

## ARTICLE 28

### FAMILY AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE

28.1 The family and medical leave provisions in this Article incorporate both the federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA) and will be denoted by FML.

#### Eligibility

28.2 An employee who has at least twelve (12) months of service, and has actually worked one thousand two-hundred and fifty hours in the twelve (12) months preceding the leave, is entitled to a family and medical leave without pay.

#### FML Entitlement

28.3 Eligible employees shall be granted up to a total twelve (12) weeks of family and medical leave (FML) in a 12-month period for the birth of a child of the employee; the placement of a child with an employee in connection with the adoption or foster care of the child by the employee; to care for a child, parent, spouse or domestic partner of the employee who has a serious health condition; or for the employee's own serious health condition. FML is unpaid leave; however, employees shall utilize appropriate leave credits prior to being placed on any unpaid portion of FML.

28.4 The leave of absence of a temporary employee eligible for such leave pursuant to this Article shall terminate upon the expiration of that employee's temporary appointment.

28.5 When FML is granted for an employee's own serious health condition, an employee shall use and exhaust all accrued sick leave, vacation, compensating time off (CTO) and Personal Holiday beginning at the same time and running concurrently with FML, before going on any unpaid portion of FML. However, if the leave is due to the employee's own serious health condition and also qualifies as an Industrial Disability Leave (IDL), Temporary Disability, or Non-Industrial Disability Leave (NDI), the appropriate guidelines shall apply.

- 28.6 FML taken by an employee to care for an eligible family member shall be considered to be leave without pay except that an employee must use and exhaust all accrued vacation, Personal Holiday and compensating time off (CTO) that he/she is eligible to take beginning at the same time and running concurrently with FML, before going on any unpaid portion of FML.
- 28.7 An employee may use accrued sick leave during the period of FML, when the FML period is used to care for an eligible family member only upon mutual agreement between the employee and the appropriate administrator. Such requests for sick leave shall be made in accordance with Article 22 of this Agreement.
- 28.8 For FML taken for reason of the birth of a child or adoption/foster care of a child by an employee, this 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/foster care.
- The period of FML granted to an employee for the birth of a child shall run concurrently with the period of leave available to an employee under Education Code Section 89519.
- 28.9 FML is separate and distinct from the right of a female employee to take a pregnancy disability leave under Government Code Section 12945, subdivision (b)(2). If a female employee takes part or all of the maximum four (4) months of pregnancy disability leave, she may also request up to twelve (12) weeks of FML for reason of the birth of the child, or to care for the new child, or due to her own or child's serious medical condition. FML and pregnancy disability leave shall run concurrently with the period of leave available under the provisions of Education Code Section 89519. FML shall not run concurrently with pregnancy disability leave under Government Code Section 12945.
- 28.10 The amount of family care and medical leave that may otherwise be granted under Article 23 may be reduced by the amount of FML granted to an employee for reasons set forth in this Article.

## **Request and Approval**

- 28.11 When the appropriate administrator becomes aware that an employee has taken or intends to take time off for an FML qualifying reason pursuant to provision 28.3, the employee may be asked to provide acceptable documentation from a medical professional asserting that there is an FML qualifying reason. FML qualifying leaves may be designated as FML.
- 28.12 An employee shall provide the President with written notice of the need for FML as soon as the event necessitating the leave becomes known to the employee. In general, as much advance notice as is reasonably possible shall be provided and normally shall not be less than five (5) working days of the event giving rise to the need for leave.
- 28.13 If the employee's need for family and medical leave is foreseeable due to the employee's planned medical treatment or planned supervision of a child, parent, spouse, or domestic partner with a serious health condition, the employee shall provide the President with not less than fourteen (14) days notice of the need for the leave. The employee shall consult with the appropriate administrator regarding the scheduling of the treatment or supervision so as to minimize disruption of the operations of the campus.
- 28.14 Before granting FML for the serious health condition of a child, parent, spouse, or domestic partner, the President may require acceptable certification of the serious health condition from the health care provider.
- 28.15 Upon expiration of the period which the health care provider originally estimated that the employee needed to care for the child, parent, spouse, or domestic partner, the President may require the employee to obtain acceptable recertification if additional leave is requested.

## **Return to Work**

- 28.16 Approved FML assures the employee a right to return to his/her former position or an equivalent position upon expiration of the family and medical leave. If the former position and any equivalent position has ceased to exist due to legitimate business reasons unrelated to the leave, the campus shall make reasonable accommodation by alternative means that will not cause undue hardship to the campus. Such alternative means shall include, but not be limited to, offering the employee any other position which is available and

for which the employee is qualified. FML shall not constitute a break in service for the purposes of length of service and/or seniority under this Agreement. An employee on FML shall retain employee status and shall continue to accrue seniority points pursuant to Article 25 of this Agreement during the period of the FML.

- 28.17 All benefits an employee has continue during any paid leave. During any unpaid remainder of the 12 weeks of the FML entitlement, the CSU pays its normal share of any medical, dental, and/or vision coverage. An account receivable will be set up for the employee's share of the premium, if any. If the employee wishes to discontinue medical coverage during the unpaid leave, the CSU will also suspend its medical premium payments but dental and vision will be continued. Suspended medical coverage will be reinstated upon return to active status.