

**CALIFORNIA INSTITUTE OF TECHNOLOGY**  
**STAFF PERSONNEL MEMORANDA**

Subject: <b>Employee Medical and Family Care Leaves</b>	Memo No. 26 Pages: 7 Date: March 1, 2020
<b>Approved by:</b> Julia McCallin, Associate Vice President and Chief Human Resources Officer	

(This supersedes Memo No. 26, dated March 6, 2014)

**1.0 Policy**

The Institute provides the following leaves, and any other leaves as required by state and federal law, to eligible employees who are not able to work due to their own disability, disability of a family member, pregnancy, qualifying military exigency, military caregiver, or to bond with a newborn or newly adopted/placed child:

- Family and Medical Leave Act/California Family Rights Act (FMLA/CFRA) Leave
- Qualifying Military Exigency Leave and Military Caregiver Leave
- Disability Leave
- Pregnancy Leave

In addition to reporting absences to management, employees who may qualify for a leave of absence under this policy must notify Human Resources in advance of the need, or as soon as possible if advance notice is not possible.

**2.0 Definitions**

**2.1 Child** means biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis, regardless of age.

**2.2 Covered Service Member** is (1) a current member of the U.S. Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who was discharged or released under conditions other than dishonorable, at any time during the five-year period prior to the first date the eligible employee takes FMLA Leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

**2.3 Parent** means an employee's biological, foster or adoptive parent, stepparent, legal guardian or one who stands in loco parentis to a child.

**2.4 Serious health condition** is defined as an illness, injury (including work-related injuries), impairment, or physical or mental condition:

**2.4.1** that involves a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider;

**2.4.2** any period of incapacity or treatment connected with inpatient care (e.g. an overnight stay) in a hospital, hospice, or residential medical care facility;

- 2.4.3 for any period of incapacity related to pregnancy or for prenatal care;
- 2.4.4 any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.);
- 2.4.5 any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

**2.5 Serious Injury or Illness for Current Military Service Member or Veteran** is defined as a serious injury or illness that was incurred by the member in line of duty on active duty but also a serious injury or illness that “existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces” that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating. For a veteran, a serious injury or illness is defined as “a qualifying injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.”

**2.6 Next of kin** is defined as nearest blood relative other than the service member’s spouse, parent, son or daughter or designee, as defined by the military service.

**2.7 Spouse** is defined as a person to whom the employee is legally married.

**2.8 Registered Domestic Partner** is defined as two people who have registered with the California Secretary of State or other applicable state agency.

**2.9 Family Member** is defined as spouse, registered domestic partner, parent, or a child of any age with a serious health condition

### **3.0 General**

**3.1** A leave of absence from the Institute under this policy includes time away from performing work taken either on a reduced work schedule (partial leave), intermittently, or for any period of five (5) consecutive work days.

**3.2** When on approved partial/intermittent medical leave, the employee must make a reasonable effort to schedule treatment so that it does not unduly disrupt their department or work assignments.

**3.3** For leaves under this Personnel Memorandum, employees may be required to use all available sick leave, vacation and personal holiday (see Pay Basis, section 6.0, below for more information). Any portion of leave not covered by sick leave and/or vacation will be unpaid. Employees do not accrue sick leave or vacation while on unpaid leave.

**3.4** Supervisors should not require or ask an employee to work during the employee’s leave of absence. Likewise, employees generally are not permitted to perform work for other employers during the employee’s leave of absence. Supervisors who need to consult with an

employee on leave should make such requests through Human Resources, e.g. regarding passing on institutional knowledge or providing closure on completed assignments.

- 3.5 Employees are not permitted to perform work for other employers during the employee's leave of absence unless approved by the Institute. Employees who perform outside work of any kind while on leave must notify Human Resources and obtain approval in advance. Employees who fail to obtain advance approval for outside work while on leave will be considered to have voluntarily resigned from the Institute effective on the date when the outside activity commenced.
- 3.6 When more than one leave type applies, the leaves will run concurrently unless prohibited by law.
- 3.7 Leave of absence may be approved as a reasonable accommodation when an employee has work restrictions.
- 3.8 Leaves taken during an employee's probation period may cause the probation period to be extended.
- 3.9 This Personnel Memoranda applies to Institute employees working in California. To the extent that it does not conflict with other applicable state or local laws, this Personnel Memoranda also covers Institute employees working outside of California.
- 3.10 Failure to return to work when the original, extended, or other approved leave expires may be considered job abandonment.

