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## MEMORANDUM

TO: Deans

FROM: David Blackwell, Provost

A handwritten signature in blue ink, appearing to read 'David Blackwell', written over the printed name.

RE: Revised Faculty Temporary Disability Leave and Family Medical Leave Policy

DATE: October 30, 2019

University of Kentucky faculty employees are entitled to paid temporary disability leave (TDL), as well as protections under the federal Family and Medical Leave Act (FMLA) of 1993. I am enclosing a copy of the revised Faculty Temporary Disability Leave (TDL) and Family Medical Leave (FML) Policies and Procedures. Please distribute a copy of this policy to the Chairs, Directors, and other appropriate individuals within your College. These policies and procedures apply to all faculty, in both healthcare and non-healthcare colleges.

Approved faculty TDL and FML must be reported, processed, and recorded as outlined in the enclosed Policy and Procedures.

Enclosure

**FACULTY TEMPORARY DISABILITY LEAVE (TDL) AND FAMILY MEDICAL LEAVE (FML)**  
**POLICIES AND PROCEDURES**  
**Revised October 2019**

**Preface**

Unlike staff employees, University of Kentucky faculty employees do not accrue sick days as a function of time served. Instead, under the terms of the University's *Governing Regulations*, the Provost may grant paid temporary disability leave to faculty employees who are totally disabled for up to six (6) months:

*Temporary Disability Leave (TDL) may be granted to faculty members by the Provost. Eligible faculty members who are totally disabled are entitled to six (6) months' TDL with pay. TDL with pay for more than six (6) months requires approval by the Board of Trustees. (see GR X.B.2.d(2), page 12)*

It is important that faculty report their periods of illness and have TDL officially approved in the manner established in these policies and procedures to ensure that they are eligible for Long-Term Disability in the event that an illness, however mild at its onset, proves catastrophic. Reporting illness and requesting leave to care for qualified family members also ensures that faculty responsibilities, notably teaching, advising, and patient care, are covered.

Faculty employees also are eligible for leave under the Family and Medical Leave Act as outlined in [UK Human Resources Policy #88, Family Medical Leave \(FML\)](#), but a faculty employee's balances of paid TDL and paid vacation, if any, **must** be used concurrently with FML before a faculty employee is placed on unpaid leave.

In order to make the granting of TDL and FML more efficient, the Provost has delegated the authority of granting TDL and FML to deans and unit administrators, as described below, for short-term situations (up to four weeks).

In order to make the granting of TDL and FML consistent among colleges and to ensure that approved leave is appropriately documented, the requirements for eligibility under the Family and Medical Leave Act (FMLA) will be applied to faculty TDL as outlined below.

- 1. Reporting Illness or Qualifying Event** To ensure that faculty responsibilities are covered during any absence, faculty employees must notify in writing their unit administrator at the onset of an illness, upcoming qualifying event (e.g. a scheduled surgery), or the need to care for a qualified family member.

A *qualified family member* is defined as a spouse, sponsored adult dependent, child under the age of 18, sponsored child dependent under the age of 18, or parent of the employee, who has a serious health condition. There is a cumulative 30-day (six weeks) annual limit for the amount of paid leave a faculty employee may take to care for qualified family members (Twenty-six

weeks of to care for a covered service member - see section 2.f. below). If leave to care for a qualified family member is approved beyond the 30-day annual limit for paid leave, the additional leave will be vacation leave (if applicable) and then unpaid leave.

2. For leave requests related to a *serious health condition or other qualifying event* as defined in [UK Human Resources Policy #88, Family Medical Leave](#), the FML Form must be submitted as described below.

A *serious health condition or qualifying event* is defined as follows:

- a. Because of the birth of a child of the employee and in order to care for that child;
  - b. Because of the placement of a child with the employee for adoption or foster care;
  - c. In order to care for a spouse, sponsored adult dependent, child under age 18 (or child over 18 if not capable of self-care due to a physical or mental condition), sponsored child dependent under age 18, or parent of the employee who has a serious health condition;
  - d. Because of a serious health condition that makes the employee unable to perform the functions of his/her job; or
  - e. Because of a qualifying exigency arising out of the fact that the employee's spouse, sponsored adult dependent, son, daughter, sponsored child dependent, or parent is a military member on covered active duty in the Armed Forces.
  - f. Twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, sponsored adult dependent, son, daughter, sponsored child dependent, parent, or next of kin (military caregiver leave).
3. The FML Form is not required for leave requests due to *less serious health conditions*, such as common cold, the flu, earache, upset stomach, minor ulcers, headaches other than migraines, routine dental or orthodontia problems, routine medical or dental appointments, but TDL for these types of events still must be reported and recorded as described below.

