

LOYOLA LAW SCHOOL
HUMAN RESOURCES POLICIES AND PROCEDURES

DIVISION: Law School/Human Resources	
SUBJECT: Pregnancy Related Disability Leave/Transfer	Page 1 of 6
Policy Number:	Supersedes: LEAVE OF ABSENCE
Effective Date: 02/10/14	Previously Issued: 07/03/13

STATEMENT OF POLICY

The Law School supports eligible staff members with a need for pregnancy related disability leave/transfer.

I. DEFINITIONS

A. General terms

For purposes of this policy only:

“Eligible staff member” means: a staff member who is disabled on account of pregnancy, childbirth or related conditions. Unlike the Law School’s Family/Medical Leave Policy, there is no minimum length of service required before a staff member is eligible for a pregnancy-related disability leave/transfer.

B. Statutory Leaves

1. Pregnancy Disability Leave (“PDL”)

The Law School complies with the provisions of applicable state laws governing pregnancy-related disability leaves/transfers.

In general, a staff member who is disabled on account of pregnancy, childbirth or related condition is eligible to take up to four (4) months of unpaid pregnancy-related disability leave. Medical certification, both prior to the leave and prior to return to work may be required. In addition, periodic recertification of the need for the leave and periodic reports during the leave may be required.

2. Family Medical Leave Act (“FMLA”) and California Family Rights Act (“CFRA”)

The Law School complies with the provisions of applicable federal (FMLA) and state (CFRA) laws governing family/medical leaves. Non-pregnancy related family/medical leaves are governed by the Law School’s Family/Medical Leave policy.

In general, the FMLA and CFRA provide eligible staff members with up to 12 weeks unpaid leave for qualifying purposes. California PDL is also considered an FMLA leave. If the staff member is eligible for leave under the FMLA, the Law School can count up to twelve (12) weeks of the staff member's pregnancy disability leave against her FMLA leave entitlement. However, a staff member's own disability due to pregnancy, childbirth or related medical conditions is not included as a serious health condition under the CFRA. If eligible, at the end of the staff member's certified PDL or at the end of

four months of PDL, whichever occurs first, the staff member can request up to 12 weeks to care for her newborn pursuant to the CFRA.

II. POLICIES/PROCEDURES

This policy is intended to comply with state laws and all related regulations. Should later revisions to these laws and regulations conflict with provisions contained in this policy, the minimum requirements of relevant state law and/or regulations shall govern resolution of the issue. For further information regarding the scope of pregnancy related disability leave/transfer, staff members should contact Human Resources.

A. Reasons for Leave

A staff member who is disabled on account of pregnancy, childbirth or related conditions may take up to four (4) months of unpaid pregnancy-related disability leave.

B. Restrictions on Right To Leave

PDL can be taken on a continuous basis or by way of an intermittent leave or reduced work schedule if recommended by the staff member's health care provider. The shortest increment of intermittent leave/reduced work schedule will be one hour. Intermittent leave/reduced work schedules are granted subject to medical certification. Exempt staff members who take PDL on an intermittent or reduced work schedule basis will not be paid for the hours that they do not work.

C. Accrual of Vacation and Sick Pay During PDL

A staff member who is disabled on account of pregnancy, childbirth or related conditions accrues vacation and sick pay during the first 12 weeks of PDL. Vacation and sick pay will cease to accrue at the end of the initial 12 weeks of PDL.

D. Pay for Holiday and Leave Days During Family/Medical Leave

A staff member on an approved PDL is entitled to pay for holidays and leave days which fall during the first 12 weeks of the approved PDL.

E. Service Date

Time off from work during an approved PDL will not constitute a break in service.

F. Substitution of Pay During PDL

PDL is unpaid unless the staff member substitutes accrued sick and/or vacation pay. The use of sick or vacation pay during PDL does not extend the total duration of the leave to which a staff member is entitled.

Staff members may use and exhaust accrued sick and/or vacation pay during any unpaid period of PDL. Sick/vacation pay is integrated with state disability insurance ("SDI")¹ benefits. At no time while being paid sick/vacation pay will a staff member receive a greater total payment than the staff member's regular pay.

Staff members electing to use sick and vacation pay during a PDL will be compensated using accrued sick pay first, until it is exhausted, followed by vacation pay for an approved PDL. Once authorized accruals have been exhausted, the PDL will be unpaid.

