

**Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty (Senate Document #18-19-03)****TO** Wallace D. Loh | President**FROM** Christopher Walsh | Chair, University Senate

I am pleased to forward the accompanying legislation for your consideration and approval. Jack Blanchard, Chair of the Faculty Affairs Committee, presented the Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty (Senate Document #18-19-03), which the University Senate approved at its meeting on March 6, 2019. Please inform the Senate of your decision and any administrative action related to your conclusion.

Approved:**Wallace D. Loh**
President**Date:****03-12-2019**

Copies of this approval and the accompanying legislation will be forwarded to:

Mary Ann Rankin, Senior Vice President and Provost
Reka Montfort, Executive Secretary and Director, University Senate
Michael Poterala, Vice President and General Counsel
Cynthia Hale, Associate Vice President for Finance and Personnel
John Bertot, Associate Provost for Faculty Affairs
Elizabeth Beise, Associate Provost for Academic Planning & Programs
Sylvia B. Andrews, Academic Affairs
Jewel Washington, Assistant Vice President, University Human Relations
Jack Blanchard, Chair of the Faculty Affairs Committee



Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty

PRESENTED BY Jack Blanchard, Chair

REVIEW DATES SEC – February 18, 2019 | SENATE – March 6, 2019

VOTING METHOD In a single vote

RELEVANT POLICY/DOCUMENT [II-2.31\(A\) – University of Maryland Procedures Related to Family and Medical Leave for Faculty](#)

NECESSARY APPROVALS Senate, President

ISSUE

On April 20, 2018, the President's Office informed the Senate Office that the University System of Maryland (USM) had updated its Policy on Family and Medical Leave for Faculty (II.2.31) in order to clarify federal obligations related to the Family and Medical Leave Act (FMLA). At the time, the University operated under the University of Maryland, College Park Policy on Family and Medical Leave for Faculty (II-2.31[A]), which essentially reproduced existing USM policy. When the USM policy was updated in 2018, the University decided to replace its policy with procedures specific to our institution, given it is already covered by the USM policy. The Procedures Related to Family and Medical Leave for Faculty (II-2.31[A]) were approved by the President on an interim basis on August 31, 2018, pending University Senate review.

In October 2018, the Senate Executive Committee (SEC) charged the Faculty Affairs Committee (FAC) with reviewing the USM policy and interim procedures; reviewing practices and policies at Big 10 and peer institutions; consulting with a range of offices on campus; and recommending any proposed changes to the procedures.

RECOMMENDATIONS

The Faculty Affairs Committee recommends that the Senate approve the revised Procedures Related to Family and Medical Leave for Faculty (II-2.31[A]), which immediately follow this report.

The committee also recommends that:

- University Human Resources should review and expand existing informational resources that describe the types of leave available to all employees who earn leave.
- The Office of Faculty Affairs should review and expand existing informational resources that describe the types of leave available to different categories of faculty who earn leave, ensuring that they address variations based on characteristics such as title, nature and duration of funding, and full-time or part-time status.

- University Human Resources and the Office of Faculty Affairs should review and expand existing informational resources defining family members and events that qualify for Family and Medical Leave use.

COMMITTEE WORK

The FAC established a joint subcommittee with the Staff Affairs Committee, which had been tasked with reviewing similar provisions for staff employees. The subcommittee met with representatives from University Human Resources, the Office of General Counsel, and the Office of Faculty Affairs. The subcommittee learned that the biggest change is the shift to the use of a 12-month rolling calendar for Family and Medical Leave (FML) use. It also found that constraints imposed by state and federal law, as well as USM policy, limited the subcommittee's scope of action. The subcommittee proposed a revision to ensure professional track faculty were included in the definition of eligible faculty, added language clarifying the calendar change, and updated punctuation and titles. The subcommittee also developed several administrative recommendations designed to improve the University's communication about FML use. The subcommittee reported on its work to the FAC, which voted to approve the revised procedures and administrative recommendations at the committee's February 13, 2019, meeting.

ALTERNATIVES

The Senate could choose not to approve the recommendations and revisions to the University of Maryland Procedures Related to Family and Medical Leave for Faculty, leaving the interim procedures in effect. However, the University would lose the opportunity to clarify the procedures and provide faculty with informational resources on the procedures.

