

ARTICLE ___
LEAVES OF ABSENCE

A. GENERAL PROVISIONS

Subject to the provisions of this Article, leaves of absence may be with or without pay, may be for medical purposes and/or non-medical reasons, and are subject to the approval of the University. Approved leaves do not continue beyond the predetermined end date of the Academic Researcher's appointment.

If state or federal law requires that the University offer any leave in a manner that is more generous to employees than is currently provided in this Article, the University will comply with the law.

1. Definitions

In accordance with the provisions of this Article, a leave of absence, with or without pay, may be approved by the University for medical purposes and non-medical reasons.

- a. Non-medical leaves of absence include: certain Family and Medical Leaves (leave to care for a family member with a serious health condition, Parental Leave, Military Caregiver Leave, and Qualifying Exigency Leave), leave for jury duty, military leave, and personal leave taken for non-medical reasons.
- b. Medical leaves include: certain Family and Medical Leaves (leave taken for the Academic Researcher's own serious health condition and Pregnancy Disability Leave) and personal leave taken for medical reasons.
- c. For the purposes of this Article, a day means a scheduled work day.
- d. FMLA is the federal Family and Medical Leave Act.
- e. CFRA is the California Family Rights Act.
- f. PDLL is the California Pregnancy Disability Leave Law.

2. Benefits Eligibility While on Leave Without Pay

- a. Approved leave without pay shall not be considered a break in service.
- b. If an Academic Researcher is on approved leave without pay for more than fifty percent (50%) of the full-time working hours in the calendar month, sick

leave and length of service do not accrue. An eligible Academic Researcher on approved leave without pay other than FML may elect to continue University-sponsored insurance coverages (as determined by plan documents or regulations) for the period of the leave by remitting, in accordance with the provisions of the applicable plan(s), the entire premium amount due for the period of the approved leave. Regulations of the retirement systems determine the effects of leave without pay on retirement benefits.

- c. Special Benefits Eligibility For FML - An eligible Academic Researcher shall have University-provided health benefits continued for the period of the FML in accordance with Section B.9.

3. Requests for Leave

Except as provided in Section B.6., which addresses the Notification required for FML, requests for leaves of absence and extensions, with or without pay, shall be submitted in writing to the University. ***When feasible,*** such requests shall be submitted sufficiently in advance of the requested leave date to provide the University time to assess the operational impact of granting the request. All requests for leaves of absence shall contain the requested beginning date, end date, and estimated duration of the leave, and any additional information as required.

4. Duration

The duration, terms of the leave and the date of return are determined when the leave is granted, and shall be communicated to the Academic Researcher, in accordance with the provisions of this Article. Except as provided under Section B., Family and Medical Leave (FML), written confirmation shall be provided when the University determines such confirmation is appropriate. Except as provided for elsewhere in this Article, the total aggregate of leaves of absence taken in any combination, granted under this Article, generally shall not exceed one year.

5. Return to Work

- a. Except as provided in Section B., Family and Medical Leave (FML), and Section C., Pregnancy Disability Leave, an Academic Researcher who has been granted an approved leave with or without pay shall be reinstated to the same or a similar position to which the Academic Researcher was appointed if the return date is during the term of the appointment. If the position held has been abolished or affected by layoff during the leave, the Academic Researcher shall be afforded the same considerations that would have been afforded had that Academic Researcher been actively working rather than on

- leave when the position was abolished or affected by layoff. These reinstatement rights do not apply if reinstatement is sought after the expiration of the Academic Researcher's appointment.
- b. An Academic Researcher who has exhausted their original leave entitlement and who has been granted additional leave under another section of this Article shall be reinstated in accordance with the provisions of the section under which the additional leave was granted.
6. Return to work after FML and Pregnancy Disability Leave is described in full in Sections B.10. and C.5.

B. FAMILY AND MEDICAL LEAVE (FML)

1. An Academic Researcher who is eligible for Family and Medical Leave (FML) and has not exhausted their FML entitlement for the leave year, as discussed below, may take FML for any of the following six reasons, as described in greater detail below:
 - a. Due to the Academic Researcher's own serious health condition (see Section B.11.)
 - b. To care for a family member with a serious health condition (see Section B.12.)
 - c. As Pregnancy Disability Leave (see Section B.13.)
 - d. As Parental Bonding Leave (see Section B.14.)
 - e. As Military Caregiver Leave (see Section B.15.)
 - f. As Qualifying Exigency Leave (see Section B.16.)

FML is unpaid leave, except as otherwise provided in this Article. See Section B.8 below.

2. Definitions

- a. Child means a biological child, adopted child, foster child, stepchild, legal ward, or child for whom the Academic Researcher stands in *loco parentis*; provided that the child is either under 18 years of age or incapable of self-care because of a mental or physical disability.

