

**FACULTY AND FAMILY LEAVE POLICY PROPOSAL FROM THE NON-TENURE-  
TRACK ISSUES AND THE BENEFITS & PROFESSIONAL DEVELOPMENT  
COMMITTEES OF THE FACULTY SENATE**

**MARCH, 2014**

WHEREAS, many non-tenure-track faculty are employed long-term with the university; and

WHEREAS, the newly implemented Lecturer Promotions indicates a recognition of the longevity of some non-tenure-track faculty; and

WHEREAS, retaining long-term non-tenure-track research, clinical, and teaching faculty contributes to the effective operation of research, outreach, and teaching as well as of other functions of the university; and

WHEREAS, other top 25 public universities such as the University of Georgia<sup>1</sup>, the University of Michigan<sup>2</sup>, and the University of Florida<sup>3</sup> offer family and medical leave for all faculty, without differentiating between tenure-track and non-tenure-track faculty; and

WHEREAS, the AAUP guidebook<sup>4</sup> on family and medical leave indicates that any faculty member is eligible for family and medical leave if he or she has worked at the university for 12 months, which do not need to be consecutive; and

WHEREAS, the Non-Discrimination Policy of the University of Tennessee, Knoxville<sup>5</sup> includes sexual orientation, marital status, and sex; and

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<sup>1</sup> "In addition to leaves of absence for educational and professional purpose, leaves may be justified for a variety of reasons, including military leave, family medical leave, sick leave, jury duty leave, voting leave, and others. Contact the Office of Faculty Affairs **if a faculty member serving under annual contract requests use of one of these other types of leave beyond 3 months** [emphasis added]." *University of Georgia Academic Affairs Policy Manual*, 1.12-2 (<http://provost.uga.edu/index.php/policies-procedures/academic/academic-affairs/1-faculty/112-leaves/>)

The bold phrase indicates that even faculty with yearly contracts may take family and medical leave, listed in section 1.12-2 of UG's handbook.

<sup>2</sup> "Regular and supplemental faculty and staff are covered by the Family and Medical Leave Act (FMLA) for the following kinds of unpaid leaves of absence: child care for the birth, adoption, and foster care placement of a child; personal medical, for a faculty member's own personal illness; and family medical, for the serious illness of a family member...." *University of Michigan Faculty Handbook* (<http://www.provost.umich.edu/faculty/handbook/16/16.C.html>)

<sup>3</sup> In contract with the United Faculty of Florida, the University of Florida has adopted the following: "Implementation of Family and Medical Leave Entitlements. A faculty member shall be entitled to four hundred and eighty (480) hours of family medical leave within a twelve (12) month period either for the faculty member's medical condition or in order to care for an "immediate family member" who is seriously ill for an extended period and for whom the faculty member has significant care responsibilities....

(2) All employees are eligible who have worked at least twelve (12) months, which need not have been consecutive, and who have worked at least 1250 hours in the twelve (12) months prior to the leave.' *United Faculty of Florida Handbook*, Article 21 ([http://hr.ufl.edu/wp-content/uploads/docs/UFF\\_articles/ARTICLE\\_21.pdf](http://hr.ufl.edu/wp-content/uploads/docs/UFF_articles/ARTICLE_21.pdf))

This policy does not differentiate between tenure-track faculty and non-tenure-track faculty.

<sup>4</sup> "Virtually all full-time faculty and many part-time faculty at US colleges and universities are entitled to benefits under the FMLA." *The Family and Medical Leave Act: Questions and Answers, An AAUP Guidebook*, section I. (<http://www.aaup.org/sites/default/files/FMLA-Guidebook-Oct-2013.pdf>)

WHEREAS, the VolVision<sup>6</sup> states that University of Tennessee values broad diversity, including people of all sexual orientations, gender identities, and genders; and

WHEREAS, other top 25 public universities such as University of North Carolina-Chapel Hill<sup>7</sup>, University of Florida<sup>8</sup>, and The Ohio State University<sup>9</sup> include domestic partners in university family leave; and

WHEREAS, The University of Tennessee's Non-Discrimination Policy includes pregnancy; and

WHEREAS, The University of Tennessee should not limit the number of times family leave benefits can be used for the arrival of a child.

