

FAYETTEVILLE STATE UNIVERSITY

**SERIOUS ILLNESS AND
DISABILITY LEAVE POLICY FOR FACULTY**

Authority:	Issued by the Fayetteville State University Board of Trustees. Changes or exceptions to administrative policies issued by the Board of Trustees may only be made by the Board of Trustees.
Category:	Employment – Employees Exempt from the State Personnel Act (Faculty)
Applies to:	●Faculty
History:	Approved, September 23, 2004 First issued, November 23, 2004
Related Policies:	Policy No. 300.2.11 of the UNC <i>Policy Manual</i>
Contact for Info:	General Counsel (910) 672-1141

I. Introduction

The purpose of this policy is to provide a period of paid leave for faculty in cases of a serious illness, major disability, or for parental purposes.

II. Eligibility

This policy applies to faculty with nine (9) and ten (10) month appointments who have been continuously employed for more than one year and who are eligible for participation in either the North Carolina State Retirement System or the UNC Optional Retirement Program [i.e., continuing faculty who are employed at least 75% of full-time] and who are also eligible under the provisions of the Family 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].

III. Definitions

- A. **Child** shall be defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.
- B. **Family Medical Leave Act** (FMLA) shall be defined as an Act that provides certain employees with up to twelve (12) workweeks of unpaid, job protected leave a year and requires that group-health benefits be maintained during the leave as if employees continued to work instead of taking leave. (29 CFR Part 825)

- C. **Family Member** shall be defined as a child, parent, or spouse.

North Carolina Family Illness Leave shall be defined as a policy that provides for an employee to care for the employee's child, parent, or spouse where that child, spouse, or parent has a serious health condition. The policy does not provide leave for the individual employee's illness. An eligible employee (full-time or part-time) is entitled to up to 52 weeks of leave without pay during a 5-year period to care for the employee's seriously ill child, spouse, or parent.

- E. **Parent** shall be defined as a biological, adoptive or foster parent or an individual who stands or stood in loco parentis to an employee when the employee was child. As it is used in this policy, the term "parent" does not include parents "in law."
- F. **Serious health condition** shall be defined as a serious illness, injury, impairment, physical or mental condition or disability that involves: (1) inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical-care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or (2) continuing treatment by a health-care provider resulting in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).
- G. **Spouse** shall be defined as a husband or wife as defined or recognized under North Carolina law.

IV. **Explanation of Benefits**

- A. A faculty member shall be provided paid leave for a maximum allowable total length of sixty (60) calendar days within a single academic semester for the following reasons:
- (1) The birth of a child of the faculty member, and to care for the newborn child;
 - (2) The placement of a child with the faculty member for adoption or foster care, and to care for the newly placed child;
 - (3) To care for the spouse, or a child, or parent, of the faculty member, if such spouse, child, or parent has a medically verifiable serious health condition; and,
 - (4) Because of a medically verifiable serious health condition that makes the faculty member unable to perform the functions of his or her position.

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

- B. The sixty-day period shall begin with the first day of absence. Leave shall be granted in increments that are appropriate to the facts and circumstances surrounding the serious illness, the academic calendar, the needs of the unit, and the responsibilities of the faculty member.

- C. If the serious health condition requires an absence from faculty duties in excess of the sixty (60) calendar days, a faculty member may petition for an extension of paid leave or for a leave of absence without pay. The university shall be under no obligation to grant the faculty member an extension of paid leave beyond the initial sixty (60) calendar days. However, if an extension of paid leave is granted, the total maximum allowable paid leave for serious health conditions shall not exceed one hundred and twenty (120) calendar days within a twelve (12) month period.
- D. Paid leave provided for 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 twelve (12) weeks of leave without pay will run concurrently with any period of paid or unpaid leave granted under this policy.
- E. An employee who has changed from 12- to 9-month employment status while at the university must exhaust his/her accumulated sick leave accrued during their 12-month employment status prior to utilizing the benefit provided by this policy.
- F. Any unused leave is not allowable as terminal-leave payment in the event the faculty member leaves the employment of the university, and it may not be used to extend years of creditable state service for retirement benefits. Additionally, unused leave shall not accumulate nor be carried forward from academic year to academic year.
- G. A faculty member may qualify for disability benefits under the North Carolina Disability Income Plan. A faculty member should consult with the Office of Human Resources regarding his/her entitlement to any such benefits.