- b. Parent means a biological parent, foster parent, adoptive parent, stepparent, legal guardian or individual who stood in *loco parentis* to the Academic Researcher when the Academic Researcher was a child. "Parent" does not include the Academic Researcher's grandparents or mother-in-law or father-in-law unless they stood in *loco parentis* to the Academic Researcher when the Academic Researcher was a child.
- c. Spouse means a partner in marriage.
- d. Serious health condition of an Academic Researcher is an illness, injury (including on-the-job injuries), impairment, or physical or mental condition that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse.
 - 1) inpatient care means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered an "inpatient" when a health care facility formally admits the person with the expectation that the person will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
 - 2) incapacity means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
 - 3) continuing treatment means ongoing medical treatment or supervision by a health care provider, as defined below.
- e. Serious health condition for the purpose of FML taken to care for a family member of an Academic Researcher is an illness, injury, impairment, or physical or mental condition of the Academic Researcher's child, parent, spouse, or same- or opposite-sex domestic partner that involves either inpatient care (as defined in Section B.2.d. above) or continuing treatment (as defined in Section B.2.d. above) and that warrants the participation of the Academic Researcher to provide supervision or care (which includes psychological care or comfort) during the period of the family member's treatment or incapacity (as defined in Section B.2.d. above).
- f. Health Care Provider is an individual who is a doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; a podiatrist, dentist, clinical psychologist, optometrist, chiropractor (limited to the treatment of the spine to correct a subluxation as demonstrated by x-ray to exist), physician assistant,

nurse practitioner or nurse mid-wife performing within the scope of their duties as defined under State Law; a Christian Science practitioner; or any health care provider that the Academic Researcher's health plan carrier recognizes for purposes of payment.

- g. Domestic partner is an individual who would qualify as a domestic partner under the definition of that term set forth in the University's Academic Personnel Manual at APM - 110.

3. Eligibility Criteria for FML

- a. Academic Researchers who have at least twelve (12) cumulative months of University service (all prior University service, including service with the UC managed Department of Energy Laboratories, shall be used to calculate the twelve-month service requirement) and have at least 1,250 hours of actual service (as defined below) during the twelve-month period immediately preceding the commencement of the leave are eligible for FML under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) if leave is requested for an FML-qualifying reason, except as otherwise provided in this Article. If the Academic Researcher is taking FML as Pregnancy Disability Leave, the foregoing eligibility requirements do not apply.
- b. "1,250 Hours of Actual Service" means time actually spent at work and does not include any paid time off, such as vacation, compensatory time, sick leave, holidays not worked, or time spent in unrestricted on-call status. However, for Academic Researchers granted military leave, all hours that would have been worked had the Academic Researcher not been ordered to military duty shall be used to calculate the 1,250 actual hours of work requirement.

4. Duration of Leave

FML shall not exceed twelve (12) workweeks in any calendar year except when it is used for Pregnancy Disability Leave or Military Caregiver Leave. If the Academic Researcher is taking FML as Pregnancy Disability Leave, the Academic Researcher shall be eligible for leave for the period of actual disability up to four (4) months per pregnancy. If the Academic Researcher is taking FML for Military Caregiver Leave, the Academic Researcher shall be eligible for up to 26 workweeks of leave in a single 12-month leave period.

For the purposes of FML, twelve (12) workweeks is equivalent to four-hundred eighty (480) hours of scheduled work for full-time Academic Researchers who are normally scheduled for eight (8) hours per day five (5) days per workweek

(8/40) schedule. While the use of FML need not be consecutive, in no event shall an Academic Researcher's use of FML exceed a total of twelve (12) workweeks within a calendar year (or 26 workweeks in the single 12-month leave period if the Academic Researcher is taking FML as Military Caregiver Leave, or four (4) months per pregnancy if the Academic Researcher is taking FML as Pregnancy Disability Leave).

- a. Hourly Conversion for Part-time or Alternately Scheduled Academic Researchers: For Academic Researchers who work part-time or a schedule other than an 8/40, the number of FML hours for which the Academic Researcher is eligible shall be adjusted in accordance with the Academic Researcher's normal weekly work schedule. An Academic Researcher whose schedule varies from week to week is eligible for a pro-rated amount of FML based on the Academic Researcher's hours worked over the twelve (12) months immediately preceding the leave.
- b. Any leave taken by an eligible Academic Researcher that qualifies as FML (including leave for a Work-Incurred Injury or Illness) will be designated as such by the University and will be counted against the Academic Researcher'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 Academic Researcher (which could be weeks, days, hours, and/or partial hours).
- c. If the Academic Researcher has exhausted their entitlement to FML Leave, the Academic Researcher may apply for a Personal Leave pursuant to Section G. of this Article.

5. Forms in Which FML May Be Taken

FML generally may be taken as a block leave or, in certain circumstances discussed below, on an intermittent or reduced schedule basis.

- a. Academic Researcher Requests for FML on an Intermittent or Reduced Schedule Basis

When medically necessary and supported by medical certification, the University shall grant an eligible Academic Researcher's request for FML for the Academic Researcher's serious health condition, to care for a family member with a serious health condition, or as Military Caregiver Leave on an intermittent or reduced schedule basis, including absences of less than one (1) day. When granted, the University will count only the time actually spent on the intermittent leave or reduced work schedule toward the Academic Researcher's FML entitlement for the applicable year.

An Academic Researcher may take FML for Qualifying Exigency Leave on an intermittent or reduced schedule basis.

For requests to take FML as Pregnancy Disability Leave on an intermittent or reduced schedule basis, see Section C. below.

For requests to take FML as Parental Bonding Leave on an intermittent or reduced schedule basis, see Section B.14.e. below.

b. Temporary Transfer to Accommodate Intermittent Leave or Reduced Work Schedule

When the Academic Researcher requests FML on an intermittent or a reduced schedule basis due to planned medical treatment for the Academic Researcher's serious health condition or the serious health condition of a family member, the University may, at its sole, ~~non-grievable~~ discretion, require the Academic Researcher to transfer temporarily to an available alternate position for which the Academic Researcher is qualified and which better accommodates the Academic Researcher's recurring need for leave. Such alternative position shall have equivalent pay and terms and conditions of employment, but does not need to have equivalent duties.

