

# Leave of Absence Guidelines

## UCSC Local Procedures

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### I. Introduction

In order to ensure that leave policies are applied on a consistent basis, and to ensure compliance with Federal and State Family and Medical Leave regulations, the UCSC campus has developed the following guidelines and associated forms for administration of Leaves of Absence. These guidelines are to be used in conjunction with the appropriate policy or collective bargaining articles.

As stated within the regulations, the purpose of the Family and Medical Leave Act (FMLA) is to allow employees to balance their work and family life by taking reasonable unpaid leave for an eligible employee's serious health condition, the serious health condition of the employee's child, spouse, same- or opposite-sex domestic partner, or parent, or to bond with the employee's newborn, adopted or foster care child in accordance with State and Federal law in effect at the time the leave is granted. Leave granted for bonding purposes shall be concluded within 12 months following the child's birth or placement for adoption or foster care.

Prior to passage of this Act, University employees already had access to substantial leave benefits; therefore, the passage of FMLA did not significantly expand leave opportunities for UC employees, but did impose requirements for employee notification and documentation of leaves. This document describes in more detail the benefits and administrative requirements of FMLA.

### II. Overview

#### A. Leave of Absence Request

An employee must submit a Leave of Absence (LOA) Request for any absences, paid or unpaid (other than regularly scheduled vacation), which total in excess of one workweek.

#### B. Designation of Family and Medical Leave

The service team representative or supervisor shall designate Family and Medical Leave (FML), whether paid (e.g., vacation, sick leave) or unpaid, leaves of eligible employees whose reason for leave is a FML qualifying reason.

#### C. Medical Certification

Medical Certification is required in all cases for leaves of 30 calendar days or more, which are due to an employee's illness, an eligible family leave or a family member's illness. In addition, with advance notice, certification may also be required by the supervisor for a leave of absence of less than 30 calendar days when it appears to be justified. Also, service team representatives and supervisors should be aware that Worker's Compensation laws require medical documentation of all absences of 3 days or more due to a work-related illness or injury. If additional leave is requested upon the expiration of the leave granted, supervisors may, at their discretion, require that the employee obtain recertification.

#### D. Return to Work Certification

Return to Work Certification is required for leaves of 30 calendar days or more due to an employee's own illness. In addition, with advance notice, certification may also be required by the supervisor for a leave of absence of less than 30 calendar days when it appears to be justified. Service team representatives and supervisors should also be aware that Worker's Compensation laws require a medical release to return to work for absences of three (3) days or more due to a work-related illness or injury.

### III. Types of Leave, Duration, and Eligibility

#### A. General

Employees may be granted personal leave, pregnancy disability leave, work-incurred disability leave, and other paid/unpaid leaves as provided for under policy and collective bargaining agreements. Eligible employees may also be entitled to Family and Medical Leave (FML). For complete information, service team representatives and supervisors should review full University policies and/or collective bargaining agreements.

#### B. Family and Medical Leave (FML)

FML is provided for an eligible employee's serious health condition, the serious health condition of the employee's child, spouse, domestic partner (same or opposite sex), or parent, or to bond with the employee's newborn, adopted, or foster care child. Leave granted to care for the employee's newborn, adopted, or foster care child (Parental leave) must be initiated and concluded within the twelve (12) months following the child's birth, adoption, or placement in foster care. FML granted to an eligible employee shall not extend beyond a predetermined separation date.

**Note:** Supervisors may, at their discretion, require an employee requesting leave to care for a family member with a serious health condition or requesting Parental leave, to provide documentation of the familial relationship or proof of birth, placement for adoption or in foster care. Failure to provide documentation within fifteen (15) calendar days of the supervisor's request may result in delay of the leave until the required documentation is provided. If the employee fails to provide the documentation, the leave is not FML and may be denied.

An employee is entitled to up to twelve (12) workweeks of FML during a calendar year, provided that:

- a. The employee has at least twelve cumulative months of University service (all prior University service, including service with the Department of Energy laboratories, shall be used to calculate the 12-month service requirement). If an employee is maintained on the payroll for any part of a week, including any periods of paid or unpaid leave during which other benefits or compensation are provided by the employer, the week counts as a week of employment. For purposes of determining whether intermittent/occasional/casual employment qualifies as "at least 12 months," 52 weeks is deemed to be equal to twelve months.
- b. The employee has at least 1250 hours of actual work during the twelve (12) months immediately preceding the commencement date of the leave. Actual work is time actually spent at work and does not include any paid time off including an employee's use of accrued vacation, compensatory time, or sick leave, nor does it include time paid for holidays not worked or time spent in unrestricted on-call status.