THEREFORE, BE IT RESOLVED, that the Faculty Senate requests that the Office of the Provost make the following changes to the Faculty and Family Leave Policy (new language underlined; deleted language struck through):

## Faculty and Family Leave Policy

### Scope

Family care policies for non-tenured/non-tenure track faculty members on 12-month appointments are addressed by the HR policies on Family and Medical leave (see policy HR 0338), sick leave (HR 0380), or other types of leave (see HR 0355). These faculty members should see the Human Resources web site for details and procedures pertaining to this policy.

~~Lecturers and faculty members on 9-month, non-tenure-track appointments are entitled to work directly with their department head or hiring unit supervisor to negotiate mutually agreeable terms for leave and/or service/workload modifications. These agreements should be made in writing with a copy to the faculty member's Human Resources and departmental files. Note: specific medical information should be excluded from these agreements and should be maintained in a separate file either in the department or in HR.~~

The provisions in the section below are intended to provide guidance for ~~tenured or tenure-track~~ faculty members who require work modifications for reasons related to family care-giving responsibilities in accordance with the Faculty Handbook (6.4.2) which states that:

“certain 9-month faculty members may be eligible for certain additional benefits such as modifying service requirements and extending the tenure-track probationary status.”

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<sup>5</sup> <http://oed.utk.edu/statement>

<sup>6</sup> <http://www.utk.edu/volvision-top25/mission.php>

<sup>7</sup> <http://academicpersonnel.unc.edu/faculty-policies-procedures-guidelines/leave/faculty-serious-illness-major-disability-and-parental-leave-policy>

<sup>8</sup> [http://hr.ufl.edu/wp-content/uploads/docs/UFF\\_articles/ARTICLE\\_21.pdf](http://hr.ufl.edu/wp-content/uploads/docs/UFF_articles/ARTICLE_21.pdf)

<sup>9</sup> <http://hr.osu.edu/public/documents/forms/dompaaff.pdf>

In all circumstances noted above, actions taken under these policies should not affect decisions concerning tenure or other merit-based evaluations. Annual merit reviews are conducted according to job-related criteria, which are unrelated to those involved in the family care policies.

Note: specific medical information should be excluded from the following agreements and should be maintained in a separate file either in the department or in HR.

## Provisions For 9-Month ~~Tenured and Tenure-Track~~ Faculty Members

### Leave of Absence without Pay

~~Tenure-track~~ Faculty members who have a serious illness, or who have primary responsibility for the care of a child or an ill or disabled parent, spouse, or other family member, may request leave without pay pursuant to HR0355. This leave normally will be approved for no more than one year. The faculty member should request leave without pay in a letter to the department head or other administrative officer, who then will forward the request and his/her recommendation to the appropriate dean. The dean will forward the request and his/her recommendation to the Vice Provost for Faculty Affairs who will make the final decision on the request.

Eligibility for fringe benefits during the leave of absence without pay for family care reasons shall be governed by the policies applicable to other leaves of absence without pay (HR 0355). Faculty members requesting leave of absence without pay should initiate this process by completing the appropriate HR form for Family and Medical Leave and submitting it to his/her department head who may require medical certification.

### Faculty Modified Duties Assignment (FMDA) Related to Illness

If warranted by serious faculty illness or by illness of a child, parent, spouse, same-gendered spouse not recognized by the state of Tennessee -or domestic partner\* ~~family member~~ for whom a ~~tenure track~~ faculty member has primary care-giving responsibility, modifications in the faculty member's service, while maintaining full pay, may be requested by the faculty member and approved by his/her department head and dean who will forward their recommendation to the Vice Provost for Faculty Affairs for approval. Modifications in service normally will not exceed one year in duration and may include the following:

1. temporarily reduced research, teaching, and/or ~~/~~service load, or

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\* For purposes of this policy, the term "domestic partners" shall be defined as two individuals (regardless of gender) who have reached at least 18 years old, who live together in the same residence in a long-term relationship of indefinite duration with an exclusive mutual commitment, who are not related to the other by blood or marriage, and who are responsible for each other's welfare and share financial obligations, as evidenced by three of the following types of documentation which should be provided upon request: (a) joint mortgage or lease; (b) designation of domestic partner as beneficiary for life insurance; (c) designation in will of domestic partner as primary beneficiary upon death; (d) domestic partnership agreement; (e) powers of attorney for property; (f) powers of attorney for health care; and (g) joint ownership of a motor vehicle, joint checking account, or joint credit account.