6. Notification

- a. If the Academic Researcher learns of the event giving rise to the need for FML more than thirty (30) calendar days in advance of the leave's anticipated initiation date, the Academic Researcher shall give the University at least thirty (30) calendar days' notice of the need for leave. An Academic Researcher who fails to give thirty (30) days' notice for a foreseeable leave, with no reasonable basis for the delay, may have the FML leave delayed until thirty (30) days after the date on which the Academic Researcher provides notice.
 - 1) If the need for leave is foreseeable due to the planned medical treatment of the Academic Researcher (due to the Academic Researcher's serious health condition or pregnancy disability) or the planned medical treatment of the Academic Researcher's family member with a serious health condition, the Academic Researcher shall make reasonable efforts to schedule the treatment so as to not unduly disrupt the University's operations, subject to the approval of the health care provider.
 - 2) If the need for leave is unforeseeable or actually occurs prior to the anticipated date of foreseeable leave, the Academic Researcher shall

provide the University with as much notice as practicable and, at a minimum, notify the University within five (5) calendar days after learning of the need for leave, **except where not possible based on emergency.**

- b. The University shall determine whether the Academic Researcher meets the eligibility requirements and qualifies for an FML leave and shall, within five (5) days of that determination, notify the Academic Researcher, in writing, whether the leave is designated or provisionally designated as FML leave. The start date of the leave, the terms of the leave and the date of return are determined when the leave is granted.
- c. Extensions to an FML leave may be granted in accordance with this Section, up to the aggregate maximum of twelve (12) workweeks in a calendar year (or 26 workweeks in a single 12-month leave period if FML is being taken as Military Caregiver Leave or four (4) months per pregnancy if FML is taken as Pregnancy Disability Leave). If an Academic Researcher's need for leave continues after their FML entitlement has been exhausted, the Academic Researcher may request a Personal Leave in accordance with Section G.

7. Certification and Other Supporting Documentation

- a. Certification When FML Is Taken for the Academic Researcher's Own Serious Health Condition

When FML is requested for the Academic Researcher's own serious health condition, the University may, at its discretion, require that an Academic Researcher's request for leave be supported by written certification issued by the Academic Researcher's health care provider. When certification is required by the University, such requirement shall be submitted to the Academic Researcher in writing. Certification may be provided by the Academic Researcher on a form given to the Academic Researcher by the University and shall, regardless of the format in which it is provided, include:

- 1) a certification that the Academic Researcher has a serious health condition as defined in Section B.2.d. above, and
- 2) a statement as to whether the Academic Researcher is unable to perform any one or more of the essential assigned functions of the position, and
- 3) the date, if known, on which the Academic Researcher's serious health condition began, the probable duration of the condition and the Academic Researcher's probable date of return, and

- 4) whether it will be medically necessary for the Academic Researcher to take leave intermittently or to work on a reduced schedule and, if so, the probable duration of such schedule, and,
 - 5) if the condition will result in periodic episodes of incapacity, an estimate of the duration and frequency of episodes of incapacity.
- b. Certification When FML Is Taken to Care for the Academic Researcher's Family Member

When a leave of absence is requested so that the Academic Researcher may care for a family member with a serious health condition, the University may, at its discretion, require that an Academic Researcher's request for leave be supported by written certification issued by the family member's health care provider. When certification is required by the University, such requirement shall be submitted to the Academic Researcher in writing. Certification may be provided by the Academic Researcher on a form given to the Academic Researcher by the University and shall, regardless of the format in which it is provided, include:

- 1) certification that the Academic Researcher's family member has a serious health condition as defined in Section B.2.e. above, and
 - 2) a statement that the family member's serious health condition warrants the participation of the Academic Researcher to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity, and
 - 3) whether the Academic Researcher's family member will need supervision or care over a continuous period of time, intermittently, or on a reduced schedule basis; the leave schedule the Academic Researcher will need in order to provide that supervision or care; and the probable duration the Academic Researcher will need for leave.
 - 4) In addition, the Academic Researcher will be required to certify either on the form or separately what care the Academic Researcher will provide the family member and the estimated duration of the period of care.
- c. Certification When FML Is Taken as Pregnancy Disability Leave

When FML is taken as Pregnancy Disability Leave, the Academic Researcher may be required to provide certification in accordance with Section C.4. below.

d. Certification When FML Is Taken for Military Caregiver Leave

When Military Caregiver Leave is requested, the Academic Researcher may be required to provide a certification completed by an authorized health care provider of the covered servicemember, which includes health care providers affiliated with the Department of Defense, the Veterans Administration, and TRICARE, as well as any health care provider (as defined in Section B.2.f. above) who is treating the covered servicemember. The certification should provide information sufficient to establish entitlement to Military Caregiver Leave, including information establishing that the servicemember is a covered servicemember for purposes of Military Caregiver Leave and that the servicemember has a covered relationship with the Academic Researcher, as well as an estimate of the leave needed to provide the care. When the covered servicemember is a covered veteran, the Academic Researcher may be required to provide information establishing the servicemember's veteran status, the date of separation from the Armed Forces, and that separation was other than dishonorable.

e. Certification When FML Is Taken for Qualifying Exigency Leave

When Qualifying Exigency Leave is requested, an Academic Researcher may be required to provide a copy of the military member's active duty orders. Academic Researchers 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.

f. Confirmation of Family Relationship

The University may, at its sole ~~non-grievable~~ discretion, require that an Academic Researcher complete a Declaration of Relationship form to certify the Academic Researcher's relationship with the child when the Academic Researcher is requesting FML as Parental Bonding Leave or to certify the Academic Researcher's relationship with the family member when the Academic Researcher is requesting FML to care for a family member with a serious health condition. The Academic Researcher's failure to provide a completed Declaration of Relationship form within fifteen (15) calendar days of the University's **written** request may result in discontinuance of the leave until the required documentation is provided. If the Academic Researcher fails to provide the completed Declaration of Relationship form within a reasonable time as requested, FML leave will be denied.

