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MEMORANDIUM

TO: Marilyn Sheerer, Provost & Senior Vice Chancellor for Academic & Student Affairs
Phyllis Horns, Vice Chancellor for Health Sciences
Deirdre Mageean, Vice Chancellor for Research & Graduate Studies
Marianna Walker, Chair of the Faculty

FROM: Katrina DuBose, Chair of the Faculty Welfare Committee *Katrina DuBose*

DATE: April 13, 2010

Subject: Faculty Serious Illness & Disability Leave Policy Changes

Given the continued interest by the faculty regarding the proposed changes to the current Faculty Serious Illness & Disability Leave Policy (FSIL), the Faculty Welfare Committee has continued to examine the FSIL policy. One concern expressed was regarding the financial burden on the departments for providing funding to replace the faculty member who requested leave. We recommend adding the following statement to section 4.5.1 of the FSIL policy (highlighted text is the new statement to be added):

4.5.1 The unit administrator is responsible for securing, to the extent possible, substitute personnel for the duration of the faculty member's approved leave (with our without pay). The cost of the substitute personnel is the responsibility of the academic unit. "If the academic unit cannot secure funding, then the unit administrator is responsible for requesting the necessary funding from the next higher level of administration, up to the level of the appropriate Vice Chancellor." Any adjustments in work schedules within the unit are at the discretion of the unit administrator, with the approval of the next higher administrator, and are subject to unit and institution needs and resources.

We believe that this addition to the FSIL policy clarifies how funding for replacement personnel will occur and may also reduce the perception that a lack of funding at the academic unit level would affect whether the leave is granted or not.

We encourage you to incorporate this suggestion into the new FSIL policy. This item is on the agenda for the Faculty Senate meeting in April, but I would be happy to meet with you beforehand if needed.

cc: Lori Lee

Faculty Serious Illness and Parental Leave

POL # (To be done by Legal)

PRR General Subject Matter (Leave blank. To be done by Legal)

Authority: Board of Trustees

History: Policy on Serious Illness and Disability Leave for Faculty first approved by ECU Board of Trustees effective May 6, 2005; Last revised: [date inserted after Board's approval of revision]

Related Policies: UNC Policy Manual 300.2.11— Policy on Serious Illness and Disability Leave for Faculty; ECU *Faculty Manual*, Part VI, Appendix C, Appendix D, and Appendix I; federal Family and Medical Leave Act [insert appropriate reference upon decision on ECU's faculty FMLA policy]; North Carolina Family Illness Leave Act

Additional References: UNC Policy Manual 300.2.11[G] [insert UNC policy manual link]; (insert HR Benefits link— includes direct link to FMLA and NCFIA)

Contact for Info: Director of Benefits, Human Resources (328-9825); Associate Vice Chancellor for Personnel Administration, Division of Academic and Student Affairs (328-1888 or 328-5442) or Assistant Vice Chancellor for Health Sciences Personnel Administration, Division of Health Sciences (744-1910)

1. Purpose

This policy provides leave with pay for eligible faculty (defined in Section 2 below) for cases of a serious health condition and/or parental leave (defined as birth, adoption, and foster care placement of a child). For further explanation, see the Family and Medical Leave Act link under additional references above.

2. Eligibility

2.1 This policy applies only to faculty members who meet all of the following conditions:

2.1.1 have been continuously employed by East Carolina University for at least twelve (12) consecutive calendar months, **and**

2.1.2 have continuously held a permanent appointment of at least 75 percent of full-time, **and**

2.1.3 who participate in either the Teachers' and State Employees' Retirement System of North Carolina or the Optional Retirement Program, **and**

2.1.4 who do not accrue sick leave.

2.2 This policy does not apply to faculty members with temporary appointments or to faculty who are employed with less than 75 percent appointments.

2.3 A period of employment in a non-eligible status may not be used to partially meet the requirement for 12 consecutive months in an eligible capacity.

