CDU Policy I.E.00680 Leaves of Absences

ISSUING OFFICER: Director of Human Resources

RESPONSIBLE OFFICE: Department of Human Resources

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POLICY I.E.00680 Leaves of Absences

REFERENCES AND RELATED POLICIES

CDU – APM I.E.00710 (Vacation)
CDU – APM I.E.00699 (Sick Leave)
CDU – APM I.E.00680 (Leave of Absence)
CDU – APM I.E.00740 (Work- Incurred Illness and Injury)
CDU – APM I.E.00700 (Military Leave)
CDU – APM I.E.00610 (Professional Development)

A. GENERAL

At Charles R. Drew University, a leave of absence is defined as an authorized paid or unpaid absence from work. Depending on the type of leave, an employee may use accrued sick and/or vacation hours. A leave of absence is granted to protect the employee's job and rights to certain benefits. Normally, an employee should be granted a leave of absence under the terms and conditions outlined in this policy.

All requests for leave should be made, where possible, in advance and in writing to the immediate supervisor. In collaboration with the Department of Human Resources, approved leaves of absence will be processed. Under certain circumstances, an employee may be required to be cleared by the University-designated Health Care Facility to returning to work. The Payroll Office will credit and deduct all leaves, to and from the employee's official leave records.

An employee may be granted a pregnancy disability leave, family and medical leave, work-incurred disability leave, or a bereavement leave, except that a leave of absence shall not extend beyond a predetermined separation date. Leaves, transfers for medical reasons, or reduced work schedules granted for an employee's own health condition or the health condition of a family member, including a domestic partner, shall require written confirmation from a health care provider.
B. BEREAVEMENT LEAVE

Paid bereavement leave is granted to all Regular and Conditional Employees in order to make arrangements for and or attend the funeral or memorial service of a member of the employee’s immediate family. Paid bereavement leave is granted for three (3) days. For services that are more than 200 miles from the employee’s home, one (1) additional day will be authorized. If out of state travel is required to attend services, two (2) additional days will be authorized. Bereavement days do not accrue or carry forward. Additional time needed in excess of paid bereavement leave may be taken in conjunction with vacation time or without pay upon approval of the employee’s supervisor.

Immediate family member is defined as:

- Employee’s Spouse
- Domestic Partner
- Significant Other
- Child
- Parent; Parent In-Law
- Siblings
- Grandchildren
- Grandparents
- Any person living in the same household as the employee

C. EDUCATIONAL LEAVE

The purpose of educational leave is to assist employees in furthering their career and education goals. Employees may be permitted to attend University classes if they meet certain eligibility requirements and have the authorization of their supervisor. This management approved benefit is a privilege not a right.

Full-time employees who have been employed for 180 continuous days may be eligible, subject to management approval.

Employee are eligible to take four (4) hours per workweek to do course work that applies to the employee’s job at the University.

The employee is required to provide notice and documentation such as a statement, acceptable to the University, indicating the reason for the leave including:

1. the reason for the leave,
2. the relationship of the proposed class to the employee’s position with the University,
3. the date the leave will commence is required prior to the start of the leave,
4. how the activity may assist the employee's transition into future CDU career-related positions,
5. the quality of the particular training activity, as compared to similar activities available to
the employee, and/or an assessment of the reputation and reliability of the institution,
organization, or other sponsor who will provide this activity,
6. the relation of the activity to the department's mission and goals,
7. a statement on the relative importance of this activity to the overall needs of the
department and available resources, and
8. the impact, if any, on employee workload and other employees in the department.

For an employee on educational leave, it is anticipated that time off for educational leave will be
on an intermittent basis for a limited amount of time, and that return to work will not be an issue.

The employees may use accrued vacation time to cover absences or take time off without pay.
Employees will continue to accrue time off and benefits and will continue as long as they are
working the minimum required hours to qualify under the University’s policies for such benefits

D. PAID FAMILY LEAVE (PFL)

Paid Family Leave (PFL) provides partial wage replacement under the Paid Family Leave Act
(PFLA) for an employee who needs to care for an immediate family member (spouse, child,
stepchild, foster child, legal ward, parent, stepparent, foster parent, adoptive parent, registered
domestic partner or the child of a registered domestic partner) who has a serious illness or for
bonding with a child following birth, adoption or foster care placement.

**Eligibility and Amount of Leave**
All employees are eligible to participate in PFL. The amount of leave is dependent upon partial
wage replacement from the California Employment Development Department (“EDD”) and is
available for up to six (6) weeks. PFL may be taken intermittently. For up to six (6) weeks in a
12-month period, employees will not receive their regular wages from the University but may
apply for partial wage replacement through the EDD.