#### C. Supplemental Family and Medical Leave

If the need for a family and medical leave that is in progress continues beyond 12 workweeks, a regular status and non-represented staff (PSS and MSP) employee shall be entitled to supplemental leave for up to 12 workweeks or until the end of the calendar year, whichever is less. The aggregate of pregnancy disability leave, family and medical leave, and supplemental family and medical leave shall not exceed seven months during the calendar year, except as required by law. Refer to the appropriate current collective bargaining agreement to determine whether represented employees are entitled to any additional leave.

#### D. Family and Medical Leave Designation

Whether paid or unpaid, all leaves of absence that meet the qualifications for FML should be designated as Family and Medical Leave.

#### E. Reduced Work Schedule/Intermittent Family and Medical Leave

When medically necessary, an employee may take FML on a reduced work schedule or on an intermittent basis, as provided for under policy and collective bargaining agreements. There must be a documented medical need for leave (as distinguished from voluntary treatments and procedures) which can best be accommodated through an intermittent leave or reduced work schedule.

Employees needing intermittent FML leave or leave on a reduced work schedule must attempt to schedule their leave so as not to disrupt the unit's operations. In addition, the supervisor may assign an employee to an alternative position with equivalent pay and benefits that better accommodates the employee's intermittent leave or leave on a reduced work schedule.

Exempt employees eligible for FML on a reduced work schedule or intermittent basis should complete a Record of Reduced Work/Intermittent Leave Schedule form. Leave bank deductions shall be made for any hours or partial hours taken by an exempt employee who elects or is required to substitute paid leave for unpaid family and medical leave taken on an intermittent basis or reduced schedule. An exempt employee who elects or is required to take unpaid FML shall not be paid for any hours or partial hours taken on an intermittent basis or reduced schedule.

#### F. Family and Medical Leave - Interaction with Pregnancy Disability Leave

Employees who are disabled from working due to pregnancy, childbirth, or related medical condition shall be granted, upon request, up to four months Pregnancy Disability Leave (PDL) during the period of verified disability.

An eligible employee is entitled to twelve (12) weeks of Federal Family and Medical Leave (FML) and twelve (12) weeks of State Family and Medical Leave (SML) under the California Family Rights Act.

Federal FML and State FML normally run concurrently, except during pregnancy disability leave. If an employee is on an approved pregnancy disability leave and is also eligible for family and medical leave, up to 12 workweeks of pregnancy disability leave shall run concurrently with FML under federal law.

If the employee is eligible for FML, the first twelve (12) weeks of PDL will be designated as FML for the purpose of continuation of the University's contribution for coverage under group health plans (medical, dental, vision). If the employee continues to be disabled beyond twelve (12) weeks, the employee may continue to be on leave for pregnancy disability reasons for the remainder of the four month period.

Leave for pregnancy disability, while counted against an employee's Federal FML entitlement, is not counted against an employee's State FML entitlement. Therefore, an employee who exhausts her Federal FML entitlement because of pregnancy disability is entitled to an additional twelve (12) weeks of family and medical leave under State FML for any reason other than pregnancy disability (e.g., to care for her newborn), provided she has leave entitlement remaining. University contributions for group health plans are not continued during leave that is only State FML.

#### G. Family and Medical Leave - Interaction with Work-Incurred Disability Leave

Work-incurred disability leave, including any period of extended sick leave, runs concurrently with Family and Medical Leave for the first twelve (12) workweeks, provided that the employee is eligible for FML.

## IV. Leave Notice

- A. For foreseeable leave (e.g., pregnancy disability, planned medical treatments), including intermittent leave, an employee should provide at least 30 days advance notice by submitting a Leave of Absence (LOA) Request to their supervisor. If the leave is not foreseeable because

of a medical emergency for example, an employee should submit a LOA Request as soon as the employee is aware that his/her total absence will be in excess of one workweek. For extensions of leave, the employee should contact the supervisor at least 30 days in advance of the end of the leave, where foreseeable, or as soon as the employee is aware of the need to request extension of the leave, if not foreseeable.

## V. Medical Certification

### A. Medical Certification

Medical certification documenting the need for leave to care for an ill family member or the employee's own serious illness, completed by the health care provider of the individual requiring care, will be required for all leaves of 30 calendar days or more; however, medical certification may be required for leaves of less than 30 calendar days when it appears to be justified. Employees must be provided with the UCSC Leave of Absence Medical Certification Form.

While the employee must provide the required information in writing, the employee may not be required to return this specific form. In addition, a supervisor may require medical documentation for absences of less than 30 calendar days as provided for under policy and collective bargaining agreements. Worker's Compensation laws require medical documentation of all absences of three (3) days or more due to a work-related injury or illness.

