

ECU Faculty Senate
20 April 2010

Re: Serious Illness and Disability Leave for Faculty Policy

We acknowledge that the current Serious Illness and Disability Leave for Faculty Policy, as contained in Part VI, Section 7.C of the *Faculty Manual*, entails some financial costs for the University and that these costs can be reduced while maintaining a generous benefit. We, however, recommend that the Academic Council, Chancellor and Board of Trustees revise the proposed administrative policy in the following ways. We also recommend that the Academic Council, Chancellor and Board of Trustees study more closely the policies at our national peer institutions and at other UNC institutions. It is our belief that the current proposal would put ECU significantly behind our peers and our fellow UNC institutions with regard to serious illness and disability leave policies.

1. **Eligibility and Date.** Nine-month faculty ought to be eligible for leave year-round. All faculty ought to be able to negotiate the start date of their paid leaves with their unit administrators.
 - Actions:
 - Delete §2.4 (and re-number §2.4.1 accordingly).
 - In §3.2.3, change "beginning on the date of the documented qualifying event" to "any time within the 12 month period immediately following or briefly prior to the documented qualifying event."
 - Revise the second sentence of §3.1.1 to read: "The start date of the first leave sets the clock for the 12-month period for leave with or without pay under this policy."
 - Rationales:
 - §2.4 states that nine-month faculty are ineligible for the benefit during the summer, between Commencement and Convocation. This implies that, if a serious illness or childbirth should occur even the day before Convocation, the employee would be ineligible for any leave under the policy. We believe that this is an unintended oversight that should be corrected. (We note that we do not advise revision of subsection 2.4.1, regarding summer teaching contracts.)
 - §3.2.3, which pertains only to the primary caregiver of a newborn, adopted or foster child, states that "the primary caregiver is eligible for leave with pay for 12 consecutive calendar weeks beginning on the date of the documented qualifying event." We believe that this does not take into account the reality of most faculty members' responsibilities during the academic year. It may be advantageous for both the faculty member and the academic unit to begin a paid leave before or after the precise date of the qualifying event so as better to accommodate the faculty

member's teaching schedule and the needs of the unit. The start date of a leave ought to be a matter for good faith negotiations between the faculty member and his or her unit administrator. (We also remind the Council, Chancellor and Board that a primary caregiver is not necessarily the child's birth mother, and so there is little reason to tie the leave strictly to the date of birth and much reason to give the caregiver and academic unit flexibility in scheduling the leave.) We therefore advise that the phrase "beginning on the date of the documented qualifying event" be removed and replaced with language allowing for the aforementioned flexibility. §3.1.1 should be revised to reflect the same flexibility.

- None of the other UNC institutions and none of our peer institutions restrict the eligibility of nine-month faculty for leave. All make it available year-round. In addition, all of the UNC institutions, with the exception of UNCC, state only that leave must be taken within a 12-month period following birth/placement or the qualifying event. We should strive to be consistent with the policies of other UNC institutions.
- Because this flexibility is completely consistent with the policies of the other constituent members of UNC, it is unreasonable to argue that we need to take into account public perception of the ECU faculty when the other UNC campuses work the required flexibility into their policies.

2. **Treatment of Related ECU Faculty Members.** There ought to be no discrimination in the administration of the policy based on the identity and the employment of a faculty member's partner or other family member.

- Actions:

- In §3.2.4, replace "leave with pay for up to 21 consecutive calendar days" with "leave with pay for up to 12 calendar weeks."
- Delete §3.2.7.
- Delete §3.2.8.

- Rationales:

- We applaud the use of "primary caregiver" and "secondary caregiver" in place of terms such as "mother" and "father" or "maternity" and "paternity." With the proposed terminology, the University will acknowledge the opportunity of same-sex partners to participate in the policy and will acknowledge that it is not the University's position to determine which parent in opposite-sex partnerships takes a primary role in child-rearing.
- Leave as a primary caregiver is not a maternity leave. Eligibility is not dependent upon parturition or any medical event. The policy explicitly recognizes this by stating in §3.2.5, "Health / medical complications arising due to pregnancy and childbirth will be treated as any other serious health condition." Care-giving is a wholly separate category,

precisely parallel to care of an ill family member; the purpose of both categories of paid leave is to care for a family member who is particularly in need. All faculty members, therefore, are eligible to be primary caregivers— except those who have as partners another ECU faculty member covered by this policy. A man, for example, whose wife is employed outside ECU or even as an ECU staff member or administrator will be able to claim primary caregiver status under the proposed policy; a man whose wife is an ECU faculty member will be able to claim only secondary caregiver status. The policy thus sets up as a separate category a small set of employees and then discriminates against them. We find this unacceptable.

- Our competitive peer institution, the University of South Carolina at Columbia, grants one full semester of paid leave to both the primary and the secondary caregiver and specifically acknowledges that if spouses are employed by the university both have the right to take paid leave. Since USC is a competitive peer, we might consider adopting their model as an example of best practices in the provision of faculty benefits.
- We find unpersuasive the argument that such leaves are too costly. According to the data provided, there were four paternity leaves over the course of four years (2006–2010) in Academic Affairs. (Such data was not provided for Health Sciences.) Even if all four of these leaves were taken by employees whose partners are employed as ECU faculty—and we do not believe that they were—we believe it would be unreasonable to create an entire restrictive category based on an average of one leave per year.
- If the leaves for primary and secondary caregivers are equalized, §3.2.8 becomes superfluous and should be deleted.
- We advise the elimination of §3.2.7 for similar reasons. The provision that two employees may not each receive 12 weeks' leave for the same qualifying event apparently applies not only to childbirth, adoption or foster placement but also to any serious illness or disability. The provision would prevent a faculty member from taking paid leave to care for a seriously ill family member if the family member is also an ECU faculty member. All other employees would be eligible to take 12 weeks' leave to care for a seriously ill family member. Again, then, the provision sets up a special class of employees (those who have family members also employed as ECU faculty) and discriminates against them. We find this unacceptable.