

Introduced by: University Life Council

Date: May 15, 2006

Resolution to Create a University at Albany Family Leave Policy

Whereas maternity leave presently is a disability benefit constructed as “sick leave with pay” for no more than four weeks before the anticipated delivery due date and six weeks after delivery (eight weeks for Cesarean) for female academic and professional faculty members, and

Whereas male academic and professional faculty members may take only 15 days paid family leave to care for a newborn if they have accrued the sick leave, and

Whereas adoptive parents may not use any paid sick leave for parental leave, and

Whereas the current maternity leave policy creates obstacles for expecting parents and departments in trying to cover semester-long courses, and

Whereas the current maternity benefits are distributed unevenly, as some department chairs are accommodating for expecting parents while others are less so, and

Whereas there is no clear set of guidelines for requesting a change in time to tenure or permanent appointment as a result of child bearing/rearing.

Therefore, be it resolved that the University Senate endorses the concept of a family leave policy to replace the “maternity” leave policy, thereby creating a more equitable distribution of benefits for female and male academic and professional faculty who give birth or adopt a child and which also allows for additional times to tenure as outlined in the attached proposal.

Be it further resolved that the University Senate encourages the President to implement such portions as are appropriate under his autonomous powers as CEO of the University at Albany, and

Be it further resolved that, recognizing that some of these proposals may be considered terms and conditions of employment negotiated through the United University Professions, the University Senate encourages the President to inform negotiators of University at Albany’s interest and support of these policies.

PROPOSAL

We recommend that the family leave policy outlined below be established for full-time academic and professional faculty members who have worked for the University for a minimum of 12 months (9 months for academic appointments). This policy will supersede the current maternity leave policy.

Academic appointees have the option of taking either of the following leaves:

- A. 1. For the birth or adoption of a child by the academic and professional faculty member or the member's spouse or domestic partner, a partially-paid leave will be granted at two thirds pay for 15 weeks or one semester. For an academic faculty member, the leave will generally commence in the semester of the birth or adoption. For a professional faculty member, the leave will commence generally no earlier than four weeks before birth or adoption and 11 weeks after.
2. Such leave can be taken at the discretion of the academic and professional faculty member but must be concluded within twelve (12) months of the birth or adoption of the child.
3. If the birth or adoption of a child by an academic member or the member's spouse or domestic partner occurs within two weeks of the end of classes, then the appointee may take the time before the end of the semester under the terms of the Family Medical Leave Act and use accrued sick leave for this unpaid leave. The member subsequently may take the semester leave at two-third pay.
4. The portion of salaries and benefits that are not paid to the academic and professional faculty member who receive leave pursuant to this policy shall create a funding pool within the member's department to hire temporary replacements as necessary.
- B. 1. In accord with the federal Family and Medical Leave Act, academic and professional faculty members may take up to 12 weeks unpaid leave during any 12-month period to care for the birth or adoption of a child by the academic and professional faculty member or the member's spouse or domestic partner. Accrued sick leave can be substituted for the unpaid leave.

To assist in the planning and preparation of a leave, academic and professional faculty members must notify their department chair or college dean as early as possible to discuss the appropriate leave option and changes in teaching, service, research, and administrative duties.

Upon return to regular duties, the academic and professional faculty member shall not be required to assume a heavier teaching and service load than normal.

If both parents are academic or professional faculty members at the University at Albany, family leave is mandatory upon request for one parent at a time, and the parents may elect to split the leave into two separate blocks of leave with each parent entitled to one continuous period of leave not to exceed 15 weeks in total.

Academic and professional faculty members who take family leave are required to continue as an academic employee for a minimum of one year (12 months for professional staff, 9 months for academic appointments) upon return.

2. Proposed Extension of Time to Tenure

All colleges' Procedures from Appointment to Tenure or Permanent Appointment should be amended to include the following grounds for variations in the normal time line to tenure:

Within one year of the birth or adoption of a child by an academic and professional faculty member or member's spouse or domestic partner, the faculty member may request a one-year extension of time to tenure. Such requests will be granted automatically. Such requests may only be made once during the period preceding the tenure decision. Academic and professional faculty members are not required to take a family leave in order to exercise this request.

