

Regulation on Serious Illness and Disability Leave for Faculty

I. Purpose. This regulation applies to faculty who do not accrue sick leave and are eligible to participate in the N. C. Teachers' and State Employees' Retirement System or the UNC Optional Retirement Program [i.e., continuing faculty who are employed at least 75% of full-time]. UNC constituent institutions must make their policies available as information to current and prospective faculty members.

The following states which features should be included in constituent institution policies and, in some cases, the minimum benefits and eligibility that should be extended. They also include additional benefits or standards of eligibility that constituent institutions may consider, as well as appropriate sample text drawn from existing constituent institution policies. Those constituent institutions that already have such policies may need to modify them to comply with the minimum benefits and eligibility. However, these constituent institutions do not need to revise any features of their policies that exceed the regulations below.

II. Provisions

A. The institutional policy must state that faculty members eligible for leave are those who do not accrue sick leave and are eligible to participate in the N.C. Teachers' and State Employees' Retirement System or the UNC Optional Retirement Program [i.e., continuing faculty who are employed at least 75% of full-time]. Eligibility may be limited to those faculty eligible under the provisions of the Family and Medical Leave Act (FMLA) [i.e., who have been employed at least one year and have worked at least 1,040 hours within the last 12 months].

B. The institutional policy should provide for a period of *paid* leave for qualifying faculty members.

C. The institutional policy should define the duration of leave, to include a minimum of 60 calendar days of *paid* leave within a single academic semester, up to a maximum of one academic semester. Institutional policies may provide for an extension of up to an additional semester (*paid or unpaid*) if the illness or disability requires a longer leave.¹

D. The policy should define eligible conditions to which the policy applies. These conditions should be consistent with qualifying conditions under FMLA:

1. the birth of a child and to care for the newborn child after birth; (Note: An expectant parent may take FMLA leave before the birth of the child for prenatal care or if their condition makes them unable to work or requires a reduced work schedule.)

2. placement of or to care for a child placed with the employee for adoption or foster care; (Note: FMLA leave may be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.)

3. serious health condition of employee's child, spouse, or parent, that requires the employee's care; (Note: Institutions may elect to extend this leave to include illnesses of other household members.)

4. serious health condition of the employee that prevents the employee from performing the essential functions of their job.

E. The institutional policy should explicitly refer to provisions of the family & medical leave, paid parental leave, and family illness leave in UNC System, state, and institutional policies to address coordination with these other benefits.

Sample text:

Paid Leave provided under this policy has no effect on the faculty member's other employment benefits.

All periods of paid leave under this policy will be construed as family and medical leave under the FMLA. The FMLA entitlement of 12 weeks of leave without pay will run concurrently with any period of paid time off.

The North Carolina Family Illness Act allows for 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.

F. The policy should include a description of the procedures for application and approval for leave.

Sample text:

Faculty members should request leave in writing to the department chair [or department or division head or dean, as appropriate]. Requests for leave should be submitted at least 60 days in advance of the leave or as soon as practicable after the need for leave is foreseeable.

The department chair will make a recommendation to the dean [or vice chancellor for academic affairs/provost, as appropriate] concerning whether or not to grant the request for leave.

The dean [or vice chancellor for academic affairs/provost, as appropriate] is responsible for deciding whether or not to approve the request for leave and provides written notification to the department chair and the faculty member. If leave is denied, the written notification should include the grounds for denial.

The policy should define an expedited appeals process if the request for leave is denied.

G. The policy should define the medical certification or other documentation that must accompany requests for leave, consistent with FMLA.

Sample text:

The University may request medical verification of the faculty member's illness or disability, including a physician's statement about the probable length of absence from normal duties. If the request is for the purpose of caring for a family member or dependent, the University may also request medical verification of that person's illness or disability and may also inquire about the circumstances which make it impossible or difficult for the faculty member to carry on with normal duties.

H. The policy should define who is responsible for ensuring coverage of the faculty member's duties and how any costs will be covered. The faculty member should not be responsible for arranging for such coverage. Institutions should be mindful of the burdens that are sometimes placed on departmental faculty members when a colleague takes an extended leave. Whenever possible, institutions should arrange to hire replacement instructors to take on the responsibilities of a faculty member on leave for an extended period.

Sample text:

The department chair is responsible for securing, to the extent possible, substitute personnel for the duration of the faculty member's leave. Any adjustments in work schedules within the department are at the discretion of the department chair with the approval of the dean and are subject to departmental and institutional needs and resources.

The cost of substitute personnel is the department's responsibility. In recommending approval of a leave to the provost, the department chair or dean will certify that they are prepared to develop a plan to cover the responsibilities of the faculty member for the duration of the leave.

I. The policy should state that *unused* leave under this policy shall not be:

1. accumulated or carried over to another academic year;
2. allowable as terminal leave payment when the faculty member leaves the University; or
3. used to extend years of creditable state service for retirement benefit purposes.

Employees with a balance of accrued leave from a previous 12-month appointment may be required to exhaust that leave before receiving sick leave under this policy.

J. The policy should state who is responsible for maintaining leave records (important for documentation under FMLA).

K. The policy should state links to "tenure clock" policies, to faculty evaluation processes such as post-tenure review, and to discrimination and confidentiality policies.

Sample text:

At the time a request for leave is granted, the faculty member, department chair, dean, and provost will agree in writing whether time spent on leave will count as probationary service. In the absence of an agreement or if the parties fail to reach agreement, time spent on leave shall count as probationary service.

A faculty member granted leave under this policy may have their five-year post-tenure review delayed by a period agreed upon by the faculty member, department chair, and dean.

Faculty will not be penalized in their condition of employment because they require time away from work caused by or contributed to by conditions such as pregnancy, miscarriage, childbirth, or recovery. Requests for leave because of these conditions shall be treated the same as a temporary disability.

L. The policy should anticipate that a faculty member may return mid-semester, where a faculty member cannot assume teaching responsibilities that have been assumed by substitute personnel. In such cases, the policy should address alternative assignments for the remainder of the semester and when the faculty member will be expected to continue their faculty responsibilities.

III. Other Matters

A. **Effective Date.** The requirements of this regulation will be effective on the date of adoption of this regulation by the president.

B. **Relation to State Laws.** The foregoing regulation as adopted by the president is meant to supplement, and does not purport to supplant or modify, those statutory enactments, regulations, and policies which may govern the activities of public officials.

¹ Note: Employees are eligible for short-term disability benefits under the N.C. Disability Income Plan if they have at least one year of contributing membership service in the N.C. Teachers' and State Employees' Retirement System or the UNC Optional Retirement Program earned within the 36 calendar months preceding the disability. Benefits become payable following a 60-day waiting period from the date of disability onset. In lieu of short-term disability benefits, employees may elect to exhaust any accumulated sick leave, annual or personal leave, or any other salary continuation as provided by the University. In addition to their eligibility for the N. C. Disability Income Plan, faculty should consider enrolling in one of the supplemental disability income plans available to UNC employees.