2. other mutually acceptable arrangement, such as course banking, ~~and normally will not exceed one year in duration.~~

Administrative cooperation in addressing the faculty member's need for temporary time away from ~~research, the classroom, and/or~~ service is strongly encouraged.

### **FMDA Related to the Arrival of a Child**

As a matter of right, tenured and tenure-track faculty as well as non-tenure-track faculty on multi-year contracts may modify their responsibilities for up to one semester at full pay while managing the arrival of a child through birth, adoption, or foster care. These modified duties during leave would include:

- Complete teaching release for one semester; non-teaching faculty receive up to fifteen (15) calendar weeks of leave.
- Complete release from on-campus schedule meeting and obligations (although remote attendance may be desirable),
- Research obligations/opportunities to be negotiated.
- Other desirable and negotiated accommodations.

Non-tenure-track faculty on yearly contracts may modify their responsibilities for up to one semester at full pay while managing the arrival of a child through birth, adoption, or foster care. These modified duties may include:

1. temporarily reduced research, teaching, and/or service load, or
2. other mutually acceptable arrangement such as course banking.

Administrative cooperation in addressing the faculty member's need for temporary time away from research, the classroom, and/or service is strongly encouraged.

~~This~~ These rights ~~applies~~, regardless of gender or marital status, to the primary care-giver for pre-school-aged children. The maximum period of modified duties is one semester within 12 months of the child's arrival (even in the event of multiple birth or placement of multiple children), and modified duties for this purpose may be requested ~~for each childbirth or adoption twice in the course of a career~~. If both parents qualify for a modified duties assignment, they may be required to use it in different semesters, especially if they reside in the same department.

Eligibility for fringe benefits during any modification in service shall be determined in accordance with the University Personnel Policy and procedure for each fringe benefit. A faculty member will not be required to make up or perform extra work to compensate for the use of this leave prior to or upon her/his return to work. The University will not discriminate in any manner against a faculty member on the basis of the faculty member's having exercised her or his rights to a parental leave. A faculty member shall notify his/her department chair and dean in writing if he/she will not be returning from leave as planned. Failure to report back to work at the end of the scheduled leave may be considered a voluntary resignation by the faculty member.

## Extending the Probationary Period

A tenure-track faculty member who is granted a leave of absence or modified duties under the ~~Family Care Policy~~ Faculty and Family Leave Policy (i.e., s/he has a serious illness or has primary responsibility for the care of an ill or disabled parent, spouse, domestic partner, or other family member) is eligible for an extension of the tenure-track probationary period for up to one academic year upon agreement by the department head and Dean. In the event of modified duties and leave due to childbirth, adoption, or commencement of foster care, a one-year extension of the probationary period will be granted.

The faculty member's assumption of the primary care-giving responsibility offered as a justification for extending the probationary period should have occurred within one year prior to the date of the request, and the request must be made before the tenure review process begins. The Vice Provost for Faculty Affairs may waive these time requirements for what he/she deems to be good cause shown in a written statement of the faculty member.

The faculty member must submit a written request for the extension to the department head or other administrative officer, who then will forward the request and his/her recommendation to the appropriate dean. The dean will forward the request and his/her recommendation to the Vice Provost for Faculty Affairs, who will make the final decision on the request. The UT Board of Trustees limits probationary period extensions to a maximum of two years (or two one-year extensions).

Tenure-track faculty members who are granted an extension of the probationary period will continue to receive annual merit reviews in a process that is independent of the request for extension.

Except in the cases where an extension has been granted, the probationary period at UTK shall not exceed seven years.