#### **4.0 Leave Types, Eligibility and Specific Leave Information**

##### **4.1 Family and Medical Leave Act/California Family Rights Act (FMLA/CFRA)**

In accordance with the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), the Institute will provide up to 12 weeks of leave to eligible employees during a rolling 12-month period and up to 26 weeks when a Military Caregiver Leave is provided. A rolling 12-month period is measured by counting back from the date an employee seeks to use any FMLA/CFRA Leave time. Leave taken under the FMLA generally will run concurrently with leave under the CFRA, but in certain circumstances may run separately in accordance with the provisions of each law.

##### **Eligibility:**

Employees eligible for FMLA/CFRA Leave have been employed by the Institute for at least one year and have worked at least 1,250 hours over the previous 12 months.

##### **General:**

FMLA/CFRA Leave may be taken continuously or, under certain circumstances, may be taken intermittently or on a reduced work schedule. If an employee requests intermittent leave or leave on a reduced work schedule, the Institute may require that the employee transfer temporarily to an available alternate position that better accommodates recurring periods of leave. The alternative position must be one for which the employee is qualified and provides equivalent pay and benefits.

An employee who returns from a FMLA/CFRA Leave within the designated period will be reinstated to the same or equivalent position as required by law. Reinstatement will not be required if the employee would not have been employed in his/her same position at the time reinstatement is requested for a legitimate business reason unrelated to the leave, (e.g., layoff).

Qualifying Reasons for FMLA and/or CFRA Leave include:

- Employee's Serious Health Condition (FMLA/CFRA)
  - when the employee is unable to work due to his or her own serious health condition, including work related injuries or illnesses.
- Pregnancy (FMLA/PDL)
  - when the employee is unable to work because of incapacity due to pregnancy (see 4.4).
- Family Care Leave (FMLA/CFRA)
  - when the employee needs leave to care for a spouse, registered domestic partner, parent, or child with a serious health condition.
- Bonding Leave (FMLA/CFRA)
  - For the birth of a child or care for a newborn, or for the placement or care of a child who is newly placed with the employee for adoption or foster care.
  - Employees must request and conclude Bonding Leave within 12 months of the birth, adoption or foster placement.
  - If both parents are Institute employees, they are each entitled to a maximum of 12 weeks Bonding Leave provided they are each eligible for FMLA/CFRA Leave time.
  - Employees should coordinate their Bonding Leave schedule with their supervisor.
  - Bonding Leave can be taken continuously, intermittently, or on a partial leave schedule.
    - An employee should provide their supervisor a schedule in advance of their time off.
    - Exempt employees at campus or weekly employees at JPL taking Bonding Leave in less than full day increments shall record those hours as leave.
    - Supervisors are responsible for approving the employee's timecard to ensure intermittent and partial Bonding Leave is recorded appropriately.
- Qualifying Military Exigency Leave (FMLA) See 4.2
- Military Caregiver Leave (FMLA) See 4.3

**4.2 Qualifying Military Exigency Leave (FMLA)**

Qualifying Military Exigency Leave refers to a military family leave provision under the FMLA which permits eligible employees who are family members of a covered military member to take FMLA leave to address the most common issues that arise when a covered military member is deployed.

Exigencies that may allow an employee to qualify for this leave include, but are not limited to, issues arising from the military member's short notice deployment, attending military events and related activities, arranging for child care/parental care, making financial and legal arrangements, attending counseling sessions relating to the active duty of the service member, spending time with a military member during his or her rest and recuperation, attending post-deployment activities such as arrival ceremonies, reintegration briefings, and any other events that the Institute and the employee agree is a qualifying exigency.

Employees whose spouse, son, daughter, registered domestic partner, or parent is on covered active duty or called to covered active duty status may use their 12-week leave entitlement to address the qualifying exigencies.

For leave due to a Qualifying Military Exigency, the employee must provide notice to the Institute as soon as possible and practicable. The initial request for Qualifying Military Exigency Leave must be supported by a copy of the military member's active duty orders or other military-issued relevant document as approved by Human Resources.

#### **4.3 Military Caregiver Leave (FMLA)**

Eligible employees may take up to 26 weeks of unpaid FMLA Leave during a single 12-month period to care for a covered service member (including retired veteran) who is a spouse, registered domestic partner, parent, son or daughter, or next of kin and who suffered serious injury or illness in the line of duty or while on covered active duty.

Military Caregiver Leave entitlement is applied on a per-covered-service member, per-injury basis, but the employee may not take more than 26 weeks of leave in any single 12-month period. Eligible employees are limited to a combined total of 26 weeks of leave for any FMLA-qualifying reason. Only 12 of the 26 weeks may be for a FMLA-qualifying reason other than to care for a covered service member. However, an employee may take additional FMLA Leave in subsequent years if other FMLA requirements are met.

