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## APM 361 - Policy on Faculty Leaves of Absence - Allocation of Sabbatical Leaves

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**From :** Paula Popma <ppopma@csufresno.edu>

Thu, Mar 01, 2012 03:01 PM

**Subject :** APM 361 - Policy on Faculty Leaves of Absence - Allocation of Sabbatical Leaves 2 attachments**To :** Michael Caldwell <mcaldwell@csufresno.edu>**Cc :** Venita Baker <venitab@csufresno.edu>, Dawn Lewis <dalewis@csufresno.edu>, Yoshiko Takahashi <yatakahashi@csufresno.edu>, Anthony Radford <aradford@csufresno.edu>, Virginia Rondero Hernandez <virginiarh@csufresno.edu>, Ted Wendt <twendt@csufresno.edu>, Mamta Rawat <mrawat@csufresno.edu>, Np Mahalik <nmahalik@csufresno.edu>**TO:** Michael Caldwell  
Chair, Academic Senate**FROM:** Paula Popma  
Chair, Senate Personnel Committee**RE:** APM 361 – Policy on Faculty Leaves of Absence, Allocation of Sabbatical Leaves**DATE:** Mar. 1, 2012

The Senate Personnel Committee has reviewed APM 361 – Policy on Faculty Leaves of Absence, Section III Allocation of Sabbatical Leaves.

We are proposing a mechanism to deal with those years in which the University does not meet its "University Target" for sabbaticals. The "University Target" is mandated by the Collective Bargaining Agreement, section 27.10.b. This occurs when not every college/school meets its assigned target because of either insufficient number of applicants or insufficient number of proposals of acceptable quality.

As an aside, the Research Subcommittee of AP&P, chaired by Jeff Cummins, looked into this issue also. In a document titled *Annual Report on Research, 2011-12*, the Research Subcommittee recommended "University should allocate a second round of sabbatical slots to College/Schools to meet the minimum requirement University-wide. To ensure that the University awards the minimum number of sabbatical slots required by the CBA, we recommend a second round of allocations to the Colleges/Schools with eligible *applicants*."

Attached are both a clear and redlined copy of the Policy.

## **POLICY ON FACULTY LEAVES OF ABSENCE**

This policy spells out the policies and procedures for applying for (a) leaves of absence with pay (sabbatical and difference in pay leaves); and (b) professional or personal leaves of absence without pay; and (c) family care and medical leave. In this document, "application" shall refer to all papers and forms submitted by a faculty member for the purpose of requesting a leave of absence. "Proposal" shall refer to that part of the application in which the faculty member describes the manner in which the leave of absence is to be used.<sup>1</sup> The Provost and Vice President for Academic Affairs (Provost) is designated by the President to oversee all leave applications by faculty members.

### **PART A. LEAVES OF ABSENCE WITH PAY<sup>2</sup>**

Every full-time faculty member has the right to and the professional need for a periodic professional leave with pay. These professional leaves with pay are sabbatical leaves and difference in pay leaves. However, since budgetary and other constraints preclude the granting of paid professional leaves to all deserving faculty, there is necessarily competition for the limited number of such leaves. It is incumbent upon the academic community, therefore, to award paid leaves based upon sound and justifiable criteria, using established procedures for evaluating sabbatical leave requests.

#### **I. GENERAL PROVISIONS**

1. A sabbatical leave may be granted for one semester with full pay or for two semesters with half pay.<sup>3</sup>
2. A difference in pay leave may be granted for one (1) or more semesters or months as appropriate to the faculty member's appointment.
3. A person on sabbatical leave or on a difference in pay leave shall not accept additional and/or outside employment without prior written approval by the Provost.
4. Sabbaticals and difference in pay leaves shall be for purposes that provide a benefit to the university, such as research, scholarly and creative activity, instructional improvement, or faculty retraining.<sup>4</sup> Such leaves excuse the faculty member from all other responsibilities during the period of the leave in order that the faculty member may concentrate on the proposed professional development activities of the leave.

<sup>1</sup> Leave application forms are available through the Academic Personnel Services website.

<sup>2</sup> It is the purpose of this policy is to describe sabbatical and difference in pay leaves. For a complete description of other forms of leaves with pay please refer to Articles 23 and 24 of the CBA.