FAMILY LEAVE REPORT

I. Background

In September 2004 an Ad Hoc Benefits Committee was formed in the University Life Council to investigate the parental and family leave policies at the University at Albany, SUNY. During the year, the committee held meetings with representatives of United University Professions (UUP) and University at Albany administrators, invited feedback from faculty and professional staff, reviewed the University's maternity leave policy, investigated child care facilities for faculty and staff, and reviewed the family leave policies of peer and aspirational-peer institutions. In that process we narrowed our task to questions specific to parental leave, setting aside for the time being the challenges raised by elder care. The pages that follow describe our findings. Resources cited in this document have been included at the end of the document with URLs to the original sources.

A. Current Family Leave Policies

At the University at Albany, policies of family leave are negotiated at the state level between UUP and the State of New York. The University's Human Resources website¹ explains that:

Pregnancy is treated like any other temporary disability under both the classified and unclassified rules and policies. Pregnant employees are presumed to be medically disabled from the performance of job duties for a period commencing approximately four weeks prior to delivery and continuing for six weeks following delivery. This period may extend based upon documented medical necessity. Should accrued leave credits prove inadequate to cover the period of disability, then the foregoing provisions for either leave at half-pay (classified) or extended sick leave (professional), will apply"

Based on interviews with UUP Representatives, with administrators in the Provost's office, Human Resources Management, and in reading the latest UUP contract (2004-2007), this committee understands that:

- Maternity leave presently is "sick leave with pay" for no more than four weeks before the anticipated delivery due date and six weeks after delivery (eight weeks for Cesarean). Any additional accrued sick leave cannot be expended unless indicated by a physician and approved by a "chief operating officer." If the academic and professional faculty member does not have enough accrued sick leave (which may often be the case with recent hires), additional sick leave may be requested at reduced salary or without pay.
- Male academic and professional faculty members may take 15 days paid family leave to care for a newborn if they have accrued the sick leave.
- Adoptive parents may not use any paid sick leave for parental leave.

¹ <http://hr.albany.edu/content/HRM90-1.asp>

- Academic and professional faculty members may take up to seven months leave without pay following childbirth and adoption (this duration includes any sick or disability leave taken after childbirth). This is “mandatory upon request” for either parent. Additional leave due to medical disability will be granted at the discretion of the chief administrative officer. The “seven month” period does not include any time the infant or adopted child is hospitalized.
- The University at Albany, SUNY also abides by the federal Family and Medical Leave Act of 1993 [See Appendix A]. This mandate requires large employers to provide up to 12 weeks of unpaid leave for family members caring for sick relatives or caring for new infants, as well as adoptive parents.
- Academic and professional faculty members may take up to 15 days of paid family sick leave, which is leave to care for sick family members, including care for elderly parents, if the faculty member has accrued enough paid sick leave.
- There is a donation program where calendar year or college year appointees who accrue annual leave credits are eligible to donate such leave credits to other appointees who are eligible to receive it. This process allows professional appointees to donate annual leave credits, but there is no provision for academic teaching faculty to participate in the program as they do not accrue annual leave.
- There is no clear set of guidelines on requesting a change in tenuring status as a result of child bearing/rearing. At present a request to extend the tenure clock by one year is presented to the Dean of the associated College, and it is up to his or her discretion to grant such requests.

In sum an academic and professional faculty member (male or female) may take up to 7 months unpaid leave for maternity-related issues. For female faculty members, they may take up to ten weeks of paid leave (12 weeks for Cesarean) if they have accrued enough sick leave. There is no clear guidelines on tenure extension requests.

B. Changes the Proposed Bill Makes to Current Policy

The University at Albany should have a “parental” leave policy, rather than a “maternity” leave policy. Constructing maternity as a “disability” and tying all leave benefits to it restricts who is eligible for such a leave and constructs child rearing as a disability rather than an essential part of a healthy, functioning society. Moreover, it fails to recognize that giving birth is only one element of the parental process. Building bonds between parent and child are critical the first months of an infant’s life. In constructing the policy as “parental” leave, both male academic and professional faculty members and adoptive parents become eligible for paid leave time to bond with and nurture their new children.