g. Questioned Medical Certifications

Should the University have a good faith, objective reason to doubt the validity of the Academic Researcher's certification for the Academic Researcher's own serious health condition, the University may, at its sole ~~non-grievable~~ discretion, require that the Academic Researcher obtain a second medical opinion from a second health care provider selected by the University. Should the second medical opinion differ from the opinion of the Academic Researcher's own health care provider, the University may, at its sole ~~non-grievable~~ discretion, require a third medical opinion from a third health care provider, jointly selected by the Academic Researcher and the University. The University shall bear the cost of the second and third opinions and the third opinion shall be final.

h. Additional Certification and/or Recertification

1) If additional FML is requested beyond the period supported by the certification previously provided or the circumstances of the leave have changed, the University may, at its sole ~~non-grievable~~ discretion, require the Academic Researcher to obtain recertification. Such requests for subsequent certification and/or recertification shall be in writing. If certification and/or recertification is required, the Academic Researcher shall return the certification within fifteen (15) calendar days of the University's request, where practicable.

2) No medical records may be required to be released to the University, although a limited release of the medical records between the two health care providers may be necessary. Upon request, the University will provide a copy of the second and, if applicable, third medical opinion to the Academic Researcher at no cost.

i. Failure to Provide the Requested Certification and/or Recertification

For FML taken as Pregnancy Disability, see Section C.4.d. below.

An Academic Researcher's failure to provide the certification and/or recertification for a foreseeable leave other than Pregnancy Disability Leaves within the requested time may result in delay of the leave until the required certification is received. An Academic Researcher's failure to provide certification for an unforeseeable leave other than Pregnancy Disability Leave within the requested time period may result in discontinuance of the leave until the required certification is provided. If the Academic Researcher fails to provide the required certification or recertification within a reasonable time as requested, FML will be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML and will not count against the Academic Researcher's FML entitlement.

If the Academic Researcher fails to provide a complete and sufficient certification and/or recertification, the Academic Researcher shall be given fifteen (15) calendar days to perfect the certification/recertification. Failure to perfect an incomplete certification and/or recertification within the requested time period may result in delay of the leave or discontinuance of the leave until the required certification and/or recertification is provided. If the Academic Researcher fails to provide a complete and sufficient certification and/or recertification and the leave has not begun, the request for FML will be denied. If the leave has begun, the leave may, at the University's discretion, be discontinued; however, any leave taken is not FML and will not count against the Academic Researcher's FML entitlement.

8. Use of Accrued Paid Leave

FML is unpaid, except for the use of accrued sick leave and/or the use of accrued vacation, as provided in this Article:

- a. An Academic Researcher on FML for the Academic Researcher's own serious health condition:
 - 1) If eligible for University disability benefits, the Academic Researcher shall use accrued sick leave in accordance with the University's disability plan requirements;
 - 2) If not eligible for University disability benefits and not on FML due to a work-incurred injury or illness, the Academic Researcher may elect to use accrued sick leave prior to taking FML without pay;
 - 3) If on FML due to a work-incurred injury or illness, the Academic Researcher may use accrued sick leave prior to taking FML without pay;
 - 4) In any of the above circumstances, the Academic Researcher may elect to use accrued vacation time prior to taking FML without pay.
- b. An Academic Researcher on FML to care for a family member with a serious health condition or taking FML as Military Caregiver Leave may use accrued sick leave in accordance with Article ___ - Sick Leave, Section ___, or an Academic Researcher may elect to use accrued vacation time prior to taking FML without pay.
- c. An Academic Researcher on FML for Pregnancy Disability Leave shall use accrued sick leave in accordance with the University's disability plan

requirements. If sick leave is exhausted, the Academic Researcher may elect to use accrued vacation time before taking FML without pay.

- d. An Academic Researcher taking FML as Parental Bonding Leave may elect to use accrued vacation time **and may use up to thirty (30) days of accrued sick leave** before taking FML without pay.
- e. An Academic Researcher taking FML as Qualifying Exigency Leave may elect to use accrued vacation time prior to taking FML without pay.

9. Continuation of Health Benefits

An eligible Academic Researcher on an approved FML shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as follows:

- a. When the Academic Researcher is on FML that runs concurrently under the FMLA and the CFRA: Continued coverage for up to twelve (12) workweeks in a calendar year.
- b. When the Academic Researcher is on FML as Military Caregiver Leave under the FMLA: Continued coverage for up to twenty-six (26) workweeks in a single twelve month period. For purposes of Military Caregiver Leave, the "single twelve month period" is the period beginning on the first day the Academic Researcher takes the leave and ending twelve (12) months after that date.
- c. When the Academic Researcher is on FML as Qualifying Exigency Leave under the FMLA: Continued coverage for a period of up to twelve (12) workweeks in a calendar year.
- d. When the Academic Researcher is on a Pregnancy Disability Leave under the California Pregnancy Disability Leave Law (PDLL), regardless of whether any of the leave runs concurrently under the FMLA: Continued coverage for up to four (4) months in a twelve month period per pregnancy. If any of the Pregnancy Disability Leave runs concurrently under the FMLA, the continued coverage provided for that portion of the leave will count towards the Academic Researcher's FMLA benefits coverage entitlement to up to twelve (12) workweeks of such coverage in a calendar year.
- e. When the Academic Researcher is on FML under the CFRA that does not run concurrently under the FMLA (e.g., Parental Bonding Leave after an Academic Researcher's FMLA entitlement has been exhausted): Continued coverage for up to twelve (12) workweeks in a calendar year.

