

Faculty Medical / Parental Leave Task Force

Summary Report



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Background and Current Conditions That Suggest a Need for Changes

Background

During the 2001-02 Academic Year, members of the Intercampus Faculty Council (IFC) and faculty on two campuses raised the issue of the lack of a policy for a paid short-term medical or parental leave for faculty¹. The Vice President for Academic Affairs Office in conjunction with the Intercampus Faculty Council (IFC), appointed a Faculty Medical/Parental Leave Task Force to define the scope of the issue and to examine possible courses of action and the implications of action or inaction.

Beginning in May 2002, the task force met to review background materials, current University policies and associated legal issues. The task force, recognizing that a supportive working environment is essential for recruiting and retaining excellent academic personnel, also examined the need for system-wide practices or policies that specify the conditions where compensation may be granted for qualifying leaves.

New practices or policies should address several issues, including determining when and how to replace academic personnel who are unable to teach or perform other essential duties, how to fund replacements for these types of employees, and eligibility guidelines. Serious consideration must be given to what is involved in "normal workload coverage," so that the affected employees, their departments, and their units are not disadvantaged by differential treatment resulting from inequitable resource allocations.

The charge of the task force was not to develop policy, but to explore the need for new practices or policies. Based on the findings outlined in this report, the task force recommends that the UM system take the steps necessary to implement a consistent set of practices or a formal policy for medical/parental leaves for academic personnel. This can serve to establish equitable practices across departments and campuses and provide a tool for recruitment and retention.

The following report summarizes the issues the task force identified and recommends actions that would address these issues.

Current Issues

At present the University of Missouri system has no stated policy covering parental leave or short-term medical leaves for academic personnel. Stated policies are in place covering these leaves for staff members, and existing programs cover qualifying long-term medical

¹ (Note: the terms "faculty member" and "academic personnel" are used interchangeably throughout the report and are meant to describe all benefit eligible, academic employees who are not on the University of Missouri's vacation and sick leave system.)

problems of academic personnel beginning after the passage of 149 calendar days. In the absence of a formal policy covering these situations, a variety of approaches have evolved both within and across the University of Missouri campuses. For example, larger departments are usually able to tap into their own resources to deal with short-term disability and parental leaves for their faculty, while small and less-affluent units may ask the deans of their colleges for funds to cover faculty members' leaves. Further, when a department has no policy, different members in a single department may even receive different levels of benefit.

Some departments place no restrictions on the faculty members and their leaves are covered in some manner. Other departments have asked faculty members take a cut in pay or "pay back" their leaves. This is done by assuming extra teaching or other responsibilities without pay for a semester after a medical problem or after the birth or adoption of a child. Still other departments ask faculty members to forego salary when teaching is missed due to a birth or adoption or in the case of a medical problem. A consequence of this is that faculty members may often have to "negotiate a deal" with their department chairs in order to make arrangements for parental or sick leaves.

For many nine-month regular faculty members, departments are chiefly concerned with meeting the teaching demands during the faculty members' absences. Some departments hire adjuncts to fill in for a semester; others may assign an additional load to other regular faculty members without additional compensation. In some cases, faculty responsibilities other than teaching may require coverage. These may include the duties of an employee funded on a grant or a contract or clinical duties for faculty in the Health Sciences Center.

During times of tight budgets, creating family-friendly personal leave policies may attenuate the negative effects felt during years of little or no salary increases. Policies that provide a supportive working climate are valuable to faculty members, particularly those just starting out in academe. For example, in a recent Harvard University study the majority of new faculty and doctoral candidates said that quality of life issues (geographic location and balance of work) ranked highest in their decisions about academic positions. These areas ranked ahead of many others that are often considered to be the most important in academic job choice: salary, department ranking, institutional prestige, and the length of the non-tenure-track contract. Consistently, where faculty members live and work and what work they will be expected to do ranked first and second in their decisions; salary typically came in fifth and institutional prestige rated last (The Faculty Recruitment Study 2000, 2001).

In summary, some academic units have regular procedures in place that provide equal help for all faculty members, but most do not. Consequently, common policies and procedures should be developed so that faculty members are treated equitably. Currently the potential exists where faculty members could be treated very differently based on special arrangements, their particular academic unit or campus, college precedents, or even their relationships with chairs or deans.