This committee has concluded that the leave time for teaching faculty ideally should extend for an entire semester. This would solve the major obstacles expecting parents face as highlighted in the feedback from faculty of trying to cover courses for parts of the semester. Faculty, under this policy, would be allowed to take the leave within a year of birth or adoption. This policy attempts to increase flexibility to faculty and professional staff by letting them choose to utilize a semester leave at 2/3rds pay or to take up to 12 weeks leave with the option of using accrued sick leave for pay.

In order to ensure that teaching faculty who are expecting parents can take the semester and not leave departments scrambling to replace the instructor—especially small departments and those with few resources—this bill proposes establishing a specific fund for department chairs to use for the purpose of hiring adjunct faculty.

In following the Princeton University example, an automatic one year extension to the tenure decision should be granted for academic and professional faculty members who have a new child (either through birth or adoption) in order to ensure fair, equitable extensions for all who seek it.

UUP representatives have indicated to members of this committee that individual campuses can negotiate campus-based family leave benefits, and need not only be negotiated through the formal UUP Agreement with the State of New York

C. Limitations of the Current Family Leave Policy

The motivation to investigate the University at Albany's family leave policy resulted from observations that the policies for faculty concerning child rearing and child care are inadequate. The current policy does not give mothers or fathers enough time with their children before having to return to work, positions female academic and professional faculty member who are new to the University to take a maternity leave without pay, and does not extend paid leave to adoptive parents. The present leave policy situates teaching faculty who are expecting parents in the difficult position of having to start a course and then leave half way through the semester to give birth, or if they give birth at the beginning or end of the semester to teach a few weeks of the course before or after taking their leave. Department chairs and expecting parents must juggle teaching responsibilities, sometimes requesting other faculty in the department to take an "overload" and fill in for the expecting parent. Some department chairs are quite accommodating; others are not. The result is an uneven experience and sometimes an unfair distribution of benefits for new parents.

D. Negative Implications of the Current Policy

There are several negative consequences of an inadequate parental leave policy. First, President Hall has provided a five year vision for this campus that includes hiring 100 junior academic appointees. This University's ability to recruit and retain talented junior faculty is hampered by the current policy, especially given that several of our peer and aspirational institutions have a more accommodating parental leave policy.

Second, the issue of recruitment and retention is especially pressing for female academic appointees. Female tenure-track faculty face great obstacles in trying to juggle the demands of the tenure process while having a family (Wilson 2003). It is still the case in U.S. culture that women primarily carry the task of childrearing. In addition, female academic and professional faculty member have to coordinate semester-long course commitments, service, administration, and research with end-of-pregnancy complications, child birth, recovery, and breast feeding.

Research by Mason and Goulden (2002) on the employment patterns at the University of California – Berkeley suggest that fewer female faculty compared to men are tenured.² Their research suggests that having children directly affects female faculty's ability to achieve tenure. Untenured male faculty with children are more likely to achieve tenure compared with female faculty who have children before tenure. In a follow-up study (2004) the researchers found that female faculty are more likely to opt out of having children than their male counterparts, even though they might wish to have children, because they do not believe they can manage the competing demands of their family and their academic obligations. According to their study, 44% of tenured women had children within 12 years of earning their Ph.D. In comparison 70% of tenured men had children during that time.

² This disproportion between male and female faculty is evident at the University at Albany. The Office of Institutional Research reports the following: Lecturer: Males 30%, Females 70%. Assistant: Males 55%, Females 45%. Associate: Males 64%, Females 36%. Full: Males 82%, Females 18%.

An analysis of the *Survey of Doctorate Recipients* (as reported by the University of California Faculty Family Friendly Edge report, 2003)³ indicate “at nearly every stage of an academic career – from securing a tenure track position to achieving associate and full professor status – married women (both with and without young children) leak out of the academic pipeline at a disproportionately high rate” (para. 1). According to the study, women with children are 29% less likely than women without children to enter a tenure-track job. Women are 23% less likely than men to become an associate professor, and they are 25% less likely than men to become a full professor within a maximum of 16 years.

