

## ARTICLE 16

### LEAVES OF ABSENCE WITHOUT PAY

#### Unauthorized Leaves of Absence

##### 16.1 Automatic Resignation

- a. The President shall have the right to terminate an employee who is absent for five (5) consecutive workdays without securing authorized leave from the President. Such a termination shall be considered to be an automatic resignation from CSU employment as of the last day worked. All unauthorized absences, whether voluntary or involuntary, shall apply to the five (5) consecutive workday limitation. The five (5) day period referred to above shall commence at the beginning of the first shift of such absence and shall be deemed to have been completed at the end of the employee's scheduled work hours on the fifth consecutive date of unauthorized absence.
- b. The President shall notify the employee that the University will be terminating them by automatic resignation under this Article. This notification requirement shall be satisfied either by service in person or by certified mail to the employee's last known address and shall include:
  - i. the dates the employee was absent without leave;
  - ii. the intended effective date of the employee's resignation; and
  - iii. the employee's appeal rights under this Article.
- c. If the employee responds to the President by certified mail, return receipt requested, within twenty-one (21) calendar days of notification as defined above, the employee will be provided with the opportunity for a pre-termination review in accordance with the current campus practice for State Personnel Board hearing appeals. The President may agree to extend the employee's time to respond. This pre-termination review will be conducted by a campus administrative officer designated by the President. No termination shall be final until a decision is made by the administrative officer. This decision shall be transmitted by certified mail to the employee's last known address and shall state:
  - i. whether the employee was absent for five (5) consecutive work days;
  - ii. whether the employee had proper authorized leave to be absent; and
  - iii. whether the employee should be or is being terminated by automatic

resignation. If an action other than automatic resignation is proposed, it shall be stated along with the reasons for its use.

- d. Any employee who is terminated by the President under this provision may, within twenty-one (21) days after mailing of the President's decision, request a hearing of the matter by the State Personnel Board as provided in Section 89539 of the Education Code. A request for a hearing by the State Personnel Board must be filed with the State Personnel Board with a copy to the President within the twenty-one (21) day time requirement noted above.
- e. Any employee who is reinstated under this provision shall not be paid salary for the period of unauthorized absence.
- f. Provision 16.1 of this Article shall supersede Section 89541 of the California Education Code.

### **Other Leaves of Absence Without Pay**

- 16.2 A permanent employee is entitled to a maternity leave without pay of up to twelve (12) months upon her written request. At least thirty (30) days prior to the ending date of the leave, the employee shall inform the appropriate administrator in writing of her intention to return from leave. Changes in the terms of the leave may be made by mutual agreement of the appropriate administrator and the employee.
- 16.3 A full-time or part-time permanent employee may be granted a full or partial leave of absence without pay for up to one (1) year.
- 16.4 Leaves of absence without pay may be granted in accordance with this Article for the following purposes or reasons:
  - a. loan of an employee to another governmental agency;
  - b. outside employment that would lessen the impact of a potential layoff or a layoff;
  - c. temporary incapacity due to illness or injury;
  - d. Family Leave; and
  - e. other satisfactory reasons.

Leaves without pay granted for "c" above shall also be subject to Article 15, Leaves of Absence with Pay. Periods of disability related to pregnancy are subject to the provisions of Article 15, Leaves of Absence With Pay.

- 16.5 A written application for a leave of absence without pay or an extension of a leave of

absence without pay shall be submitted to the appropriate administrator. The appropriate administrator shall determine if such a leave shall be granted and the conditions of such a leave.

- 16.6 An employee who is on a leave of absence without pay shall not return to active pay status prior to the expiration of such a leave without written approval of the appropriate administrator.
- 16.7 Service credit shall not be granted to an employee on a leave of absence without pay.
- 16.8 A leave so granted assures to the employee a right to return to the employee's former position or a position within the employee's classification upon expiration of the leave and the time lost shall not constitute a break in service.
- 16.9 When requested by the appropriate administrator, an employee granted a leave of absence without pay shall provide verification that the conditions of the leave were met.
- 16.10 An employee on a leave of absence without pay for more than fifteen (15) days may opt to continue their fringe benefits at their own expense. Upon written request of an eligible employee as defined in Article 25, Benefits, the CSU shall provide a system for the continued payment of the employee's insurance premiums including health, dental, and vision benefits during the period of unpaid leave of absence. During this period, such an employee shall pay both the employee's and the CSU's contributions. The CSU shall not advance such payments. Such an employee shall pay all contributions prior to the date each payment is due. Failure to pay such premiums will result in coverage lapsing unless the employee makes other arrangements.

### **Family Leave**

- 16.11 An employee who has at least one (1) year of service, and has actually worked one thousand two-hundred and fifty (1,250) hours in the twelve (12) months preceding the leave, is entitled to a family leave without pay.
- 16.12 Eligible employees may take up to a total of twelve (12) weeks of family leave in a twelve (12) month period.
- 16.13 An employee may be granted family leave for the birth of a child of the employee, the placement of a child with an employee in connection with the adoption/foster care of the child by the employee; or to care for a child, parent or spouse of the employee who has a serious health condition; or for the employee's own serious health condition.
- 16.14 For family leave taken for reason of the birth of a child or adoption/foster care of a child by an employee, any leave taken shall be initiated within one (1) year of the birth of a child or placement of child with the employee in the case of adoption/foster care.

The period of the family leave 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 or provision 16.2.

- 16.15 The amount of family leave that may otherwise be granted under this Article may be reduced by the amount of family leave granted to an employee for reasons set forth under provisions 16.11 through 16.19.
- 16.16 Before granting a family leave for the serious health condition of a child, parent or spouse, the employer may require certification of the serious health condition from the health care provider.
- 16.17 Upon expiration of the period, which the health care provider originally estimated the employee needed to care for the child, parent or spouse, the employer may require the employee to obtain re-certification if additional leave is requested.
- 16.18 Family leave shall be leave without pay except that an employee must utilize all accrued vacation and CTO that they are otherwise eligible to take during the otherwise unpaid period of the family leave.
- 16.19 An employee may use accrued sick leave during the period of family leave upon mutual agreement between the employee and appropriate administrator. Such requests for sick leave shall be made in accordance with Article 15 of this Agreement.
- 16.20 Family leave 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 request up to twelve (12) weeks additional family leave for reason of the birth of her child, or due to her own serious medical condition. Any combination of family leave and pregnancy disability leave shall run concurrently with the period of maternity leave available to a permanent employee pursuant to provision 16.2 of this Article.
- 16.21 An employee shall provide the employer with written notice of a need for family leave within five (5) working days of the date the event necessitating the leave becomes known to the employee.
- 16.22 If the employee's need for 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 employee shall provide the employer regarding the scheduling of the treatment or supervision so as to minimize disruption of the operations of the employer.
- 16.23 Family leave may be deferred until the employee complies with the provisions of this Article.

- 16.24 A family leave so granted assures to the employee a right to return to their 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 employer shall make reasonable accommodation by alternative means only if such alternate means would not cause an undue burden on the campus. The family leave shall not constitute a break in service for the purposes of length of service and/or seniority under this Agreement.
- 16.25 An employee on family leave shall retain employee status and shall continue to accrue seniority points pursuant to this Agreement during the period of the family leave care. During a family leave an employee 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 pursuant to this Agreement. However, if any paid portion of the family leave is less than twelve (12) weeks, upon request of the employee 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 an employee fails to return at the end of the family leave, the CSU may require repayment of the insurance premiums if the employee's failure to return is due to the employee's serious health condition or due to circumstances beyond the employee's control.
- 16.26 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.