2.4 Leave benefits are available to eligible faculty members only during a period when the faculty member is contractually employed. For nine-month faculty members, the contract employment period is defined as the regular academic year between Opening Day Convocation for Fall Semester in August and Commencement at the end of Spring Semester in May.

2.4.1 Teaching duties in the summer terms by nine-month faculty members are covered under a separate contract, and paid leave under this policy is not provided for absence during a contracted summer term.

2.5 This policy applies only to faculty and not to other employment categories, including but not limited to categories of Senior Academic and Administrative Officer (SAAO Tier I or Tier II), EPA Non-faculty (NF-EPA Instructional or Research), SPA/CSS, Postdoctoral Fellows, or student employees.

3. Description of Benefit

3.1 The total leave benefit for an individual faculty member for all leave benefits (with or without pay) under this policy and in accordance with the FMLA is 12 calendar weeks within any consecutive 12-month period. Note in section 3.3.1.2 below, under the North Carolina Family Illness Act, a faculty member is entitled to an extension of up to 52 weeks of leave without pay during a five-year period in cases of serious illness of a child, spouse, or parent.

3.1.1 A faculty member is eligible for a total maximum of 12 calendar weeks of leave with pay within a 12-month period, regardless of the number of qualifying events that occur during the 12-month period. The date of the first qualifying event sets the clock for the 12-month period for leave with or without pay under this policy. [See 5.3 regarding use of any accrued leave balance prior to utilizing paid leave benefits under this policy.]

3.2 Leave with pay

3.2.1 For qualifying reasons defined in the federal Family and Medical Leave Act, leave with pay is available to a faculty member who meets the eligibility criteria defined in section 2 above.

3.2.2 Serious Health Conditions – For documented serious health conditions as defined in FMLA a faculty member is eligible for leave with pay for a maximum of 12 calendar weeks in any consecutive 12-month period. See section 4.2 for certification requirements.

3.2.3 Primary Caregiver – For birth, adoption, or foster care placement of a child, the primary caregiver is eligible for leave with pay for 12 consecutive calendar weeks beginning on the date of the documented qualifying event.

3.2.4 Secondary Caregiver – For birth, adoption, or foster care placement of a child, the secondary caregiver, if also employed by East Carolina University, is eligible for leave with pay for up to 21 consecutive calendar days (in addition to the leave with pay for the primary caregiver) any time within the 12 month period immediately following the documented qualifying event.

3.2.5 Health/medical complications arising due to pregnancy and childbirth will be treated as any other serious health condition [see 3.2.2 above].

- 3.2.6 Dependent Care or Care for a Family Member – For required care of an FMLA-designated dependent or immediate family member who has an FMLA-qualified serious health condition, the faculty member is eligible for leave with pay for a maximum of 12 calendar weeks in any consecutive 12-month period.
- 3.2.7 Two eligible employees may choose to share the 12 calendar weeks of leave with pay, but in no case may two eligible employees each receive 12 calendar weeks of leave with pay for the same qualifying event.
- 3.2.8 In no case is an employee eligible for both 12 calendar weeks of leave with pay and 21 calendar days of leave with pay for a single qualifying event.

3.3 Leave without pay

- 3.3.1 *For qualifying reasons defined in the federal Family and Medical Leave Act, leave without pay is available to faculty members who meet the eligibility criteria defined in section 2 above.*

3.3.1.1 For qualifying events defined in section 3.2.1 above, after a period of approved leave with pay is exhausted, additional leave (without pay) up to a total maximum of 12 calendar weeks (including leave with and without pay) may be approved within any consecutive 12-month period. In no case will leave with or without pay under FMLA be approved beyond a total of 12 calendar weeks within any consecutive 12-month period. [see section 4.6]

3.3.1.2 After exhausting 12 calendar weeks of leave with or without pay pursuant to this policy, a faculty member with twelve (12) months of eligible service is entitled under the North Carolina Family Illness Act, to an extension of up to 52 weeks of leave without pay during a five-year period in cases of serious illness of a child, spouse, or parent.