V. Administration of Leave Requests

- A. A faculty member who wishes to make an initial request for leave (paid or unpaid) or a request for an extension of leave under this policy should complete the *Request for Faculty Serious Illness and Disability Leave* form and forward it to the department chair or, if the department chair is not available, to the appropriate dean. A request for leave should be submitted at least thirty (30) days in advance of the leave or as soon as practicable. The department chair (or dean, if the department chair is unavailable) may request that the faculty member provide medical verification of the faculty member's health condition, 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 faculty member's family member, the department chair (or dean) may also request medical verification of the health condition of that person and may also inquire about the circumstances which make it impossible or difficult for the faculty member to carry on with essential functions. The university may request a second or third opinion on the faculty member's health condition at its own expense.
- B. The department chair shall forward the completed leave form to the Office of Human Resources (HR). HR will verify the eligibility of the faculty member for leave under this policy and shall report its findings to the department chair. If the

department chair is not available, HR will report its findings to the appropriate dean.

- C. Upon receiving verification from HR, the department chair shall forward the *Request for Faculty Serious Illness and Disability Leave* form to the dean (or, if the dean is unavailable, to the provost) and also make a recommendation in writing to the dean (or provost) concerning whether to approve the requested for paid or unpaid leave.
- D. The dean (or, if the dean is unavailable, the provost) shall be responsible for making the decision whether to approve the faculty member's request for leave. After reviewing the department chair's recommendation, the dean (or provost) shall provide written notification of his or her decision to the department chair who will, in turn, advise the faculty member of the decision along with a copy of the dean's written notification. If leave is denied, the written justification should include the grounds for denial. The dean shall provide a copy of the notification to HR and to the provost. If the recommendation is submitted to the provost, the provost will provide a copy of the notification to HR while also maintaining a copy in the provost's office.
- E. The department chair shall be responsible for securing, to the extent possible, substitute personnel for the duration of the faculty member's leave. Any adjustments in work schedule within the department will be at the discretion of the department chair with the approval of the dean. Such adjustments will be subject to departmental and institutional needs and resources.
- F. Whenever the dean approves leave under this policy, the dean is responsible for determining, in consultation with the department chair, an arrangement for covering the duties of the person on leave.
- G. 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.
- H. At least ten (10) calendar days prior to the expiration of the faculty member's leave, the faculty member shall notify the department chair of his or her intent to return to work by the requested ending date of the leave. The department chair shall inform the dean, provost and Human Resources of the date of the faculty member's return.
- I. Immediately upon the faculty member's return to work, the faculty member shall meet with the department chair regarding the faculty member's assigned duties and responsibilities.

VI. Record-Keeping

This policy provides an important financial benefit; therefore, accurate records must be maintained. All documents related to a faculty member's request for leave under this policy and approval of such leave shall be forwarded by the chair, dean, and/or provost to the Office of Human Resources, which will maintain the official records.

VII. Coordination with Other Policies

- A. The leave with pay provided for under this policy shall have no effect on the faculty member's other employment benefits.
- B. At the time a request for leave is granted, the faculty member may apply for an extension of his or her probationary period through the department chair and dean to the provost. The faculty member, department chair, dean, and provost shall 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.
- C. A faculty member granted leave under this policy may have his or her five-year post-tenure review delayed by a period agreed upon by the faculty member, the department chair and the chair of the post-tenure review committee. In the absence of an agreement or if the parties fail to reach agreement, the dean shall make the decision regarding the time period that the five-year post-tenure review will be delayed.

VIII. Appeals

A dean's decision not to grant a request for leave under this policy may be appealed to the provost. The provost's decision is final. If the provost is acting on behalf of the dean, then the faculty member may appeal the provost's decision to the chancellor. In this case, the chancellor's decision shall be final. Appeals of a negative decision must be made to the next higher level within ten (10) university days of receipt of the negative decision.

X. Confidentiality

Communications concerning leave requested or granted under this policy are subject to the same confidentiality requirements as other personnel records. NCGS 126-24 governs the protection and confidentiality of personnel records.

**FAYETTEVILLE STATE UNIVERSITY
REQUEST FOR FACULTY SERIOUS ILLNESS AND DISABILITY LEAVE**

Name: _____ Social Security Number: _____

Home Address: _____

Home Phone Number: _____ Work Phone Number: _____

Department/School/College: _____

Requested Dates of Leave: From _____ To: _____

REASON FOR LEAVE

_____ Birth of a child or to care for a newborn child after birth

_____ Placement of or to care for a child placed for adoption or foster care

_____ Serious health condition of a spouse, child or parent for which you need to provide care

Family member's name: _____ *Relationship* _____

_____ Faculty member's own serious health condition

EXPLANATION OF REQUEST

(Please provide information related to the reason for the request for leave. Attach additional pages if needed.)

VII. CERTIFICATION

I certify that I understand, agree to, and meet the requirements and conditions outlined in the *Serious Illness and Disability Leave Policy for Faculty*. I authorize the appropriate university officials to obtain any necessary information regarding my request for serious illness and disability leave.