<sup>3</sup> Service credit toward retirement through PERS is determined by the time base of the employee. Faculty members who plan to go on a two semester sabbatical at half pay should consult with the Benefits Office to determine the precise impact of the leave on retirement credit and discuss possible "buy back" of service credit after the leave is completed.

<sup>4</sup> CBA at Article 27.1.

5. Individuals on a sabbatical or difference in pay leave shall not be eligible to serve on any peer review committee during the period of the leave.
6. When a faculty member is afforded an unexpected opportunity, such as external funding, a scholarship or fellowship, a rapid and expedited review for a difference in pay leave will be provided.
7. In the event that a recipient of a sabbatical leave or difference in pay leave must alter the leave proposal before the leave has begun or during the leave, an amended written proposal shall be submitted to the dean for approval by the dean prior to implementation of the alteration.
8. If a faculty member declines to accept an approved sabbatical or difference in pay leave, or if a leave has been withdrawn because a requested alteration in the leave proposal is not approved, the dean in consultation with the college/school committee, may consider any leave applications which were not approved. The dean shall notify the Provost immediately of any changes in approved leaves.
9. There shall be no deferrals of sabbatical or difference in pay leaves.
10. Individuals on a sabbatical or difference in pay leave shall be considered in work status and shall receive health, dental and appropriate fringe benefits provided by the CSU.
11. Individuals on sabbatical or difference in pay leave shall be entitled to accrue sick leave, vacation, and service credit toward salary adjustment eligibility, eligibility toward promotion, if applicable, and seniority credit.<sup>5</sup>
12. A faculty member on an academic year sabbatical leave or a difference in pay leave shall not return to full-time status prior to the expiration of the leave without the written approval of the Provost.

## **II. REQUIRED INDEMNIFICATION OF THE STATE**

1. Upon approval of a sabbatical leave or a difference in pay leave, the applicant must either file a suitable bond or a list of assets sufficient to guarantee the State against loss in the event there is a failure to render the equivalent service (one term for each term of leave) required in the CSU following the period of the leave.

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<sup>5</sup> Service credit toward retirement through PERS is determined by the time base of the employee. Faculty members who plan to go on a difference in pay leave should consult with the Benefits Office to determine the precise impact of the leave on retirement credit and discuss possible "buy back" of service credit after the leave is completed.

2. Final approval of a sabbatical or difference in pay leave shall not be granted until the applicant has filed with the university a suitable bond or an accepted statement of assets (not including PERS holdings) and/or a promissory note that is individually or collectively at least equal to the amount of salary paid during the leave. The guarantee posted shall indemnify the State of California against loss in the event that the faculty member fails to render the required service in the university following return of the faculty member from the sabbatical or difference in pay leave. The guarantee posted shall immediately be canceled in full upon completion of required service or upon waiver of that service by mutual agreement of the faculty member and the CSU.
3. The faculty member is expected to provide one (1) semester of full-time service for each semester of paid leave. This service shall be rendered after the completion of the leave.

### **III. ALLOCATION OF SABBATICAL LEAVES**

1. Normally, all eligible faculty members who meet the conditions of Sections IV., V., and VI. should receive their sabbatical leaves.
2. All requests for a full academic year sabbatical at one-half (1/2) of full salary shall be granted if they meet the criteria set forth in Sections IV., V., and VI.
3. In any given year, if a sufficient number of faculty are eligible and meet the conditions for a sabbatical leave, then the number of one-semester sabbatical leaves at full pay to be granted shall equal or exceed twelve percent (12%) of the total number of faculty eligible to apply in that year. This number shall be referred to as the "University Target."
4. For the purpose of awarding sabbaticals, the authority of the President and/or Provost is delegated to the school/college deans (with the exception of the leaves awarded under section 9, below). Each college/school will be given a "target" number for one-semester sabbatical leaves at full pay. This number shall be referred to as the "College or School Target," and shall be based upon the number of sabbatical-eligible faculty in the college/school as a proportion of the University Target. The Library and the Student Affairs area will each be treated as a separate college/school for purposes of this allocation.
5. College/schools may exceed the target number of sabbaticals if the supporting proposals are of an acceptable quality.
6. Neither academic year sabbaticals at one-half salary nor difference in pay leaves are to be included in either the University Target or College/School Target numbers.
7. Should a school/college dean fail to award the assigned target (either because of an insufficient number of applicants or an insufficient number of proposals of acceptable quality), the unallocated leaves will be returned to a central University-wide pool administered by the Provost.

