

## **YOUR RIGHTS AND OBLIGATIONS UNDER THE FEDERAL FAMILY AND MEDICAL LEAVE ACT OF 1993**

It is the policy of the University of California to provide family and medical leave to eligible employees in accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and the California Family Rights Act of 1993. This notice sets forth your rights and obligations under FMLA. If you are eligible and the leave you have requested pursuant to University policy or collective bargaining agreement qualifies as family and medical leave, up to twelve (12) workweeks will be counted against your calendar year entitlement of twelve (12) workweeks.

### **Eligibility for Leave**

If you have at least twelve (12) months of service (all prior University service counts, need not be consecutive) and if you have worked at least 1,250 hours during the twelve (12) months prior to the requested leave, you are covered by the provisions of FMLA.

### **Purpose of Leave**

- To care for your child after birth or placement by adoption or foster care;
- To care for your spouse, child, or parent who has a serious health condition;
- For your own serious health condition.

### **Length of Leave**

Under FMLA, you are entitled to up to twelve (12) workweeks of family and medical leave during a 12-month period. FMLA leave on an intermittent basis or on a reduced work schedule may be requested when medically necessary for a serious health condition. When possible, you should attempt to schedule medical treatments to minimize disruption to your department.

Additional leave beyond twelve (12) workweeks may be requested pursuant to State law if you take pregnancy disability leave that runs concurrently with family and medical leave under federal law, or pursuant to other provisions of the University's leave policies and collective bargaining agreements (see the applicable personnel policy or collective bargaining agreement).

### **Pay**

Family and medical leave is normally unpaid leave; however, you may request or be required to substitute paid leave (i.e., accrued vacation, sick leave, extended sick leave, or approved paid leave in the case of academics who do not accrue leave) for all or a portion of the unpaid leave in accordance with the appropriate policies and collective bargaining agreements.

If you have requested family and medical leave for your own serious health condition, you may be eligible, during the unpaid portion of your leave, for temporary disability payments under the University-Paid and/or the Employee-Paid Disability Plan or temporary disability payments under the Worker's Compensation Act.

### **Advance Notice**

30 days advance notice is required if your need for family and medical leave is foreseeable (e.g., the birth of a child or a planned medical treatment). If you fail to provide 30 days notice for a foreseeable leave, your department may delay leave until 30 days after the date you provide the notice.

If your need for leave is not foreseeable, you should provide notice within a reasonable time after learning of the need for leave. Written notice is recommended.

### **Medical Certification**

Written certification from a health care provider may be required (see the applicable personnel policy or collective bargaining agreement) for either your own serious health condition or the serious health condition of your family member. All such leaves of 30 calendar days or more will require medical certification. Failure to provide required certification within fifteen (15) calendar days of the date you receive this notice may result in delay or denial of leave until the certification is provided. Recertification of your own serious health condition or the serious health condition of your family member may be required periodically. If required, a medical certification form will be provided by your service center/supervisor.

If the leave you have requested is for your own serious health condition, you may be asked to authorize your health care provider to provide the treatment regimen. Should there be any question regarding the validity of the medical certification, your department, at its own expense, may require you to obtain the opinion of a second health care provider, and if the second opinion differs from the original certification, the opinion of a third health care provider. The opinion of the third health care provider shall be final and binding.

Under federal regulations, a “health care provider” is defined as: a doctor of medicine or osteopathy, podiatrist, dentist, chiropractor, clinical psychologist, optometrist, nurse practitioner, nurse-midwife, or a clinical social worker who is authorized to practice by the State and performing within the scope of their practice as defined by State law, or a Christian Science practitioner. A health care provider also is any provider from whom the University or the employee’s group health plan will accept medical certification to substantiate a claim for benefits.

### **Health Benefits**

Coverage under any group health plan (medical, dental, optical) will be maintained during any leave covered by FMLA — up to twelve (12) workweeks will be counted against your calendar year entitlement to the extent coverage would be maintained if you had been actively at work during the leave period. You are responsible for arranging with the Payroll Office for the payment of the employee portion of any premiums that are not fully covered by a University contribution through completion of an Insurance Continuation Election Form for Employees on Leave Without Pay form. Failure to pay the employee portion of the premiums within 30 days of the due date will result in cancellation of your enrollment in that plan.

