

CALIFORNIA INSTITUTE OF TECHNOLOGY
STAFF PERSONNEL MEMORANDA

SUBJECT FAMILY CARE AND MEDICAL LEAVES OF ABSENCE	NO. MEMO <u>26</u> PAGE <u>1</u> OF <u>7</u> DATE <u>2/15/2002</u>
APPROVED <u><i>William A. Jenkins</i></u> , EXECUTIVE VICE PRESIDENT FOR ADMINISTRATION	

New Policy – Combination of the following Memo's
(This supersedes Memo No. 21, dated 7/1/94; Memo No. 26, dated 7/1/94 and Memo No. 27 dated 8/15/95)

1. **POLICY**

The Institute provides three types leave to eligible employees who are not able to work due to their own serious health condition or disability; the serious health condition or disability of a family member; for pregnancy and to bond with a child, as described below:

- Family Care and Medical Leave
- Disability Leave
- Pregnancy Leave

Eligible employees may qualify for paid leave, unpaid leave or a combination of paid and unpaid leave depending on the employee's accrued sick leave and vacation time.

Specific notices of employee's rights under Federal and State Law are available from Human Resources and are posted at various locations throughout the Institute.

These Personnel Memoranda to the extent they do not conflict with other applicable federal, state or local laws also cover Institute employees working on assignment outside of California.

2. **GENERAL**

a. TYPES OF LEAVE:

(1) Family Care and Medical Leave:

The Family Medical Care and Leave Act (FMLA) and the California Family Rights Act (CFRA) require covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for certain family and medical reasons.

There are two types of Family Care & Medical Leave:

(a) Medical Leave:

- 1) An employee's own serious health condition and/or disability including work-related injuries and illnesses.

- 2) An employee's need to care for his or her child, spouse, same-sex domestic partner or parent who has a serious health condition.

(b) Non-Medical Family Leave (**Bonding**):

- 1) The birth of the employee's child and to provide care for the new born child.
- 2) The placement of an adopted or foster child into the employee's home.

Family Care & Medical Leave shall not exceed a total of twelve (12) weeks in a twelve (12) month period. The twelve (12) month period is calculated forward from the date the employee begins the leave. Employees whose serious health condition extends beyond twelve (12) weeks may be eligible to transition from Family Care & Medical Leave to a **Disability Leave**.

Employees eligible for Family Care & Medical Leave have been employed by the Institute for twelve (12) months and have worked at least 1250 hours in the twelve (12) month period preceding the date the leave is to commence. Time spent on a formal leave of absence will not be counted in calculating the 1250 hours worked.

Leave may be taken on an intermittent basis or on a reduced work schedule when medically necessary. Intermittent leaves for serious health conditions also must be supported by appropriate medical certification. An employee taking intermittent leave may be temporarily transferred to an alternative position with equivalent pay and benefits.

Employees approved for a non-medical leave (**Bonding**) must request and conclude leave within twelve (12) months of the qualifying event, birth, adoption or foster placement. The leave must be taken in two (2) week periods for a maximum of twelve (12) weeks, except on any two (2) occasions, when the leave can be taken in blocks of less than two (2) weeks. If both parents are Institute employees, a maximum of twelve (12) weeks combined may be taken provided that the employees are eligible for Family Care & Medical Leave.

(2) Disability Leave:

The Institute provides for a leave of absence for benefit based employees who are disabled from working due to their own injury or illness including work-related injuries and illnesses. For the purposes of this policy, the term "Disability Leave" refers to time away from work due to the employee's own serious health condition. Employees eligible to use Disability Leave are either not eligible for, or have exhausted either **Pregnancy Leave** or **Family Care & Medical Leave**. Disability leave is generally less than six months in length even when combined with any other type of leave.

(3) Pregnancy Leave:

The Institute provides up to four (4) months of leave to female employees who are medically disabled due to pregnancy, childbirth or related medical conditions. These

provisions apply only with respect to the period of time during which the employee is medically disabled from working due to pregnancy. An employee who wishes to take a leave of absence beyond the term of the disability should refer to the section of this policy, that refers to **Family Care & Medical Leave (Bonding)** and/or the Institute's policy on Personal Leaves of Absence (PM 25).