3.4 Short-term Disability Benefits

- 3.4.1 Employees are eligible for short-term disability benefits under the Disability Income Plan of North Carolina after both of the following conditions are met:

3.4.1.1 one year of contributing membership within the past 36 months in the Teachers' and State Employees' Retirement System of North Carolina or the Optional Retirement Program, and

3.4.1.2 a 60 (sixty) calendar-day waiting period from the date of disability onset. More information about disability benefits can be found on the Human Resources Benefits web site [see link in additional references above].

- 3.4.2 Employees may purchase supplemental disability insurance coverage offered by plans approved and available through the Human Resources Benefits Office. [see HR Benefits web link above]

4. Administration of Benefit

- 4.1 The faculty member's request for leave with pay will be made in writing to the Human Resources Benefits Office by completing the form entitled "Request for Faculty Serious Illness and Disability Leave" located on the Human Resources Benefits web site.
- 4.2 Medical certification of the faculty member's serious health condition, including a statement from an eligible health care provider (as defined under FMLA) about the probable length of absence from normal duties, is required. If the request is for the purpose of caring for a family member or dependent, the University also requires medical certification of that person's illness or disability and documentation of the circumstances which make it impossible or difficult for the faculty member to carry on with normal duties. The faculty

member is responsible for submitting the provider's medical certification within 15 calendar days of the request for leave.

4.2.1 In the case of parental leave, adoption or foster care, documentation of the qualifying will be required and shall be submitted within 15 calendar days of the request for leave.

4.2.2 Forms for use by eligible health care providers to document the illness or disability and anticipated duration are located on the Human Resources Benefits web site.

4.3 The Human Resources Benefits Counselor will review the medical certification from the health care provider or the documentation of a parental leave qualifying event and determine the eligibility of the faculty member for leave with pay under this policy. If the Human Resources Benefits Counselor determines that the employee is not eligible for leave with pay benefits under this policy, the Human Resources Benefits Counselor will notify the faculty member of the decision in writing, including the grounds for denial of the requested leave benefit. The faculty member may appeal this decision to the Director of Benefits. The decision of the Director of Benefits is final.

4.4 The Human Resources Benefits Counselor will provide the appropriate vice chancellor with written notification of the faculty member's eligibility for leave with pay under this policy. For approved leave with pay, the appropriate vice chancellor will issue a letter to the faculty member informing him or her of the beginning and ending dates of leave with pay authorized, with copies to appropriate unit administrators.

4.5 It is the faculty member's responsibility to inform the unit administrator in writing of the anticipated absence under this policy within 15 calendar days after the faculty member becomes aware of the qualifying reason for leave.

4.5.1 The unit administrator is responsible for securing, to the extent possible, substitute personnel for the duration of the faculty member's approved leave (with or without pay). The cost of substitute personnel is the responsibility of the academic unit. Any adjustments in work schedules within the unit are at the discretion of the unit administrator, with the approval of the next higher administrator, and are subject to unit and institutional needs and resources.

4.5.2 Upon the faculty member's return to work after a period of approved leave (with or without pay) under this policy, the unit administrator and the faculty member will determine together the completion of assigned responsibilities during the remainder of the academic term. Similarly, when a faculty member anticipates the need to request leave (with or without pay) under this policy prior to the beginning of an academic term, the faculty member should inform the unit administrator within 15 calendar days so that qualified substitute personnel can be secured by the unit administrator as early as possible.

4.6 The FMLA entitlement of 12 weeks of leave without pay will run concurrently with any period of leave with pay under this policy. The period of leave with pay will also be designated as family medical leave under FMLA.

4.7 Leave with pay may not extend beyond the end of the faculty member's contract period as defined in section 2.4 above.

4.7.1 If the illness or disability requires an absence from faculty duties longer than 12 (twelve) calendar weeks within a 12-calendar-month period, the faculty member may apply in writing to his or her unit administrator for a leave of absence without pay in accordance with provisions of the ECU *Faculty Manual*.

4.7.1.1 The faculty member may also apply to the Human Resources Benefits Office for salary continuation through the Disability Income Plan of North Carolina and through any other optional disability program(s) in which he or she may be enrolled.