Third, without a comprehensive parental leave policy, the University fails to cultivate a supportive environment for fathers and adoptive parents. Although women still carry the majority of family care giving tasks in the United States, men increasingly are taking on parental duties at home. Male academic and professional faculty members who desire to be involved in the rearing of newborns and infants have fewer options than their female counterparts under the current leave policies. They are granted fewer paid leave days and have no stated option to extend the tenure decision due to family obligations. Adoptive parents may take *only* unpaid leave through the Family and Medical Leave Act and have no stated option to extend the tenure period.

The work-family balance has become a major topic of discussion across campuses and at university-oriented think tanks in the United States. Universities, such as Princeton and the Massachusetts Institute of Technology, have pioneered policies that offer more flexibility in the tenure process and in family leave policies to ensure that faculty can have children while working toward tenure. Organizations, such as the American Council on Education, have investigated alternative and flexible career opportunities in an effort to retain faculty. They explain the problems facing faculty in this way:

In the promotion and tenure processes, tenure-track and tenured faculty frequently encounter ambiguous and contradictory criteria, conflicting messages between institutional rhetoric and the reward structure, murky and secretive review procedures, and unmitigated stress. Added to this inhospitable combination, tenure-track and tenured faculty often find difficulty successfully navigating the promotion and tenure processes while simultaneously striving to fulfill personal responsibilities. These factors cause many talented academic to choose non- or marginal academic career paths. (American Council on Education “Creating Paths,” para 1)

II. Faculty Responses to Committee Survey

A. Introduction

The Ad Hoc Benefits Committee, under the umbrella of the University Life Council and University Senate, sent out an email query to voting members of the University faculty on March 29, 2005 regarding the University’s current family leave policy. The survey not only included seven suggested questions to guide faculty members, but also welcomed general feedback. By the end of a three-week period the committee received 41 responses from both faculty and professional staff sharing their “questions, concerns, feedback, or stories about maternity and family leave” at the University at Albany.

B. Summary of Responses

In response to the survey a number of faculty members shared their personal experiences with navigating the policies as beneficiaries. Others spoke to the challenges they faced as department chairs trying to

³ <http://ucfamilyedge.berkeley.edu/leaks.html>

balance a faculty member's needs with department staffing issues. Most agreed that the vagaries of our current policy added to the challenge. Overwhelmingly, the respondents felt that the University's current policy needs some augmentation. What follows is a summary of the faculty responses to the questions as well as their suggestions.

Overall, respondents consistently and overwhelmingly emphasized the following five points:

- The university should grant a semester leave for faculty rather than 10 or 12 weeks given that the university has a 15 week semester.
- The university should automatically extend or stop the tenure clock for faculty who give birth.
- Male faculty should also receive paternity leave benefits.
- Adoptive parents should have the option of using accrued sick leave for a parental leave with pay.
- The university's policies need to allow academic appointees to use paid leave to also care for elderly parents and sick spouses.

Several respondents raised questions about how sick leave is accrued. The survey revealed that there is overall confusion about the university's policies and their relation to the FMLA. A number of respondents wondered whether the accrual rate puts new and or untenured faculty at a disadvantage, since they are the ones who are more likely to need to take advantage of this policy and have had less time to accrue leave. Others mentioned the gender disparity in use of sick leave amounts.

Although it was not a representative sample, department chairs indicated that they need more information about the university policy. As it stands faculty felt it was incumbent upon them to educate their chairs, and/or negotiate with the dean and advocate for their leave on a case-by-case basis. Repeatedly, respondents mentioned the disparity between the 10-week leave and the 15-week semester. In some instances faculty were called upon to recruit their own teaching replacement. Many untenured faculty members felt uncomfortable with being forceful about advocating for themselves. Several comments made it clear that untenured faculty are concerned about how those requesting maternity leave are perceived in terms of their professional commitment. Those who have given birth express that they are also concerned about bridging the time missed at work and maintaining a consistent flow of professional activity.

In addition to their answers to the suggested questions, a number of respondents mentioned other areas that need examination. More than a few felt that out of fairness the university should recognize that adoptive parents have many of the same needs and concerns as those who give birth. Others mentioned that the committee should also consider additional areas of concern such as bereavement leave, the needs of single faculty without children, the needs of staff members as well as the creation of a system of rewards for those who "fill in" for faculty taking advantage of leave.