Existing UM, State and Federal Policies That Address Conditions

The University currently has at least three policies that address certain aspects of the issue of parental and medical leaves for faculty members, each of which fail to meet some of the concerns that were identified by the task force.

One is the University's general personnel policy implementing the mandate of the federal Family Medical Leave Act (FMLA), Human Resources Policy Manual, HR 407. The details for this policy can be found at: <http://system.missouri.edu/hrs/manual/407.htm>. This Human Resource manual also includes a question and answer section, which can be found at <http://system.missouri.edu/hrs/manual/407q&a.htm>.

The HR407 policy permits an individual who has been an employee for at least 12 months and has worked at least 1250 hours during that period to take up to twelve weeks for family or medical leave within any 12-month period.

Following FMLA guidelines, the policy provides leave may be taken for an employee to

- 1) care for a newborn, newly adopted or foster child,
- 2) care for a child, spouse or parent with a serious health condition, or
- 3) attend to a serious health condition of the employee, including a maternity-related disability.

Under HR407, FMLA leaves are unpaid, although accumulated sick leave or vacation time may be utilized. As faculty members do not accumulate sick leave or vacation time, the policy provides no mechanism for a paid FMLA leave for this important class of employees.

The second policy that addresses concerns of faculty with medical problems or new parenting responsibilities is the possibility of "stopping the clock" for tenure-track faculty. Section 310.020 D.4.c. of the Collected Rules and Regulations of the University of Missouri, addresses the issue of extending the time period for tenure review. Details can be found on the web at (<http://system.missouri.edu/uminfo/rules/bylaws/310020.htm>). This policy provides that the time a tenure-track faculty member is on leave without pay that is not used for scholarly purposes is to be excluded from the time limits of the probationary period, for periods of one-year or less.

The third policy that addresses concerns of faculty members facing a short-term leave is Executive Order No. 26, which appears in Section 310.025 of the Collected Rules and Regulations of the University of Missouri, which allows a lengthening of the probationary period for tenure-track faculty. The specific details can be found at <http://system.missouri.edu/uminfo/rules/bylaws/310025.htm>. This order gives Chancellors the discretion to grant extensions of the probationary period for reasons such as pregnancy, serious illness, or care of an invalid or seriously ill spouse, partner, parent, child, or other close dependent. The extension may or may not provide for a leave and is limited to a maximum of two one-year extensions during the probationary period. By its terms it does not

address the issues of faculty leave or affect any existing policies on faculty leaves, and does not provide for pay during any such leave period. The discretionary aspect of this last rule creates the possibility of inconsistencies in application.

The availability of FMLA and a policy that provides for an extension of the probationary period alleviate some difficulties caused by the birth or adoption of a child or by a serious health condition. However, they fall short of an optimal comprehensive policy for two reasons. First, faculty members in different departments often receive different levels of compensation for short-term leaves. Second, even within a department, chairs may not grant the same level of support to all faculty members. It is desirable to have practices in place that provide the same benefit to all academic employees. Therefore, policies that provide uninterrupted compensation to academic employees for a specified time following the birth or adoption of a baby or the onset of a serious health condition would help to address these issues.

What Situations/Conditions Would be Addressed by New Policies?

The main objective of a formal leave policy for faculty would be to provide release from all or part of their university commitments for the purpose of taking approved medical or parental leaves. While this task force did not attempt to develop any specific policies or offer remedies to address these issues, it attempted to delineate the major areas of concern, identify issues that should be addressed, and offer possible guidelines or recommendations.

Who is Eligible for Faculty Parental and Sick Leave?

All benefit eligible, academic employees who are not on the University of Missouri's vacation and sick leave system should be eligible.

Workload, Coverage, and Replacement Costs

One of the issues that should be addressed in designing a leave policy would be to examine what constitutes a normal workload for academic personnel and what tasks are covered during their absences. For full-time regular faculty the traditional workload would involve teaching, research and scholarship, and academic and professional service. In most circumstances, faculty members could continue some of their duties under modified conditions. Yet some of the faculty members' work, (e.g., face-to-face teaching), would have to be replaced during their absences. For other academic personnel such as clinical faculty or research faculty where their physical presence is required, a greater percentage of their work might have to be covered during their absences.