4.8 In cases of serious illness of a child, spouse, or parent, the North Carolina Family Illness Act allows the faculty member to apply in writing for extension of up to 52 weeks of leave without pay during a five-year period. Application is made through the Department of Human Resources Benefits Office.

4.9 Any unused leave pursuant to this policy is not eligible for terminal leave payment when the faculty member leaves the employment of the University, and it may not be used to extend years of creditable state service for retirement benefits. However, it must be exhausted prior to participation in the Disability Income Plan of North Carolina available to eligible employees.

5. Use of Leave with Pay

5.1 The leave with pay provided under this policy may be used for serious health conditions, pregnancy, birth, adoption, or foster care placement of a child as defined in section 3.2 above. A faculty member who anticipates an absence from duties for longer than three (3) days for qualifying reasons under FMLA shall inform the unit administrator as soon as possible. In cases of medical emergency, this notice should be given as soon as practicable (see section 4.5 above)

5.2 Faculty will not be penalized because they require time away from work caused by or contributed to by conditions such as pregnancy, miscarriage, childbirth, or recovery. Disabilities resulting from pregnancy shall be treated the same as any other covered disability. The type and nature of the faculty member's duties during pregnancy will be determined by the department head in consultation with the faculty member and upon advice the faculty member receives from her eligible health care provider. Revisions to the faculty member's assignments will be documented in a written agreement signed by the unit administrator and the faculty member. [Note: for information related to parental leave, see section 3.2 above.]

5.3 Faculty members who have an accrued balance of sick leave from a previous leave-earning employment status **must** exhaust their accumulated sick leave balance prior to utilizing the benefit of leave with pay provided by this policy. Sick leave that has accrued will be considered as part of the maximum 12 (twelve) calendar-week eligibility for leave with pay under this policy.

6. Record-Keeping

6.1 This policy provides an important financial benefit; therefore, accurate records must be maintained. The Human Resources Benefits Office and the appropriate vice chancellor will maintain all official records, and the vice chancellor will make an annual report on the use of leave under this policy to the Chancellor and to the Chair of the Faculty no later than August 1 each calendar year.

7. Coordination with Other Policies

- 7.1 Partial leaves of absence are not permitted under this policy. However, at the faculty member's discretion and with approval of his or her health care provider, where health conditions suggest that the faculty member may continue to perform some but not all of his or her assigned faculty responsibilities during an academic term, the relative weights among teaching, research, service, and clinical care may be revised [see Appendix C of the *Faculty Manual*] so long as the reassignment of responsibilities is completed in a manner that minimizes the impact on academic program quality.
- 7.2 Consistent with Appendix D of the *Faculty Manual*, an untenured, probationary term (tenure-track) faculty member who is granted leave under this policy may be eligible for an extension of the probationary term. The faculty member must submit a written request to the unit administrator for a probationary term extension, subject to approval by the Chancellor, at the time the paid leave is granted.
- 7.3 The leave with pay provided for under this policy shall have no effect on the faculty member's other employment benefits.
- 7.4 Consistent with the *Faculty Manual*, Part VI and Appendix I, the faculty member may not engage in other employment or compensated arrangements during the period of leave with or without pay under this policy.
- 7.5 A faculty member granted leave under this policy may request in writing to the unit administrator to have his or her five-year post-tenure review delayed by a period agreed upon by the faculty member, unit administrator, dean, and vice chancellor. The terms of such an agreement will be stated in writing and signed by the faculty member and the approving administrators.

8. Confidentiality

Communications and documentation concerning leave requested or approved pursuant to this policy shall constitute confidential records in accordance with North Carolina law.

9. Effective Date

This policy is effective _____ [INSERT DATE APPROVED] after approval by the ECU Board of Trustees and shall supersede any previous policies granting leave to faculty members for FMLA qualifying events. A faculty member who is absent on approved leave at the time this policy becomes effective will continue to receive the leave benefits approved for that absence until the period of approved leave expires.