

UT Faculty Senate Benefits and Professional Development Committee (BPDC), report for 2018-2019

Submitted on 3/26/19 by BPDC chair: Gregory B. Kaplan, Professor of Spanish, Distinguished Professor in the Humanities.

The major items on the agenda during the 2018-2019 academic year were 1. parking passes for expectant/new mothers, and 2. paid parental leave (PPL).

Item 1: Parking passes for expectant/new mothers

In early September, 2018, the BPDC was informed by Faculty Senate President Misty Anderson that a request had been made to look into the matter of whether special parking accommodations could be secured for pregnant/new mothers as at other universities.

After enthusiastically deciding to pursue the matter under consideration, the BPDC deliberated electronically from September 14-20 about the pros and cons of plans for special parking accommodations for pregnant and new mothers at three U.S. universities: Cornell, Central Florida, Georgia. The BPDC agreed that these plans contained several sound concepts, and also made suggestions in light of the parking situation UT. The BPDC agreed that the Chair would take all of this into account while crafting a resolution that would potentially provide the greatest benefits to pregnant and new mothers at UT.

From September 21-24 the BPDC considered and voted on the resolution below, which it passed by a vote of 8-0 in favor. The resolution was approved by the Faculty Senate Executive Council at its meeting of 11/5/18 and then by the full Faculty Senate on November 19, 2018.

Resolution the University of Tennessee (UT) Faculty Senate Benefits and Professional Development Committee (chair: Gregory Kaplan)

WHEREAS, after engaging in discussion during the previous weeks, on September 26, 2018 the UT Faculty Benefits and Professional Development Committee voted in favor of supporting/not supporting the resolution below.

THEREFORE, BE IT RESOLVED THAT the UT Faculty Benefits and Professional Development Committee voted 8-0 to support the resolution below.

BE IT FURTHER RESOLVED THAT a copy of this Resolution be presented for approval/no approval at the Faculty Senate Executive Council meeting to be held on November 5, 2018. If approved by the Faculty Senate Executive Council, this Resolution will be presented for approval/no approval at the UT Faculty Senate meeting to be held on November 19, 2018.

Resolution on parking passes for expectant/new mothers:

WHEREAS, there is no current UT policy regarding parking passes for expectant/new mothers:

BE IT RESOLVED, we advocate that UT Parking & Transit Services provide a temporary parking accommodation to our students, staff, and faculty who are in their third trimester of pregnancy, or who are new mothers wishing to nurse their baby. In particular, that:

1. Faculty and staff parking permit holders in their third trimester of pregnancy be granted the option of reserving an expectant/new mother space in their permitted parking lot. Such spaces would be designated by UT Parking & Transit Services. This option would also be available to parking permit holders who need to secure a space prior to the third trimester due to a high risk or otherwise problematic condition. We recommend that, in order to be eligible for this permit, an applicant should submit a request in writing to UT Parking & Transit Services prior to their third trimester of pregnancy and provide a physician's note indicating a due date.

2. Faculty and staff parking permit holders who are also new mothers be granted the option of purchasing a permit, valid for 12 weeks after the birth of the new mother's baby, to park in an expectant/new mother space in their permitted lot. Such spaces would be designated by UT Parking & Transit Services. We recommend that this permit accommodation should be renewable for one additional 12-week period. We recommend that, in order to be eligible for this permit, an applicant should submit a request in writing to UT Parking & Transit Services.

Item 2: Paid Parental Leave (PPL).

During the 2017-18 academic year, the BPDC began to discuss options concerning the possible enactment by UT of a policy regarding PPL. Topics that were considered included the current policy regarding parental leave (UT HR0338-Family and Medical Leave), how a PPL policy might affect the tenure clock, whether Departments should have their own policies or whether there should be a university-wide policy, how such a policy might apply to faculty with dual appointments, and whether the Committee would be considering a policy for both staff and faculty and for both nine- and twelve-month employees. In the spring of 2018, the BPDC ultimately reached a consensus with respect to the issues of staff/faculty and nine-/twelve-month employees, namely, that, insofar as 12-month faculty/staff already possess leave time and are thus covered by the Family Medical Leave Act, it would be more efficacious to begin considering the implementation of a PPL policy for these employees of UT before moving on to nine-month employees.