A policy addressing parental or medical leaves for academic personnel would have to examine the entire set of responsibilities and decide what portion could reasonably be covered. Academic personnel would have to work with their supervisors to determine what activities would require supplemental assistance (e.g., faculty to pick up their teaching loads, grant projects that would need supervision, committee and advising roles) and what activities

could be completed while they were on leave. Any new policies should address the needs of the individuals, the needs of the department, and the needs of the University of Missouri.

Types of Leaves and Associated Issues

FMLA is currently available for faculty as required by federal law though University policy is silent as to whether FMLA is compensated or not for faculty members. The task force recognized that one solution could be to adopt a policy consistent with FMLA guidelines and simply provide compensation for approved FMLA leaves. The FMLA time limitation of 12 weeks does not bridge the “elimination period” (149 days) requirement of the University’s Long Term Disability Programs and does not completely cover a 15 week semester. However, the task force also recognizes that any policies will likely place some limitations on the length of compensated time for sick leave, which have heretofore, not existed for faculty.

The task force envisioned a policy that fully compensates faculty members for any qualifying leave. While resource constraints may necessitate consideration of a plan that does not fully compensate faculty, the task force strongly urges against that approach. A plan that offers less than full compensation introduces degrees of subjectivity and differential treatment of faculty, which is a problem with the current system.

A key question associated with any policy is what happens to the “tenure clock” during parental leave of tenure-track faculty? Interruptions in the work of tenure-track faculty members can have adverse effects on their bids for tenure. It is important that this possibility be recognized and discussed by individuals requesting parental leave and the supervisors of those individuals. This discussion should include conversation of the current specific UM policy on requesting extension of the tenure probationary period.

A number of issues would have to be addressed that are related to the probationary period for tenure track faculty including a) who decides whether the formal request should be made; b) should recommendations for extensions be determined using the department’s tenure committee since under current university policy tenure clock extensions for faculty are not considered an automatic entitlement; and c) how commonplace will these extensions be and under what circumstances should they be more common than they are now.

Who Pays for the Additional Costs?

A key question related to the issue of financing a faculty leave program is whether the potential costs of such a program are of such significant magnitude to individual departments/colleges that they merit taking an “insurance” approach to funding. Under this approach, the entire “institutional” costs (either system wide or campus wide) are shared by all departments/colleges and allocated equitably based on a common denominator. Regardless of the approach taken, it is imperative that all departments be required to

consistently comply with stated policy so as to avoid inequity between different faculty members.

These funding approaches should be compatible with either of the following directions:

1. The departments' or units' resources would be used to pay for replacement faculty salary costs – direct department incurred charges.
2. The units' resources would be used to pay “benefits” to faculty who meet eligibility criteria – pooled/institutional cost allocation.

Direct Department Incurred Charges

The cost of providing faculty leaves would be funded at the discretion of each dean by the college or individual departments. The costs would be based on the actual usage of leaves within a unit. Each department/college must maintain adequate resources to fund its incurred costs of the program when such eligible leaves are approved for faculty. This approach is consistent with the manner in which sick leave, medical leave, disability leave, and vacations are funded for staff. The difficulty of this approach is that it has the potential to place inordinate financial demands on individual departments/colleges at any point in time.

Pooled/Institutional Cost Allocation

The cost of providing faculty leaves would be allocated in a consistent manner as a percentage of eligible salary in the form of an overhead charge against academic divisions that would be used to fund the faculty leave program. A variation of this would be for campus administration to establish a centrally administrated pool that would be funded on a permanent basis from new resources. This would allow for predictable costs for all departments and would not place inordinate budgetary requirements on a department, regardless of size, that may be subjected to significant financial demands related to approved faculty leaves. The pool of resources created for this purpose could then be accessed to meet expenses. The downside of this strategy is that it would reduce new funding for other priorities such as salary increases or enhancement of targeted programs.

Presently, UM uses a “pooled” overhead charge approach to allocating the cost of other benefit programs. When using this approach to finance a faculty leave program, however, it should be recognized that the overhead charge would be applied to all benefit eligible salaries at UM. One result of this approach would be that departments that did not support faculty salaries directly would be paying a portion of a benefits overhead charge for which none of their staff would be entitled to benefit. This may create an issue of equity between academic and non-academic departments. Perhaps an alternative mechanism would need to be developed where only academic departments would share the costs of the program.

Implementation

Implementation of a short-term leave policy for academic employees will require attention to several issues. These issues include funding costs incurred by departments, sensitivity to

potential staffing shortfalls faced by departments, applying the leave fairly to all employees, and a mechanism to address failures to apply the policy.