8. Sabbatical proposals found previously acceptable at both the department and school/college level, but un-awarded because a school/college has met its target, will be evaluated by the school/college dean. The proposal, and the dean's accompanying recommendation, will be forwarded to the Provost.
9. Based on recommendations from the relevant deans, the Provost will award a sufficient number of one-semester sabbatical leaves in order to meet the "University Target."

#### IV. **ELIGIBILITY**

##### A. **Sabbatical Leave**

1. Any full-time faculty member is eligible for a sabbatical leave if he/she has served in a full-time position for six (6) years in the preceding seven-year period prior to the leave and at least six (6) years after any previous sabbatical.<sup>6</sup>
2. Credit granted toward the completion of the probationary period for service elsewhere<sup>7</sup> and up to one year of time spent on a professional leave without pay shall apply toward the eligibility requirements for a sabbatical.<sup>8</sup>
3. A professional leave of absence without pay or service in an academic appointment excluded from the bargaining unit shall not constitute a break in service for eligibility calculations.<sup>9</sup>
4. Participants in the Pre-Retirement Reduction in Time Base (PRTB) Program and in the Faculty Early Retirement Program (FERP) are not eligible for sabbatical leaves.<sup>10</sup>

##### B. **Difference-in-Pay Leave**<sup>11</sup>

1. Any full-time faculty member is eligible for a difference in pay leave if he/she has served full time for six (6) years at that campus in the preceding seven (7) year prior to the leave.

<sup>6</sup> CBA, Provision 27.2.

<sup>7</sup> CBA, Provision 27.2.

<sup>8</sup> CBA, Provision 22.25.

<sup>9</sup> CBA, Provision 27.2.

<sup>10</sup> CBA, Provisions 29.22 and 30.8

<sup>11</sup> While eligibility requirements, criteria, and procedures are the same as for sabbatical leaves except where noted in this policy, difference in pay leaves are somewhat easier to obtain since this type of leave is not counted for budget purposes in the number of sabbatical leaves allocated to the campus for the year. For instructional faculty, salary may be calculated by subtracting the minimum pay at the level of instructor from the applicant's current annual salary. The salary difference for a difference in pay leave for a librarian or SSP- AR shall be the difference between the employee's salary and the minimum salary of the instructor rank at the comparable time base.

2. A faculty member will be eligible for a subsequent difference in pay leave after he/she has served full time for three (3) years after the last sabbatical leave or difference in pay leave and has satisfied the rendered service requirement.
3. Credit granted towards the completion of the probationary period for service elsewhere shall also apply towards fulfilling the eligibility requirements for a difference in pay leave.
4. A leave of absence without pay or service in an academic administrative appointment excluded from the bargaining unit shall not constitute a break in service for eligibility requirements, nor shall it fulfill the rendered service requirement (one term of service for each term of leave) upon return from a difference in pay leave.
5. Participants in the Pre-Retirement Reduction in Time Base (PRTB) Program and in the Faculty Early Retirement Program (FERP) are not eligible for difference in pay leaves.

#### **V. CRITERIA FOR SABBATICAL AND DIFFERENCE IN PAY LEAVES**

1. A sabbatical leave or a difference in pay leave shall be for purposes that provide a benefit to the university. The review shall consider questions related to the quality of the proposed leave.
2. Proposals shall demonstrate how one or more of the following objectives will be met by the proposed sabbatical or difference in pay leave: (a) studies leading to a greater command of subject matter; (b) studies to accomplish a shift in areas of academic emphasis of the faculty member; (c) studies leading to improved organization of curricula; (d) studies leading to a command of advanced methods of teaching; (e) creative activities in one's field or in a closely related field; and (f) travel with a definite professional objective.
3. Proposals shall demonstrate: (a) how the leave will be of benefit to the university; (b) a well-conceived program illustrating, where possible, preliminary arrangements, contacts, research, etc.; (c) detailed procedures by which the objectives are to be accomplished; and (d) that the proposed activity cannot be accomplished in less than the leave time, but can be completed in the time requested.
4. The merit of the proposal shall be the principal basis for recommendation at all levels. Prior performance while on sabbatical or difference in pay leave shall be considered at each level in the evaluating and recommending process. Other factors such as time since the last sabbatical or difference in pay leave and length of service shall be of secondary consideration.
5. Prior to making a final decision, the dean or the Provost shall consider the recommendations from the department and college/school committees, campus program needs and campus budget implications.

