

UNIVERSITY OF
NORTHERN COLORADO

BOARD OF TRUSTEES AGENDA ITEM

Meeting Date: June 14, 2019	
<input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Discussion Item <input type="checkbox"/> Information Item	
Name of Item:	Senate Action #1167: 2-3-1003(4) Parental Leave Policy

Responsible Staff Member: Mark Anderson

Summary of Issue: Recommended amendments to update the Policy for Parental Leave section of the Board Policy Manual as attached.

Recommended Action by BOT:	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> No Action Needed
Change to Board Policy Manual:	<input checked="" type="checkbox"/> Approval <input type="checkbox"/> No Action Needed
	If yes, Section: 2-3-1003(4)

Administrative Recommendation (Motion):

 Signature of Vice President	<u>5/21/2019</u> Date	 Signature of President	<u>6/5/19</u> Date
---	--------------------------	---	-----------------------

Faculty Senate April 29, 2019

Welfare Committee Motion

MOTION: The Welfare Committee recommends amendments to update the policy for parental leave.

MOTION: DeKrey moved to approve the amended Parental Leave Policy.

SECOND: Blatt.

VOTE: The amended Parental Leave Policy was unanimously approved by a voice vote.

Proposed Updated Policy for Parental Leave (CLEAN COPY)

2-3-1003(3) Maternity Leave. (Deleted)

Replace current 2-3-1003(4) with the following:

2-3-1003(4) Parental Leave Policy.

Purpose: The Family and Medical Leave Act ("FMLA") is a federal law that provides, among other things, eligible employees up to twelve (12) weeks leave per twelve (12)-month period because of the birth of a child and to care for the newborn child, or because of the placement of a child with the employee for adoption or foster care. The teaching responsibilities of faculty members occur during the semesters (and in some instances the terms) of the academic year. It is not practicable in most instances (due to continuity of instruction and teaching responsibilities of faculty members) for designation of substitute faculty during an academic semester or term. Therefore, parental leave for an eligible faculty member, who is the primary care giver of the child, can be reasonably provided only on a semester basis. In addition, unlike other University employees, faculty members do not receive paid vacation leave. The purpose of this Parental Leave Policy ("Policy") is to provide parental leave for faculty members for birth or adoption of a child under the circumstances required under the FMLA that runs concurrent with, and may exceed, the leave guaranteed by the FMLA. As the exact date of birth or of adoption or foster care placement cannot be predicted with certainty, eligible faculty should give careful consideration to additional or alternative leave arrangements as referenced in this Policy to address uncertainties about the timing of parental leave.

(a) Parental Leave and the FMLA

The provisions of this Policy are to be interpreted in conjunction with the FMLA and any applicable provisions of State or local law, including any changes to those statutes that may occur after the adoption of this Policy. Parental leave under this Policy, the FMLA, and any applicable State or local law, run concurrently. Thus, parental leave under this

Policy is part of, and is not in addition to, leave provided by the FMLA or any applicable State or local law.

(b) Definitions

As used in this Policy:

(I) "adoption" means legally and permanently assuming the responsibility of raising a child as one's own.

(II) "child" means a biological, adopted, or foster child, a stepchild, a legal ward or a child to whom a faculty member stands in loco parentis, who is either under age eighteen (18), or age eighteen (18) or older and incapable of self-care because of a mental or physical disability at the time that parental leave is to commence.

(III) "foster care" means twenty-four (24)-hour care for children in substitution for, and away from, the parents or guardian.

(IV) "in loco parentis" refers to those eligible faculty members who have assumed the obligations of parental status and discharge the day-to-day responsibilities to care for, and to financially support, the child.

(V) "parent" means a faculty member who is a biological parent, adoptive parent, foster parent, guardian, or a spouse of a parent, including a faculty member using a surrogate/gestational carrier.

(VI) "primary care giver" means the eligible faculty member who has assumed the primary day-to-day responsibilities to care for the child immediately following the birth, adoption or commencement of foster care of the child.

(VII) "son or daughter" means the same as "child".

(c) Eligibility for Parental Leave

A faculty member who is or anticipated to be a parent and seeking leave for, the birth, adoption, or foster care of a child is eligible for the benefits of this Policy

(I) when they become eligible for FMLA leave or

(II) when the faculty member has been employed continuously for one (1) year by the University on a .50 FTE or greater basis, whichever occurs first.

(d) Documentation of Relationships

To confirm a family relationship with the child, the eligible faculty member's academic dean and/or the Director of Human Resources may require the faculty member giving notice of the need for parental leave to provide reasonable documentation or a statement of family relationship. This documentation may take the form of a simple statement from the faculty member, a child's birth certificate, a court document, or equivalent documentation.

(e) Expiration of Period of Parental Leave

An eligible faculty member's entitlement to parental leave to be with a newborn child expires at the end of the twelve (12)-month period beginning on the date of the birth.

An eligible faculty member's entitlement to leave for adoption or foster care expires at the end of the twelve (12)-month period beginning on the date of the placement.

(f) Parental Leave where both Parents are Eligible Faculty Members

Except as otherwise allowed expressly by this Policy, where both parents are eligible faculty members and are seeking parental leave for the birth or adoption of a child, they are limited to the combined total paid parental leave described in subsections (i) and (j), below, during any twelve (12)-month period.

(g) Leave Notification

An eligible faculty member must provide their academic dean and the Director of Human Resources written notice of the intent to take parental leave under this Policy at least thirty (30) calendar days prior to the date on which parental leave is foreseeable based on an expected birth or placement for adoption or foster care. If thirty (30) calendar days' notice is not practicable (because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency), written notice must be given as soon as practicable. For the purposes of this Policy, "as soon as practicable" means as soon as both possible and practical, after considering all the facts and circumstances in the individual case, which, in most cases, should be the same day the employee becomes aware of a need for leave or the next business day thereafter.