III. Policies of Peer and Aspirational Institutions

Universities around the country are obligated by federal law to give employees 12 weeks unpaid leave due to childbirth or adoption. Universities may supplement additional family leave benefits for their academic appointees. Below is a summary of research of family and maternity leave policies at the University at Albany's peer and aspiration institutions.

- The University of Delaware,⁴ a peer institution, extends the family federal leave through an academic semester.
- One peer institution, Virginia Tech,⁵ follows the federal family leave act of unpaid leave, and also gives adoptive parents 10 paid leave days, if they have accrued paid sick leave.
- Most of our peer and our aspiration institutions allow academic appointees and staff to use accrued sick leave during their FMLA leave to care for a new child. Because the federal leave covers both men and women who are coping with a new birth or an adopted or foster child, the policies allow birth mothers and fathers, as well as adoptive or foster parents, to take up to 12 weeks unpaid or substitute their unpaid time with paid sick leave.
- Of our aspiration institutions, Indiana University has the most extensive policy on family leave.⁶ Academic appointees may take up to 15 weeks or through the end of the semester (whichever comes first) for maternity leave (including adoption) for both male and female academic appointees. The leave is 2/3 pay. Leave requests are determined by a panel of academic appointees and administrators. The salaries and benefits not paid out are used to hire adjuncts to fill in for the academic appointees.

None of the human resources websites documented changes in tenure status for female academic appointees who have given birth. News coverage of university policies on family and maternity leave indicate that some universities, such as Princeton University,⁷ automatically extend the tenure appointment by one year for female academic appointees who have given birth (Cliatt 2005).

Other universities, such as Ohio State University,⁸ now allow tenure-track female academic appointees who have children to work part-time on the tenure track. This extends the time to tenure by a few years, and allows female academic appointees the flexibility to both raise children and have research and teaching careers.

The Massachusetts Institute of Technology⁹ has one of the most progressive policies concerning family leave. Male and female academic appointees may take a semester of full paid leave from teaching and service obligations after childbirth or adoption.

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⁴ <http://www.udel.edu/ExecVP/polprod/4-24.html>

⁵ <http://www.hr.vt.edu/leave/manual/>

⁶ <http://www.indiana.edu/~ufc/docs/policies/familyleave.htm>

⁷ <http://web.princeton.edu/sites/dof/publs/rpfac94/fchap4.htm#chap4c>

⁸ http://oaa.osu.edu/handbook/ii_reducefte.html

⁹ <http://web.mit.edu/facfamily/policies/1parentalSupport.html>

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APPENDIX A: FAMILY AND MEDICAL LEAVE ACT

The Family and Medical Leave Act (FMLA; Public Law 103-3) is a federal law enacted in February 5, 1993. This law requires employers of 50 or more employees to grant their employees up to 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- The birth and care of the newborn child of the employee;
- Placement with the employee of a son or daughter for adoption or foster care;
- Care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- Medical leave when the employee is unable to work because of a serious health condition.

An employee is eligible if he or she:

- Has been employed by the employer for at least 12 months; and
- Has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of leave; and
- Is employed at a worksite where 50 or more employees are employed within 75 miles of the worksite.

Notes:

- 1) This is unpaid leave, but offers job protection. Accrued paid leave (e.g. sick-time or vacation-time) can be substituted.
- 2) Leave can be taken on an intermittent basis, or the employee may work part-time.
- 3) An employee on FMLA leave is entitled to have health benefits maintained as if employee had continued to work.
- 4) The employee has the right to return to the same or equivalent position.
- 5) The employer has the right to 30 days advance notice from the employee.
- 6) The employer may require an employee to submit certification from a health care provider to substantiate the leave, and/or to establish the employee's fitness to return to work.
- 7) Leave taken due to pregnancy complications, pregnancy disability, or maternity leave can be counted as part of the 12-week FMLA leave entitlement.
- 8) An immediate family member does not include in-laws, or children over the age of 18 unless they are "incapable of self-care".
- 9) FMLA permits employees to take leave in order to receive continuing treatment by a health care provider (e.g., physical therapy).
- 10) Employers may have established policies regarding outside employment while on paid or unpaid leave that may be applied to employees on FMLA leave.