Every reasonable effort will be made to accommodate an employee for conditions related to pregnancy, childbirth or related medical conditions. If the Institute is not able to reasonably accommodate an employee's restrictions, the employee will be placed on a pregnancy leave.

b. DEFINITIONS:

- (1) For the purposes of this policy, the term "**child**" means biological, adopted or foster child, a step-child, a legal ward or a child of a person standing in loco parentis who is either under 18 years of age or an adult dependent child. An adult dependent child is an individual who is 18 years of age or older and who is incapable of self-care because of mental or physical disability.
- (2) The term "**parent**" means an employee's biological, foster or adoptive parent, stepparent or a legal guardian.
- (3) A "**serious health condition**" is defined as an illness, injury (including work-related injuries), impairment, or physical or mental condition of the employee or a child, parent, same-sex domestic partner, or spouse of the employee that involves inpatient care in a hospital, hospice, or residential health care facility, or an absence of more than three consecutive days plus treatment by a health care provider; pregnancy-related conditions; chronic conditions requiring treatment; permanent long-term conditions requiring supervision of a health care provider; or a non-chronic condition requiring multiple treatments.

c. MEDICAL CERTIFICATION:

- (1) It is the policy of the Institute not to ask for a diagnosis of the employee's condition. In all cases of a leave for medical reasons, including pregnancy-related disabilities and to care for an ill family member, the employee must submit an original statement from a health care provider which certifies the employee's serious health condition or the need for the employee to care for a family member with a serious health condition. The certification must include the beginning date of the disability, probable duration and estimated amount of time the employee will need to be off of work due to the serious-health condition. For family related medical leave, the certification from the health care provider must include an estimated amount of time the employee will need to care for the family member.
- (2) When an employee returns from a medical leave, the employee must provide medical certification from a health care provider that states the employee is able to return to work with or without restrictions. The certification must have a return to work date and include any necessary restrictions.

- (3) Caltech may require additional medical opinions to verify an employee's own serious health condition, consistent with federal and state law.
- (4) Re-certification is required on all medical leaves if an extension of the leave is requested.

3. PROCEDURES:

Intermittent and leaves of absence of ten (10) or more days requires the submittal of a Caltech Leave Request Form, medical certification, and the approval of the Assistant Vice President for Human Resources or designee. The leave request form with supervisor approval, should be submitted to Human Resources at least thirty (30) days in advance of the leave or as soon as practicable if the need for the leave is not foreseeable.

Leaves of fewer than ten (10) days require the approval of the employee's immediate supervisor only. Absences of fewer than ten (10) days do not require a leave request form but should be reflected on the Time, Leave & Effort report using the appropriate leave codes.

When the Human Resources Department is notified that an employee is requesting a medical leave, a packet will be mailed to the employee that contains the information needed to apply for the leave. Any forms should be filled out and returned to the Human Resources Department with the exception of State Disability form, which should be forwarded to the employee's health care provider. Upon receipt of all applicable information, the employee will be notified by the Human Resources Department which type of leave they are eligible and been approved for.

In cases of emergency, the employee should notify the supervisor within two (2) hours after the work shift begins or as soon as practical.

a. PAYMENT BASIS:

- (1) Eligible employees may qualify for paid leave, unpaid leave or a combination of paid and unpaid leave depending on the employee's accrued sick leave and vacation time.
- (2) An employee on leave due to his or her own serious health condition **must use accrued sick and/or vacation time.**
- (3) It is the policy of the Institute to integrate accrued sick leave and vacation time with State Disability Insurance and Workers' Compensation temporary disability benefits. When an employee's sick leave accrual has been depleted, accrued vacation time will be used, to the extent it does not conflict with this policy.
- (4) An employee on **Family Care & Medical Leave** for the serious health condition of a child, spouse, same sex domestic partner, or parent must use accrued vacation and accrued sick leave as outlined in the Personnel Memorandum (PM 15-2 and PM 15-3). Employees using accrued sick leave for a child with a serious health condition as defined in the Family Care & Medical Leave section of this policy are allowed to use a maximum of twenty (20) days per calendar year total. Ten (10) days of Family Sick Leave and ten (10) days of FMLA Family Sick Leave. Once the

twenty (20) days of accrued sick leave have been exhausted, the employee must use accrued vacation time.

- (5) Employees on **Family Care & Medical Leave (Bonding)** leave due to the birth of the employee's child, adoption, or placement of an adopted or foster child into the employee's home **must use accrued vacation time**. Any portion of leave not covered by accrued vacation time will be unpaid.
- (6) Employees on a **Family Care & Medical Leave** or **Disability Leave** may elect to retain a combination of up to 40 hours of accrued sick or vacation time. Employees on **Pregnancy** related leave must use accrued sick time. However, an employee may choose to retain all accrued vacation time or may retain a combination of up to 40 hours of accrued sick leave and vacation combined.