If you do not return to work at the conclusion of your approved family and medical leave, you will be liable for payment of the health plan premiums (medical, dental, optical) paid by the University during any unpaid portion of your leave. The University may recover its share of health plan premiums by taking deductions, to the extent permitted by law, from your unpaid wages, if any, vacation pay, or other pay due you, or by initiating legal action. However, you will not be liable for the premiums if your failure to return to work is due to continuation of your own serious health condition or other reasons beyond your control. You will be considered to have returned to work if you work at least 30 calendar days commencing with your scheduled return date.

### **Reinstatement**

Under federal law (FMLA), you must be reinstated to the same position you had prior to taking the leave, or to an equivalent position provided that you return to work immediately following the conclusion of family and medical leave. If your position is unavailable (due to, for example, a temporary or indefinite layoff), you have no greater right to reinstatement than had you been continually employed during the FMLA leave period. You are not entitled to reinstatement if your appointment end date occurs before your scheduled return date from family and medical leave.

The University may require periodic notice of your intent to return to work following family and medical leave. The University’s responsibility to continue your health plan coverage ends (except for COBRA continuation coverage) upon notice that you do not intend to return to work at the end of the approved leave, even though you are able to work at that time.

If the FMLA leave you have requested is for your own serious health condition, you will be required to present medical certification upon your return stating that you are able to return to work to perform the functions of your job, if the length of your leave is 30 calendar days or more, or if your leave was due to a work related injury or illness.

### **University Designated FMLA Leave**

The University shall designate leave as FMLA leave if the leave meets the requirements listed above, even when an employee does not specifically request FMLA or family and medical leave.

### **University Personnel Policies and Collective Bargaining Agreements**

For more information about family and medical leave and related leaves, please contact your service center representative. Questions regarding employee benefits should be directed to the Benefits Office.

## UCSC FAMILY AND MEDICAL LEAVE (FML) SERVICE CENTER CHECKLIST

This checklist should be used when an employee's leave of absence is for medical or family reasons

Employee's Name	Payroll Title	Personnel Program: _____	Employee Unit Code: _____	
Employee Information/Forms	Date Provided to Employee	Provided By	Method	Date Returned
<b>Rights and Obligations under FML</b> Provide for all leaves for family or medical reasons.			In person    Mail	N/A
<b>Leave of Absence Request Form</b> Provide for all leaves in excess of one workweek.			In person    Mail	
<b>Medical Certification</b> Required for all leaves of 30 calendar days or more due to employee's illness or, for eligible family leave, a family member's illness. Employee's Job Description should be attached.			In person    Mail	
<b>Approved/Denied Leave of Absence Request Form</b>			In person    Mail	N/A
If leave is approved, the Leave of Absence Request Form should be accompanied by:				
<b>Return to Work Certification</b> Required for all leaves of 30 calendar days or more due to an employee's own illness. Employee's Job Description should be attached.			In person    Mail	
<b>Reduced Work/Intermittent Leave Schedule</b> Required for exempt employees approved for Family and Medical Leave.			In person    Mail	
<b>FML Benefits Checklist</b> Provide for all approved Family and Medical leaves.			In person    Mail	
<b>Benefits Continuation Form</b> Provided if any portion of the leave will be unpaid.			In person    Mail	N/A
ELIGIBILITY REQUIREMENTS: COMPLETED BY: _____				
Requested Start Date: Employee has:    ? at least 12 months cumulative service ? worked at least 1250 hours in 12 months prior to start date of leave	Reason for Leave: own serious health condition (except pregnancy disability) pregnancy disability to care for a child, spouse or parent with a serious health condition to care for a newly adopted child, or a child recently placed into employee's foster care to care for a newborn			
Is employee eligible for FML?    ? Yes    ? No				
FML is normally limited to 12 weeks in a 12-month period (special rules apply to combined leaves for birth and care of newborn). Calendar Year of Request _____ Has this employee used FML leave within the calendar year? <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, list beginning and end dates: _____ to _____				
Remaining entitlement for federal FML: _____ weeks. Remaining entitlement for State FML, if different: _____ weeks.				

