

ARTICLE 21

FAMILY AND MEDICAL LEAVE AND PREGNANCY DISABILITY LEAVE

21.1 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

21.2 An ELP Instructor who has at least twelve (12) months of service is entitled to a family and medical leave without pay. The months do not have to be consecutive.

21.3 An eligible ELP Instructor who is the spouse, registered domestic partner, son, daughter, parent or “next of kin” of an injured, covered service member is eligible for Service Member Care Leave, pursuant to the Fiscal Year 2010 National Defense Authorization Act and related laws.

21.4 An eligible ELP Instructor with family members in the regular Armed Forces or National Guard or Reserves is entitled to Military Exigency Leave, pursuant to the Fiscal Year 2010 National Defense Authorization Act and related laws.

FML Entitlement

21.5 Eligible ELP Instructors shall be granted up to a total twelve (12) weeks of family and medical leave (FML) in a twelve (12) month period for the birth of a child of the ELP Instructor; the placement of a child with an ELP Instructor in connection with the adoption or foster care of the child by the ELP Instructor; to care for a child, parent, spouse or registered domestic partner of the ELP Instructor who has a serious health condition; or for the ELP Instructor’s own serious health condition. FML is unpaid leave; however, employees shall utilize their personal time off, if available, prior to being placed on any unpaid portion of FML.

21.6 If the leave is due to the ELP Instructor’s own serious health condition or is work-related and also qualifies as Temporary Disability leave, the FML will track with workers’ compensation and workers’ compensation regulations will apply.

21.7 If an ELP Instructor asks to use paid time off without reference to a FML-qualifying purpose, the CSU may not ask the ELP instructor if the leave is for a FML-qualifying purpose.

21.8 If the employer denies the instructor's request to use paid time off and the ELP instructor then provides information that the requested time off is or may be for a FML- qualifying purpose, the employer may inquire further into the reasons for the absence.

If the absence is FML-qualifying, ELP instructors shall utilize appropriate leave credits in accordance with this Article.

- 21.9 FML taken for reason of the birth of a child or adoption/foster care of a child by an ELP Instructor, shall be initiated within one (1) year of the birth of a child or placement of a child with the ELP Instructor in the case of adoption/foster care.
- 21.10 FML is separate and distinct from the right of a female ELP Instructor to take a pregnancy disability leave under Government Code Section 12945. If a female ELP Instructor 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 shall not run concurrently with pregnancy disability leave under Government Code Section 12945.
- 21.11 The amount of family care and medical leave that may otherwise be granted under Article 14 may be reduced by the amount of FML granted to an ELP Instructor for reasons set forth in this Article.

Military Leave

- 21.12 Military Exigency Leave is FML for the purpose of addressing issues which may arise from a covered military member's deployments or call to active duty to a foreign country. Length of time off from work varies under Military Exigency Leave based on type of leave taken and shall be deducted from the twelve (12) week entitlement.

Request and Approval

- 21.13 When the appropriate administrator becomes aware that an ELP Instructor has taken or intends to take time off for an FML qualifying reason pursuant to provision 21.3, the ELP Instructor may be asked to provide documentation from a medical professional asserting that there is an FML qualifying reason. FML qualifying leaves may be designated as FML.
- 21.14 An ELP Instructor shall provide the appropriate administrator with written notice of the need for FML as soon as the event necessitating the leave becomes known to the ELP Instructor. 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.
- 21.15 If the ELP Instructor's need for family and medical leave is foreseeable due to the ELP Instructor's planned medical treatment or planned supervision of a child, parent, spouse,

or domestic partner with a serious health condition, the ELP Instructor shall provide the appropriate administrator with not less than fourteen (14) days notice of the need for the leave. The ELP Instructor 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.

- 21.16 Before granting FML for the serious health condition of a child, parent, spouse, or domestic partner, the appropriate administrator may require certification of the serious health condition from the health care provider.
- 21.17 Upon expiration of the period that the health care provider originally estimated that the ELP Instructor needed to care for the child, parent, spouse, or domestic partner, the President may require the ELP Instructor to obtain recertification if additional leave is requested.

Return to Work

- 21.18 Approved FML assures the ELP Instructor a right to return to his/her former position or an equivalent position upon expiration of the family and medical leave, provided the ELP Instructor's appointment has not ended. FML shall not continue beyond the expiration of the ELP Instructor's appointment.
- 21.19 The leave of absence shall terminate upon the expiration of the ELP Instructor's appointment, but an additional term of leave may be granted pursuant to Article 14.
- 21.20 An ELP Instructor on FML shall retain status as an ELP Instructor for the period of the FML until the expiration of the ELP Instructor's appointment. ELP Instructors do not accrue fringe benefits.
- 21.21 The granting of an FML shall not impact the ELP Instructor's eligibility for future appointment.