



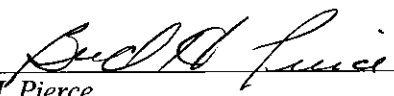
SUMMARY OF NSHE POLICIES AND UNLV PRACTICES FOR FACULTY PARENTAL LEAVE

RESPONSIBLE ADMINISTRATORS: ASSOCIATE VICE PRESIDENT FOR HUMAN RESOURCES & SENIOR
VICE PROVOST FOR ACADEMIC AFFAIRS

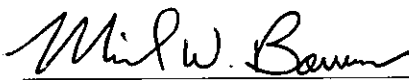
RESPONSIBLE OFFICES: OFFICES OF HUMAN RESOURCES AND ACADEMIC AFFAIRS

ORIGINALLY ISSUED: MARCH 11, 2009

APPROVED BY:



Bud H. Pierce 3/11/09
Date
Associate Vice President for Human Resources



Michael W. Bowers 3-11-09
Date
Senior Vice Provost for Academic Affairs

REVISION DATE: N/A

STATEMENT OF PURPOSE

There is no single, comprehensive Nevada System of Higher Education (NSHE) policy pertaining to parental leave. Rather, various NSHE policies address annual leave, sick leave, and family medical leave. In addition, various UNLV practices pertain to parental leave situations involving faculty. NSHE policies and related UNLV practices regarding parental leave are summarized herein.

POLICY STATEMENTS, NSHE BOARD OF REGENTS HANDBOOK, TITLE 4, CHAPTER 3

1. **Family Medical Leave Act (FMLA) Leave (§14.3, §14.6, §16, & Appendix).** FMLA permits up to 12 weeks of leave without pay for either a female or male employee during any rolling 12-month period for child birth or placement of a child for adoption or foster care (for employees at .60 FTE or greater with 12 or more months of continuous service).
 - a. If an eligible employee is using leave, with or without pay, in a manner which would qualify under the Family and Medical Leave Act, the appointing authority shall designate the leave as

FMLA and shall provide written notice to the employee which details the obligations of the employee and the effect of using the leave. This notification is provided by the UNLV Human Resources Office.

- b. Employees **must use all available paid leave** during the period of FMLA leave, prior to using leave without pay.
- c. During any period of FMLA leave without pay, the University will continue to pay the employee's health benefits up to the 12-week FMLA leave period.

2. Structure of FMLA Leave (Appendix).

The structure of an FMLA leave is within the discretion of the employee, subject to providing evidence of medical necessity, if requested. FMLA leaves may consist of:

- a. **Full-time Leave.** When the employee is not able to work at all during the leave, the entire absence would be charged to paid leave or leave without pay. Example: Full-time absence following birth of a child.
- b. **Part-time Leave.** When the employee is able to work part-time during the leave, it is permissible for an employee to request FMLA leave on a part-time basis and to continue to be employed on a part-time basis. Example: Return to work on a part-time basis following birth of a child, during periods when other family members or care providers are available to care for the child.
- c. **Intermittent Leave.** When circumstances warrant, an employee may request "intermittent leave" in which the employee's working schedule may vary over time (with some portion of total time charged to leave and the remaining time consisting of regular work time). Example: Employee and employee's spouse or partner want to take alternating work weeks off to care for a child.
- d. **Medical Necessity vs. Supervisory Approval.** Except where a leave is medically necessary, supervisory approval is required for part-time or intermittent leave taken after the birth or placement of a child for adoption or foster care. [29 CFR 825.203(b)] However, if the employee demonstrates medical necessity for the particular structure of an FMLA leave, the supervisor must attempt to work out a schedule that meets the employee's needs without unduly disrupting the employer's operations, subject to the approval of the employee's health care provider. [29 CFR 825.302(f)]

- 3. **Sick Leave Provisions (§14.3, §14.4).** Section 14.3 permits the use of sick leave without limit for the period of physical disability related to childbirth. Section 14.4 permits the use of sick leave up to 15 days per calendar year to care for a family member, but waives this limit for FMLA-qualifying events. Thus, Section 14 permits use of accumulated sick leave up to 12 weeks (with pay) for either a female or male employee upon the birth of a child, regardless of personal disability of the mother or the health of the child.

Note: Sick leave does not apply to placement for adoption or foster care; unless, of course, the child is sick, in which case regular sick leave or FMLA would apply.

- 4 **Annual Leave Provisions (§15).** Section 15 permits use of accumulated annual leave (with pay) without limit for birth, placement of a child for adoption or foster care, or child rearing; subject to supervisory approval.
- 5 **Additional Unpaid Leave (§14.6).** Section 14.6 permits additional unpaid leave up to a maximum of 12 months (after all paid leave and FMLA eligibility is exhausted) for child birth, placement of a child for adoption or foster care, or child rearing.

NOTE: Child rearing, as specified in §14.6 and §15, is not contingent on the date of birth or placement and is not related to the age of the child. For the purpose of child rearing, UNLV relies on the definition of a child specified in the FMLA at 29 CFR 825.113(c): "a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is: a) under 18 years of age; or (b) 18 years of age or older and incapable of self-care because of a mental or physical disability."

