

## **Serious Illness and Disability Leave for Faculty Policy**

(Approved: May 6, 2005, East Carolina University Board of Trustees)

<https://author.ecu.edu/cs-acad/fsonline/customcf/facultymanual/part6/part6.htm>

The purpose of this policy is to provide permanent faculty who do not currently earn sick leave with paid leave for cases of a serious health condition, maternity leave, or parental leave as defined under the Family and Medical Leave Act (FMLA). The purpose of this policy is also to coordinate leaves granted under federal and state acts such as the FMLA [29 U.S.C. § 2601, et seq.], the North Carolina Family Illness Act (NCFIA) [SB1115, Section 28.3B], and the UNC Policy on Serious Illness and Disability Leave for Faculty [UNC Policy 300.2.11(G)]. All three policies cover the same serious health conditions, maternity leave or parental leave. This policy supplements the FMLA and NCFIA to provide for a period of paid leave rather than such leave being unpaid.

This policy does not apply to brief absences of 14 calendar days or less that are usually accommodated informally. This policy is intended to apply to short-term and intermediate-term disability of up to one year. Exceptional cases may be considered by the University.

All eligible East Carolina University faculty members with a medically verifiable serious health condition as defined below are covered under this policy. The review by university administrators focuses exclusively on verifying the documentation of the condition.

Granting or denial of a request for a leave under this policy shall be made without regard to the faculty member's race, color, national origin, religion, gender, age, sexual orientation, political affiliation, disability, or personal malice.

### I. Definitions

For purposes of this policy a brief absence is defined as fourteen (14) calendar days or less.

The following definitions are applicable to the Family and Medical Leave Act (FMLA), the North Carolina Family Illness Act (NCFIA) and ECU's Policy on Serious Illness and Disability Leave for faculty:

A serious health condition is defined as (a) an illness, injury, impairment, or physical or mental condition that involves either inpatient care in a hospital, hospice, or residential medical care facility, or that involves continuing treatment by a health care provider; (b) any period of incapacity requiring an absence from work of more than fourteen calendar days that also involves continuing treatment by a health care provider; or (c) continuing treatment by a health care provider for conditions so serious that, if not treated, would likely result in an absence of more than ten workdays. Prenatal care is also included. The period of actual physical disability

associated with childbirth is considered a serious health condition and must be taken as family/medical leave, whether as paid or unpaid leave.

Immediate Family - spouse, parents, children (including step relationships), or other legal dependents who require the faculty member's care.

Parent - a biological or adoptive parent or an individual who stood *in loco parentis* (a person who is in the position or place of a parent) to an employee when the employee was a child.

Child - a son or daughter who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability. Child would include: (a) biological, (b) adopted, (c) foster, (d) step-child, (e) legal ward, and (f) child of an employee standing *in loco parentis* as defined above.

Immediate Supervisor - Normally, the immediate supervisor is the individual who is the head of the code unit. However, in code units that describe department structures, the immediate supervisor is the department head/chair.

FMLA provides for a period of up to 12 weeks of unpaid leave for a serious health condition, maternity leave, or parental leave. NCFIA provides for up to 52 weeks of unpaid leave in a five-year period in cases of serious illness of a child, spouse, or parent.

Applicable vice chancellor - The applicable vice chancellor is the Provost/Vice Chancellor for Academic Affairs or the Vice Chancellor for Health Sciences, whoever is appropriate for the particular faculty member.

Start Date - The period of paid leave under this policy begins with the first day of the absence from University contractual duties resulting from such illness or disability. If a leave begins as a brief illness, then results in a more serious condition that warrants use of the Serious Illness Leave policy, the period of paid leave under this policy will revert back to the first day of absence.

## II. Eligibility

This policy applies to persons holding regular full-time faculty appointments who are eligible for participation in either the North Carolina Teachers and State Employees Retirement System or the Optional Retirement Program, and who are not eligible to earn sick leave under any other state or institutional leave policy. If a faculty member has been in a previous leave-earning position and has an accumulated sick leave balance, the faculty member must exhaust any previous sick leave balance prior to requesting coverage under this policy. Part-time permanent faculty holding appointments of at least 75% are also covered under this policy.