Any portion of a leave that occurs after accrued sick leave and vacation time has been exhausted shall be without pay. Vacation and sick leave will not continue to accrue during the unpaid portion of a leave.

b. EMPLOYEE BENEFITS:

- (1) The Institute continues to pay the Institute portion of employee benefits during the time an employee is on a Family Care and Medical Leave or while the employee is on "paid status," whichever is longer. For purposes of this policy, an employee is on "paid status," as long as they have accrued sick leave or vacation time that has not been previously retained. Once the employee has depleted accrued sick leave and vacation time, the employee will be considered to be on "unpaid status."
- (2) The Institute will continue to pay the Institute portion of the employee medical insurance during the first six (6) months of any medical leave.

For specific information on employee benefits during a medical leave from the Institute, please see the Employee Benefits Handbook.
- (3) In cases where a California employee is disabled due to non-occupational injury or illness, disability benefits under the State of California Disability Insurance (SDI) program should be applied for on the eighth (8) calendar day of disability. Forms are available in the Human Resources Department or may be obtained from any State Employment Development Department. Integration with State Disability Insurance will begin on the eighth (8) day of the disability.
- (4) Workers' compensation temporary disability benefits begin on the fourth (4) day of disability due to an industrial injury or illness. If the employee is off work for 14 days or is hospitalized, temporary disability benefits paid by the Institute's workers compensation insurance carrier will be paid retroactive to the first day of disability. Integration with workers' compensation temporary disability benefits will begin on the fourth (4) day of disability.

c. EMPLOYEE RESPONSIBILITIES:

- (1) Employees are responsible for notifying their supervisor and the Human Resources Department that a leave is required at least thirty (30) days in advance or as soon as practicable if the need for the leave is not foreseeable. The employee should keep their supervisor informed regarding their leave status.
- (2) Employees must complete and submit a leave request form and medical certification when requesting a leave of ten (10) or more calendar days. Employees who elect to retain accrued sick leave or vacation time should indicate so on the leave request form. Supervisor approval should be obtained prior to forwarding the leave request form to the Human Resources Department.
- (3) Employees must submit written documentation or medical certification as required by the Institute.
- (4) Employees must forward medical certification to the Human Resources when a leave is to be extended as soon as the employee is aware that an extension of the leave is necessary.
- (5) Employees in the State of California must file for State Disability Insurance (SDI) on the eighth (8) calendar day of disability.
- (6) Employees must report any work-related injuries or illnesses immediately to their supervisor and the Human Resources Department.
- (7) Employees are responsible for following the provisions of this policy.

d. RETURN TO WORK:

- (1) The employee must return to work when the condition or conditions that necessitated the leave no longer exist and the employee is released to return to work by the employee's health care provider.
- (2) **Prior to returning to work, the employee must present a written release from his/her health care provider** to the Human Resource Department. The release should certify the employee's ability to resume work and specify any applicable restrictions with regard to the particular health condition that caused the need for the employee's leave. The Human Resources Department will work with the employee and supervisor to determine if an employee is able to return to work with restrictions and what accommodations if any will be necessary.
- (3) The employee should verify his/her intention to return to work on the specified date in advance when ever possible.
- (4) If the actual date of return differs from the estimated date provided on the original medical certification or a valid extension, the employee should notify the supervisor as soon at the date is determined.
- (5) An employee who returns from a **Family Care & Medical Leave or a Pregnancy Leave** within the designated period will be reinstated to the same position, or an equivalent position, as required by law. Reinstatement will not be required if the employee would no longer be employed if he or she had not taken a leave of absence (for example, if the employee's position has been eliminated and the employee would have been laid off).

- (6) An employee on an approved **Disability Leave** for six months or less will, for reinstatement purposes, be treated in the same way as an employee returning from Family Care & Medical Leave or from Pregnancy Leave.
- (7) The Employee Relations Office must approve in writing a request to replace an employee who is on leave.
- (8) Failure to return to work when the original, extended or other approved leave expires may be considered a voluntary resignation.

4. EXCEPTIONS:

Exceptions to this policy require the written approval of the Assistant Vice President for Human Resources or designee.