**Return to Work**
Employees must be aware that the Paid Family Leave Act does not require employers to hold
their job, or any job, for them to return to. Therefore, employees who opt to take time off and
collect PFL benefits are not guaranteed the ability to return to work with the University unless
they are protected by some other leave statute (i.e., Family Medical Leave Act).

**Effect on Benefits**
Employees will be required under the Paid Family Leave Act to use up to a maximum of seven
(7) sick or accrued vacation days before partial wage replacement will begin. Benefit accruals
(such as vacation and sick time) will continue to accrue during the time the employee is using
their accrued benefit time, but will not accrue once that time is exhausted and the Employee is
eligible for or receiving partial wage replacement through the EDD.
E. FAMILY AND MEDICAL LEAVE ACT (FMLA)

Pursuant to the Family and Medical Leave Act (“FMLA”) and the California Family Rights Act (“CFRA”), eligible employees may take an unpaid family or medical leave of absence (“Family/Medical Leave”) of up to 12 weeks in a 12-month period. The 12-month period is measured backward from the date you take any FMLA and/or CFRA leave. Eligible employees may take up to twenty-six (26) weeks of FMLA leave in a single 12-month period to care for an Injured Servicemember, as described below.

Any leave taken pursuant to this policy, other Company policies, or law which qualifies as leave under the FMLA and/or the CFRA will be counted against the employee’s available leave under the applicable Company policy(s) and law, as well as the available leave under the FMLA and/or the CFRA, to the extent permitted by applicable law.

Reasons For Leave

If eligible, you may take Family/Medical Leave for any of the following reasons:

• Birth/Placement. The birth of your child, or the placement of a child with you for adoption or foster care.

• Family Care. To care for your spouse, child, parent, or registered domestic partner (covered by CFRA only) with a serious health condition.

• Employee Medical. Because of your own serious health condition, which makes you unable to perform one or more essential functions of your job.

• Qualifying Exigency (covered by FMLA only). Because of any qualifying exigency as defined in the FMLA final regulations, arising out of the fact that your spouse, parent, or child is on covered active duty or has been notified of an impending call or order to covered active duty in the Armed Forces in a foreign country. [Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings, and other activities associated with the family member’s call or order to service.] Contact the Human Resources Department for additional information regarding what constitutes a qualifying exigency.

• Injured Servicemember (covered by FMLA only). To care for your parent, child, spouse or individual for whom you are next of kin, who is either (1) a current member of the Armed Forces (including the National Guard or Reserves) and who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury incurred in the line of active duty (or aggravated by service in the line of active duty) that may render the military member medically unfit to perform the duties of the member’s office, grade, rank or rating; or (2) a veteran who was a member of the Armed Forces (including the National Guard or Reserves) at any time during the five years preceding the date the veteran undergoes treatment, recuperation, or therapy, and who is undergoing medical treatment,
recuperation, or therapy for a serious illness or injury incurred in the line of active duty (or aggravated by service in the line of active duty). [To be considered “next of kin,” you must be the nearest blood relative of the injured servicemember (other than the individual’s parent, spouse or child).] Such leave may be taken for up to 26 weeks in a single 12-month period, which period begins on the first day you take leave for this purpose and ends 12 months after that date. An eligible employee who takes Injured Servicemember Leave may not take more than a combined total of 26 weeks of FMLA Leave in a single 12-month period, including any leave taken for other FMLA-covered reasons. Under such circumstances, only a total of 12 weeks of FMLA Leave in a 12-month period may be taken for reasons other than to care for an Injured Servicemember.

The basic minimum duration of Birth/Placement Leave is two weeks, except on two occasions you may request such a leave of less than two weeks’ duration, and you must conclude the leave within one year following the child’s birth or placement.

[You may not be granted a Family/Medical Leave to gain employment or work elsewhere, including self-employment.] [If you intend to work at a second job during your leave, then you must notify the Company.] [If you misrepresent facts in order to be granted a Family/Medical Leave, you will be subject to discipline, up to and including immediate termination.]

**Additional Leave Available In Connection With Pregnancy Disability Leave**

Leave for your pregnancy-related disability is covered under the FMLA, but not the CFRA. Therefore, if you take a Family/Medical Leave for a pregnancy-related disability, then you may be eligible for up to an additional 12 weeks of Family/Medical Leave in the 12-month period under the CFRA for reasons other than pregnancy-related disability. The amount of any such available Family/Medical Leave will be reduced by any other CFRA Leave taken during the 12-month period.

