the 26-workweek limit).

Any leave taken by an eligible employee that qualifies as Family and Medical Leave will be designated as such and will be counted against the employee's leave entitlement whether the leave is paid or unpaid. Such deductions will be made in increments that correspond to the amount of leave time actually taken by the employee (which could be weeks, days, hours, and/or partial hours).

An employee who takes less than twelve (12) workweeks of Family and Medical Leave does not need to have worked 1,250 hours in the twelve (12) months immediately preceding any subsequent Family and Medical leave taken for the same qualifying reason in the same calendar year as the initial qualifying leave.

An employee may qualify for Family and Medical Leave under the California Family Rights Act (CFRA) for any covered reason (e.g., parental bonding) other than disability caused by pregnancy, childbirth, or related conditions even if the employee's leave entitlement under the Family and Medical Leave Act (FMLA) has been exhausted.

*a. Advance Notice*

An employee should inform his/her supervisor of the need for a Family and Medical Leave at least thirty (30) days in advance of the anticipated start date of the leave if the need for leave is foreseeable. If the need for leave is not foreseeable, the employee should give notice to his/her supervisor as soon as practicable. Failure to comply with this notice requirement may result in postponement of leave.

The employee should also provide notice to his/her supervisor as soon as practicable if the period(s) for which the employee needs Family and Medical Leave change.

*b. Documentation and Certification*

The University may require that the employee provide a complete and sufficient certification from a health care provider if the employee is requesting a Family and Medical Leave (1) due to the employee's own serious health condition, (2) due to the employee's pregnancy disability, (3) to care for a family member with a serious health condition, or (4) as Military Caregiver Leave. If the employee is taking Qualifying Exigency Leave, the University may require that the employee provide the certification pertaining to that form of Family and Medical Leave. The University will provide the appropriate certification form to the employee based on the type of Family and Medical Leave the employee is requesting.

If the employee is seeking to take Family and Medical Leave to care for a family member with a serious health condition or as Parental Bonding Leave, the University may require that the employee provide a Declaration of Family Relationship for Family and Medical Leave.

*c. Substitution of Paid Leave Benefits for Unpaid Family and Medical Leave*

An employee may elect to substitute accrued vacation, sick leave, PTO (if applicable), and/or compensatory time off for leave without pay in accordance with the Policy provisions governing each type of Family and Medical Leave. If an employee wishes to take unpaid Family and Medical Leave and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the employee will be required to use at least 10 percent of accrued vacation leave or PTO before taking unpaid Family and Medical Leave. The foregoing requirement does not apply if the employee elects to take unpaid Pregnancy Disability Leave instead of using accrued vacation.

If an exempt employee is taking FML on an intermittent or reduced schedule basis and elects to substitute accrued vacation, sick leave, PTO (if applicable), and/or compensatory time off the deductions from the employee's leave accruals will be made in increments that correspond to the amount of leave actually taken by the employee (which could be weeks, days, hours and/or partial hours), rather than full-day increments only as stated in Section III.A.7.

The substitution of paid leave for Family and Medical Leave does not extend the total duration of the leave to which an employee is entitled.

*d. Reinstatement*

Reinstatement will be to the same position or, at the Department's discretion, to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment, provided that the employee returns to work immediately following the Family and Medical Leave. If the employee would have been laid off or terminated if the employee had actually been working during the leave period, the employee will 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 Career Positions; Staff Policy 61, Release During the Probationary Period or From Limited, Casual/Restricted, and Floater Appointments; 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. For reinstatement immediately following a Pregnancy Disability Leave, see Section III.3.D.2.c.

*e. Supplemental Family and Medical Leave*

A regular status employee who has exhausted all Family and Medical Leave is eligible for Supplemental Family and Medical Leave for up to an additional twelve (12) workweeks or until the end of the calendar year, whichever is less, if the need for a Family and Medical Leave that is in progress continues beyond twelve (12) workweeks.

However, the aggregate absence from work for Pregnancy Disability Leave, Family and Medical Leave, and Supplemental Family and Medical Leave may not exceed seven (7) months during the calendar year, except as may be required by law.

