

Appendix C-5

Serious Illness and Disability Leave for Faculty
Approved by the Faculty Senate on March 22, 2005
Approved by the Board of Trustees on February 2006
Revised January 24, 2007
Approved by the Board of Trustees on February 21, 2007

In compliance with the request of the General Administration, the following policy on serious illness and disability leave for faculty at North Carolina Agricultural and Technical State University has been approved for implementation.

I. Coverage

This policy applies to persons holding regular faculty appointments (tenured, tenure track, or non-tenure track) who are eligible for participation in either the North Carolina State Retirement System or the Optional Retirement Program and who are eligible under the provisions of the Family Medical Leave Act (FMLA). It does not apply to twelve month appointments annually; these persons are covered under a separate leave policy of the Board of Governors. It does not apply to persons with adjunct faculty appointments.

II. Eligibility

The eligible conditions under these guidelines are the following, consistent with qualifying conditions under FMLA:

- Serious health condition of the employee that prevents the employee from performing the essential functions of his/her job;
- Serious health condition of an employee's child, spouse, or parent, that requires the employee's care;
- The birth of a child and to care for the newborn child after birth; (Note: An expectant mother may take FMLA leave before the birth of a child for prenatal care or if her condition makes her unable to work or requires a reduced work schedule.);
- The 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.).

III. Use of Leave

The period of leave provided under this policy may be used for medically verifiable sickness or injury which prevents the faculty member from performing usual duties including temporary disability connected with childbearing and recovery. A faculty member who anticipates the need for a temporary disability leave should notify the Department Chairperson in writing as soon as possible.

Faculty will not be penalized in their condition of employment 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 such condition shall be determined by the Department Chair in consultation with the faculty member and upon advice from the faculty member's physician.

IV. 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 leave. This request will normally be made in a letter to the Department Chair. 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; the same as would be required under FMLA. If the request is for the purpose of caring for a faculty member's family member or dependent, the department or designee of the University may also 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. To facilitate the gathering of necessary verification, the Department Chair may request the assistance of the Benefits Office in the Department of Human Resources. A faculty member who has a medically verifiable extended illness or serious disability is entitled to a salary continuation for up to sixty calendar days, starting from the first day of the related absence.

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 leave to the Provost, the Department Chair or Dean will certify that he/she is prepared to develop a plan to cover the responsibilities of the faculty member for the duration of the leave.

(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).

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 a serious illness of a child, spouse or parent.

The faculty member may apply to the Benefits Office in the Department of Human Resources for salary continuation through the Disability Income Plan of North Carolina and through the optional disability plan, if eligible.

V. Appeals

A Dean's decision not to grant a request for leave under this policy may be appealed to the Provost.

VI. Confidentiality

Communications concerning leave requested or granted under this policy are subject to the same confidentiality requirements as other personnel records.

VII. Record Keeping

Since this policy provides an important financial benefit, accurate records on its invocation must be maintained. The Benefits Office of the Department of Human Resources will be responsible for maintaining the medical certification or other documentation that must accompany requests for leave, consistent with FMLA and answering any questions.

VIII. Coordination with Other Policies

The "Regulation on Academic Freedom, Tenure and Due Process" provide that "At the time a request for leave is granted, the faculty member, the department head, the Dean and the Provost will agree in writing whether time spent on a leave of absence will count as probationary service. In the absence of an agreement or if the parties fail to reach an agreement, time spent on leave of absence will count as "probationary service."

A faculty member granted leave under this policy may have his/her five-year post-tenure review delayed by a period agreed upon by the faculty member, the department head and the 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.

The terms of this policy pertain only to a leave with full pay for a specified period of illness or disability.

Leave offered under this policy is not allowable as terminal leave payment when the faculty member leaves the employment of the University. 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 provided to state employees. Employees with a balance of accrued leave from a previous 12-month appointment should be asked to exhaust that leave under this policy.