10. Return from FML

a. Required Notice and Documentation

- 1) The Academic Researcher shall provide reasonable notice to their employing department of the anticipated return to work.
- 2) An Academic Researcher returning from FML for the Academic Researcher's own serious health condition ~~must~~ **may be required to** provide a written medical release to return to work prior to returning to work. For returns after Pregnancy Disability Leave, see Section C.5. below.
- 3) An Academic Researcher who has been medically released to perform the essential assigned functions of their job, **with or without a reasonable accommodation**, shall be reinstated in accordance with the provisions of Section B.10.b. below.
- 4) Failure to provide a medical release to return to work may result in the delay of reinstatement until the Academic Researcher submits the required medical release certification.

b. Reinstatement Rights

When an Academic Researcher has been granted an approved FML for any purpose other than Pregnancy Disability Leave and returns within twelve (12) workweeks of the initiation of the leave (or within 26 workweeks if the FML was taken for Military Caregiver Leave), the Academic Researcher shall be reinstated to the same or an equivalent position upon expiration of the leave. For an Academic Researcher's return to work rights after Pregnancy Disability Leave, see Section C.5. below. If the Academic Researcher would have been laid off or terminated had the Academic Researcher remained on pay status during the leave period, the Academic Researcher shall be afforded the considerations afforded to other Academic Researchers who are laid off or terminated pursuant to the provisions of this Memorandum of Understanding. No Academic Researcher with a predetermined appointment end date shall be granted a leave of absence beyond the appointment end date or predetermined date of separation. As stated in Section B.10.a.2., above, an Academic Researcher who has been granted an FML for the Academic Researcher's own serious health condition **may be required to** ~~must~~ provide a written medical release ~~to return to work~~ prior to returning to work. Reinstatement rights do not apply to Academic Researchers if reinstatement is sought after the expiration of their appointment.

11. FML for Academic Researcher's Serious Health Condition

FML for the Academic Researcher's own serious health condition is leave taken when the Academic Researcher's own "serious health condition," as defined in Section B.2.d. above, renders the Academic Researcher unable to perform any one or more of the essential functions of the Academic Researcher's position.

12. FML to Care for Academic Researcher's Family Member with a Serious Health Condition

FML to care for a family member with a serious health condition is leave to care for the Academic Researcher's child, parent, spouse or same or opposite sex domestic partner who has a "serious health condition," as defined in Section B.2.e. above, that requires the participation of the Academic Researcher to provide supervision or care (which includes psychological comfort) during the period of the family member's treatment or incapacity.

13. FML as Pregnancy Disability Leave

When an Academic Researcher who takes Pregnancy Disability Leave pursuant to Section C. below is eligible for FML under the FMLA, Pregnancy Disability Leave will be counted against the Academic Researcher's FML entitlement under the FMLA as well as the Academic Researcher's Pregnancy Disability Leave entitlement under the PDLL.

14. FML as Parental Bonding Leave

FML taken as Parental Bonding Leave is leave taken to bond with the Academic Researcher's newborn or a child placed with the Academic Researcher for adoption or foster care or to attend to matters related to the birth, adoption, or placement of the child. The following special provisions apply to Parental Bonding Leave:

a. Time Limit for Parental Bonding Leave

Parental Bonding Leave must be initiated and concluded within one (1) year of the birth or placement of the child with the Academic Researcher.

b. Eligibility for Parental Bonding Leave

An Academic Researcher taking Parental Bonding Leave must meet the eligibility requirements for FML set forth in Section B.3. above except when the Academic Researcher is taking Parental Bonding Leave immediately

following an FML taken as Pregnancy Disability Leave; in those circumstances, an Academic Researcher who was eligible for FML under the FMLA at the beginning of the Academic Researcher's Pregnancy Disability Leave shall be granted a Parental Bonding Leave under the CFRA for up to twelve (12) workweeks after the Pregnancy Disability Leave, provided that the Academic Researcher has not exhausted the Academic Researcher's FML entitlement under the CFRA for that leave year.

c. Advance Notice

The Academic Researcher shall request Parental Bonding Leave sufficiently in advance, if possible, of the expected birth date of the child or placement of a child for adoption or foster care, in order to allow the University to plan for the absence of the Academic Researcher, but the Academic Researcher shall not be required to provide more than thirty (30) days advance notice. The anticipated date of return from Parental Bonding Leave shall be set at the time such leave commences or, if requested in conjunction with an FML taken as Pregnancy Disability Leave, shall be set at the time such Pregnancy Disability Leave commences. Parental Bonding Leave, when taken because of the adoption or placement of the child with the Academic Researcher could commence prior to the date of placement.

d. Duration of Parental Bonding Leave

Parental Bonding Leave alone generally shall not exceed twelve (12) workweeks within a calendar year as defined in Sections B.3.a. and B.4. above. However, when an FML for Parental Bonding Leave is combined with an FML for Pregnancy Disability Leave, the total FML shall not exceed seven (7) months in a calendar year. In addition, an Academic Researcher could request a Personal Leave under Section G., if they want additional leave for this purpose. However, FML granted for Pregnancy Disability Leave, Parental Bonding Leave, and Personal Leave for parental bonding shall not exceed one year in total.

e. Forms in which Parental Bonding Leave May Be Taken

The University shall grant a Parental Bonding Leave of less than two (2) weeks duration on any two (2) occasions. The University, at its sole ~~non-~~~~grievable~~ discretion, may require that any additional Parental Bonding Leave requested be for a minimum duration of two (2) weeks, unless otherwise required by law.