#### **4.4 Pregnancy Disability Leave (FMLA/PDL)**

The Institute provides up to four months of Pregnancy Disability Leave, per pregnancy, to eligible employees who are medically disabled due to pregnancy, childbirth, or related medical conditions. This leave may be taken on an intermittent or reduced schedule and is prorated for employees working less than a full-time schedule. Employees affected by pregnancy or related medical conditions may request an accommodation if the accommodation is medically advisable and reasonable. Employees who believe they need an accommodation should contact Human Resources.

The equivalent of the first 12 weeks of PDL runs concurrently with the employee's federal FMLA Leave entitlement. Following PDL, the employee may be eligible for 12 weeks of CFRA Leave which will run concurrently with any remaining FMLA Leave.

An employee returning from a Pregnancy Disability Leave will be reinstated to the same position as required by law. Reinstatement will not be required if the employee would not have been employed in her same position at the time reinstatement is requested for a legitimate business reason unrelated to the pregnancy, (e.g., layoff). A position is considered available if it is open on the date the employee is scheduled to return as defined by pregnancy disability leave.

Employees working remotely or on assignments outside of California must consult with Human Resources.

#### **4.5 Disability Leave (other than FMLA/CFRA/PDL)**

Disability Leave may be available for employees who are disabled from working due to injury, illness or pregnancy related condition and who have exhausted or are not eligible for other leaves. Contact Human Resources for assistance with disability leaves.

The duration of all disability, medical and family leaves (including FMLA/CFRA/PDL) will not exceed 24 months in a 36-month period.

A staff employee's position is protected for the statutory period, for example, 12 weeks under FMLA. If an employee requests a disability leave beyond the statutory period, continuous, intermittent or based on a reduced schedule, an individualized assessment will be conducted on a case by case basis, to determine if additional leave is a reasonable accommodation. The Institute will engage in an interactive process regarding the request, and the "undue hardship" standard will be used to make this determination.

#### **5.0 Retention of Accrued Vacation and Sick Leave Time:**

For Pregnancy Disability Leave, the employee may retain all accrued vacation time and up to 40 hours of accrued sick leave. For the other leaves described in this Personnel Memorandum, including, intermittent leave, the employee may retain sick leave, vacation or a combination of sick and vacation up to a total of 40 hours maximum.

#### **6.0 Pay Basis for Leaves:**

Employees must use accrued sick leave and/or vacation as described below, with the exception of any amounts retained consistent with Section 5.0:

- Employees on FMLA/CFRA Leave for their own serious health condition or Disability or Pregnancy Disability Leave must use accrued sick leave (or accrued vacation if accrued sick leave has been exhausted). Employees on FMLA/CFRA Bonding or Military Exigency Leave must use accrued vacation.
- Employees on FMLA/CFRA Family Care or Military Caregiver Leave may use accrued sick leave. Once accrued sick leave is exhausted, accrued vacation must be used. With the exception of Pregnancy Disability Leave (per 5.0 above).
- Exempt employees at campus or weekly employees at JPL who are on FMLA/CFRA intermittent or partial leave may take time off in less than full day increments and will record those increments as leave.
- Once accruals are exhausted, the employee will be on an unpaid leave.

Exempt employees at campus or weekly employees at JPL who are provided an accommodation of a reduced schedule will have their salary reduced accordingly.

#### **7.0 Supplemental Disability Benefits:**

Supplemental disability benefits may be available to an employee during leave. These benefits are paid by the state or applicable insurance company, and may include California State Disability Insurance (SDI), Short Term Disability (STD), California Paid Family Leave (PFL),

and Workers' Compensation benefits. Human Resources will provide guidance on which benefit, if any, an employee is eligible to receive while on leave.

For specific information about employee benefits during a disability leave, please see the Institute's [Employee Benefits Handbook](#) and consult with Human Resources.

## **8.0 Exceptions**

Any exceptions to this policy require the approval of the Associate Vice President for Human Resources or designee for campus staff, or of the Director for Human Resources at JPL or designee for JPL staff.

## **9.0 Related Policies**

PM 14	<a href="#">Terminations</a>
PM 15-2	<a href="#">Paid Time Off for Benefit Based Employees</a>
PM 27	<a href="#">Other Leaves of Absence</a>
PM 15.7	<a href="#">Military Leave</a>

- *Victims of Domestic Violence or Sexual Assault*
- *Organ Donor Leave/Bone Marrow Donation*