The University may designate a leave as FMLA if the leave meets the requirements listed above, even when an employee does not specifically request FMLA.

**Eligibility**

To be eligible for a Family/Medical Leave, you must: (1) have worked for the University for at least 12 months, (2) have worked at least 1,250 hours during the 12 months before the leave is to begin, and (3) work at a location with at least 50 employees within 75 miles of your worksite. “Hours worked” means actual hours worked and generally does not include paid or unpaid time off. Additional qualifications under federal or state law may apply.

**Concurrent Leaves**

The Department of Human Resources shall designate all paid and/or unpaid leaves (including accrued sick leave and vacation) due to medical reasons (including work-incurred) to run concurrently with, and be counted against, the employee's family medical leave entitlement, provided the employee qualifies for FMLA and receives written notice.
All leaves, whether paid or unpaid, which meet the qualifications for FMLA should be designated as Family and Medical Leave at the beginning of the leave period.

**Required Notice and Documentation**

Employees must provide at least 30 days’ advance notice to the Department of Human Resources of the need for leave, or in case of an unforeseen circumstance in which 30 days’ advance notice is not possible; the employee must provide as much advance notice as possible. Failure to comply with these notice requirements is grounds for, and may result in, deferral of the requested leave until the employee complies with this notice policy. A statement acceptable to the University from the employee or relative’s health care provider or a copy of the military service member’s orders certifying that the leave is needed must accompany any request for FMLA leave.

**Medical Certification for Employee Medical and Family Care Leaves**

If you are requesting Employee Medical or Family Care Leave, then you and the appropriate health care provider must supply medical certification supporting the need for leave. If the need for leave is foreseeable, the medical certification should be provided to the University before the leave begins. If the need for leave is not foreseeable, then the medical certification must be provided within fifteen (15) days after it is requested, or as soon as reasonably possible under the circumstances. Failure to provide requested certification in a timely manner may result in denial or delay of leave or other adverse consequences. The University also may require medical recertification periodically during the leave and may ask for clarification and authentication of any medical certification submitted. Certification forms are available from the Department of Human Resources.

For Employee Medical Leaves, at its own expense, the University may require a second medical opinion, and if the first and second opinions differ, may request a third medical opinion. If a third opinion is requested, you and the University will jointly approve of the health care provider and the third opinion will be binding.

**Certification for Injured Servicemember and Qualifying Exigency Leaves**

If you are requesting Qualifying Exigency or Injured Servicemember Leave, you must provide certification of your need for leave. Such certification must be provided to Human Resources within 15 calendar days after it is requested. Certification forms are available from the Human Resources Department.

**Reporting Your Status While On Leave**

During a Family/Medical Leave, you may be required to contact your manager periodically to report on your status and intention to return to work.

**Return to Work**

Employees who satisfy all the conditions of the University’s policies and who return to work immediately following the expiration of an approved FMLA leave will be restored to their former position (or equivalent), provided such a job would still be available had they not taken a
leave. Employees who have taken a leave due to their own serious medical condition will be required to provide certification of their fitness to return to work. Failure to report to work as scheduled following a leave of absence may result in dismissal of the Employee. Requests to return from leave made by certain highly compensated “Key Employees” may be denied under certain circumstances.

**Effect on Benefits**
FMLA leave is unpaid time off. Subject to certain conditions, Employees may choose or be required to use accrued benefit time such as vacation or sick time while on FMLA leave. Time spent on FMLA leave will not be used for computing seniority or benefits such as vacation or holidays.

During an approved FMLA leave of absence, the Employee can keep insurance benefits in effect for up to 12 weeks by continuing to pay any share of the premium that the employee normally pays while working. Under some circumstances, if the employee does not return to work at the expiration of the leave, the employee may be required to reimburse the University for its share of the premium paid during the leave. After the expiration of a 12-week leave, an employee who has not returned to work may elect, as a provision of COBRA/CALCOBRA, to continue insurance coverage by paying the entire cost of the insurance premium, plus a nominal administration fee.

**Exemption For Highly Compensated Employees**

*Highly compensated “key” employees (i.e., the highest paid 10% of employees employed within a 75-mile radius of a particular location) may not be returned to their former or equivalent position following a leave if restoration of employment will cause substantial and grievous economic injury to the Company. Employees will be notified if they qualify as a “key” employee, if the Company intends to deny reinstatement, and of their rights in such instances.]*

**Legal Compliance**

This policy will be interpreted and applied in accordance with applicable federal, state and local laws, and to the extent that this policy may conflict with those laws, they are controlling over this policy. Further, the University retains all available rights and defenses under applicable law, whether or not specifically set forth in this policy.