15. FML as Military Caregiver Leave

An eligible Academic Researcher may take Military Caregiver Leave to care for a family member who is a “covered servicemember” undergoing medical treatment, recuperation or therapy for a “serious injury or illness,” consistent with the definitions of those terms in Section B.15.b. below.

a. Eligibility Criteria and Duration Specific to Military Caregiver Leave

An eligible Academic Researcher is entitled to up to twenty-six (26) workweeks of Military Caregiver Leave during a single twelve-month (12-month) leave period. The Academic Researcher must be a spouse, domestic partner, parent, son, daughter or next of kin of the covered servicemember to be eligible for this type of leave and must meet the eligibility requirements for FML set forth in Section B.3. above.

b. Definitions Specific to Military Caregiver Leave

1) Covered servicemember means:

- a) a current member of the Armed Forces (including a member of the National Guard or Reserves) who, because of a “serious injury or illness,” is undergoing medical treatment, recuperation, or therapy; is otherwise in outpatient status; or is otherwise on the temporary disability retired list or
- b) a covered veteran who is undergoing medical treatment, recuperation, or therapy for a “serious injury or illness.”

2) Covered veteran means an individual who was a member of the Armed Forces (including a member of the National Guard or Reserves) who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible Academic Researcher takes Military Caregiver Leave to care for a covered veteran.

3) Outpatient status means the status of a servicemember assigned to (a) a military medical treatment facility as an outpatient; or (b) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

4) Serious injury or illness means

- a) For a current member of the Armed Forces (including a member of the National Guard or Reserves): an injury or illness that was incurred by the covered servicemember in the line of duty on active duty in the Armed Forces or that existed before the beginning of the covered

servicemember's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the covered servicemember medically unfit to perform the duties of their office, grade, rank, or rating; or

- b) For a covered veteran: an injury or illness that was incurred by the covered veteran in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and manifested itself before or after the member became a veteran and is (1) a continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the covered veteran unable to perform the duties of their office, grade, rank, or rating; (2) a physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for Military Caregiver Leave; (3) a physical or mental condition that substantially impairs the covered veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or (4) an injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Programs for Comprehensive Assistance for Family Caregivers.
- 5) Parent of a covered servicemember means a covered servicemember's biological, adoptive, step or foster father or mother or any other individual who stood in *loco parentis* to the covered servicemember. The term does not include parents "in law."
- 6) Son or daughter of a covered servicemember means the covered servicemember's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the covered servicemember stood in *loco parentis*, and who is of any age.
- 7) Next of kin means (a) the nearest blood relative of the covered servicemember (other than the covered servicemember's spouse, domestic partner, parent, son or daughter) or (b) the blood relative who the covered servicemember has designated in writing as the covered servicemember's nearest blood relative for purposes of Military Caregiver Leave.

- 8) Single 12-month leave period means the period beginning on the first day the Academic Researcher takes Military Caregiver Leave and ends twelve (12) months after that date. (This leave period differs from the calendar year definition of the leave year used for determining eligibility for other types of FML at the University.)

c. Leave Entitlement

Military Caregiver Leave is applied on a per-covered servicemember, per-injury basis. Eligible Academic Researchers may take more than one (1) 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 twelve-month (12-month) period.”

If an eligible Academic Researcher does not use all of their twenty-six (26) workweeks of leave entitlement to care for a covered servicemember during this single twelve-month (12-month) leave period, the remaining part of the twenty-six (26) workweek entitlement to care for the covered servicemember for that serious injury or illness is forfeited.

As with other types of FML, this leave may also be taken on an intermittent or reduced schedule basis. If the need for intermittent or reduced schedule leave is foreseeable based on the planned medical treatment of the covered servicemember, the Academic Researcher may be required to transfer temporarily, during the period that the intermittent or reduced schedule is required, to an available alternative position for which the Academic Researcher is qualified and which better accommodates recurring periods of leave than does the Academic Researcher’s regular position.

16. FML as Qualifying Exigency Leave

Qualifying Exigency Leave is an additional type of FML available to eligible Academic Researchers. If the military member is the spouse, domestic partner, son, daughter or parent of the Academic Researcher, the Academic Researcher may take Qualifying Exigency Leave to attend to any “qualifying exigency” while the military member is on covered activity duty or call to covered active duty status.

a. Definitions Specific to Qualifying Exigency Leave

- 1) Son or daughter on covered active duty or call to covered active duty status means the Academic Researcher’s biological, adopted, or foster

child, stepchild, legal ward, or a child for whom the Academic Researcher stood in *loco parentis*, who is on covered active duty or call to covered active duty status, and who is of any age.

