

Implementation Guidance Regarding Reproductive Loss Leave Issued by Academic Personnel and Programs on December 21, 2023.

Effective January 1, 2024, the University will provide eligible academic appointees with protected Reproductive Loss Leave in alignment with California Government Code section 12945.6. This document provides guidance regarding implementing this leave for APM-covered and represented academic appointees. Please share this information with all employees at your location who play a role in administering leaves. This document is for **internal use only** and should not be posted online or shared further.

The Academic Personnel Manual has been updated to include Reproductive Loss Leave in [APM - 758](#). The collective bargaining agreements will be updated to reflect Reproductive Loss Leave when successor agreements are negotiated. Systemwide Labor Relations notified all unions that UC would be implementing this leave effective January 1, 2024. As discussed below, there is also a model Reproductive Loss Leave Request Form, and Academic Personnel and Programs recommends that locations use this form as part of their implementation efforts.

I. Overview

An eligible academic appointee may take up to five days of Reproductive Loss Leave following a reproductive loss (i.e., failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction) by the appointee, by the appointee's current spouse or domestic partner, or by another individual if the appointee would have been a parent of a child had the reproductive loss not occurred.

II. Qualifying Reproductive Losses

"Reproductive loss" means a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction. Some key terms are defined below:

- "Failed adoption" means the dissolution or breach of an adoption agreement with the birth mother or legal guardian or an adoption that is not finalized because it is contested by another party.
- "Failed surrogacy" means the dissolution or breach of a surrogacy agreement or a failed embryo transfer to the surrogate.
- "Unsuccessful assisted reproduction" means an unsuccessful round of artificial insemination or of an assisted reproductive technology procedure, which includes embryo transfer and gamete and embryo donation. It does not include unsuccessful reproduction via sexual intercourse.

An eligible academic appointee may take Reproductive Loss Leave following a reproductive loss by:

- The appointee,
- The appointee's current spouse or domestic partner, or
- Another individual if the appointee would have been a parent of a child had the reproductive loss not occurred. The appointee would have been a parent of the child if the appointee would have been the child's biological parent, adoptive parent, legal guardian, stepparent, if the appointee would have had day-to-day responsibilities to provide care for the child, or if the appointee would have provided financial support to the child.

III. Eligibility

To be eligible for Reproductive Loss Leave, an academic appointee must have been employed by the University at any location (including outside of California) for at least 30 calendar days prior to the start of the leave. This 30-day service requirement is not limited to days of actual work or days on pay status. If an appointee is on paid or unpaid leave, that time counts towards the 30-day requirement.

IV. Amount of Leave and How Leave May Be Taken

An eligible academic appointee may take up to five days of Reproductive Loss Leave following a reproductive loss. If the appointee experiences more than one reproductive loss, the appointee may take up to a total of 20 days of Reproductive Loss Leave within a calendar year (no more than five days for each loss).

Reproductive Loss Leave may be taken on consecutive or nonconsecutive days, but it must be taken in whole day increments. Appointees may not use Reproductive Loss Leave on an hourly basis or for partial days.

V. Deadline for Using Leave

The deadline for using Reproductive Loss Leave depends on whether the appointee is taking leave under any state or federal leave entitlement prior to or immediately following the reproductive loss, such as leave under the Family and Medical Leave Act (FMLA), the California Family Rights Act (CFRA), and/or California's Pregnancy Disability Leave Law (PDLL)

- If the appointee is not taking any such leaves, the appointee must complete the Reproductive Loss Leave within three months of the reproductive loss. If the reproductive loss takes multiple days to complete, the appointee must finish the leave within three months of the final day of the reproductive loss.
- If the appointee is taking another leave (such as leave under the FMLA, CFRA, or PDLL) prior to or immediately following the reproductive loss, then the appointee must complete the Reproductive Loss Leave within three months of the end date of the other leave.

As the University transitions into offering this new leave starting January 1, 2024, some academic appointees who experienced reproductive losses towards the end of 2023 will be eligible to use this leave right away. An eligible appointee who experienced a reproductive loss (or ended a leave as described above) on or after October 1, 2023 may take at least one day of Reproductive Loss Leave starting January 1, 2024, so long as the appointee completes the leave within the three-month window. For example, an eligible appointee who experienced a reproductive loss on October 2, 2023 would be able to take two days of Reproductive Loss Leave (January 1-2, 2024). To be able to take a full five days of Reproductive Loss Leave in 2024, an eligible appointee must have experienced a reproductive loss (or ended a leave as described above) on or after October 5, 2023.

Similarly, a new academic appointee may be eligible to use this leave even if their reproductive loss occurred before the appointee started working for the University so long as the appointee meets the 30-day service requirement and is within the three-month window described above. For example, an appointee who suffered a reproductive loss on February 15 and began working for the University on March 1 would be able to take Reproductive Loss Leave March 31 through April 4. This is because the appointee would have been employed by the University for 30 calendar days before the leave begins, and the appointee would have completed the leave within three months of the reproductive loss.