Drafts of a PPL resolution have been circulating among the BPDC since the late fall of 2018, and one issue that might impede the implementation of a universal PPL policy at UT according to a consensus view of the BPDC concerns contractual differences between 12-month and 9-month employees, such as distinct methods of logging hours and the inability of 9-month employees to accrue leave time. At the 2/8/19 meeting it was thus decided that, since 12-month employees at UT (in part because they are able to accrue leave time), it would be better to focus in the present on PPL for 9-month employees.

During the fall of 2018, the BPDC continued to work on a resolution concerning Paid Parental Leave (PPL). In particular, the BPDC considered whether a universal PPL resolution (similar to PPL at the U of Memphis and Austin Peay SU) could, in practice, apply 9-month NTTF. In December, 2018, the following draft was created and circulated among the BPDC:

DRAFT: Resolution the University of Tennessee (UT) Faculty Senate Benefits and Professional Development Committee (chair: Gregory Kaplan) for XXXX Faculty Senate Executive Council Meeting

WHEREAS, after meeting and engaging in discussion during the XXXX the UT Faculty Benefits and Professional Development Committee voted in favor of supporting/not supporting the resolution below.

THEREFORE, BE IT RESOLVED THAT the UT Faculty Benefits and Professional Development Committee voted X-X to support/not support the resolution below.

BE IT FURTHER RESOLVED THAT a copy of this Resolution be presented for approval/no approval at the Faculty Senate Executive Council meeting to be held on XXXX. If approved by the Faculty Senate Executive Council, this Resolution will be presented for approval/no approval at the UT Faculty Senate meeting to be held on XXXX.

Resolution on Paid Parental Leave (PPL):

WHEREAS, there is no current UT policy regarding PPL for 9-month non-tenure track faculty:

BE IT RESOLVED, we advocate that, in the interest of providing a work environment that is supportive of employees' work and personal life obligations, the UT Office of Benefits and Retirement and Office of Human Resources work to implement the following policy concerning PPL:

Six (6) weeks of PPL should be provided to eligible 9-month non-tenure track faculty following the birth or adoption of a child.

Eligibility for PPL should be determined based on the following criteria for 9-month non-tenure track faculty:

- Faculty must be the biological parent or adoptive parent.
- Faculty must be on an active contract during the time the leave is being sought.
- The PPL ends immediately if the employee no longer meets the criteria for eligibility. For example, if the employee voluntarily or involuntarily transfers to an ineligible position, or separates from the University while on PPL.

We also recommend the following provisions with respect to PPL:

General provisions:

PPL would need to be taken within the 12 months following the birth or adoption of a child and would be available on a continuous, intermittent (separate blocks of time), or reduced schedule (reduced number of work hours per day or per week) basis. Any unused PPL at the conclusion of the 12 months following the birth or adoption of a child would be considered forfeited. Any PPL remaining at the end of the 12 months would not be banked for later use or paid out, and would not be combined with any future PPL.

PPL would be a benefit of employment and its use would not be considered as a negative factor in employment actions, such as hiring, promotions, and disciplinary actions, or under attendance policies. Use of PPL would not adversely affect consideration for future salary adjustments. PPL would not reduce any 9-month non-tenure track faculty eligibility for any other form of academic leave.

Departments should be supportive in managing PPL request to allow 9-month non-tenure track faculty to handle career and family responsibilities effectively and efficiently.

Workload issues should be dealt with proactively so that excessive work demands are not placed on other faculty members.

PPL should be used concurrent with FMLA, the State of Tennessee Leave for Adoption, Pregnancy, Childbirth and Nursing an Infant, and the State of Tennessee Leave for Adoptive Parents. With respect to FMLA, PPL would be required to run concurrently with FMLA leave (if the employee were eligible for FMLA). Paid parental leave should be used consecutively with other benefits such as sick leave, annual leave, short/long-term disability, and leave without pay.