- 6 **Reinstatement Right (§14.6).** All parental leave policies are subject to the following reinstatement right: "The NSHE guarantees that the professional staff member will return to his or her original position, or if the original position no longer exists, to a comparable position, without loss of seniority or other benefits."

NOTE: All leave authorized in NSHE policies is subject to supervisory approval, provided such approval cannot be unreasonably withheld. Appointing authorities may require medical certification for the use of sick leave or FMLA leave, in consultation with HR.

UNLV PARENTAL LEAVE PRACTICES

1. **Safety and Health.** If a pregnant employee believes that the health of herself or her unborn child may be jeopardized by any working condition, the employee must disclose the pregnancy and her concerns to her appointing authority. The appointing authority (in consultation with the Office of Risk Management and Safety) must then take steps to protect the employee's health, modify her working conditions, or make an appropriate adjustment to work assignments or schedules.
2. **Requested Duration.** The duration of a parental leave is at the discretion of the faculty member, up to the limitations of the Board policy, and can be used at any time during the 12 months following the birth or adoption of a child. The University does not impose any requirement for an employee to be absent from work for a longer period of time than requested by the employee.

For example, if a faculty member requests FMLA from Oct 1-Nov 15, the University does not require the faculty member to take a leave of absence for the entire semester, simply because it would otherwise disrupt classroom instruction. In such a circumstance, the chair/director would reassign the academic faculty member to faculty level and type non-classroom duties for the portions of the academic term that are not encompassed within the FMLA period. Thus, the reduction in teaching load that is associated with such a reassignment would not generally need to be made up at a later

date. Alternative work schedules and locations that are designed to accommodate the faculty member's parental circumstances are encouraged.

3. **Progress Toward Tenure or Promotion.** Pursuant to the job restoration provisions of the FMLA and NSHE policies, an employee's use of FMLA cannot result in the loss of any employment benefit for which the employee was otherwise entitled before using FMLA. Thus, neither pregnancy nor parental leave may jeopardize an employee's employment or seniority status, except for the limitations on the maximum duration of leave without pay.
 - a. The University does not impose a delay in consideration for promotion or tenure for academic faculty who use parental leave up to 12 weeks' in duration.
 - b. As provided at Title 2, Chapter 3, §3.3 of the Board of Regents' Handbook, a faculty member may request that a period of parental leave be excluded from service toward the seven-year probationary period, and approval shall be within the discretion of the Executive Vice President and Provost, consistent with UNLV Bylaws and shall not be unreasonably denied.
 - c. Approval for "additional unpaid leave" pursuant to §14.6 may be conditioned on a mutual agreement between the University and the faculty member regarding a delay in consideration for promotion or tenure.
4. **Application to Post-Doctoral Scholars, Visiting Faculty, and Faculty-in-Residence.** Post-doctoral scholars, visiting faculty, and faculty-in-residence are all benefit-earning appointments. As such, these faculty members are entitled to all of the rights pertaining to parental leave outlined in NSHE policies and UNLV guidelines, subject to the limitations on eligibility for FMLA.
5. **Application to Graduate Assistants.** Graduate Assistants' primary relationship to the University is as students.
 - a. Graduate Assistants are not employees for the purpose of parental leave guidelines. Graduate Assistants do not earn annual leave or sick leave; are not eligible for "additional unpaid leave" up to 12 months pursuant to §14.6; and typically would not meet the eligibility requirements for FMLA (appointments of .60 FTE or greater with 12 or more months of continuous service).
 - b. However, to the extent that a graduate assistant needs to be absent from duties due to child birth, placement for adoption, or foster care; and who would otherwise be able to maintain his or her student status, it is permissible to suspend his or her graduate assistantship for the duration of his or her absence from campus or to adjust the total workload over the course of the academic term, with Graduate College approval.
 - c. The University's practice is to afford Graduate Assistants the equivalent of leave without pay or flexibility in duty assignments, so as to permit parental leaves up to 12 weeks in duration (without loss of any opportunities to which they would otherwise be entitled, but for the parental leave).

References:

Family Medical Leave Act (FMLA), Department of Labor at www.dol.gov.

CONTACTS

QUESTIONS RELATED TO LEAVE ISSUES SHOULD BE DIRECTED TO:

OFFICE OF HUMAN RESOURCES.

Campus Services Building • CSB-237
(702) 895-3504 • TDD (800) 326-6868 • FAX (702) 895-1545
<http://hr.unlv.edu/>

OR

OFFICE OF THE SENIOR VICE PROVOST FOR ACADEMIC AFFAIRS

Flora Dungan Humanities Building • FDH-703
(702) 895-1267 • FAX (702) 895-3670
<http://provost.unlv.edu/acadaffairs.html>

QUESTIONS RELATED TO REAPPOINTMENT, PROMOTION, OR TENURE SHOULD BE DIRECTED TO:

ACADEMIC ADMINISTRATOR RESPONSE FOR THE COLLEGE OR SCHOOL IN WHICH THE EMPLOYEE IS
SITUATED

OR

OFFICE OF THE SENIOR VICE PROVOST FOR ACADEMIC AFFAIRS

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