Two potential funding mechanisms were detailed in the previous section. In cases where a replacement cannot be found, some departments could be short-staffed when a faculty member takes a leave. In theory, this is no different than the present situation since employees can currently take a leave via FMLA. Nonetheless, it is possible that shortfalls could occur more frequently following implementation of a paid leave.

In addition to considering how to fund a new leave policy, it is important to provide guidelines for applying it fairly. Although the University regulations are clear that faculty members should not be penalized if they are faced with circumstances that may interrupt their progress towards tenure, it must also be clear how to provide workload flexibility for all who are faced with medical or parental leaves. Because each of these situations will result in different requirements for each faculty member, workload must be negotiated on a case-by-case basis using established guidelines.

Guiding Principles

As each situation is unique and each department will face specific demands placed on it during the faculty members' absences, flexibility in new practices is needed so that professional judgment can be exercised. In order to help make medical or parental leaves work smoothly, a number of guiding principles should be followed to assist the faculty member and the department in addressing the conditions for the leave. These might include:

1. The faculty member agreeing to a modified assignment where he/she continues to help the department with certain duties that are feasible given the particular leave need.
2. Department chairs treating pregnancy, childbirth, and some reasonable recovery/parenting time as they would a short-term medical problem.
3. Faculty members discussing possible arrangements during department meetings well in advance of the "event" so they arrive at some generally accepted practices to help cover for the faculty member during a leave.
4. Generally accepted notions among chairs and deans that the leave arrangements should be fair to the faculty member and to the department without undue pressure being placed on either party (e.g., the faculty member should not have to pay back sick leave with extra teaching; on the other hand, depending on the circumstances, the faculty member should not expect a full semester leave with full pay without any departmental duties or assignments).

While any number of different arrangements could be perceived as fair, some general guidelines and practices like those noted above need to be articulated that will help department chairs, deans, and faculty members find equitable and fair leave policies. These practices must be implemented in ways that do not discriminate on the basis of gender, age, or illness of the faculty member. Clear guidelines should result in a fair application of the leave policy. It is inevitable, however, that occasionally disagreements will arise. In these cases, the faculty and chair or dean may resolve their differences through mediation. If mediation fails, faculty members can file grievances if they believe that the policy has been violated.

Concluding Comments

The work of the Faculty Medical/Parental Leave Task Force, as described in the preceding paragraphs, has been to assess and outline the central issues associated with the development of a parental leave policy for benefit eligible academic employees at University of Missouri. The task force focused on determining the relevant issues and has provided some comments on how these issues might be approached. As a result of this assessment, the Faculty Medical/Parental Leave Task Force believes it is important that the University of Missouri proceed to develop standardized parental and medical leave practices or policies for academic employees. To this end, it is recommended that a Presidential committee be appointed, with appropriate representation from the four campuses as well as from Central Administration. This committee should be charged with developing a proposal for parental and medical leaves for eligible academic employees at the University of Missouri.

The Task Force attempted to informally review both the interests and concerns of the respective units as well as the parental and medical leave programs of universities outside the UM system. Nonetheless, it encourages a presidential policy committee to formally survey the interests of academic employees, thoroughly examine policies at other universities, discuss the pros and cons of their use with administrators and faculty at other institutions, and examine any specific issues at each of the four UM campuses. It also suggests that formal cost estimates be prepared to allow better judgments to be made about the financial costs of implementing such policies.

In closing, one potential solution emerged that was appealing to several groups who were consulted during the task force's work. The notion of developing a paid or partially paid FMLA leave for faculty was appealing to many based on the following points.

- FMLA is required by law – though the University of Missouri is silent on the issue of a paid leave for faculty members.
- The University is familiar with the FMLA policy and has adopted administrative guidelines for implementing it.
- There are specific eligibility guidelines for FMLA leaves.
- As FMLA is federal law, it is a well-defined and tested policy.
- Adopting this approach would provide some equity to staff policies where vacation/sick leave can be used to avoid disruption in income during the leave.
- While the 12-week period does cover an entire semester, it is a reasonable time frame for many leaves and provides a good starting point.

In short, adopting a paid or partially paid 12-week leave policy as a general guide for faculty medical or parental leave would be a relatively straightforward way to address the issues noted in the task force report. At the very least, it would provide a starting point for discussions until other remedies can be developed.