

**INDIANA UNIVERSITY
FACULTY FAMILY-RELATED PARTIAL LEAVES
(by Action of the University Faculty Council: April 8, 1997)**

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1. DISCUSSION

History:

A policy of family related partial leaves was first approved by the University Faculty Council in February 1990. A variety of circumstances have delayed the implementation of this policy. The major issues have been:

A. The Inclusion of Staff:

Staff have their own leave plan with characteristics that do not mesh well with needs for a faculty plan. Discussions led to a separation of the two plans.

B. Cafeteria Fringe Benefits:

During the 1995-96 academic year a commission considered the implementation of a flexible fringe benefit plan at Indiana University. It was thought that family related leaves could be included in such a plan. The commission recommended against the implementation of flexible fringe benefits for IU employees at that time.

C. Compensation:

The 1990 motion from the Faculty Affairs Committee recommended 70% of full compensation and no retirement contributions. This was found to violate IRS regulations. The issue has been resolved with a recommendation of 65% of full compensation with pro-rata retirement contributions.

Board of Trustee's Resolution of May 3, 1996:

This resolution essentially follows the guidelines of the 1990 Faculty Affairs Committee Motion with the adjustment needed to resolve the compensation issue. The resolution was tabled with the request that the University Faculty Council

... give their reflection on this resolution, including input on how quality of instruction may or may not be affected by the proposal. When information is available, the resolution will then return to a trustee committee, and be referred back to the Board.

The Agenda Committee referred the tabled resolution to the Fringe Benefits Committee in September 1996.

Concerns Raised by Board Members and Others, and Addressed by University and Campus Fringe Benefits Committees:

A. Federal Family Medical Leave Act (FMLA) of 1993:

The proposed IU policy is more expansive than the FMLA and in no way conflicts with it. Every inquiry led to this opinion--the latest from Julia Lamber, Professor of Law and Dean of Women's Affairs at Bloomington.

B. Cost Neutrality:

The issue of cost is important to the Board of Trustees, as it is to everyone in the University community. Inquiries by Ken Gros Louis and Human Resources before the May 3, 1996 Board of Trustees resolution found the proposal to be cost neutral. A very preliminary inquiry of some units by members of the Fringe Benefits Committee found that the more generous Faculty Sick Leave Policy is not a financial burden on the University. In addition the Board resolution makes provision for revision of the policy to ensure cost neutrality. We believe this issue has been adequately resolved.

C. Quality of Instruction:

This is a primary concern since it is central to the mission of the University. As noted by the 1989-90 Faculty Affairs Committee, the financial penalties and other requirements are established in part so that these leaves will not be taken lightly. All partial leaves are subject to a review panel of faculty and administrators. Family leaves (like sick leaves and pregnancy leaves) are taken under conditions of considerable stress and/or responsibility for family related events. These are circumstances under which the quality of all work is likely to decline. Relief from classroom teaching and related duties is the most appropriate form of relief in a partial leave situation. These duties allow for the least flexibility in performance and generally require high levels of energy and concentration. Circumstances will vary and quality will always be an issue in the timing and mode of replacement. Maintenance of quality can't be guaranteed in all circumstances. However, in Fringe Benefits Committee discussions of teaching quality there was a consistent judgement that, on the whole, teaching quality would be maintained or enhanced under a partial leave policy relative to the situation where partial leaves are not available.

D. Informal Policies:

Informal policies for dealing with illness and family situations have always existed along with formal policies such as the existing policy on sick leaves. They will continue to exist with partially paid family leaves. Their flexibility makes them particularly useful in short term situations. One of the strongest and most consistent points made in discussions of partially paid leaves is that the use of informal policies varies substantially within and between campuses. A formal Family Related Partial Leave Policy establishes a floor or threshold for the use of informal policies.

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2. MOTIONS

The Fringe Benefits Committee moves:

1. THE UNIVERSITY FACULTY COUNCIL REQUESTS THE BOARD OF TRUSTEES TO ACT FAVORABLY ON THEIR PARTIALLY-PAID FAMILY-LEAVE RESOLUTION OF MAY 3, 1996.

IN ORDER TO GIVE THE PROFESSIONAL SCHOOLS SOME ADDITIONAL FLEXIBILITY IN MEETING THE CONDITIONS OF THE PARTIAL-LEAVE POLICY, INCLUDING COST NEUTRALITY, WE RECOMMEND THAT THE SEVENTH PARAGRAPH BE REVISED TO READ AS FOLLOWS:

WHEREAS, the appointee is relieved from teaching duties or, in the case of a librarian, structured performance duties, while continuing research and creative work and other service activities, and upon return to regular duties, the appointee will not be expected to take on a heavier load than carried prior to the leave; and

WE RECOMMEND THAT THE EIGHTH PARAGRAPH OF THE RESOLUTION BE REVISED TO READ AS FOLLOWS IN ORDER TO MAKE CLEAR THAT THE REVIEW PROCESS AND THE FUNDING POOL ARE CAMPUS SPECIFIC.

WHEREAS the Vice President/Chancellor at each respective campus would create a review panel of faculty and administrators to review and approve such partial leaves to ensure that all guidelines are followed, and the funding pool would be campus wide unless otherwise specified by the campus; and.