For employees on Supplemental Family and Medical leave, health plan coverage (medical, dental, and optical) will continue in accordance with each plan's requirements.

An employee may elect to substitute accrued vacation, sick leave, PTO (if applicable), and/or compensatory time off for leave without pay if the underlying Family and Medical Leave is due to the employee's own pregnancy disability or other serious health condition. An employee may elect to substitute accrued vacation and up to thirty (30) days of sick leave in a calendar year if the underlying Family and Medical Leave is to care for a family member with a serious health condition, parental bonding leave, or Military Caregiver Leave as provided for under applicable provisions of the Policy.

Reinstatement will 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 actually been working during the leave period, the employee will 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 61, Release During the Probationary Period or From Limited, Casual/Restricted, and Floater Appointments; 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; and Staff Policy 67, Termination of Career Employees – Managers and Senior Professionals, Salary Grades VIII and IX.

## **2. Pay for Family Care and Bonding (PFCB)**

### **a. General**

**In order to support employees' need to take leave to care for their family members, the University offers eligible employees PFCB, which is a partial income replacement option for up to eight workweeks per calendar year. To**

be eligible for PFCB, an employee must be on an approved Family and Medical Leave taken for one of the qualifying reasons, and the employee must be taking that leave in a block of one workweek or more. PFCB is not available when an FML leave is taken on an intermittent or reduced schedule basis.

Family and Medical Leaves that qualify for the PFCB option are those leaves taken under the FMLA and/or CFRA for parental bonding (Section III.D.4), to care for a family member with a serious health condition (Section III.D.6), for Military Caregiver Leave (Section III.D.7), or for Qualifying Exigency Leave (Section III.D.8). Section III.D.1 outlines the eligibility requirements for Family and Medical Leaves. PFCB is not an option available during any other type of leave, including -Supplemental Family and Medical Leave (Section III.D.1.e).

#### b. PFCB Pay Calculation

The PFCB option provides pay calculated at 70 percent of an employee's eligible earnings.

##### 1. Eligible Earnings

Eligible earnings include an employee's base salary payable through the University. Eligible earnings do not include bonuses, perquisites, overtime pay, administrative stipends, shift differentials, uniform allowances or any pay that is received in addition to that of the employee's regular appointment including "by agreement" payments, compensation for extension teaching, and any other additional cash compensation received that is more than 100 percent of the base salary of the full-time equivalent of the employee's regular position. However, if the employee's only appointment is for extension or summer session teaching or is a "by agreement" appointment, and the employee meets all other PFCB eligibility criteria, those earnings are considered eligible earnings.

##### 2. Appointments Established at a Fixed Percentage

If the employee has an appointment established at a fixed percentage, PFCB is based on the salary rate that was used to calculate the employee's pay during the pay period(s) immediately prior to the month in which the employee's leave begins.

- For an employee paid on a monthly basis, PFCB is based on the salary rate that was used to calculate the employee's pay for the full calendar month immediately prior to the pay period in which the leave begins.

- For an employee paid on a bi-weekly basis, PFCB is based on the salary rate that was used to calculate the employee's pay for the two bi-weekly pay periods immediately prior to the pay period in which the leave begins.

### 3. Appointments Established at a Variable Percentage

If the employee has an appointment established at a variable percentage, eligible earnings are an average of the employee's eligible earnings for the three calendar months or six pay periods immediately prior to the period in which the leave begins, excluding periods with furlough or approved leave without pay. This average is calculated as follows:

- For an employee paid on a bi-weekly basis, the sum of six pay periods is divided by 480 (the total full-time hours for 12 weeks/six bi-weekly pay periods) to yield an adjusted hourly rate. This rate is then multiplied times 174 hours (the average number of hours per month for a full-time employee) to produce an adjusted average monthly salary.

If the consecutive three months or six bi-weekly pay periods immediately preceding the beginning of the leave cannot be used due to furlough or approved leave without pay, the look-back period may be extended up to, but no longer than, one year prior to the beginning of the leave, using the most recent applicable pay periods.