**F. PREGNANCY DISABILITY LEAVE (PDL)**

Pregnancy Disability Leave (PDL) is available to employees who are disabled by pregnancy or a condition related to pregnancy as certified by a healthcare provider. All employees who are disabled by pregnancy or a condition related to it as certified by their healthcare provider are eligible.

**Amount of Leave**
PDL is available for the length of the employee’s disability up to a maximum of four (4) months. In addition, a transfer to a less strenuous or hazardous position may be available pursuant to the
employee’s request, if such a transfer is medically advised by the employee’s healthcare provider. Leave may be taken incrementally prior to delivery.

**Required Notice and Documentation**

Employees should give 30 days’ advance notice of the need for pregnancy disability leave, including the estimated time the leave will begin and end to the immediate supervisor and the Department of Human Resources, when 30 days’ notice is not practicable, as much notice as possible should be given.

Prior to the start of the leave, the Department of Human Resources will require a statement from the employee’s physician indicating an inability to perform the current job and the anticipated date of return. In the event the leave exceeds the anticipated date of return, it is the employee’s responsibility to provide further verification from the attending physician that the employee is unable to perform the job and the revised anticipated date of return.

**Return to Work**

Employees who are granted leaves for pregnancy will be returned to their same or similar position in accordance with California law if they return at the end of their disability and within four (4) months of the start of their leave.

**Effect on Benefits**

Depending on an employee’s eligibility, medical insurance may be continued during the leave. Benefit accruals (such as vacation and sick time) will continue to accrue during the time the employee is using their accrued benefit time, but will not accrue once that time is exhausted. The employee is required to use all accrued sick leave at the start of the leave. The employee may elect to use any accrued vacation during the leave.

**F. UNPAID FAMILY SCHOOL PARTNERSHIP LEAVE**

*(California Labor Code §230.7 - .8)*

The purpose of the Unpaid Family School Partnership Leave is to permit employees to attend school meetings in the event their child is suspended or otherwise disciplined. The leave allows employees to participate in school or day-care facility related activities for their child, grandchild or ward. Leave is given for active participation by the employee and not to attend school activities such as a school play or sporting event as an audience member. All employees are eligible to participate.

**Amount of Leave**

Leave is not for a specific period of time, but generally needs to be adequate to the employee’s need without being overly burdensome to the University.

**Required Notice and Documentation**

Employees should notify their supervisor as soon as they become aware of the need for time off. Employees will be required to produce documentation acceptable to the University from school officials verifying the need for time off.
**Return to Work**
It is anticipated that Family School Partnership Leave will be in short increments of a few hours, so employees may return to their usual position at the conclusion of the meeting. Additional time off to deal with school-related child issues may be taken under a different category and may or may not be protected leave.

**G. California Family Rights Act Leave**

Similar to the FMLA, eligible California associates can take up to 12 weeks of unpaid leave in a 12-month period under the California Family Rights Act (“CFRA”) for:

- **Birth/Placement (Bonding)** — to care for a child born to or placed for adoption or foster care with you;

- **Family Medical** — to care for your parent, child, spouse, or registered domestic partner with a serious health condition; or

- **Employee Medical** — because of your own serious health condition, which renders you unable to perform one or more essential functions of your position.

The eligibility requirements are the same under the FMLA and CFRA. Similar certification procedures also apply to CFRA leave. Group health benefits will be continued during a CFRA leave [for a maximum of 12 weeks in a 12-month period, including any benefits provided during an FMLA leave during the 12-month period].

Reinstatement rights are also the same under both the FMLA and the CFRA. If leave is covered by both the FMLA and CFRA, then leave taken under the CFRA will run concurrently with leave taken under the FMLA.

**Intermittent Bonding Leave**

Under the CFRA, you may be eligible for intermittent Birth/Placement leave. However, such intermittent leave generally must be taken in periods of at least two weeks’ duration, except on two occasions you can request such leave for a period of less than two weeks’ duration.

**Additional Leave Available In Connection with Pregnancy Disability Leave**

Leave for pregnancy-related disability is covered under the FMLA, but not the CFRA. Therefore, if you take FMLA leave for a pregnancy-related disability, you may be eligible for up to an additional 12 weeks of leave in the 12-month period under the CFRA for reasons other than pregnancy-related disability. The amount of any such available CFRA leave will be reduced by any other CFRA leave taken during the 12-month period.