2. THE *ACADEMIC HANDBOOK* STATEMENT CONCERNING "OTHER LEAVES AND ABSENCES" [PAGE 60 OF THE JUNE 1992 EDITION] (FOLLOWING THE SECTION ON SICK LEAVE' AND PRECEDING THE SECTION ON MILITARY TOURS OF DUTY') SHALL BE AMENDED:

(Text in regular type repeats existing policy as printed in the *Academic Handbook*, June 1992, pages 60-61. Additions are redlined; deletions are ~~struck out~~.)

PREGNANCY AND FAMILY-RELATED LEAVES.

All full-time academic appointees with family-related needs may choose between two leave options: family-related partial leave and leave without pay. Women who are about to bear children have the additional option of six-week pregnancy leave.

PREGNANCY AND CHILDBEARING LEAVES.

Medical disabilities of any employee resulting from pregnancy (including pre-delivery, delivery, and post-partum medical needs, and complications of pregnancy and/or childbirth, and termination of pregnancy whether by miscarriage or by abortion) are to be treated as are any other temporary medical disabilities for purposes of granting sick leave, regardless of marital status.

A pregnant academic appointee may take, but is not required to take, a leave, to be known as a pregnancy leave, extending for up to six weeks ~~from up to two weeks prior to expected delivery date through up to four weeks following delivery date~~ and such additional time as is medically required. Such pregnancy leave shall be considered to be necessitated by disabilities resulting from pregnancy.

Appointees on pregnancy leave shall be paid up to six weeks' full salary during the leave and 50% for the balance of the semester when medically required. Upon recommendation of the chairperson or immediate supervisor with the concurrence of the appropriate dean or Vice President or Chancellor, the period of leave can be extended beyond the limits of a semester to a total maximum of six weeks at full pay and nine

additional weeks at one-half pay when medically required. Beyond such periods or upon recognition that the disability will be more prolonged, the individual shall be placed on leave without pay.

[Delete because recast below in "Family-Related Leaves Without Pay" section:]

~~A reasonable number of child rearing leaves shall be available under rule normally governing leaves without pay to both mothers and fathers, under conditions mutually agreed upon between an individual and his or her department head.~~

~~Pregnancy and child rearing shall be considered a permissible purpose for applying for a leave without pay and shall be available as prescribed by the policy on leave without pay, to all academic appointees.~~

(Board of Trustees, June 29, 1974)

FAMILY-RELATED PARTIAL LEAVES.

Full-time academic appointees who are primary or co-primary caretakers are eligible for family-related partial leaves for the following reasons: the birth of a child; the adoption of a child; or the catastrophic illness of a child, parent, spouse, or household member. A partial leave can be granted for up to 15 weeks.

In the usual case, a full-time academic appointee may take a 15-week leave from teaching duties or, in the case of a librarian, structured performance duties, while continuing research/creative work and other service activities. In exceptional cases, equivalent arrangements can be made. Upon return to regular duties, the appointee will not be expected to take on a heavier teaching load than carried prior to the leave.

Appointees on family-related partial leave shall be paid 65% of salary for up to 15 weeks. Eligibility for partial leave is established after three years of service and with a frequency not to exceed one partially-paid leave every three years.

FAMILY-RELATED LEAVES WITHOUT PAY.

Full-time academic appointees can request a leave without pay for the following reasons: the birth of a child, the adoption of a child, or the catastrophic illness of a child, parent, spouse, or household member. Family leaves shall be available to all appointees under rules normally governing leaves without pay.

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3. EXCERPT FROM MINUTES OF TRUSTEE MEETING OF MAY 3, 1996

Trustee Stone said that the University Faculty Council had proposed a partially paid family leave for faculty. She recalled that this issue has been debated since 1988. A year ago, the proposal was deemed more suitable to the flexible benefits plan under discussion. However, when the options for flexible benefits were determined to be unsuitable to IU at this time, the issue of partially paid faculty family leave was remanded to the Campus Community Committee by President Brand. She said that she introduced a resolution regarding this issue to the Campus Community Committee and two overriding concerns were expressed. One was whether this proposal conflicts with the 1993 federal Family Leave Act, and the other was whether the proposal is truly cost neutral. She said that Vice President Gros Louis and Human Resources staff both concurred that the proposal is cost neutral, and Nyhart benefits company conducted an independent actuarial study which concluded the same. Therefore, she introduced the following motion, noting that she would entertain a motion to table the resolution until fall to allow the UFC to respond and to allow Human Resources staff to ensure that it is not in conflict with the FMLA.