## **VI. PROCEDURES**

1. At the beginning of each academic year the dean of the college/school shall establish and announce dates for the progress of sabbatical leave requests through department, and college/school levels. Thus, in this document, all dates are unspecified.
2. A faculty member shall submit an application for a sabbatical or difference in pay leave. The application shall (a) identify which type of leave is sought; (b) include a statement of the purpose of the leave; (c) describe the proposed project and the CSU resources, if any, necessary to carry it out; and (d) state the amount of time requested, which, in the case of a sabbatical leave, shall not exceed one (1) year.
3. A copy of the report from the last sabbatical of difference in pay leave, if any, shall be attached to the application.

### **A. Department Level**

1. Departments have the primary responsibility to state, in writing, the reasons for their recommendations. The tenured full-time faculty members of the department (so long as there are at least three (3)) or a committee of at least three (3) tenured full-time faculty elected by the tenured and probationary faculty shall review the sabbatical leave and difference in pay applications<sup>12</sup> and shall vote by secret ballot to recommend or not recommend approval. Individuals applying for a sabbatical leave or difference in pay leave and those faculty who are participants in the Faculty Early Retirement Program are excluded from the committee.
2. Departments may rank-order the one-semester sabbatical applications and difference in pay leaves separately according to the criteria listed above. It should be noted that a department choosing not to rank-order the applications limits departmental impact upon recommendation and rank-order decisions at higher levels.
3. The department's recommendations regarding all applications shall include a statement of the possible effect on the curriculum during the faculty member's absence and the operation of the department during the absence of the applicant if the applicant is granted a sabbatical.
4. When departments have fewer than three tenured faculty to make recommendations, the department faculty shall elect the required number of faculty from an allied teaching area.
5. If the department chair does not concur with the department's evaluation, the chair should prepare a written evaluation and recommendation explaining the criteria and reasons for the chair's recommendation. The department chair shall

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<sup>12</sup> Academic Personnel Services shall provide each college/school with a list of eligible faculty members.

forward all applications (in rank order) to the college/school dean and the college/school personnel committee.

6. Each faculty member applying for a sabbatical or difference in pay leave shall receive a written copy of the recommendation of the department / department chair (if any) including the reasons for the recommendation.
7. A faculty member whose application is not recommended by the department / department chair (if any) may request a thirty (30) minute interview with the college/school personnel committee to present his/her arguments. This request shall be granted.
8. A faculty member who feels that his/her proposal was not ranked high enough may only make a written appeal to the college/school peer review committee.

**B. College/School Peer Review**

1. The college/school peer review committee, consisting of at least three (3) elected, tenured faculty not applying for sabbatical or difference in pay leaves or participants in the Faculty Early Retirement Program, will examine the quality of each proposal as well as the recommendations of the department and department chair (if separate from that of the department).
2. The college/school peer review committee shall forward to the dean separate rank-ordered lists of one-semester sabbatical leave requests, full-year sabbatical leave requests, and difference in pay leave requests.
3. Each leave proposal shall be clearly identified as recommended or not recommended. The committee shall notify each leave applicant, in writing, of the recommendation of the committee and the reasons for the recommendation.
4. In those cases where the college/school committee is in disagreement with the department or department chair's recommendation, the college/school committee shall meet jointly with the department chair and representatives from the department committee to discuss the quality of the leave proposal(s) and any related curricular impact/leave replacement (budget) issues.
5. A faculty member whose application is not recommended by the department / department chair (if any) or by the college/school peer review committee may request a thirty (30) minute interview with the dean to present his/her arguments. This request shall be granted.
6. A faculty member who feels that his/her proposal was not ranked high enough may only make a written appeal to the dean.

**C. Dean's Decision**

1. The dean shall review the leave proposals as well as the recommendations of the department/department chair and college/school peer review committee.