#### c. PFCB Usage

When an employee is receiving PFCB, the employee cannot use paid leave accruals (vacation, sick leave, PTO, CTO) or any other type of paid leave at the same time.

If an employee elects to use PFCB for a particular qualifying FML block leave rather than using paid leave accruals or taking the leave without pay, the employee must continue to use PFCB until they either exhaust their full eight workweeks of PFCB or that qualifying FML block leave ends. If their leave ends before they have used the full eight workweeks of PFCB, the remainder is available to use during a qualifying FML block leave later in the calendar year.

### **2.3. Leave Due to Pregnancy, Childbirth or Related Medical Condition (Pregnancy Disability Leave)**

An employee who is disabled because of pregnancy, childbirth, or related medical conditions may take an unpaid Pregnancy Disability Leave for the period

of actual disability of up to four months. Pregnancy Disability Leave may also be used for prenatal care.

An employee may elect to substitute accrued vacation, sick leave, PTO (if applicable), and/or compensatory time off for leave without pay, subject to Section III.D.1.c.

If an employee on an approved Pregnancy Disability Leave is eligible for Family and Medical Leave, up to 12 workweeks of Pregnancy Disability Leave will run concurrently with the employee's Family and Medical Leave entitlement under federal law. Upon concluding a Pregnancy Disability Leave, an employee may be eligible for up to 12 workweeks of Family and Medical Leave under the California Family Rights Act (CFRA) for any covered reason except pregnancy, childbirth or related medical conditions.

*a. Reduced Schedule or Intermittent Leave*

When medically necessary, an employee may take Pregnancy Disability Leave on an intermittent or reduced schedule basis. The University may require an employee who is taking such leave on an intermittent or reduced schedule basis to temporarily transfer to an alternative position if the alternative position better accommodates the required work schedule than the employee's own position. Such a temporary transfer will not be counted toward an employee's entitlement to up to four (4) months of Pregnancy Disability Leave. At the conclusion of the Pregnancy Disability Leave (or earlier, at the University's option), the employee will be returned to her original position in accordance with Section III.3.D.2.c.

*b. Reasonable Accommodation, Modification of Job Duties and/or Temporary Transfer*

As an alternative to or in addition to Pregnancy Disability Leave, when requested by a pregnant employee and medically advisable according to her health care provider, the University will provide (1) reasonable accommodation, (2) modified job duties, and/or (3) a temporary transfer to a less strenuous or hazardous position. If the reasonable accommodation, modification of job duties, or temporary transfer does not involve a reduction in hours worked, it will not be counted toward an employee's entitlement to up to four (4) months of Pregnancy Disability Leave. At the conclusion of the Pregnancy Disability Leave (or earlier upon the employee's request if that request is consistent with the advice of the employee's health care provider), the employee will be returned to her original position and/or duties in accordance with Section III.3.D.2.c.

*c. Reinstatement*

Reinstatement will be to the same position the employee had prior to the Pregnancy Disability Leave, provided that the employee returns to work within four (4) months and immediately following the Pregnancy Disability Leave. If the employee would have been laid off or terminated if the employee had

actually been working during the leave period, reinstatement will be to a comparable position at the same location. If a comparable position at the same location is not available, the employee will be afforded the same considerations afforded other employees who are laid off or terminated pursuant to Staff Policy 60, Layoff and Reduction in Time from Professional and Support Staff Career Positions; Staff Policy 61, Release During the Probationary Period or From Limited, Casual/Restricted, and Floater Appointments; 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.

*d. Lactation*

In addition to Pregnancy Disability Leave, a nursing mother is eligible for lactation breaks in accordance with [PPSM 84 \(Accommodations for Nursing Mothers\)](#).

Lactation is also considered a pregnancy-related medical condition.

**3-4. Parental Bonding Leave**

An eligible employee is entitled to Family and Medical Leave to bond with his/her child after the child's birth or placement with the employee for adoption or foster care, and to attend to matters related to the birth, adoption, or placement of the child. Leave granted for such bonding purposes must be concluded within twelve months following the child's birth or placement with the employee.