### **Approval Procedures**

#### Medical Leave for a Faculty Employee:

1. A faculty employee who becomes ill for a time period of one day to two weeks (10 working days), whether consecutive or not, must notify their department chair/director, who may grant the paid leave and will ensure that it is documented in the department or unit personnel file. The chair/director may ask for documentation from a medical provider.
2. A faculty employee who remains ill for a time period beyond two weeks up to four weeks (20 working days), whether consecutive or not, must notify *in writing* the department chair/director, who will notify the dean of the college. The dean may grant the paid leave and will ensure that it is documented in the department or unit personnel file. The dean may ask for documentation from a medical provider.

3. If a faculty employee remains ill for a time period beyond four weeks (21 working days), whether consecutive or not, **leave may only be granted by the Provost** upon the recommendation of the dean. Make sure this entire leave is entered into the Faculty Database (FDB) when sending request for Provost approval. If approved, the Provost will notify the dean in writing, who will ensure that it is documented in the department or unit personnel file.
4. Faculty employees whose illness prevents them from fulfilling their duties beyond six months from the onset of illness are eligible to apply for Long-Term Disability under HR Policy #95. Faculty employees who are on approved TDL and are unlikely to return should, prior to the end of their 6-months of leave, contact [UK HR Leave Administration](#) for more information about applying for Long-Term Disability. Applications for Long Term Disability **must** be made within 6-months of an employee's last physical day at work. (See HR Policy #95.0: Long Term Total Disability Program.)

#### Leave for Birth or Placement of a Child

5. Leave for childbirth or child placement will be granted in accordance with [UK Human Resources Policy #88, Family Medical Leave](#). Approved leave for childbirth may begin at the time that the appropriate health care provider advises the faculty employee to cease working or at the birth/placement of a child.
6. There is a presumed six-week recovery period (30 working days or 6 calendar weeks) for normal childbirth and a presumed eight-week recovery period (40 working days or 8 calendar weeks) for delivery by cesarean section. These presumed recovery periods are paid. After the paid 6-week (or 8-week) leave, an employee may take the balance of up to 12-weeks using available balances of paid vacation leave and then unpaid leave. For complete policies and procedures regarding leave for the birth or placement of a child, please refer to HR Policy #88.

#### Leave to care for a qualified family member

7. Leave to care for a spouse, sponsored adult dependent, child, sponsored child dependent, or parent of the employee) who has a serious health condition will be granted in accordance with [UK Human Resources Policy #88, Family Medical Leave](#). There is a cumulative 30-day (six weeks) annual limit for **paid** TDL or FML a faculty employee may take for qualified family members. If leave to care for qualified family member is approved beyond the 30-day annual limit for paid leave, an employee may take the balance of up to 12-weeks using available balances of paid vacation leave and then unpaid leave. For complete policies and procedures regarding FML leave to care for a qualified family member, please refer to HR Policy #88.
8. Leave may be taken to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, sponsored adult dependent, son, daughter, sponsored child dependent, parent, or next of kin (military caregiver leave). Leave may be taken for up to twenty-six work weeks during a single 12-month period. For complete policies and procedures regarding military caregiver leave, please refer to HR Policy #88.

NOTE: If the department learns that an approved leave qualifies for FML after the leave has begun, the leave may be retroactively counted as FML under the process established by HR Policy #88.