2. If the dean does not agree with the recommendations of the college/school committee he/she shall attempt to reconcile those differences with the college/school committee.
3. In those cases where either or both the college/school committee and the dean are in disagreement with the department or department chair's recommendation, the college/school committee and the dean shall meet jointly with the department chair and representatives of the department committee to discuss the quality of the leave proposal(s) and any related curricular impact/leave replacement (budget) issues.
4. The dean shall make a decision on each leave proposal and shall notify, in writing, each leave applicant of that decision. The notification shall include the reasons for the approval or denial of the leave, and, if approved, any conditions of such a leave. The dean's decision is final. A copy of the notification shall be forwarded to the Provost.
5. If the leave proposal is not approved by the dean, the applicant may request a thirty (30) minute meeting with the dean to appeal the dean's decision and/or learn more about the reasons for the leave not being approved. This request shall be granted.

**D. Appeal of Denial of Sabbatical or Difference in Pay Leave**

1. If the dean's decision is in disagreement with both the department committee and the college/school committee recommendations, the faculty member may appeal to the Provost within sixty (60) days of the decision of the dean.
2. Prior to making a formal appeal to the Provost, the faculty member shall request a thirty (30) minute meeting with the dean to discuss the dean's decision. This request shall be granted. A letter from the dean stating that this meeting has been held must be presented as part of the appeal to the Provost.
3. The Provost shall hear the appeal only if the consultation has been held with the dean. The appeal shall be in writing and shall state the reasons why the leave should be granted. A copy of the appeal shall be sent to the dean.
4. An appellant may request a thirty (30) minute interview with the Provost to present his/her arguments. This request shall be granted.
5. The Provost shall notify the appellant, in writing, of the final decision, including reasons, on the appeal.
6. Use of this appeal process is entirely voluntary; faculty members may instead exercise their rights under the collective bargaining agreement.

**VII. POST SABBATICAL OR DIFFERENCE IN PAY REPORTS**

1. Each faculty member, within ten (10) weeks of the completion of a sabbatical leave or a difference in pay leave, shall submit to the appropriate Dean through

the department chair a succinct written report of the leave. The report shall be placed in the Open Personnel File of the faculty member. Each faculty member shall also provide a copy of the report to Provost via Academic Personnel Services. This copy will be placed in the University Archives.

2. The report shall include: (1) the accomplishments of the leave in relation to the goals of the original proposal; (2) the modifications, if any, of the original proposal and the circumstances with which necessitated these modifications; (3) the goals of the original proposal, that were not accomplished; and (4) the anticipated outcome of the leave activities in the near future.
3. A copy of the original sabbatical or difference in pay proposal shall accompany the report.

## **PART B. LEAVES OF ABSENCE WITHOUT PAY<sup>13</sup>**

### **I. GENERAL PROVISIONS**

1. The Provost may approve a leave without pay for a specific purpose for an initial period of one year or less. A request for an extension of the leave for a second year may be made to the Provost. Leaves of absence beyond the initial two years must be approved by the Office of the Chancellor.
2. Leaves of absence without pay are either "personal" or "professional" and must be so identified on the application form.
3. An application for a leave of absence without pay form must be completed.<sup>14</sup> The eligible applicant shall receive a written response from the Provost which shall state the reasons for granting or denying the leave and any conditions of the leave.
4. A faculty member on a leave of absence without pay shall not return to active pay status prior to the expiration of the leave without the written approval of the Provost.
5. A faculty member on a leave of absence without pay shall notify the Provost with a copy to the dean no later than April 1 of his/her intention to return to duty at the beginning of the academic year or no later than October 1 of his/her intention to return to duty at the beginning of the spring term. A faculty member may request an extension of the leave at this time.

<sup>13</sup> Since individuals on a leave of absence without pay are not contributing to PERS, they are not accruing service credit toward retirement. Individuals should consult with the Benefits Office regarding the possibility of "buying back" service credit toward retirement upon completion of the leave.

<sup>14</sup> Leave application forms are available through the Academic Personnel Services website.

6. A person on a semester's leave of absence without pay will miss six monthly pay warrants and benefits (e.g., an individual on leave of absence during the fall semester will not receive a salary warrant on October 1, November 1, December 1, January 1 and will be off the payroll again during summer August 1 and September 1.
7. In order to continue benefits coverage while off payroll status, arrangements should be made with the University Benefits Coordinator, to continue payments for life insurance, health insurance, organization dues, etc.