(h) Commencement of Parental Leave

Parental leave under this Policy for the eligible faculty member who is the primary care giver will commence on the first day of the semester designated in the written notice of intent as described in subsection (g), above. Customarily, parental leave will commence on either:

(I) the first day of the semester in which the child is due to be born or in which the placement of the child with the faculty member for adoption or foster care is expected to occur or;

(II) the first day of the semester after the child is born or the placement of the child with the employee for adoption or foster care occurs.

The faculty member will not be expected to fulfill on-campus duties until the beginning of the semester following that in which parental leave was taken.

(i) Parental Leave for Eligible Primary Care Giver

An eligible faculty member who is the primary care giver of the child will receive full pay for the semester in which they are provided parental leave. If applicable, such faculty member may provide notification of a tenure clock extension in accordance with 2-3-902(3)(b).

(j) Parental Leave for Eligible Non-Primary Care Giver

An eligible faculty member who is the non-primary care giver of the child will receive two (2) weeks of paid parental leave. Additional parental leave will be unpaid unless such parental leave satisfies the requirements for use of sick leave. See 2-3-1003(2) (Short-Term Disability Leave).

(k) Alternative Parental Leave Arrangements

An eligible faculty member, regardless of whether they provide leave notification pursuant to subsection (g) of this Policy may enter into an additional or alternative parental leave arrangement (including unpaid leave) only if the University, in its discretion, agrees to do so. Any such alternative leave request shall first be submitted by the eligible faculty member to the faculty member's academic dean. The academic dean shall consult with the Director of Human

Resources and the General Counsel to determine if the requested additional or alternative leave arrangement is consistent with the requirements of the FMLA, and any applicable State and local laws. Any additional or alternative leave arrangements to which the eligible faculty member's academic dean and the Director of Human Resources agrees must be in writing and signed by the faculty member and faculty member's academic dean on or before the date the parental leave begins.

2-3-1003(3) Maternity Leave.

Maternity leave as used in this section is defined as that period of time in which a woman is unable to perform the duties of her position directly due to birth of a child, medical complications of pregnancy, or medical complications of childbirth. The University treats complications of pregnancy, childbirth, false pregnancy, terminations of pregnancy, and recovery therefrom and any temporary disability resulting therefrom as any temporary disability for all job related purposes.

The University requires no arbitrary date of commencement nor termination of maternity leave. The leave shall commence when the staff member is physically unable to perform the duties of her assigned position and shall terminate when she is physically able to return to those duties. The University reserves the right to require a qualified professional's statement to support the individual's request for specific beginning and ending dates of maternity leave. In addition, the University reserves the right to request a second qualified professional's opinion. If a second opinion is requested, it shall be made by a qualified professional designated by the University and paid by the University. In case of disagreement, the ultimate decision regarding length of maternity leave shall rest with the administration.

Upon return from maternity leave, the individual's position, title, and salary shall be the same as if the individual had not been on leave, subject to existing University policies, regulations, and procedures. Accrued sick leave and accrued vacation leave benefits (where applicable) shall be used for maternity leave. Requests for maternity leave shall be directed to the individual's supervisor and to the appropriate dean or vice president. The University requests that notice regarding maternity leave shall be directed to the individual's supervisor and to the appropriate dean or vice president. The University requests that notice regarding maternity leave be given with ample time to allow planning for replacements and all other arrangements necessary for the continuation of the duties of the individual who will be on leave. Requests for extended leave beyond necessary durations or after exhaustion of accrued sick or vacation leave, not directly relating to physical inability to perform the duties of a position due to birth of a child, medical complications of pregnancy, or medical complications of childbirth may be granted as leave without pay.

2-3-1003(4) Parental Leave Policy.

[See also 2-2-307(4) Parental Leave Policy.]

Any full-time University faculty or exempt employee who becomes the primary caretaker of a child under the age of six, whether through birth or adoption, shall, upon request, be granted leave subject to the following conditions:

- (a) In the case of a birth parent, written notification containing a specific request for parental leave shall be given the University employee's immediate supervisor at least 90 calendar days prior to the anticipated birth of the child. Should birth occur more than 90 calendar days in advance of the anticipated birth of the child, parental leave may be requested immediately.
- (b) In instances of adoptive custody of a child, written notification shall be given the employee's immediate supervisor when the adoption home study or custody home evaluation has been completed and approved. This notification must contain a specific request for parental leave. In cases of private adoptive custody placement, such notification must be given the employee's immediate supervisor as soon as such placement has been authorized by the affected parties or their legal representatives.

- (c) Leave for one person designated as the primary caretaker [for purposes of this document, "primary caretaker" shall refer to the individual(s) identified by the family as most responsible for fulfilling significant nurturing needs of the child]. Only one University employee within a family may be the primary caretaker at a given time which will commence at the time of birth or adoptive custody and continue for 60 continuous days. These days shall be taken first from the employee's accrued sick leave, and, if necessary, from accrued vacation leave. If adequate accrued sick/vacation days are not available, the remaining days shall be unpaid leave. Should (c) a woman who gave birth be on maternity leave from the University, she shall be considered the primary caretaker, at least during the time of her maternity leave.
- (d) Should additional leave be required, the primary caretaker may be granted unpaid leave as provided for in Leaves Without Pay. Written requests for such leave shall be submitted to the employee's immediate supervisor within 30 calendar days of the time the child enters the home. In considering such leave requests, the age/special needs of the child and the requirement(s) of the adoptive agency (if applicable) shall be taken into consideration by the Administration.
- (e) Upon return from parental leave, the individual's position, title, and salary shall be the same as if the individual had not been on leave, subject to existing University policies, regulations, and procedures.