*a. Reduced Schedule or Intermittent Leave*

The basic minimum duration of any Parental Bonding Leave is two (2) weeks. However, the University will grant an employee's request for a Parental Bonding Leave of less than two (2) weeks' duration on any two occasions. Otherwise, the employee may only take Parental Bonding leave for a period of less than two (2) weeks or intermittently or on a reduced schedule at the discretion of the employee's supervisor and then only according to an agreed schedule.

Supervisors must assess any such request in conjunction with existing University needs.

In addition to the block leave option described in the first two sentences of the foregoing paragraph, employees who have exhausted their FMLA leave entitlement and wish to take parental leave on a part-time basis may do so with approval of their supervisors provided that exempt employees who elect to take parental leave in less than full day increments select one of the following options:



- For those exempt employees who have accrued leave: Use their leave bank accruals to supplement the unpaid portion of their leaves so that they receive 100% of their regular pay; or
- For those exempt employees who have no accrued leave or do not wish to use their accrued leave: Have their appointments temporarily reduced for the duration of their parental leave. Appointments will be restored at the end of the reduced appointment period or when those employees elect to use the first option for the remainder of the parental leave.

*b. Substitution of Paid Leave Benefits for Parental Bonding Leave*

Employees may elect to use PFCB if they meet the criteria set forth in Section III.D.2. For any portion of the leave during which employees are not receiving PFCB, they ~~Employees~~ may elect to substitute accrued vacation, PTO (if applicable), compensatory time off, and/or up to thirty (30) days of accrued sick leave for any unpaid Parental Bonding Leave. If an employee wishes to take unpaid Parental Bonding Leave and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the employee will be required to use at least 10 percent of accrued vacation or PTO before taking unpaid Family and Medical Leave/Parental Bonding Leave. For additional information on the substitution of paid leave benefits for unpaid Family and Medical Leave, refer to Section III.D.1.c.

**4.5. Family and Medical Leave – Due to an Employee's Own Serious Health Condition**

Eligible employees are entitled to Family and Medical Leave when they are unable to perform their job due to their own serious health condition.

*a. Definition of Serious Health Condition*

For these purposes, a serious health condition means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Inpatient Care—Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- Incapacity of More Than Three (3) Consecutive Days plus Continuing Treatment by a Health Care Provider—A period of incapacity of more than three (3) consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves (a) treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider; or (b) treatment by a health care provider on at least one

occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g. a course of prescription medication, or therapy requiring special equipment, to resolve or alleviate the health condition). This does not include taking over-the-counter medications or activities that can be initiated without a visit to a health care provider (e.g. bed rest, exercise, drinking fluids).

- **Pregnancy (only covered under FMLA)**—A period of incapacity due to pregnancy, childbirth, or related medical conditions. This includes severe morning sickness and prenatal care.
- **Chronic Conditions Requiring Treatment**—A chronic condition which: (a) requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider, (b) continues over an extended period of time (including recurring episodes of a single underlying condition); and (c) may cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.).
- **Permanent/Long-Term Conditions Requiring Supervision**—A period of incapacity that is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of disease.
- **Multiple Treatment (Non-Chronic Conditions)**—Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.) severe arthritis (physical therapy), or kidney disease (dialysis).

*b. Reduced Schedule or Intermittent Leave*

When medically necessary for the employee's own serious health condition, an employee may take Family and Medical Leave intermittently or on a reduced schedule basis. If the employee's need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the employee should consult with his/her supervisor and make a reasonable effort to schedule the treatment so as to minimize the disruption to the University's operations. In addition, if the need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the University may require the employee to transfer temporarily (during the period when intermittent or reduced schedule leave is required) to an alternative

position for which the employee is qualified and that better accommodates recurring periods of leave than the employee's regular position.

*c. Substitution of Paid Leave Benefits for FML Due to an Employee's Own Serious Health Condition*

An employee may elect to substitute accrued vacation, sick leave, PTO (if applicable), and/or compensatory time off for leave without pay. Supplemental and/or extended sick leave may be used if the employee is receiving temporary disability payments under the Workers' Compensation Act, subject to Section III.D.9.