- 2) Covered active duty or call to covered active duty status means:
 - a) For purposes of members of the Regular Armed Forces: duty during the deployment of the member with the Armed Forces to a foreign country.
 - b) For purposes of a member of the Armed Forces_Reserve: duty during the deployment of the military member of the Armed Forces to a foreign country under a Federal call or order to active duty in support of a contingency operation pursuant to 10 U.S.C. sections 12301(a), 12302, 12304, 12305, or 12406; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- 3) Reserve component of the Armed Forces include the Army National Guard of the United States, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard of the United States, Air Force Reserve and Coast Guard Reserve, and retired members of the Regular Armed Forces or Reserves who are called up in support of a contingency operation pursuant to 10 U.S.C. sections 12301(a), 12302, 12304, 12305, or 12406; 10 U.S.C. chapter 15; or any other provision of law during a war or during a national emergency declared by the President or Congress so long as it is in support of a contingency operation.
- 4) Qualifying exigency is defined as any one of the following, provided that the activity relates to military member's covered active duty or call to covered active duty status:
 - a) Short notice deployment to address issues that arise due to the covered military member being notified of an impending call to active duty seven (7) or fewer calendar days prior to the date of deployment;
 - b) Military events and activities, including official ceremonies;
 - c) Childcare and school activities for a child of the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time that Qualifying Exigency Leave is to commence;

- d) Financial and legal arrangements to address the military member's absence or to act as the military member's representative for purposes of obtaining, arranging, or appealing military service benefits while the military member is on covered active duty or call to covered active duty status and for the ninety (90) days after the termination of the military member's covered active duty status;
- e) Counseling (provided by someone other than a health care provider) for the Academic Researcher, for the military member, or for the child of the military member who is either under age eighteen (18) or incapable of self-care because of a mental or physical disability at the time the Qualifying Exigency Leave is to commence;
- f) Rest and Recuperation (up to fifteen (15) days of leave for each instance) to spend time with the military member who is on short-term, temporary Rest and Recuperation leave during the period of deployment;
- g) Post-deployment activities, including (a) attendance at ceremonies sponsored by the military for a period of ninety (90) days following termination of the military member's covered active duty status and (b) addressing issues that arise from the death of the military member while on covered active duty status;
- h) Arranging for care for the parent of the military member or providing care for the parent on an urgent, immediate need basis (but not on a routine, regular, or everyday basis), where the parent is incapable of self-care and is the biological, adoptive, step, or foster father or mother of the military member, or any other individual who stood in *loco parentis* to the military member when the military member was under eighteen (18) years of age; and
- i) Additional activities related to the military member's covered active duty or call to covered active duty status when the employer and Academic Researcher agree that such activity qualifies as an exigency and agree to both the timing and duration of the leave.

C. PREGNANCY DISABILITY/CHILDBEARING LEAVE

During the period when an Academic Researcher is disabled because of pregnancy, childbirth, or related medical condition, the Academic Researcher is entitled to, and the University shall grant the request for, Pregnancy Disability Leave. Pregnancy Disability Leave may also be used for prenatal care.

For an Academic Researcher disabled by pregnancy, childbirth, or related medical condition, no eligibility requirements apply, such as minimum hours worked or length of service. If the Academic Researcher is eligible for FML under the FMLA, pursuant to Section B.3. above, such leave shall be deducted from an Academic Researcher's FML entitlement under the FMLA as well as the Academic Researcher's entitlement under the PDLL.

Pregnancy Disability Leave may be taken as a block leave or, when medically advisable, on an intermittent or reduced schedule basis. Only the amount of leave time actually taken may be counted against the Academic Researcher's Pregnancy Disability Leave entitlement.

1. Duration

- a. An Academic Researcher is entitled to Pregnancy Disability Leave for the period of actual disability up to four (4) months per pregnancy.
- b. If the Academic Researcher continues to be disabled by pregnancy, childbirth or related medical condition beyond four (4) months, a Personal Leave may be granted in accordance with Section G. or as may otherwise be required by law.
- c. Following Pregnancy Disability Leave, the Academic Researcher may be eligible for Parental Bonding Leave, pursuant to Section B.14, above, to care for the Academic Researcher's newborn child. The total FML taken for a combination of Pregnancy Disability Leave and Parental Bonding Leave shall not exceed seven (7) months in a calendar year.

2. Use of Accrued Leave

Pregnancy Disability Leave may consist of leave with or without pay; however, an Academic Researcher shall be required to use accrued sick leave in accordance with the University's Disability Plan. If sick leave is exhausted, the Academic Researcher may elect to use accrued vacation time prior to taking leave without pay.

3. Transfer and Other Reasonable Accommodations As Alternatives To Or In Addition To Pregnancy Disability Leave

- a. Transfer at the Request of the Academic Researcher. The University shall temporarily transfer a pregnant Academic Researcher to a less strenuous or hazardous position upon the request of the Academic Researcher when such transfer is medically advisable according to the Academic Researcher's health care provider, if the transfer can be reasonably accommodated. For

the purpose of this section, a temporary transfer includes a temporary modification of the Academic Researcher's own position to make it less strenuous or hazardous. A temporary transfer under this section is considered time worked and shall not be counted against an Academic Researcher's entitlement of up to four (4) months of Pregnancy Disability Leave, unless the Academic Researcher is also taking leave on an intermittent or reduced schedule basis. When the Academic Researcher's health care provider certifies that the transfer is no longer medically advisable, the University shall return the Academic Researcher to their same position or a comparable position in accordance with Section C.5. below.

- b. Transfer to Reasonably Accommodate Academic Researcher's Need for Intermittent or Reduced Schedule Leave. When the Academic Researcher's health care provider states in a medical certification that it is medically advisable for the Academic Researcher to take Pregnancy Disability Leave on an intermittent or reduced schedule basis, the University may, at its sole ~~non-~~grievable discretion, transfer the Academic Researcher temporarily to an available alternative position that meets the needs of the Academic Researcher, provided the Academic Researcher meets the qualifications of the alternative position. When the Academic Researcher's health care provider certifies that the intermittent or reduced schedule leave is no longer medically advisable, the University shall return the Academic Researcher to their same position or a comparable position in accordance with Section C.5. below.
- c. Other Reasonable Accommodations. If the Academic Researcher's health care provider certifies that reasonable accommodation(s) other than transfer and/or leave on an intermittent or reduced schedule basis are medically advisable, the University shall engage in the interactive process with the Academic Researcher to identify and implement the reasonable accommodation(s) that are appropriate under the circumstances.