## III. Benefit

(A) In all cases, leave granted under this policy shall be in increments that are appropriate to the facts and circumstances surrounding the illness or disability, the academic calendar, the needs of the unit, and the responsibilities of the faculty member. Leave taken under this Serious Illness policy shall run concurrently with FMLA leave and/or with the statutory provisions of the North Carolina Family Illness Act. Any leave under this policy will count as part of the 52 week allowable total under the NCFIA and/or as part of the 12 week allowable total under the FMLA.

(B) A faculty member who has a medically verifiable illness or disability, with proper medical documentation, as defined under FMLA, or whose immediate family member has a medically documented, verifiable illness, may elect to request a paid leave of absence for up to 15 calendar weeks in accordance with Section V. Such a request must be reviewed by the immediate supervisor and the dean with notification of the action taken submitted to the appropriate vice chancellor and the Office of Human Resources.

(C) If the illness or disability requires an absence from faculty duties in excess of the 15 calendar weeks, the faculty member may elect to petition for an extension of paid leave (see (E) below) or for a leave of absence without pay under procedures described in the *Faculty Manual* or under University policies implementing the FMLA or under statutory regulations of the NCFIA.

(D) The faculty member should consult with the Office of Human Resources regarding existing benefits through the Disability Income Plan or through other disability programs that may be offered to University employees on an optional basis.

(E) A faculty member who provides the appropriate additional medical documentation and whose illness or disability, or that of the family member, extends beyond the 15 weeks provided for under this Policy, may elect to submit a written request to the immediate supervisor for an extension of leave with pay up to a maximum of one year (determined by counting forward 12 months from the date the leave begins) at the discretion of the University. More than one serious illness or disability leave may be granted in a 12-month period, but the total maximum allowable paid leave for all such serious illnesses may not exceed one year in length. Such requests must be reviewed by the appropriate dean, vice chancellor, and the Associate Vice Chancellor for Human Resources. Additional leave with pay in excess of the limits may be granted in exceptional cases at the discretion of the university.

(F) Additional leave requires leave of absence without pay.

(G) The immediate supervisor may require such medical documentation or certifications, second or third medical opinions (at the university's expense) or other documentation of the need for leave, probable length of absence from normal duties, ability to return to work, or intent to return to work as it may deem necessary.

(H) When the request is to care for a member of the faculty member's immediate family, the University will also require satisfactory evidence that the faculty member will exercise primary responsibility for the care of those who would qualify the faculty member for leave under this policy.

(I) Leave offered under this policy is *not* allowable as terminal leave payment when the faculty member leaves the employment of the University. Unused leave shall not accumulate nor be carried forward from one academic year or calendar year to the next. It may not be used to extend years of creditable state service for retirement benefits. However, it may be exhausted prior to participation in the Disability Income Plan of North Carolina that is provided to eligible state employees.

(J) It is the intent of this Policy that faculty members receive the benefits defined herein during the period(s) in which they have a contractual commitment to the University.

#### IV. Use of Leave

The period of leave provided under this policy may be used for medically verifiable sickness or injury as defined under the FMLA. Use of such leave includes the birth of a child and to care for the newborn child after birth or for temporary disability connected with childbearing and recovery, which prevents the faculty member from performing usual duties. Leave also may be used for the placement of or to care for a child placed with the employee for adoption or foster care, and/or for a serious health condition of the employee that prevents the employee from performing the essential functions of his/her job. In accordance with ECU's policy on leave granted under the Family and Medical Leave Act, a faculty member may seek leave needed as a consequence of a medically verifiable illness/disability of a member of the immediate family, as defined in Section I. of this policy.

A faculty member who anticipates the need for a temporary leave shall notify his or her immediate supervisor in writing as soon as possible.

If the faculty member's request is for the purpose of caring for an immediate family member, the immediate supervisor may request medical verification of the illness or disability of that person and may also inquire about the circumstances which make it impossible or difficult for the faculty member to carry on with normal duties.

When the request is for the care of the faculty member's family member or dependent, the immediate supervisor may base the recommendation on other factors, including the needs of the unit, timing within the academic year, effect on students, ability of the unit to compensate for the absence, etc.