RESOLUTION

WHEREAS, The University Faculty Council has requested that a partially paid family leave policy be established for any full-time academic appointee, research appointee or clinical faculty member, to supplement the Federal Family and Medical Leave Act of 1993, subject to the following guidelines:

Up to 15 weeks or one semester of partially paid leave at the rate of 65% of the appointee's salary along with continued University contributions to the appointee's retirement plan, and

After three years of service and with a frequency not to exceed one partially paid leave every three years, and

For the birth of child, adoption of child, illness of the faculty member, or for the catastrophic illness of a child, parent, spouse or household member, where the appointee is the primary or co-primary caretaker; and

WHEREAS, all guidelines in the federal Family and Medical Leave Act of 1993 are followed as a basis for this supplemental policy; and

WHEREAS, the 35% savings would be used as a pool to hire a temporary teaching replacement if necessary; and

WHEREAS, the appointee is relieved from classroom teaching duties or equivalent structured service duties, while continuing their research and creative work and other service activities, and upon return to their regular duties, the appointee will not be expected to take on a heavier teaching load than carried prior to their leave; and

WHEREAS, the Vice President for Academic Affairs would create a review panel of faculty and administrators to review and approve such partially paid leaves to ensure that all guidelines are followed; and

WHEREAS, this policy may be modified any time by the Trustees to ensure that this policy remains monetarily cost neutral to the University.

BE IT RESOLVED, this policy would become effective January 1, 1997, by order of the Board of Trustees.

Board President Walda suggested that the University Faculty Council be requested to give their reflection on this resolution, including input on how quality of instruction may or may not be affected by the proposal. When that information is available, the resolution will then return to a trustee committee, and be referred back to the Board. He called for the vote to table the motion.

Unanimously approved on motion duly made and seconded.

4. BACKGROUND

Excerpt from Circular U9-90:

This proposal originally came from the Dean of Faculty's University Committee on Family and Work. It has been considered by some campus faculty affairs committees, and revised several times by the University Faculty Affairs Committee, with continued input from the Committee on Family and Work, university administrators, campus faculty committees, staff members, and concerned individuals.

Two of the options in the proposed Family Leave Policy already exist in the *Academic Handbook*: six-week pregnancy leave and leave-without-pay. The Committee has (1) added an introduction (Lines 1-5) spelling out two options for men and women in circumstances of family need and three options for pregnant women.

In order to clarify two concerns about present policy and practice, under the present "six-week pregnancy leave," the UFC-FAC (2) added two sentences (Lines 22-24) spelling out what happens in "years toward tenure, sabbaticals, or retirement" and what happens regarding "retirement contributions." These things were unclear to faculty readers of the current policy but have been, as we understand it, regular practice of the Dean of Faculties' office.

The UFC-FAC recommends recasting a paragraph that was approved by the Trustees in 1974 (Lines 26-31 marked for deletion) as a separate section called "Family-Related Leaves Without Pay" (now proposed as Lines 20-25 on page 2). The full section on "Leaves Without Pay" now exists on pages 55-56 of the 1988 version of the AH, but it includes only mention of professional work at another institution; it does not include a list of acceptable personal reasons for taking a leave without pay, and the Committee on Family and Work and Faculty Affairs Committees felt it important to reassure faculty and job applicants that the University considers family-related-needs grounds for an unpaid leave.

Finally, the UFC-FAC (3) added the section on "Family-Related Partial Leaves" (Lines 1-16 on page 2). This section covers eligibility, timing of the leave, extension of the probationary period, a general definition of a "partial workload" (with specific obligations to be negotiated between department heads and faculty by those with non-teaching duties such as librarians and those with clinical duties). And it includes a method of payment.

How did we arrive at the 70% figure? It is the amount now available to pregnant women under six-week leave when needed. A six-week leave at 100% pay plus an additional nine weeks at half pay is the same as nine and ½ weeks at full pay, equivalent to 0.678, roughly 70%.

The Committee on Family and Work and the UFC-FAC carefully considered potential abuse of such a policy and put in some safeguards. Six-week leave now exists and one has to be very pregnant to use it. Leave without pay now exists and one must forfeit all salary to use it. Partial leaves have the penalty of reduced salary. Of course, faculty who are able to meet their classroom or equivalent duties normally continue on full salary. Traditionally, when extraordinary personal need has occurred, in many departments, partial leaves of various sorts have been granted, leaving colleagues to fill in. Thus colleagues already subsidize each other when illness and catastrophes occur. In addition, most departments have senior colleagues, chairs, and Tenure & Promotion Committees that will be looking over the shoulders of junior faculty. Such colleagues normally counsel probationary faculty about progress toward tenure, and their reactions to abuse (such as doing research instead of child care) will be potent since they are the ones that vote. In the case of senior colleagues abusing partial leaves, we have a strong safeguard in reduced salary. If a tenured faculty member took such a leave and chose to retain the TIAA/CREF contribution, the person's salary would run to about 57% or 58% of full salary, a substantial loss. Moreover, in each case, it is necessary to be able to demonstrate actual childbirth (or related illness), adoption, or catastrophic illness. Those things are hard to invent, and the Dean of Faculties as well as chairs and colleagues will be watching.

The benefits of adopting a policy with partial leave include: (1) meeting the needs of prospective women faculty who usually will be at the end of their childbearing years during their probationary period and thus need an alternative to the traditional six-year "fast track"; (2) allowing for the changing family-responsibility patterns among young men and women faculty, but who cannot get along without some income during periods of childbirth or family crisis; and (3) giving Indiana University a competitive position among universities in hiring in the expected crunch in the coming decades.