

**PURPOSE**

These guidelines are designed to provide an overview for employees requesting leave of absence (with or without pay). Management and staff apply in accordance with guidelines established by Human Resources (HR). However, it is the responsibility of individual departments to define how an employee should communicate to their immediate supervisor regarding a request for leave.

Please refer to the appropriate information sheet(s) regarding specific leave program information and instructions. Information sheets are available on the Human Resources website at <http://www.sjsu.edu/hr/>. Employees are encouraged to consult with a benefits services representative to discuss their specific situation and the affect a leave may have on health benefit coverage. To make an appointment with your benefits services representative, call 408-924-2250.

Faculty members apply for leaves of absence, excluding leaves covered under the CSU Family Medical Leave program using forms and procedures established by the Office of Faculty Affairs. Call 408-924-2450 for specific information.

**ELIGIBILITY**

Generally, full-time or part-time permanent or probationary employees are eligible to request a leave. Eligibility is subject to appropriate collective bargaining agreements (CBAs), specific policies, applicable legal agreements, and current state and federal legislation. For represented employees, the respective CBA may supersede some provisions of these guidelines.

An approved leave of absence assures the employee a right to his/her former position, or a position within his/her classification, upon expiration of the leave. Refer to the appropriate CBA regarding the impact of the leave on probationary status, salary adjustments, State service credit and seniority points. An employee may be separated as absent without leave (AWOL) following the end of an authorized leave if the employee fails to return to active employment.

**DESCRIPTION / LEAVE PROGRAMS****I. Leave of Absence Without Pay (LWOP)**

An employee will be required to use any leave credits that are appropriate prior to the effective date of the LWOP. The Leave request form can be obtained from the HR website at [http://www.sjsu.edu/hr/all\\_forms/](http://www.sjsu.edu/hr/all_forms/). In accordance with CBAs, a full or partial leave of absence without pay for up to one (1) year may be approved for the following purposes/reasons:

- Loan of an employee to another governmental agency
- Family leave
- Outside employment that would lessen the impact of a potential layoff or a layoff
- Temporary incapacity due to illness or injury or periods of disability related to pregnancy (see Pregnancy Disability Leave Information Sheet)
- Student teaching, as required, for employees enrolled in credential programs
- Family care or medical leave (see Family Medical Leave Information Sheet)
- Other satisfactory reasons

### **A. Informal LWOP (15 work days or less)**

A LWOP for less than 15 working days is considered an informal leave and may be granted by the appropriate department administrator with appropriate notification. Submission of a written application to HR is not necessary.

### **B. Formal LWOP (more than 15 working days)**

A Leave Request form must be submitted to the employee's supervisor at least 30 days in advance of the leave. If 30 days notice is not practicable, notice shall be given as soon as the event necessitating the leave becomes known to the employee. Situations with extenuating circumstances will be handled on a case-by-case basis. Failure to provide timely notice may delay or result in the denial of the leave. The AVP of HR shall determine if the formal LWOP shall be granted or extended.

### **C. Benefits**

An employee on LWOP for more than one full pay period may elect to continue medical, dental, and vision benefits at his/her own expense by completing the Direct Pay Authorization forms and submitting payment directly to the plan carriers.

## **II. Family Medical Leave (FML)**

San José State University provides FML to eligible employees in accordance with the Federal Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). An employee may be eligible for FML for any of the following reasons:

- To care for a child after birth or placement with the employee for adoption or foster care
- To care for the employee's spouse, domestic partner, child or parent who has a serious health condition
- Your own serious health condition
- To care for a covered service member with a serious illness or injury that may have been incurred in the line of duty on active duty in the Armed Forces, or may have existed prior to the beginning of the service member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces.
- To use for "any qualifying exigency" involving a covered family member who is also a member of the military and is either on active duty or called to active duty and deployed to a foreign country.

### **A. Unpaid FML**

Employees shall exhaust their accumulated sick leave, personal holiday, accumulated vacation, and CTO prior to beginning unpaid leave. Use of leave credits is charged against the FML entitlement.

### **B. Paid FML**

Any paid portion of the leave is tracked against the 12-week FML entitlement. Sick leave to care for a family member may be used if mutually agreed upon by the employee and the appropriate administrator. Refer to the appropriate CBA as use of sick leave to care for family members may differ.

### **Benefits**

Employees on approved FML, if eligible, will automatically receive university contributions for medical, dental and vision coverage for the first 12 weeks of their paid FML.

## **III. Pregnancy Disability Leave (PDL)**

San José State University provides PDL to eligible employees in accordance with the California Fair Employment and Housing Act (FEHA). Family leave is separate and distinct from the right of a female employee to take a PDL under Government Code Section 12945, subdivision (b) (2). The maximum possible combined leave for both family and medical leave (FMLA/CFRA) and PDL for the reason of the birth of a child is 4 months and 12 weeks.

An employee who is disabled by pregnancy, childbirth or related medical conditions may be eligible for PDL. This includes:

- Periods of actual disability
- Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth

#### **A. Paid and Unpaid PDL**

PDL is unpaid, except to the extent an employee has available sick leave, vacation time or personal holiday time. Employees on a designated PDL must exhaust any accrued but unused sick leave during the period of the leave and may elect to use any accrued but unused vacation and/or personal holiday time during the period of the leave.

Any portion of a leave that occurs after all paid time off has been exhausted is without pay. Any unpaid or paid portions of a leave shall be added together and will not extend the four month total leave period limitation allowed under PDL.

#### **B. Benefits**

All health benefits will automatically continue during any paid leave. During any unpaid portion of the PDL, the CSU pays its normal share of any medical, dental and vision premiums pursuant to law. An accounts receivable will be set up for the employee's share of the premium(s), if any.

#### **IV. Military Leave**

Military leave is granted to eligible employees in accordance with the following state and federal laws:

- **Federal:**  
Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) (Title 38, United States Code)
- **State of California:**  
Military and Veterans Code, Section 395, et seq, Education Code Section 89513;  
Title 5 (Division 5, Chapter 1, Subchapter 7, Article 5.9 Military Leave, Section 43095)

#### **Emergency Leave**

A National Guard member ordered to active duty during a proclaimed state or national emergency is entitled to Military Leave for the duration of the emergency including going to and returning from such duty.

#### **Temporary Leave**

A reservist or National Guard member or member of the Naval Militia ordered to temporary active military training, inactive duty training, encampment, naval cruises, special exercised or like activity, is entitled to Military Leave for the duration of ordered duty up to 180 calendar days, including time involved in going to and returning from that duty.

#### **Indefinite Leave**

Indefinite Military Leave may be granted whenever the United States is engaged in war or whenever the Governor finds and proclaims that an emergency exists in preparing for the national defense. Leave is granted to any who enter the armed forces of the US for the duration of the war or until the emergency no longer exists, in addition to 90 days thereafter.

#### **Paid Military Leave**

If an employee is required to report for active military duty in any branch of the United States armed forces, the employee is entitled to receive up to 30 days of paid military leave for emergency, temporary and/or indefinite assignments in a fiscal year upon meeting eligibility criteria, if required.

The 30 day paid leave entitlement for temporary military leave is considered separate from the paid entitlement for an emergency or indefinite military leave.