

## ARTICLE 22

### LEAVES OF ABSENCE WITHOUT PAY

- 22.1 A full-time employee or a less than full-time permanent employee may be granted a full or partial leave of absence without pay. Leaves of absence without pay shall normally be limited to one (1) year.
- 22.2 Leaves of absence without pay may be granted in accordance with this Article for the following purposes or reasons:
- a. loan of an employee to another governmental agency;
  - b. outside employment that would lessen the impact of a potential layoff or a layoff;
  - c. temporary incapacity due to illness or injury;
  - d. Parental leave;
  - e. Military leave;
  - f. Pregnancy Disability leave;
  - g. to care for a “significantly close person” as defined in provision 20.11 with a serious health condition; and/or
  - h. other satisfactory reasons.

Leaves of absence without pay granted for C., D., E. and F. above shall also be subject to Article 19, Sick Leave. Leaves under G. above to care for a “significantly close person” other than a child, parent, registered domestic partner, or spouse of the employee shall not be considered a family care and medical leave.

- 22.3 A written application for a leave of absence without pay or an extension of a leave of absence without pay shall be submitted to the President. The President shall determine if such a leave shall be granted and the conditions of such a leave. The applicant shall receive a written response regarding granting or denial of the leave within thirty (30) days.
- 22.4 Family and medical leave (“FML”) shall refer to a leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption or foster care of the child by the employee, or to care for a child, parent,

registered domestic partner, or spouse of the employee who has a serious health condition, or for the employee's own serious health condition. Family care leave shall be pursuant to this Article.

- 22.5 Parental leave shall refer to a leave for the purpose of a parent preparing for the arrival of a new infant and the care of a new infant.

A permanent employee is entitled to a parental leave without pay of up to twelve (12) months upon his/her written request, subject to the conditions of provision 22.12 of this Article. This leave shall satisfy the family care leave requirements of permanent employees for reason of the birth of a child of the employee, the placement of an infant child with an employee in connection with the adoption or foster care of the child by the employee, or to care for an infant child who has a serious health condition. At least thirty (30) days prior to the ending date of the leave, the employee shall inform the appropriate administrator in writing of his/her intention to return from leave. Changes in the terms of the leave may be made by mutual agreement of the appropriate administrator and the employee.

- 22.6 The amount of parental leave that may otherwise be granted under Article 22 may be reduced by the amount of FML granted to an eligible employee for reasons set forth in this Article.

#### Family Care or Medical Leave

- 22.7 The family and medical leave provisions in this Article incorporate both the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) and will be denoted by FML. An employee who has at least one (1) academic year or twelve (12) months of service is entitled to FML.

- 22.8 Eligible employees may take up to twelve (12) weeks of FML for an FML qualifying event within a twelve (12) month period.

- 22.9 An FML-qualifying event is the birth of a child of the employee; the placement of a child with an employee in connection with the adoption or foster care of the child by the employee; to care for a child, parent, spouse, or registered domestic partner of the employee who has a serious health condition; or for the employee's own serious health condition.

- 22.10 When the appropriate administrator becomes aware that an employee has taken or intends to take time off for an FML-qualifying event as defined in Article 22.9, the employee may be asked to provide documentation from a medical professional asserting that there is an FML-qualifying reason. FML-qualifying leaves may be designated as FML.
- 22.11 For family care or medical leave taken for reason of the birth of a child or adoption/foster care of a child by an employee, any leave taken shall be initiated within one (1) year of the birth of a child or placement of a child with the employee in the case of adoption/foster care.
- 22.12 Before granting a family leave for the serious health condition of a child, parent, registered domestic partner, or spouse, the President may require certification of the serious health condition from the health care provider.
- 22.13 Upon expiration of the period which the health care provider originally estimated that the employee needed to care for the child, parent, registered domestic partner, or spouse, the President may require the employee to obtain re-certification if additional leave is requested.
- 22.14 FML is unpaid leave; however, employees shall utilize appropriate leave credits prior to being placed on any unpaid portion of FML.
- 22.15 If an employee asks to use vacation or other paid time off without reference to an FML-qualifying purpose, the CSU may not ask the employee if the leave is for an FML-qualifying purpose.
- 22.16 If the employer denies the employee's request to use vacation or other paid time off and the employee then provides information that the requested time off is or may be for an FML-qualifying purpose, the employer may inquire further into the reasons for the absence. If the absence is FML-qualifying, employees shall utilize appropriate leave credits in accordance with this Article.
- 22.17 When FML is granted for an eligible employee's own serious health condition, an employee shall use applicable leave credits, including sick leave, vacation, compensatory time off (CTO) and Personal Holiday before going on any unpaid portion of FML. However, if the leave is due to the employee's own serious health condition and also qualifies as an Industrial Disability Leave (IDL) Temporary Disability, or Non-Industrial Disability Leave (NDI), the appropriate guidelines shall apply.