G. Extended Leave Following Pregnancy Disability Leave

If, at the time a staff member has exhausted her four months of PDL, the staff member is unable to return to work, the following will occur:

1. The staff member will be placed on extended pregnancy disability leave, for a period not to exceed six months from the first day of the leave² or the period during which the staff member has accrued sick pay, whichever period is longer;
2. Regardless of the length of time the staff member is on extended pregnancy disability leave, at six months, the staff member can be replaced with no obligation to hold her position.
3. During extended pregnancy disability leave, the staff member will continue to be paid her sick/vacation pay, as permitted by this policy. If sick/vacation pay is exhausted while the staff member is on extended pregnancy disability leave, the remaining time the staff member is on extended pregnancy disability leave will be unpaid.
4. If, at the end of the maximum period of extended pregnancy disability leave, the staff member is unable to return to work, the staff member will be separated from employment, unless otherwise prohibited by law. Under extraordinary circumstances, an exception may be considered by the Vice President of Human Resources.

Extended pregnancy disability leave will only be granted to leaves that commence after the effective date of this policy.

H. Continuation of Benefits During Pregnancy Disability Leaves and Extended Leaves

To the extent that LMU is paying all or a portion of the group health and welfare benefits of a staff member eligible for PDL, LMU will continue to pay for participation in its group health and welfare benefits up to a maximum of four months to the same extent and under the same terms and conditions as would apply had the staff member not taken PDL.

¹ SDI is a benefit administered and paid by the State of California. The staff member makes contributions into this fund. SDI provides a weekly benefit for individuals who are totally and temporarily disabled as certified by a medical provider. SDI commences after an individual is disabled for seven (7) consecutive calendar days ("seven-day SDI waiting period") and provides up to 52 weeks of benefit.

² If the PDL leave is taken on an intermittent basis, the extended pregnancy disability leave will be for a period not to exceed 1040 hours of leave, measured from the first day of the leave or the period during which the staff member has accrued sick pay, whichever period is longer.

If at the conclusion of the four months, the eligible staff member still has accrued and available sick pay and/or vacation pay, and elects to substitute sick and/or vacation pay during an extended PDL, LMU will continue to pay its share of its group health and welfare benefits until the eligible staff member exhausts the sick/vacation pay to which she is entitled.

If the eligible staff member exhausts the sick/vacation pay she is entitled to use while on extended PDL, the staff member may continue to participate in some or all of LMU's group health and welfare benefits until the end of the staff member's extended PDL, provided that the staff member pay both LMU's share and her share of the premiums for such coverage.

I. Notice Requirements

A staff member should provide her immediate supervisor with verbal notice sufficient to advise the supervisor that she needs a PDL and should provide her immediate supervisor with information regarding the probable timing and duration of the leave.

It is the staff member's responsibility to coordinate all leaves with her immediate supervisor. It is the responsibility of the immediate supervisor to administer the leave provisions detailed in this policy. For foreseeable leaves – the staff member should provide 30 days advance notice of the leave. For unforeseeable leaves, the staff member should provide notice of the need for leave as soon as possible.

The staff member will consult with her immediate supervisor and make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption to the operations of the Law School. Any such scheduling, however, will be subject to the approval of the health care provider of the staff member.

The staff member must notify her immediate supervisor immediately of any changes in the status of the leave or the expected date of return. The immediate supervisor should notify Human Resources promptly of any changes requested by the staff member.

J. Medical Certification of the Need For PDL

Medical certification of the PDL may be required. Failure to provide medical certification may affect the staff member's rights to take such leave. For foreseeable leaves, staff members must provide the required medical certification before the leave begins. When this is not possible, staff members must provide the required certification as soon as possible.

Any requests for extensions of a PDL must be supported by a medical certification and must include the revised anticipated date(s) and duration of the PDL. Medical certifications should be forwarded directly to Human Resources.

Before a staff member may return to work from a PDL, she may be required to provide medical certification that she is able to resume her original job duties.

K. Right to Transfer

If requested by the staff member and recommended by her health care provider, the staff member's work assignment may be changed as required to protect the health of the staff member and/or her unborn child. Requests for transfers of job duties will be reasonably accommodated provided that the disabled staff member must be able to perform the duties of the new position. The Law School is not required to

create a new position for the disabled staff member or to displace another staff member from his/her job to accommodate the disabled staff member. Should the disabled staff member be granted a temporary transfer, she will receive an equivalent rate of pay and benefits.