## **II. ELIGIBILITY**

1. All faculty members are eligible for leaves of absence without pay within the restrictions found below.
2. Participants in the Faculty Early Retirement Program are not eligible for leaves without pay.
3. Any temporary faculty member who is granted a leave of absence without pay shall maintain any rights under Articles 12.3, 12.7, 12.8 and 12.9 of the Collective Bargaining Agreement in the same manner as if that employee had taught his/her scheduled courses rather than taking a leave. The individual replacing the temporary faculty member during the leave will not accrue rights under Articles 12.3, 12.7, 12.8 and 12.9 of the Collective Bargaining Agreement.
4. Part-time temporary faculty are eligible for a leave of absence without pay not to exceed one semester.
5. The leave of absence of a temporary faculty member shall terminate upon the expiration of that employee's temporary appointment.
6. A leave without pay may be granted to a tenured faculty member who accepts a probationary or temporary position at another university.
7. A leave without pay may be granted to a probationary faculty member who accepts a temporary position, such as visiting professor, at another university.
8. A leave without pay will not be granted to a tenured faculty member who accepts a tenured faculty position at another university.
9. A leave without pay will not be granted to a probationary faculty member who accepts a tenure track or tenured position at another university.

## **III. TYPES OF LEAVES OF ABSENCE WITHOUT PAY**

### **A. Personal Leaves of Absence Without Pay**

1. Personal leaves of absence without pay may be for purposes of unpaid sick leave, outside employment, family care leave, maternity/paternity leave, or other purposes of a personal nature.
2. Faculty on a personal leave of absence without pay shall not accrue service credit toward probation, sabbatical eligibility, service salary step increase eligibility, or seniority.
3. The Provost shall determine whether a personal leave of absence without pay constitutes a break in service. The Provost shall inform the faculty member of his/her determination at the time the leave is granted (Exceptions: a family care leave; a medical leave; or a maternity/paternity leave of absence without pay do not constitute a break in service.)

**B. Professional Leaves of Absence Without Pay**

1. Professional leaves of absence without pay may be for purposes of research, advanced study, professional development, or other purposes of benefit to the University.
2. A faculty member on a leave of absence without pay for professional purposes shall, when otherwise eligible, accrue service credit <sup>15</sup> toward probation, sabbatical eligibility, service salary step increase eligibility, and seniority. Such accrual of service credit toward sabbatical eligibility shall be for a maximum of one year per sabbatical eligibility period. Such accrual of service credit toward service salary step increase eligibility shall be for a maximum of one year per professional leave of absence without pay and extensions thereof.
3. Such accrual of service credit shall be forfeited whenever the Provost has determined the conditions of the leave were not met.

**IV. PROCEDURES**

1. Requests for leaves of absence without pay normally shall be reviewed by the department and the dean. The department and the dean shall make recommendations to the Provost. Requests for professional leaves shall be reviewed with particular care because of the service credit involved. The department and dean shall receive a copy of the Provost's response to the leave request.

**V. LEAVE REPORTS**

1. No post leave report is required for a personal leave of absence without pay.
2. Professional leaves must be followed by a report of the leave activities. The report shall be submitted to the Provost with copies to the department chair

<sup>15</sup> Since individuals on a leave of absence without pay are not contributing to PERS, they are not accruing service credit toward retirement. Individuals should consult with the Benefits Office regarding the possibility of "buying back" service credit toward retirement upon completion of the leave.

and the dean no later than ten (10) weeks after returning to active payroll status. The report shall state whether the objectives of the leave were accomplished and shall include a summary of such accomplishments. The report shall be signed by the faculty member who took the leave.

3. Failure to submit the report after a professional leave of absence without pay shall result in forfeiture of service credit.

### **PART C. FAMILY CARE AND MEDICAL LEAVES**

These provisions relate to family care and medical leave consistent with the federal Family Medical Leave Act (FMLA) and the Collective Bargaining Agreement.