**SEE REVERSE SIDE FOR FML RECORDKEEPING CHECKLIST**

This form is available on the web at [http://www2.ucsc.edu/staff\\_hr/compensation/forms/](http://www2.ucsc.edu/staff_hr/compensation/forms/)

RTN: 3 years

### FML RECORDKEEPING

Whether leave is approved or denied, all applicable documents (see checklist below) pertaining to FML leave covered by the provisions of Federal law are to be retained for at least 3 years. All medical records should be maintained in a confidential manner. Completed medical certification forms (\*) and any other medical documentation should be kept in a file separate from any other personnel file.

FML Service Center Checklist	Leave of Absence Request Form	Medical Certification*
FML Benefits Checklist	Rights and Obligations under FMLA	Return to Work Certification*
All Leave correspondence	Reduced Work/Intermittent Leave Schedule	Record of Disputes
Leave Use and Accrual records		

Note: Copies of the FML Benefits Checklist and Rights and Obligations under FMLA do not have to be kept for each individual employee on FML leave; however, service centers should have one of each available in the event of a Department of Labor audit

**\*\*SAMPLE FORM\*\***

**DECLARATION OF RELATIONSHIP FOR FAMILY  
AND IN LOCO PARENTIS MEDICAL LEAVE PURPOSES**

I am requesting family and medical leave for the following purpose (**select one**):

- a) To take care of (name of person here) who stood in loco parentis to me when I was a child and who has a serious health condition, or
- b) To take care of (name of child here<sup>1</sup> and date of birth or anticipated date of birth or date child was placed in foster care or adoption<sup>2</sup>), or
- c) To take care of (name of child) who has a serious health condition.

(If the FMLA purpose is b or c, add the following):

I am requesting this leave because I stand in loco parentis to (name or description of child here) in that I (will) have day-to-day responsibility to care for and financially support (him/her/the child)<sup>3</sup>.

I certify that the foregoing is true<sup>4</sup>.

Name: \_\_\_\_\_

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

<sup>1</sup> If the child is not yet named then some kind of description here such as "child of my domestic partner X whose birth date is anticipated to be X."

<sup>2</sup> Recall that leave to take care of a newborn child or a child newly placed for adoption or foster care must be concluded within one year of the child's birth or placement in adoption or foster care.

<sup>3</sup> Please note that the employee applying for FMLA based on in loco parentis status to a child need not have sole responsibility to care and support the child. It may be a shared responsibility.

<sup>4</sup> Regulations permit the employer to ask for reasonable documentation to confirm a family relationship; should you want FMLA to take care of the newly born or newly placed child of a domestic partner or significant other based on your in loco parentis status as to that child, you may be asked to provide the child's birth certificate, adoption papers, etc.

**Examples of Requests for FMLA  
Based on “In Loco Parentis” Relationship**

Situation A

I am requesting Family and Medical Leave to take care of Walt Whitman who has a serious health condition and who stood in loco parentis to me when I was a child.

Situation B

I am requesting Family and Medical Leave to take care of Emily Dickenson, the daughter of my domestic partner, who was born on December 31, 2000. I am requesting this leave because I stand in loco parentis to Emily in that I have day-to-day responsibility to care for and financially support her.

OR

I am requesting Family and Medical Leave to take care of the child of my domestic partner, Edna St. Vincent. The child is anticipated to be born on May 31, 2001. I am requesting this leave because I will stand in loco parentis to Edna’s child in that I will have day-to-day responsibility to care for and financially support the child.

Situation C

I am requesting Family and Medical Leave to take care of my grandson, Robert Louis, who has a serious health condition. I am requesting this leave because I stand in loco parentis to Robert in that I have day-to-day responsibility to care for and financially support him.