VI. Processing Leave Requests

Locations should direct academic appointees who request Reproductive Loss Leave to the appropriate leave administrator. Academic Personnel and Programs recommends that the leave administrator ask the appointee to complete the model Reproductive Loss Leave Request Form, which asks the appointee to provide limited information about their request and to certify that the information provided is correct. If an appointee is unwilling to complete the form but is eligible for the leave, the leave administrator should ask the appointee to verbally provide the information that is on the form. The leave administrator should not ask the appointee for information about their reproductive loss other than what is in the form. The leave administrator also should not ask the appointee to provide any documentation to support the leave request other than the form.

Approving Requests. The University will grant an academic appointee's written or verbal request for Reproductive Loss Leave if the appointee is eligible for the leave, satisfies all requirements, and has entitlement remaining. If the University approves an appointee's request for Reproductive Loss Leave, the leave administrator should inform the appointee's supervisor, or applicable faculty administrator (e.g., director, department chair, associate dean, dean) that the appointee will be on protected leave on specified dates – without disclosing that the appointee is using Reproductive Loss Leave. It is important to inform the supervisor, or applicable faculty administrator, that the leave is protected so that the supervisor is aware that it is unlawful to interfere with the appointee's right to take the leave or to retaliate or discriminate against an appointee for taking the leave.

Denying Requests. If the University denies an academic appointee's request for this leave, the leave administrator should explain to the appointee the specific basis for the denial, e.g., *"You are not eligible for Reproductive Loss Leave because you have not been employed by the University for 30 calendar days. As of the first date of requested leave, you will have been employed for X calendar days."* Another example: *"You are eligible for Reproductive Loss Leave, but you have already exhausted the 20-day entitlement to Reproductive Loss Leave in 2024."* Given the sensitive nature of these requests, the leave administrator should also direct the appointee to any other possible leave options or resources.

Maintaining Confidentiality. The leave administrator will maintain the confidentiality of any academic appointee who requests Reproductive Loss Leave. The request form and any information that the leave administrator receives from the appointee must be stored in a confidential file separate from the appointee's personnel file. The leave administrator will not disclose any information that appointees provide in connection with Reproductive Loss Leave requests unless (1) it is necessary to disclose information to University personnel or to UC Legal or (2) it is required by law. If the leave administrator is contacted by the campus public records officer concerning a Public Records Act request for such leave information, offices maintaining this information should inform the public records officer of the confidentiality obligations under Government Code section 12945.6 and may wish to consult with campus counsel.

VII. Interaction with Family and Medical Leaves

Depending on the circumstances, an academic appointee may also be eligible to use Family and Medical Leave (FML) under the FMLA, CFRA, and/or PDLL in connection with a reproductive loss. As noted on the model Reproductive Loss Leave Request Form, appointees do not need to disclose specific details regarding their reproductive loss to be able to use Reproductive Loss Leave. But if an appointee

voluntarily discloses information to the leave administrator that indicates that the appointee may also be able to use FML in connection with the reproductive loss, the leave administrator should provide the appointee with the appropriate FML paperwork.

Reproductive Loss Leave is separate and distinct from other leave entitlements such as PDLL and CFRA, and the leave administrator may need to counsel the appointee about the interaction between these leaves. For example, an appointee who personally experiences a miscarriage or stillbirth may also be eligible for leave under California's PDLL and/or the FMLA. To be able to take the maximum amount of leave, the appointee should use leave under the PDLL and/or the FMLA prior to or immediately following the reproductive loss. When that leave ends, an eligible appointee would then have three months to use and complete up to 5 days of Reproductive Loss Leave. Please note that eligible appointees who experience a reproductive loss are entitled to Reproductive Loss Leave and may choose to use the leave but are not required to do so.

VIII. UCPATH

UCPath will not have an update in place for this leave before January 1, 2024, so locations should develop their own methods to track this leave until there is a systemwide solution.

IX. Pay

Reproductive Loss Leave is unpaid, but eligible academic appointees may elect to use certain types of paid leave to remain on pay status during this leave depending on the policy or collective bargaining agreement that applies to the appointee:

- APM-covered academic appointees may elect to use accrued vacation leave, sick leave, and/or paid medical leave (if applicable) for pay during a Reproductive Loss Leave. For academic appointees who do not accrue sick leave, Chancellors may grant leave with pay for all or part of a Reproductive Loss Leave, and APP recommends that campuses implement this consistent with campus guidelines for pay during bereavement.
- Represented academic appointees may elect to use the following options (if available and as applicable depending on the appointee's collective bargaining agreement) for pay during a Reproductive Loss Leave: accrued vacation, sick leave, personal leave, personal time off, paid medical leave, short-term leave, and/or long-term leave.

The model Reproductive Loss Leave Request Form asks appointees to indicate whether they wish to use any of their paid leave options to remain on pay status during Reproductive Loss Leave.