#### **I. GENERAL PROVISIONS**

1. Family care and medical leave shall refer to a leave for reason of the birth of a child of the faculty member, the placement of a child with a faculty member in connection with the adoption or foster care of the child by the faculty member; to care for a child, parent or spouse or domestic partner of the faculty member who has a serious health condition, or for the faculty member's own serious health condition.<sup>16</sup>
2. Family care or medical leave is separate and distinct from the right of a female faculty member to take a pregnancy disability leave under Government Code Section 12945, subdivision (b) (2).<sup>17</sup>
3. For family leave taken for reason of the birth, adoption or foster care of a child by a faculty member, any leave 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 or foster care.<sup>18</sup>
4. A faculty member may use accrued sick leave during the period of family leave upon mutual agreement of the faculty member and the appropriate administrator. The use of sick leave shall be in accordance with provisions of Article 24 of the CBA.<sup>19</sup>
5. A family care or medical leave shall not constitute a break in service for purposes of length of service and/or seniority, if applicable.<sup>20</sup>

#### **II. ELIGIBILITY**

1. A faculty member who has at least twelve (12) months or two (2) semesters of service is entitled to a family care or medical leave without pay.<sup>21</sup>

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<sup>16</sup> CBA at Provision 22.9.

<sup>17</sup> CBA at Provision 22.19.

<sup>18</sup> CBA at Provision 22.15.

<sup>19</sup> CBA at Provision 22.18.

<sup>20</sup> CBA at Provision 22.22.

2. Eligible faculty members may take up to a total of twelve (12) weeks of family care or medical leave in a twelve (12) month period, including any periods of absence with pay for family leave purposes.<sup>22</sup>
3. If a female faculty member takes part or all of the maximum four (4) months of pregnancy disability leave, she may request up to twelve (12) additional weeks of family care or medical leave for reason of the birth of a child, or due to her own serious medical condition.<sup>23</sup>
4. Any combination of family care or medical leave and pregnancy disability leave shall run concurrently with the period of paid maternity/paternity leave available to probationary or tenured faculty members.

### **III. REQUEST FOR A FAMILY CARE OR MEDICAL LEAVE**

1. A faculty member shall provide the President or designee with reasonable written notice of the need for the leave as soon as the event necessitating the leave becomes known to the faculty member.<sup>24</sup> In general, as much advance notice as possible will be provided.
2. If the need for a family leave is foreseeable due to the planned medical treatment or planned supervision of a child, parent or spouse with a serious health condition, the faculty member shall provide the President with not less than fourteen (14) days notice of the need for the leave. The faculty member 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.<sup>25</sup>
3. 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.<sup>26</sup>

### **IV. MEDICAL CERTIFICATION**

1. Before granting a family leave for the serious health condition of a child, parent, or spouse, the President or designee may require certification of the serious health condition from the health care provider.<sup>27</sup>

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<sup>21</sup> The faculty member is "entitled" if he/she meets the criteria established by the FMLA during the established time period of twelve (12) weeks. If the FMLA criteria are not met or the twelve (12) weeks have expired, the request for a family care or medical leave may be denied.

<sup>22</sup> CBA at Provision 22.24.

<sup>23</sup> CBA at Provision 22.19.

<sup>24</sup> "Reasonable written notice" is defined as thirty (30) days if the leave is foreseeable, otherwise, as soon as practicable.

<sup>25</sup> CBA at Provision 22.21.

<sup>26</sup> CBA at Provision 22.20.

<sup>27</sup> CBA at Provision 22.16.

2. Upon expiration of the period which the health care provider originally estimated that the faculty member needed to care for the child, parent or spouse, the President or designee may require the faculty member to obtain re-certification if additional leave is requested.

## **V. RIGHTS OF THE EMPLOYEE**

1. A faculty member on family care or medical leave shall retain employee status and shall continue to accrue seniority points, if eligible, during the period of the leave.
2. A faculty member on an unpaid family care or medical leave 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. However, if any paid portion of the family care or medical care leave is less than twelve (12) weeks, upon the request of the faculty member 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 the faculty member 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 the premiums if the faculty member's failure to return is due to his/her serious health condition or due to circumstances beyond the faculty member's control. Verification of such health condition or circumstances shall be provided to the university upon request.<sup>28</sup>
3. The granting of a family care or medical leave assures to the faculty member the 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 has 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 faculty member any other position which is available and for which the faculty member is qualified. The university is not required, however, to create additional employment which would otherwise not be created, discharge or layoff another faculty member, transfer another faculty member, or promote another faculty member who is not qualified to perform the responsibilities.<sup>29</sup>
4. Probationary faculty who take authorized FML leave may elect to "stop" the tenure clock for the entire academic year of the leave or have it continue. The faculty member shall state his/her election in his/her leave application, and it shall be confirmed by letter from the Provost.