## VI. Return to Work Certification

### A. Return to Work Certification

Employees granted a leave, paid or unpaid, of 30 calendar days or more for medical reasons other than pregnancy disability, must also provide a return to work certification. However, a supervisor may require a return to work certification for absences of less than 30 calendar days when it appears to be justified.

The employee must be provided with the UCSC Leave of Absence Return to Work Certification form. While the employee must provide the required information, the employee may not be required to return this specific form. Note: Worker's Compensation laws require a medical release to return to work for all absences of three (3) days or more due to a work-related illness or injury.

## VII. Effect on Benefits

### A. Family and Medical Leave

Employees on approved Family and Medical Leave (FML), if eligible, will automatically receive University contributions for medical, dental and vision coverage for the first twelve (12) weeks of their paid or unpaid leave. The employee must also pay any employee portion of the medical, dental or vision premiums in order for coverage to continue. At the point the employee is placed on an unpaid FML, the employee must complete and submit a UCSC Insurance Continuation Election Form indicating whether they wish to continue or cancel their other insurance benefits for the duration of their leave.

### B. Leaves without Pay

For all other leaves without pay, the employee must complete and submit a UCSC Insurance Continuation Election Form indicating whether they wish to continue or cancel their insurance benefits for the duration of their leave. Details regarding the status of insurance benefits while on a leave without pay are contained in the UCSC Insurance Continuation Election Form.

### C. Premium Payment

When required, the UCSC Insurance Continuation Election Form and any required premiums must be submitted to the Payroll Office by the 10th of the month following the first day of leave without pay. After the initial premium payment, payments for subsequent months are due in advance on the 10th of each month.

To determine the impact of personal leave, pregnancy disability leave, work-incurred disability leave, and family and medical leave on retirement and group insurance plans, consult with the campus Benefits Office.

## VIII. Approval, Denial or Deferral of Leave

### A. Family and Medical Leave

Approval or denial of leave for family and medical leave qualifying reasons must be completed within two business days of employee's notice of need for leave. If the employee fails to give timely notice (may be oral) for a foreseeable family and medical leave, leave may be delayed until 30 days after the date the employee complies. In addition, an employee who fails to provide medical certification or recertification or fails to perfect an incomplete certification may have his/her leave delayed or deferred until certification is provided.

An employee requesting leave to care for a family member with a serious health condition or requesting parental leave who is required to provide documentation of the familial relationship or proof of birth, placement for adoption or in foster care who fails to provide such

documentation may have his/her leave delayed until documentation is provided. In addition, an employee who fails to provide a return to work certification may have his/her reinstatement delayed until the certification is provided. If no certification or documentation is received, the leave/reinstatement may be denied.

#### B. Other Leaves

Other leaves may be approved, denied or deferred as provided for under policy and collective bargaining agreements.

## IX. Appeals of Denials

#### A. Appeals of Denial

Appeals of denials of leave requests will be reviewed in conformance with applicable policies and/or collective bargaining agreements.

## Help, Forms & Other Resources

### *How to Use*

The steps for these procedures have been divided into sets of activities for each role involved in the procedure. When you select a role, you will only see the activities and steps the selected role is involved in. To see activities and steps for a different role, choose the desired role.

### *Forms*

- [Family and Medical Leave \(FML\) Declaration of Relationship Sample Form](#)
- [Furlough Insurance Continuation](#)
- [Furlough Notice](#)
- [Leave of Absence Interaction Chart](#)
- [Leave of Absence Medical Certification](#)
- [Leave of Absence Request - Sample Transmittal Letter](#)
- [Leave of Absence Request Form & Instructions](#)
- [Leave of Absence Return to Work Certification](#)
- [Leave Without Pay Insurance Continuation](#)
- [Record of Reduced Work/ Intermittent Leave Schedule](#)

### *Time and Attendance*

- [Administrative Leaves with Pay](#)
- [Leaves without Pay](#)
- [Military Leave](#)
- [Work Related Injury](#)

### *Resources*

- [At Your Service](#)
- [Benefits Office](#)
- [Catastrophic Leave Donation Program Guidelines and Procedures](#)
- [COBRA/Continuation of Group Insurance Coverage](#)
- [Department of Labor Fact Sheet on Family Medical Leave Act](#)
- [Family Medical Leave Benefits Checklist](#)
- [Leave of Absence Guidelines and Procedures](#)
- [Leave With Pay Benefits Checklist](#)
- [Leave Without Pay Benefits Checklist](#)
- [Notice of Rights and Obligations under the Federal Family And Medical Leave Act Of 1993](#)