If it is medically advisable for a staff member to take leave on an intermittent basis or reduced work schedule pursuant to this policy, the Law School reserves the right to temporarily transfer the staff member to an alternate, available position or to alter the staff member's existing job. The new or altered position will have equal pay and benefits.

L. Rights Upon Return From PDL

Unless otherwise permissible by law, a staff member returning from a PDL will be returned to her same or comparable position. Failure to return from a leave of absence at its conclusion may be considered job abandonment.

The Law School does not guarantee reinstatement to a staff member returning from an extended pregnancy disability leave. If the former position is available, the staff member may be reinstated. If the former position is not available, the staff member returning from an extended pregnancy disability leave will be eligible to be considered for any open positions at the Law School.

Table 1: Comparison of Compensation and Continuation of Benefits by Type of Leave

<u>Maximum Statutory Leave Entitlement, Compensation and Continuation of Benefits</u>			
Type of Leave	Maximum Statutory Leave Entitlement	Compensation	Continuation of Benefits
PDL Leave for Disabilities Arising Out of Pregnancy ONLY	Up to 4 months [one-third of a year equaling 17 and one-third weeks], Subject to certification of condition	May use and exhaust sick pay, if any, first and then may use and exhaust vacation. Sick/vacation pay is integrated with SDI.	LMU continues to pay for participation in its group health and welfare benefits for up to 4 months to the same extent and under the same terms and conditions as would apply had the staff member not taken PDL. If, at the time a staff member has exhausted her four months of PDL, the staff member is unable to return to work the following will occur: the staff member will be placed on extended pregnancy disability leave. For more information regarding extended pregnancy disability leave, see, "Table 2: Extended Pregnancy Disability Leave."
PDL/FMLA Leave for Disabilities Arising Out of Pregnancy AND Subsequent CFRA Leave for Family Bonding Leave in Connection with the Birth/Adoption/Placement for Foster Care of a Child	Up to 4 months [one-third of a year equaling 17 and one-third weeks], subject to certification of condition PLUS <u>Subsequent CFRA leave</u> Up to 12-weeks CFRA leave for baby bonding OR for a subsequent, non-pregnancy related serious health condition MAXIMUM STATUTORY LEAVE ENTITLEMENT: 4 months + 12-weeks (Approximately 29 and one-third weeks)	For PDL portion of leave, see "PDL Compensation" above. <u>Subsequent CFRA leave</u> For subsequent CFRA leave for baby bonding, may use and exhaust vacation pay. Vacation pay is integrated with PFL.	For PDL portion of leave, see "PDL Continuation of Benefits" above. <u>Subsequent CFRA leave</u> Only CFRA eligible staff members are eligible for this leave. If PDL/FMLA has been exhausted and the staff member takes CFRA leave for baby bonding/non-pregnancy related serious health condition, LMU will continue to pay its share of group health and welfare benefits for up to 12 weeks in a 12-month period to the same extent and under the same terms and conditions as would apply had the staff member not taken CFRA leave.

Table 2: Extended Pregnancy Disability Leave

<u>Maximum Extended Pregnancy Disability Leave, Compensation and Continuation of Benefits</u>		
Maximum Extended Leave	Compensation	Continuation of Benefits
<p>A period not to exceed six months from the first day of pregnancy disability leave or the period during which the staff member has accrued sick pay, whichever period is longer.</p>	<p>May use and exhaust accrued sick/vacation pay for any unpaid portion of an extended pregnancy disability leave. Sick/vacation pay is integrated with SDI.</p> <p>Staff members using both sick and vacation pay during an extended pregnancy disability leave will have sick pay, if any, deducted first, then vacation.</p>	<p>If during an extended pregnancy disability leave the staff member is being paid accrued and available sick/vacation pay, the Law School will continue to pay its share of group health and welfare benefits until the staff member exhausts the sick/vacation pay she is entitled to use.</p> <p>If the staff member exhausts the sick/vacation pay she is entitled to use while on extended pregnancy disability leave, the staff member may continue to participate in some or all of the Law School's group health and welfare benefits until the end of the staff member's extended pregnancy disability leave, provided that the staff member pay both the Law School's share and her share of the premiums for such coverage.</p>