4. Certification

- a. When an Academic Researcher requests a reasonable accommodation, transfer, or leave due to pregnancy, childbirth, or related medical condition, the University may, at its discretion, require that the Academic Researcher's request be supported by written medical certification issued by the Academic Researcher's health care provider.
- b. When a medical certification is requested in connection with the Academic Researcher's request for reasonable accommodation or transfer, it shall contain the following: (a) a description of the requested accommodation or transfer, (b) a statement describing the medical advisability of the requested

reasonable accommodation or transfer, and (c) the date on which the need for reasonable accommodation became or will become medically advisable and the estimated duration of the need for the reasonable accommodation or transfer.

- c. When a medical certification is requested in connection with an Academic Researcher's request for leave, it shall contain the following: (a) a statement that the Academic Researcher needs to take Pregnancy Disability Leave because the Academic Researcher is disabled by pregnancy, childbirth, or a related medical condition, and (b) the date on which the Academic Researcher became disabled because of pregnancy and the estimated duration of the leave.
- d. Failure to provide certification for reasonable accommodation, transfer, or leave within the requested time period or as soon as reasonably possible under the circumstances may result in delay of the reasonable accommodation, transfer, or leave until the required certification is provided.
- e. The University may, at its discretion, require that an Academic Researcher returning to work immediately following Pregnancy Disability Leave provide a written medical release prior to returning to work.

5. Reinstatement After Pregnancy Disability Leave

The date of reinstatement after Pregnancy Disability Leave is typically determined by agreement between the University and the Academic Researcher when the leave is granted. If the actual reinstatement date differs from the original agreement or no agreement was made, the University shall reinstate the Academic Researcher within two business days or, when two business days is not feasible, as soon as possible after the Academic Researcher notifies the University of the Academic Researcher's readiness to return.

An Academic Researcher who has taken Pregnancy Disability Leave, **or has been temporarily transferred pursuant to section C.3.b., above**, shall be reinstated to the same position, provided that the Academic Researcher returns to work immediately upon termination of the Pregnancy Disability Leave and provided that the aggregate duration of all leaves granted for a given pregnancy does not exceed four (4) months. If the same job has been abolished or affected by layoff, the Academic Researcher shall be reinstated to a comparable position if the Academic Researcher would have been entitled to the comparable position if the Academic Researcher had been continuously working rather than on leave. If a comparable position is not available on the Academic Researcher's scheduled date of reinstatement but a comparable position or positions become available within sixty (60) days thereafter, the University shall notify the

Academic Researcher of the position(s). If the Academic Researcher is reinstated within that sixty-day (60-day) period, the period between the Academic Researcher's originally scheduled date of reinstatement and the actual reinstatement date shall not be counted for purposes of any employee pay or benefits. The reinstatement rights do not apply to Academic Researchers if reinstatement is sought after the expiration of their appointment.

6. Continuation of Health Benefits

A benefits-eligible Academic Researcher on Pregnancy Disability Leave shall be entitled to continue participation in health plan coverage (medical, dental, and vision) as set forth in Section B.9. above, whether or not the Pregnancy Disability Leave also qualifies as FML under the FMLA.

D. MILITARY LEAVE

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

E. JURY DUTY

An Academic Researcher shall be eligible for a paid jury duty leave. The Academic Researcher shall provide the University with a copy of the summons to serve on jury duty prior to the date(s) on which such service is expected. The University will not provide paid jury duty leave absent advance notice and verification of service.

F. BEREAVEMENT LEAVE

1. The University will grant an Academic Researcher's request to use up to five (5) days of accrued sick leave or accrued vacation leave due to the death of a family member as defined in Section F.2. below. If accrued sick leave or accrued vacation leave is not available, the Academic Researcher may take the leave without pay. The University shall not unreasonably deny bereavement leave of more than five (5) days.
2. Family member (including step-family member) for the purpose of bereavement leave is defined as the Academic Researcher's mother, father, sister, brother, parent-in-law, spouse, domestic partner, parent of domestic partner, grandparent, grandchild, child, son/daughter-in-law, adopted or foster child (including children of a domestic partner or a legal ward who is under 18 years of age). Parent includes a biological, foster, or adoptive parent, step-parent, legal

guardian, or an individual who stood *in loco parentis* to the Academic Researcher when the Academic Researcher was a child.

G. PERSONAL LEAVE

1. Separate and distinct from the provisions in Sections B and C regarding FML and Pregnancy Disability Leave, an Academic Researcher may apply to the appropriate University administrator for personal leave without pay, which may be granted at the sole discretion of the University. Such leaves shall not exceed one (1) year. In exceptional circumstances, such leaves may be extended at the sole discretion of the University.
2. An Academic Researcher who wishes to apply for leave shall submit a timely request with sufficient information to allow the University to make a decision. The Academic Researcher's application shall identify the period during which the Academic Researcher wishes to be on leave.
3. **Personal Leave shall not be considered a break in service.**

H. OTHER LEAVES

Other leaves, including but not limited to leave for service to government agencies and leave to attend professional meetings may be granted with or without pay at the University's sole discretion or if required by applicable law.

I. GRIEVABILITY/ARBITRABILITY

In the event of a grievance under this Article culminating in arbitration, to the extent that the University's action is based upon academic judgment, the arbitrator shall have no authority or jurisdiction to substitute the arbitrator's judgment for that of the University and its agents.