Female faculty shall not be penalized because they require time away from work caused by or contributed to by pregnancy, miscarriage, abortion, childbirth or recovery. Disabilities resulting from pregnancy shall be treated the same as any

other temporary disability. The type and nature of the faculty member's duties during pregnancy shall be determined by the faculty member's immediate supervisor in consultation with the faculty member and upon advice she receives from her physician.

#### V. Administration of Benefit

It is the responsibility of the faculty member to request the use of leave provided by this policy as soon as possible upon learning of the need for the leave. This request will be made to the faculty member's immediate supervisor. The request for leave shall include an estimate of the amount of time the faculty member is expected to be on leave. The faculty member will notify his or her immediate supervisor if the estimate materially changes.

Such requests must be in writing, but there may be instances where the employee is unable to make the request by completing the necessary forms at the Office of Human Resources web site or via a letter. All conditions covered by this serious illness and disability leave policy cannot be anticipated. The policy provided herein is expected to be appropriate in most situations. However, in unusual cases, the faculty member or other responsible party may be unable to provide the necessary notification. In those rare instances where the employee or a member of the employee's family is unable to make the necessary request, it is the responsibility of the immediate supervisor to consult with a Human Resources benefits counselor for direction.

The immediate supervisor will review the request and forward the documentation to the dean. The dean is responsible for reviewing the documentation and consulting with the Office of Human Resources. The dean will provide written notification of the decision to the immediate supervisor, who will then advise the faculty member. The dean will provide a copy of the notice to the appropriate vice chancellor and to the Office of Human Resources. If leave is denied, the written notification will include the grounds for denial.

In the case of a request for leave beyond the initial 15 week period, the request must also be reviewed by the appropriate vice chancellor and the Associate Vice Chancellor for Human Resources. The person responsible for notifying the faculty member is the Associate Vice Chancellor for Human Resources. If leave is denied, the written notification will include the grounds for denial.

The immediate supervisor 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 unit are at the discretion of the immediate supervisor with the approval of the dean and are subject to departmental and institutional needs and resources. In recommending approval of a leave, the immediate supervisor will develop a written plan to cover the responsibilities of the faculty member for the

duration of the leave. Funding of substitute personnel is the responsibility of the appropriate vice chancellor.

Nothing in this policy shall prohibit other faculty members from “covering” for the faculty member on leave but only so long as the faculty member on leave complies with this leave policy.

#### VI. Appeals

A decision not to grant a request for leave under this policy may be appealed to the appropriate vice chancellor. The vice chancellor's decision may be appealed to the chancellor. Appeals of a negative decision must be made by the faculty member to the next higher level within ten (10) business days of receipt of the negative decision. The vice chancellor and chancellor must respond to an appeal within ten (10) business days of receipt of the appeal.

#### VII. Confidentiality

Communications concerning leave requested or granted under this policy are subject to the same confidentiality requirements as other personnel records in accordance with North Carolina law.

#### VIII. Record-Keeping

Because this policy provides an important financial benefit, accurate records on all requests for leave, whether or not the request is granted, must be maintained. The immediate supervisor shall be responsible for forwarding all records pertaining to the use of this policy to the Office of Human Resources. The Office of Human Resources will maintain the official records concerning requests for leave under this Policy, and may, from time to time, be required to make general reports on its use to other University administrators and to the Faculty Senate.

#### IX. Coordination with Other Policies

ECU's *Faculty Manual* indicates that leaves from all employment obligations which are granted to probationary-term faculty may include extension of the length of the probationary term. It is the responsibility of the faculty member to review the pertinent sections and determine the impact such leave would have on their probationary term.

A permanently tenured faculty member granted leave under this policy may have his or her five-year cumulative review delayed by a period agreed upon by the faculty member, the faculty member's immediate supervisor, the dean, and the appropriate vice chancellor.

The terms of this policy pertain only to a leave for a specified period because of illness or disability. This policy has no effect on provisions for other types of leave as described in the *Faculty Manual*.

The leave provided for under this policy shall have no effect on the faculty member's other employment benefits.

X. Effective Date

This policy shall become effective immediately upon approval by the Board of Trustees of East Carolina University and shall supersede any previous authority granting leave for faculty, if any.