PPL would be paid at 100 percent of the employee's base pay rate.

If both eligible parents were employed at UT as 9-month non-tenure track faculty members, each parent could receive up to 6 weeks (225 hours) of PPL. Parents would be able to choose to take PPL concurrently or at separate times, according to their preference.

Multiple births or adoptions that occur at the same time (for example, the birth or adoption of twins) would not increase the length of PPL provided.

At the conclusion of the PPL, the employee would typically return to the same position held at the time the leave began or to an equivalent position with equivalent pay, benefits, and working conditions, provided the employee could perform the essential functions of the position.

Provisions for adoption:

When the adoption is in the legal process, the PPL may begin from the point the child is placed with the eligible employee (granted custody) for the purpose of adoption. The PPL will generally commence immediately following the adoption of a child. However, PPL may occur prior to an adoption when deemed necessary to fulfill the legal requirements for an adoption.

Provision for funding PPL:

The department or unit would be provided with replacement funds to assist in covering the functions of a 9-month non-tenure track faculty member on PPL. These funds would provide coverage of on-site and online courses as well as the essential duties of faculty, in order to prevent the placement of excessive work demands on other faculty or staff. UT would cover the anticipated replacement costs; however, salary replacements for auxiliary, restricted, or revenue generating units would be funded from within the unit. The replacement cost provided for faculty using PPL would be in accordance with the salary structure for faculty adjunct established within each respective academic unit. Replacement costs for staff would be determined using a salary average based on employee classification and relevant functions.

UT would continue to pay the employer portion of any elected benefits (such as insurance and retirement) and the employee would remain responsible for the employee portion during approved PPL.

Provisions concerning the request of PPL:

The 9-month non-tenure track faculty member should notify his or her department in writing of their intention to request PPL and should provide the department with the anticipated timing and duration of the leave.

To receive PPL, the 9-month non-tenure track faculty member must complete a PPL Request Form, and submit the approved form to the Office of Human Resources for review and processing by the end of the fifth month of pregnancy or as soon as possible in the cases of adoption. It is understood that under certain circumstances it may not be feasible to provide notice by the end of the fifth month of pregnancy; in these cases, the 9-month non-tenure track faculty member must provide notice as soon as practicable.

At a BPDC meeting held on February 8, 2019, the Chair reported that he had sent the draft of the resolution for comments to John Zomchick, UT Vice Provost for Faculty Affairs, and to Mary Lucal Associate Vice Chancellor of UT HR. Suggestions made were incorporated into the current resolution (above).

The final issue considered by the BPDC was whether the draft resolution was an improvement over the current policy on the UT Provost's site, which reads:

Tenured and tenure-track faculty 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
- 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.

This right applies, regardless of gender, to the primary care-giver for pre-school-aged children. The maximum period of modified duties is one semester within twelve 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 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.

With regard to 9-month TTF (who are not the focus of the draft resolution), the BPDC concurred that the current policy of "modified duties" is sufficient although it could be easier to implement if external funding were available to departments to pay for PPL.

In the case of 9-month NTTF, the BPDC agreed that a modification of the current policy is necessary. The BPDC concurred that it would for next year's BPDC to further investigate whether it would be better to continue develop its draft resolution for 9-month NTTF or to work with the Provost's Office and UT HR on developing language that would offer a greater assurance to 9-month NTTF regarding PPL. There was a consensus on the BPDC that the current language on the Office of Provost's Faculty and Family Care Policy site (<https://provost.utk.edu/family-leave/>) does not provide a guarantee that PPL will be extended in all cases:

Lecturers and faculty members on nine-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

In this context, one significant issue that remains to be resolved is whether 9-month NTTF will be eligible to accrue leave time in the future, which is an idea being discussed within the UT system (as reported to the Chair). The BPDC concurred that discussion of PPL should conclude

after this issue is resolved, at which point a final decision should be reached regarding whether the current language on the Provost's site should be changed or if a resolution should be passed.