**Leave Is Unpaid/Substitution of Accrued Paid Leave**

If you request CFRA for other than Employee Medical reasons, any accrued paid vacation and other paid time must first be substituted and used for otherwise unpaid CFRA leave. If you request Employee Medical leave, any accrued vacation and other paid time off must be
used for otherwise unpaid CFRA leave. In addition, you may be eligible for Paid Family Leave (PFL) benefits or state disability insurance (SDI) benefits through the State of California, or workers’ compensation benefits during all or part of the leave. If you are receiving PFL, SDI, or workers’ compensation benefits during your leave, then you will not be required to use accrued paid vacation during that time, but you may elect to do so, although you generally may not receive more than an amount equal to 100% of your regular pay from a combination of paid time and PFL, SDI or workers’ compensation benefits. If you are eligible for PFL insurance benefits through the State of California, then you will be required to use up to two (2) weeks of accrued paid vacation before you will be entitled to receive PFL benefits. The receipt of PFL, SDI or workers’ compensation benefits or the substitution of paid leave for unpaid leave time does not extend the maximum 12-week CFRA leave period.

**PROCEDURE I.E.00680 Leaves of Absences**

**A. GENERAL**

1. Employees must inform their immediate supervisor and the Department of Human Resources as soon as they are aware that they have a family situation for all Leaves of Absences.
2. Employees must provide the Department of Human Resources with a certification by a health care practitioner who has examined the family member with the serious illness (or documentation of the birth, adoption or foster care placement) verifying the need for the leave and, if applicable, providing certain information concerning the illness of the family member.
3. All medical documentation must be forwarded to the Department of Human Resources as the Custodian of Records. No medical documentation or certifications can be kept in the employee’s home department.
4. Employees on a leave of absence without pay will not accrue vacation and sick leave.
5. If an employee becomes ill while on an approved vacation, accrued sick leave may be authorized upon receipt of a physician’s certification.
6. Holidays occurring during authorized leave will not be charged against leave accruals.
7. While on leave without pay, employees are responsible for the employee portion of their health and welfare premiums. Once FMLA has exhausted, the employee is responsible for the total premium.
8. The probation period will be extended by the length of time the employee is on leave. Leave of absence without pay shall not be credited toward continuous service.
9. An employee returning from certain leaves must report to the Department of Human Resources prior to reporting to their assigned work area.
10. Supervisors should contact the Department of Human Resources to discuss procedures for leave and necessary completion of the personnel action form (PAF).
11. Supervisors must complete the Supervisor's Report of Injury Illness within 24 hours of a mishap on the job and forward to the Risk Manager.
12. The EDD can provide Employees with the necessary forms, or Employees may obtain a copy from its website at www.edd.ca.gov. Application is made directly to the EDD on forms that are provided by the EDD.
B. FAMILY AND MEDICAL LEAVE PACKET

Contact the Department of Human Resources regarding FMLA actions and to receive a *Family and Medical Leave Packet*. The packet may include:

1. FMLA Department Checklist
2. Leave of Absence Request form
3. Your Rights and Obligations Under the Family and Medical Leave Act of 1993
4. Family and Medical Leave Benefits Checklist
5. Family and Medical Leave Certification form
6. Family and Medical Leave Return to Work Certification form
7. Record of Reduced Work/Intermittent Leave Schedule

1. Employee Not FML Eligible
2. Employee FML Eligible but Leave Entitlement Exhausted
3. Employee FML Eligible — For Leave for Employee's Serious Health Condition
4. Employee FML Eligible — For Leave for Family Member's Serious Health Condition
5. Employee FML Eligible — For Military Caregiver Leave
6. Employee FML Eligible — For Qualifying Exigency Leave
7. Employee FML Eligible — For Parental Leave (when Employee is not Birth Mother)
8. Employee FML Eligible — For Combined PDL and Parental Leave
9. Employee Not FML Eligible — For Requests for PDL only
10. Employee FML Eligible but Leave Entitlement Exhausted — For Requests for PDL only
11. Employee FML Eligible — For Requests Limited to PDL
12. Certification and/or Declaration Not Received — For all FML Leaves
13. Certification Incomplete or Insufficient — For all FML Leaves
14. Designation Letter — For All Approved and Denied FML Requests except Approved Requests for Combined PDL & Parental Leave
15. Designation Letter — For Approved Combined PDL and Parental Leave
16. PDL Confirmation Letter — Employee Not FML Eligible or Employee FML Eligible but Leave Entitlement Exhausted
17. Letter for Change in End Date of PDL — For Approved Combined PDL and Parental Leave
18. Recertification — For Leave for Employee' or Family Member's Serious Health Condition