Faculty Member's Signature _____ Date _____

THIS FORM MUST BE SUBMITTED TO YOUR DEPARTMENT CHAIR AT LEAST THIRTY (30) DAYS IN ADVANCE OF THE LEAVE OR AS SOON AS PRACTICAL. IF YOUR DEPARTMENT CHAIR IS UNAVAILABLE, IT SHOULD BE SUBMITTED TO THE DEAN OF YOUR COLLEGE/SCHOOL.

MEMORANDUM

To: _____
Assistant Vice Chancellor for Human Resources

From: _____
Department Chair/Dean

Date: _____

Re: Request for Serious Illness/Disability Leave

The attached form is a request for serious illness/disability leave from _____, a faculty member in the Department of _____. The leave is being requested for the following reason:

_____ Birth of a child or to care for a newborn child after birth

_____ Placement of or to care for a child placed for adoption or foster care

_____ Serious health condition affecting your spouse, child or parent for which you need to provide care

Family member's name: _____

Relationship: _____

_____ Faculty member's own serious health condition

The request is for the period beginning _____ and ending _____. In accordance with the *Serious Illness and Disability Leave Policy for Faculty*, please verify the eligibility of the faculty member for leave under this policy and report your findings to me. Please report your findings within five (5) days of your receipt of this letter.

I appreciate your assistance with this matter.

Enclosure

MEMORANDUM

To: _____
Dean/Provost

From: _____
Department Chair/Dean

Date: _____

Re: Request for Serious Illness/Disability Leave

The attached form is a request for serious illness/disability leave from _____, a faculty member in the Department of _____ . The leave is being requested for the following reason:

_____ Birth of a child or to care for a newborn child after birth

_____ Placement of or to care for a child placed for adoption or foster care

_____ Serious health condition affecting your spouse, child or parent for which you need to provide care

Family member's name: _____

Relationship: _____

_____ Faculty member's own serious health condition

The leave is being requested for the period beginning _____ and ending _____. The Department of Human Resources has determined that the faculty member _____ is eligible _____ is not eligible for leave under the *Serious Illness and Disability Leave Policy for Faculty*. I am recommending that the faculty member _____ be granted _____ not be granted leave for _____ the period requested.

Should a decision be made to grant the faculty member leave, I am prepared to have the faculty member's responsibilities covered for the duration of the leave.

Please notify me of your determination regarding the faculty member's request as soon as a decision is made. Once I receive your decision, I will notify the faculty member.

Enclosure

MEMORANDUM

To: _____
Department Chair/Dean

From: _____
Dean/Provost

Date: _____

Re: Request for Serious Illness/Disability Leave

I am approving the request for leave made by _____.
Approval of the leave is for the period requested and is based upon the following reason:

- _____ Birth of a child or to care for a newborn child after birth
- _____ Placement of or to care for a child placed for adoption or foster care
- _____ Serious health condition affecting your spouse, child or parent for which you need to provide care. *Family member's name:* _____
Relationship: _____
- _____ Faculty member's own serious health condition

Please provide written notification to the faculty member of my decision.

cc: Provost and Vice Chancellor for Academic Affairs
Assistant Vice Chancellor for Human Resources

MEMORANDUM

To: _____
Department Chair/Dean

From: _____
Dean/Provost

Date: _____

Re: Request for Serious Illness/Disability Leave

I am not approving the request for leave made by
_____.

My reason for disapproving the leave is as follows:

_____.

Please provide written notification to the faculty member of my decision.

cc: Provost and Vice Chancellor for Academic Affairs
Assistant Vice Chancellor for Human Resources

MEMORANDUM

To: _____
Employee's Name

From: _____
Department Chair/Dean's Name

Date: _____

Re: Request for Serious Illness/Disability Leave

On _____, 200__, you notified the university of your need to take serious illness/disability leave due to the following:

_____ Birth of a child or to care for a newborn child after birth

_____ Placement of or to care for a child placed for adoption or foster care

_____ Serious health condition affecting your spouse, child or parent for which you need to provide care *Family member's name:*

_____ *Relationship:* _____

_____ Faculty member's own serious health condition

This is to notify you that your request for leave _____ has been _____ has not been approved for the period _____, 200__ through _____, 200__. If your request has been approved, you _____ will be _____ will not be required to furnish medical certification of a serious health condition affecting you or your family member. If required, your certification should be presented to me at least fifteen (15) calendar days from the date of this letter. If the certification has not been provided within this time, we may delay the commencement of your leave until the certification is submitted.

Prior to being restored to employment, you may be required to present a fitness-for-duty certificate. If such certificate is requested, but not presented, your return to work may be delayed until certification is provided.

If your request for leave has not been approved, you have the right to appeal to the Provost and Vice Chancellor for Academic Affairs. The Provost must receive your letter of appeal within ten (10) days of your receipt of this decision.