**5-6. Family and Medical Leave – To Care for a Family Member with a Serious Health Condition**

An eligible employee is entitled to Family and Medical Leave when the employee's assistance is required to care for a spouse, domestic partner, child, or parent with a serious health condition as defined in Section III.D.4.a. (Leave Related to an Employee's Own Serious Health Condition). The employee may be required to provide written confirmation of a family relationship for leaves requested for the purpose of caring for a seriously ill spouse, domestic partner, child, or parent.

*a. Reduced Schedule or Intermittent Leave*

When medically necessary to care for a family member with a serious health condition, an employee may take Family and Medical Leave intermittently or on a reduced schedule basis. If the employee's need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the employee should consult with his/her supervisor and make a reasonable effort to schedule the treatment so as to minimize the disruption to the University's operations. In addition, if the need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the University may require the employee to transfer temporarily (during the period when intermittent or reduced schedule leave is required) to an alternative position for which the employee is qualified and that better accommodates recurring periods of leave than the employee's regular position.

*b. Substitution of Paid Leave Benefits for Family Medical Leave to Care for a Family Member with a Serious Health Condition*

Employees may elect to use PFCB if they meet the criteria set forth in Section III.D.2. For any portion of the leave during which employees are not receiving PFCB, they ~~An employee~~ may elect to substitute accrued vacation, PTO (if applicable), compensatory time off, and/or up to twelve (12) workweeks of accrued sick leave for unpaid leave to care for a family member with a serious health condition. If an employee wishes to take unpaid leave to care for a family member with a serious health condition and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the

employee will be required to use at least 10 percent of accrued vacation or PTO prior to taking unpaid Family and Medical Leave. For additional information on the substitution of paid leave benefits for unpaid Family and Medical Leave, refer to Section III.D.1.c.

#### **6-7. Family and Medical Leave – Military Caregiver Leave**

An eligible employee 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.

##### *a. Leave Entitlement*

An eligible employee is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single 12-month leave period. For purposes of this type of Family and Medical Leave only, a single 12-month leave period is the period beginning the first day an employee takes leave to care for the covered servicemember and ends twelve (12) months after that date.

Leave is applied on a per-covered servicemember, per-injury basis. Eligible employees 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.

If an eligible employee does not use all of his/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 workweeks entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

##### *b. Reduced Schedule or Intermittent Leave*

This leave may be taken on an intermittent or reduced schedule basis. If the employee's need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the employee should consult with his/her supervisor and make a reasonable effort to schedule the treatment so as to minimize the disruption to the University's operations. In addition, if the need for intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the University may require the employee to transfer temporarily (during the period when intermittent or reduced schedule leave is required) to an alternative position for which the employee is qualified and that better accommodates recurring periods of leave than the employee's regular position.

##### *c. 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 information) establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave, his/her relationship with the employee, and an estimate of the leave needed to provide the care.

*d. Substitution of Paid Leave Benefits for Military Caregiver Leave*

Employees may elect to use PFCB if they meet the criteria set forth in Section III.D.2. For any portion of the leave during which employees are not receiving PFCB, they ~~An employee~~ may elect to substitute accrued vacation, PTO (if applicable), compensatory time off, and/or up to twelve (12) workweeks of sick leave for unpaid Military Caregiver Leave. If an employee wishes to take unpaid Military Caregiver Leave and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the employee will be required to use at least 10 percent of accrued vacation or PTO prior to taking unpaid Military Caregiver Leave. For additional information on the substitution of paid leave benefits for unpaid Family and Medical Leave, refer to Section III.D.1.c.

**7-8. Family and Medical Leave – Qualifying Exigency Leave**

An eligible employee 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 (as defined below) when the military member is on covered active duty or call to covered active duty (or has been notified of an impending call or order to covered active duty).

*a. Qualifying Exigency*

A 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:

- 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.
- Military events and activities, including official ceremonies.
- Childcare and school activities for a child of the military member who is either under the age of 18 or incapable of self-care.
- 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 active duty or call to active duty status and for the ninety (90) days after the termination of the military member's active duty status.