## **VI. MATERNITY / PATERNITY / ADOPTION LEAVE**

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<sup>28</sup> CBA at 22.23.

<sup>29</sup> CBA at 22.22.

1. Faculty members are entitled to a maximum of thirty (30) consecutive days of maternity/paternity/adoption leave for the purpose of preparing for the arrival of a new child and the care of a new child. A maternity/paternity/adoption leave shall not constitute a break in service.<sup>30</sup> This leave shall commence within a one hundred and thirty-five (135) day period beginning sixty (60) days prior to the anticipated arrival date of a new child and ending seventy-five (75) days after the arrival of a new child. Such leave shall be charged only for workdays in such period of time and may be used for reason of the birth of a child or the placement of a child with a faculty member in connection with the adoption or foster care of the child with the faculty member.<sup>31</sup>
2. Paid maternity/paternity/adoption leave runs concurrently with other maternity/paternity, pregnancy disability, and/or family care and medical leave, and may be supplemented with sick leave in accordance with Article 24 of the Collective Bargaining Agreement. Normally, ten (10) days of earned sick leave may be charged. A physician's verification of disability shall be required for the use of earned sick leave in excess of ten (10) days.<sup>32</sup>
3. Probationary faculty who take maternity/paternity/adoption leave may elect to "stop" the tenure clock for the entire academic year of the leave or have it continue. The faculty member shall state his/her election in his/her leave application and it shall be confirmed by letter from the Provost.

## VII. ADDITIONAL FML ENTITLEMENTS UNDER THE NATIONAL DEFENSE AUTHORIZATION ACT

1. **Leave to care for wounded service member.** An eligible faculty member who is the spouse, domestic partner, son, daughter, parent or next of kin of a covered service member, may take up to 26 weeks of leave to provide care for a covered service member with a serious illness or injury sustained in the line of duty while on active duty in the Armed Forces, Reserves or National Guard of the United States.
  - a. If the faculty member qualifies for and takes such leave, the faculty member is required to provide the university with a certification issued by a health care provider of the service member being cared for.
  - b. This leave is available only during a single 12-month period and is combined with all other FMLA leaves in that period, resulting in a maximum total leave entitlement of 26 weeks. As with all FMLA leaves, faculty are required to exhaust all appropriate leave credits that apply.
2. **Leave related to "qualifying exigency" arising from active duty or call to duty.** An eligible employee also may take up to 12 weeks of FMLA leave in a 12 month period to deal with any "qualifying exigency," as defined by the United States Secretary of Labor, that arises from a spouse's domestic partner's, son's daughter's, or parent's active duty, or in an impending call to active duty status,

<sup>30</sup> CBA at Provisions 22.10 and 23.4.

<sup>31</sup> CBA at Provision 23.4...

<sup>32</sup> CBA at Provision 23.5.



in the United States Armed Forces, in support of a contingency operation. The 12 weeks is reduced by leave for any other qualifying FMLA event during the 12-month period.

### **3. Definitions used in the NDA Act or General Military Law**

- a. Active Duty means duty under a call or order to active duty as defined by federal law.
- b. Covered Service Member is a member of the U.S. 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 disability list, for a serious injury or illness.
- c. Contingency Operation means a military operation that is designated by the Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force; or results in the call or order to, or retention on, active duty of the members of the uniformed services under federal law during a war or during a national emergency declared by the President or Congress.
- d. Next of Kin refers to the nearest blood relative of an individual, i.e., a service member.
- e. Outpatient Status for a covered service member means the status of a member of the Armed Forces, including a member of the National Guard or Reserves, assigned to a military medical treatment facility or a unit established for the purpose of providing command and control of members of the Armed Forces.
- f. Serious Illness or Injury refers to an injury or illness incurred by the service member in the line of duty on active duty in the Armed Forces (including a member of the National Guard or Reserves) that may render the service member medically unfit to perform the duties of the service member's office, grade, rank or rating.

**REFERENCES:** CBA Articles 12, 22, 23, 24, 27, 28, 29, 30, 31, 32, 38

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