### Family Medical Leave (FML) Policies<sup>1</sup>

1. Under the FMLA, any faculty employee who has been a University employee for 12 months (not necessarily consecutive months, but within the last 7 years) and has worked at least 1,250 hours during the previous 12 month period<sup>2</sup> may take up to 12 weeks of unpaid leave for a serious health condition involving the employee or a qualified family member during any 12-month period. Faculty TDL, however, is available at the onset of employment.
2. Upon return from approved FML, an employee must be restored to the same job or an equivalent job that is virtually identical to the original job in terms of pay, benefits, and other employment terms and conditions. (Note: An employer may also deny restoration to a “key” employee under certain circumstances. See HR Policy #88 for details)
3. A faculty employee’s available **paid** leaves (i.e., TDL and vacation leave, if any) must be used concurrently with FML. All balances of TDL and vacation leave must be used prior to the employee being placed on FML without pay.
4. Workers' Compensation leave shall be designated as FML, as applicable, and shall run concurrently with FML. (See HR Policy #96)
5. There is a cumulative 30-day (six weeks) annual limit for paid TDL or FML a faculty employee may take for qualified family members. If leave to care for qualified family member is approved beyond the 30-day annual limit for paid leave, the additional leave will be **unpaid** leave.
6. There is an FMLA requirement that the employer must provide a notice to the employee within five (5) business days of the initial request for leave or of learning that an employee’s leave may be for an FMLA-qualifying reason, either orally or in writing, informing the employee whether he or she is eligible for FMLA leave. It is the responsibility of the educational unit (usually the college) to provide this notice.
7. After the establishment of a qualifying event, the dean must designate whether the FML days are paid or unpaid. The number of paid days depends on the available vacation leave and TDL. If the faculty employee is eligible for vacation leave or TDL, either or both of these paid leaves must be used, if the qualifying event is an applicable use of that leave.
8. TDL or FML is applicable only during the actual assignment period for faculty who are on 9-, 10- and 11-month contracts. If the FML-qualifying event is interrupted by a non-assignment period,

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<sup>1</sup> See UK Human Resources Policy #88 for complete policies related to Family and Medical Leave.

<sup>2</sup> The 12-month period begins on the first day of the approved FML leave.

for example 5/16 – 8/15 for a 9-month faculty employee, the non-assignment months will be included in the calculation of the 6-month maximum TDL and/or the 12-week FML maximum:

Example 1: If a faculty employee (on any appointment period) who has a qualifying event on April 1, for which a 6-month leave is recommended by a qualified physician or therapist, the faculty employee is expected to return to work or file for long-term disability before October 1. For this employee, full pay and benefits would continue as normal from April 1 through September 30. The faculty employee would be ineligible for another FML/TDL leave (and accompanying TDL paid leave) until the employee has worked an additional 1250 hours during the 12 months prior to the start of leave. In this example, this would occur at the end of the following Spring term for most 9-month faculty (earlier if on longer-term appointment).

Example 2: If a 9-month faculty employee becomes a new parent through childbirth or placement (FML-qualifying event) on June 1, the faculty employee is expected to return to work on Aug. 16, which is the first day of the academic year, as the off-contract period is in excess of the 12 weeks of leave provided for in the Act. If the qualifying event (e.g., normal childbirth) occurs on Aug. 1, for example, leave could extend through Oct. 24; however, the faculty employee would be unpaid for 6 weeks of that period but paid between Aug. 16 – Sept. 12 (includes Labor Day). Birth by cesarean section or medical complications for the mother or child may extend the qualifying leave and payment. Barring post-partum complications, intermittent ensuing short-term absences for routine post-partum care may be approved (and records maintained) within the educational unit and need not be reported as a qualifying event.

Example 3: A 9-month faculty employee is the primary caregiver for a seriously ill spouse or partner. A qualified medical provider certifies that the faculty employee must provide intermittent care over a period of the fall semester (4.5 months), requiring the faculty employee to provide the equivalent of 30 days of care to their ailing spouse/partner. With proper documentation provided, the workload of the faculty employee may be adjusted during that time.

9. Tenure-eligible faculty employees approved for FML may be eligible for a delay in the probationary period in accordance with GR X.B.1.c. Non-tenured faculty may apply for an extension of the probationary period of 26 weeks (six months) beyond the date given on the original Notice of Academic Appointment and Assignment Form if they take FML of 6 weeks or more. If the total FML, during the probationary period, exceeds 26 weeks, the faculty may apply for an extension of one year beyond the date given in the original Notice of Primary Academic Appointment and Assignment. [GR X.B.1\(b\)](#)

For assistance or questions about this policy, please contact the Office for Faculty Advancement at:

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