- Counseling (provided by someone other than a health care provider) for the employee, for the military member, or for a child of the military member who is either under age 18 or incapable of self-care.
- 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.
- Post-deployment activities to attend ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's active duty and to address issues that arise from the death of a military member while on active duty status.
- Parental care for the parent of the military member when the parent is incapable of self-care; and
- Additional activities related to the military member's active duty or call to active duty status when the University and the employee agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

*b. Reduced Schedule or Intermittent Leave*

Qualifying Exigency Leave may be taken on an intermittent or reduced schedule basis.

*c. Documentation and Certification*

Employees may be required to provide a copy of the 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.

*d. Substitution of Paid Leave Benefits for Qualifying Exigency Leave*

Employees may elect to use PFCB if they meet the criteria set forth in Section III.D.2. For any portion of the leave during which employees are not receiving PFCB, they ~~An employee~~ may elect to substitute accrued vacation, PTO (if applicable), and/or compensatory time off for unpaid Qualifying Exigency Leave. If an employee wishes to take unpaid Qualifying Exigency Leave and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the employee will be required to use at least 10 percent of accrued vacation or PTO prior to taking unpaid Qualifying Exigency Leave. For additional information on the substitution of paid leave benefits for unpaid Family and Medical Leave, refer to Section III.D.1.c.

*e. Notice*

The employee will provide notice of the need for leave as soon as practicable, pursuant to Section III.A.2 of this Policy.

**8.9. Military Spouse/Domestic Partner Leave**

An employee who is a spouse or domestic partner of a member of the Armed Forces, National Guard, or Reserves may take this leave during a qualified leave period when the employee's spouse or domestic partner is on leave from a Period of Military Conflict. A 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 will 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 Section II of this Policy.

To be eligible for this leave, an employee must satisfy all of the following criteria:

- Be a spouse or domestic partner of a qualified member,
- Perform services for the University for an average of twenty (20) or more hours per week,
- Provide the University with notice of the employee'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
- 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.

An employee may elect to substitute accrued vacation, PTO (if applicable), and/or compensatory time off for unpaid Military Spouse/Domestic Partner Leave. If an employee wishes to take unpaid Military Spouse/Domestic Partner Leave and the employee's vacation accrual balance (or PTO balance, if applicable) is at the maximum, the employee will be required to use at least 10 percent of accrued vacation or PTO prior to taking unpaid Military Spouse/Domestic Partner leave.

#### **9-10. Leave Related to an Employee's Work-Related Injury or Illness**

The University is committed to meeting its obligation under the state workers' compensation program to provide medical, rehabilitation, and wage-replacement benefits to employees who sustain work-related injuries or illnesses. An employee who is injured or becomes ill as a result of work performed for the University is entitled to leave without pay for all or part of the period during which the employee receives temporary disability payments under the California Workers' Compensation Act.

When appropriate, the University will designate absences due to occupational injury or illness as Family and Medical Leave. Leave for a work-related injury or illness may run concurrently with other types of leaves, such as Family and Medical Leave.

##### *a. Use of Accrued Sick Leave and Vacation Leave*

An employee receiving workers' compensation may use accrued sick leave and/or vacation leave (or PTO, if applicable) to supplement temporary disability payments received under the California Workers' Compensation Act. Sick leave and/or vacation leave (or PTO) accruals may be used to make up the difference between the amount payable to the employee under the California Workers' Compensation Act and the employee's regular salary.

Before an employee begins receiving temporary disability, an employee may use sick leave and/or vacation leave (or PTO) accruals in order to be compensated during leave. Those deductions from the employee's leave accruals will be deemed an advance temporary disability payment under the California Workers' Compensation Act. An employee who has received such an advance temporary disability payment will reimburse the University for such payment after the employee receives temporary disability payment for that earlier period. The University will use the employee's reimbursement to restore the employee's sick leave and/or vacation leave (or PTO) accruals accordingly.