- 22.18 When FML is taken by an employee to care for an eligible family member, employees must utilize all accrued vacation, personal holiday, compensating compensatory time off (CTO) that he/she is eligible to take prior to utilizing any unpaid period of FML.
- 22.19 An employee may use sick leave for the care of the immediate family as defined in provision 19.11 during the period of family leave upon mutual agreement between the employee and appropriate administrator, and the use of such sick leave during the period of family leave shall not be limited to forty (40) hours as required in provision 19.12 of this Agreement. The use of sick leave shall be in accordance with the appropriate provisions of Article 19 of this Agreement.
- 22.20 Family and medical leave are separate and distinct from the right of a female employee to take a pregnancy disability leave under Government Code Section 12945, subdivision (b) (2). If a female employee takes part or all of the maximum four (4) months of pregnancy disability leave, she may request up to twelve (12) weeks additional family care or medical leave for reason of the birth of her child, or due to her own serious medical condition. Any combination of family care or medical leave and pregnancy disability leave shall run concurrently with the period of parental leave available to a permanent employee pursuant to provision 22.5 of this Article.
- 22.21 An employee shall provide the President with reasonable written notice of the need for family leave as soon as the event necessitating the leave becomes known to the employee. In general, as much advance notice as possible will be provided. In cases of emergency, when no advance notice is possible, written notice of the need for leave shall be provided within five (5) working days of learning of the need for the leave.
- 22.22 If the employee's need for family leave is foreseeable due to the planned medical treatment or planned supervision of a child, parent, registered domestic partner, or spouse with a serious health condition, the employee shall provide the President with not less than fourteen (14) days' notice of the need for the leave. The employee shall consult with the appropriate administrator regarding the scheduling of the treatment or supervision so as to minimize disruption of the operations of the University.
- 22.23 The granting of a family care or medical leave assures to the employee a right to return to his/her former position or a comparable position upon expiration of the family leave. If the former position and any comparable position have ceased to exist due to legitimate business reasons unrelated to the leave, the University shall make reasonable accommodation by alternative means only if such alternative means would not cause an undue hardship on the campus. Such alternative means shall include, but not be limited to, offering the employee any other position which is available and for which

the employee is qualified. The University is not required, however, to create additional employment which would otherwise not be created, discharge or lay off another employee, transfer another employee, or promote another employee who is not qualified to perform the job. The family care or medical leave shall not constitute a break in service for the purposes of length of service and/or seniority under this Agreement.

- 22.24 An employee on family care or medical leave shall retain employee status and shall continue to accrue seniority points pursuant to Article 33 of the Agreement during the period of the family care or medical leave. During a family care or medical leave an employee may continue to participate in benefits to the same extent and under the same conditions as would apply to any other personal leave of absence without pay pursuant to this Agreement. However, if any paid portion of the family care or medical leave is less than twelve (12) weeks, upon request of the employee to continue coverage, the CSU shall continue to make Employer contributions toward health, dental and vision coverage for the unpaid remainder of the twelve (12) week period. If an employee fails to return at the end of the family care or medical leave, the CSU may require repayment of insurance premiums paid during the unpaid portion of the leave. The CSU shall not require repayment of premiums if the employee's failure to return is due to his/her serious health condition or due to circumstances beyond the employee's control.
- 22.25 The leave of absence of a temporary employee eligible for such leave pursuant to this Article shall terminate upon the expiration of that employee's temporary appointment.
- 22.26 Upon the expiration of an authorized leave of absence without pay, an employee has the right to return to his/her former position or an equivalent position within his/her classification and the time lost shall not constitute a break in service.
- 22.27 An employee who is on a leave of absence without pay shall not return to active pay status prior to the expiration of such a leave without written approval of the President.
- 22.28 Service credit shall not be granted to an employee on a leave of absence without pay, except when the leave is granted pursuant to provision 8.17, Article 8, Union Rights, or when the President determines that the purpose of the leave is of benefit to the campus and expressly grants such service credit.
- 22.29 When requested by the President, an employee granted a leave of absence without pay shall provide verification that the conditions of the leave were met.

22.30 An employee on a leave of absence without pay for more than fifteen (15) working days may opt to continue his/her benefits at his/her own expense. An employee on a leave of absence without pay for fifteen (15) working days or less shall receive benefits only if the employee earns a sufficient amount to cover his/her share of any benefit costs.

### Military Leave

22.31 An eligible employee who is the spouse, registered domestic partner, son, daughter, parent or “next of kin” of an injured, covered service member is eligible for Service Member Care Leave pursuant to the Fiscal Year 2010 National Defense Authorization Act and related laws. Employees eligible for Service Member Care Leave are eligible for a total of twenty-six (26) work weeks of leave without pay, which includes Service Member Care Leave and the 12 weeks of leave available for any other FML-qualifying event within a 12 month period.

22.32 An eligible employee with family members in the regular Armed Forces, National Guard or Reserves is entitled to Military Exigency Leave pursuant to the Fiscal Year 2012 National Defense Authorization Act and related laws. Military Exigency Leave is FML for the purpose of addressing issues which may arise from a covered military member’s deployments or call to active duty to a foreign country. The length of time off from work varies under Military Exigency Leave based on type of leave taken and shall be deducted from the twelve (12) week FML entitlement.