*b. Eligibility for Extended Sick Leave and Payments*

Extended Sick Leave is provided to an eligible employee who has exhausted his/her accrued sick leave and is unable to work due to a work-incurred injury or illness. An employee who has exhausted accrued sick leave may be eligible for extended paid sick leave of up to twenty-six (26) weeks for any single work related injury or illness. Extended sick leave payments constitute an advance against permanent disability payments.

Extended paid sick leave may be used to cover the three-calendar-day waiting period for receiving workers' compensation once the injury or illness has been determined as compensable.

An employee who remains disabled and continues to receive temporary disability payments after exhausting all accrued sick leave will receive extended sick leave payments in an amount equal to the difference between the temporary disability payments and 80 percent of the employee's basic salary, plus any shift differential that the employee would have otherwise received. An employee who returns to work part-time but continues to receive temporary disability payments is eligible for continued extended sick leave payments if the employee's earnings plus temporary disability payments continue to total less than 80 percent of basic salary, plus shift differential.

An employee may request a leave without pay after an extended sick leave benefit has been exhausted.

*c. Accrual of Sick Leave and Vacation*

An employee on leave without pay who is receiving temporary disability payments under the California Workers' Compensation Act accrues sick leave and vacation leave on the same basis as if on pay status; however, accrued



sick leave is credited to the employee only upon the employee's return to work.

*d. Safety Employees*

Safety employees are (a) members of the University of California Police Department whose principal duties consist of active law enforcement and (b) members of the University of California Fire Department whose principal duties consist of active firefighting and prevention service. Safety employees are entitled to leave with full salary for a period of up to one (1) year if disabled by injury arising out of and in the course of their duties. Leaves resulting from such injuries are not charged against safety employees' accrued sick leave, vacation leave, or supplemental vacation leave. Safety employees are therefore not entitled to any extended sick leave.

**10-11. Bereavement Leave**

The University recognizes the importance of family and the difficulties employees face following the death of a family member or another person close to the employee.

*a. Death of a Family or Household Member*

In the event of the death of an employee's family member or of a person residing in the employee's home, the employee may take up to ten (10) days of accrued sick leave.

*b. Death of Any Other Person*

In the event of the death of an individual who is not an employee's family or household member, the employee may take up to five (5) days of accrued sick leave in a calendar year.

*c. Additional Unpaid Leave*

If an employee requires more than the time allowed for bereavement leave, he/she may request an unpaid personal leave of absence or may use any accrued vacation, PTO (if applicable), and/or compensatory time off, if available.

**11-12. Personal Leave**

A career employee may be granted unpaid leave for personal reasons in accordance with local guidelines. Reinstatement will 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 had actually been working during the leave period, the employee will 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 61, Release from Probationary Period or From Limited, Casual/Restricted, and Floater

Appointments; 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; and Staff Policy 67, Termination of Career Employees – Managers and Senior Professionals, Salary Grades VIII and IX.

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## VIII. REVISION HISTORY

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### **TBD 2021:**

**April 27, 2017:** This Policy was reformatted for Accessibility according to Web Content Accessibility Guidelines (WCAG) 2.0.

**July 1, 2014:** Technical changes, for compliance with legal requirements, were added.

**April 15, 2013:** Technical changes, for compliance with legal requirements and to harmonize policy provisions, were added.

**October 30, 2012:** Section V, Procedures, was added.

**July 1, 2012:** This Policy was reformatted into the standard University of California policy template.

As a result of the issuance of this Policy, the following policies and documents are rescinded as of the effective date of this Policy:

- *Personnel Policies for Staff Members 40 (Holidays)*, dated June 5, 2002
- *Personnel Policies for Staff Members 41 (Vacation)*, dated March 1, 2002
- *Personnel Policies for Staff Members 42 (Sick Leave)*, dated June 5, 2002
- *Personnel Policies for Staff Members 43 (Leave of Absence)*, dated September 1, 2009
- *Personnel Policies for Staff Members 44 (Work-Incurred Illness or Injury)*, dated March 14, 1997
- *Personnel Policies for Staff Members 45 (Military Leave)*, dated March 1, 2001
- *Personnel Policies for Staff Members 46 (Administrative Leave)*, dated August 1, 1999