RISKS

There are no known risks to the University.

FINANCIAL IMPLICATIONS

There are no known financial implications.



Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty

2018-2019 Committee Members

Jack Blanchard (Chair)	Paula Nasta (Graduate Student)
John Bertot (Ex-Officio Provost's Rep)	Janice Reutt-Robey (Faculty)
Debabrata Biswas (Faculty)	Ellin Scholnick (Ex-Officio Ombuds Officer)
Caroline Boules (Faculty)	Elina Thapa (Graduate Student)
Karol Dyson (Faculty)	Jewel Washington (Ex-Officio Director of Human Resources Rep)
Michele Eastman (Ex-Officio President's Rep)	Ann Weeks (Faculty)
Philip Evers (Ex-Officio CUSF Rep)	Sacoby Wilson (Faculty)
Mark Fuge (Faculty)	
Yaelle Goldschlag (Undergraduate Student)	
Richard Klank (Faculty)	
Nicole LaRonde (Faculty)	
Shevaun Lewis (Faculty)	
Alexis Monahan (Staff)	

Date of Submission

February 2019

INTRODUCTION

The Family and Medical Leave Act (FMLA) provides eligible employees up to 12 weeks of job-protected, unpaid leave each 12-month period. Family and Medical Leave (FML) only protects an employee's position and access to benefits and does not replace wages. However, it can be used in conjunction with other forms of paid leave, such as annual leave or sick leave. It is typically used to cover serious medical conditions that affect an employee or member of their immediate family, including pregnancy, or to provide care for a child or family member. Additional information on FML is available from [University Human Resources](#) and the [Office of Faculty Affairs](#).

BACKGROUND

On April 20, 2018, the President's Office informed the Senate Office that the University System of Maryland (USM) had updated its Policy on Family and Medical Leave for Faculty (II.2.31) in order to clarify federal obligations related to the Family and Medical Leave Act (FMLA). At the time, the University operated under the University of Maryland, College Park Policy on Family and Medical Leave for Faculty (II-2.31[A]), which essentially reproduced existing USM policy. When the USM policy was updated in 2018, the University decided to replace its policy with procedures specific to our institution, given it is already covered by the USM policy. The Procedures Related to Family and Medical Leave for Faculty (II-2.31[A]) were approved by the President on an interim basis on August 31, 2018, pending University Senate review.

In October 2018, the Senate Executive Committee (SEC) charged the Faculty Affairs Committee (FAC) with reviewing the USM policy and interim Procedures Related to Family and Medical Leave for Faculty; reviewing practices and policies at Big 10 and peer institutions; consulting with a range of offices on campus; and recommending any proposed changes to the procedures (Appendix 2).

KEY CHANGES IN THE INTERIM PROCEDURES

The interim procedures are far more streamlined but also reflect several substantive changes to the previous policy. The most significant is a change to the eligibility window for taking FML. Previously, faculty were eligible for up to 60 workdays of FML per calendar year and leave entitlements did not carry over to the next calendar year. The new procedures establish a 12-month rolling window during which faculty may use leave. Whenever a faculty member applies for FML, the University will look back at the previous 12 months to determine how many days of leave the faculty member may use. Faculty have the option of using the old system based on calendar years or the new 12-month rolling window until December 31, 2019. Beginning January 1, 2020, all faculty will use the new 12-month rolling window.

The new procedures also specify that faculty holding concurrent administrative appointments will follow the FML procedures for staff employees during the term of the appointment, which was a provision not included in the previous USM Policy. Finally, the procedures identify a campus officer charged with implementing the procedures.

COMMITTEE WORK

At its meeting on October 17, the FAC began discussing its charge. Because the Staff Affairs Committee had been tasked with reviewing similar revisions to the staff procedures, the two committees agreed to establish a joint subcommittee (Appendix 1). In addition to the chairs, each committee identified two additional members. The subcommittee reviewed the overarching USM policy, and met with representatives from University Human Resources, the Office of General Counsel, and the Office of Faculty Affairs. The subcommittee learned that the revisions were intended to align the University's procedures with changes to USM policy. Those changes were intended primarily to adopt an approach to determining eligibility that was more beneficial to faculty and staff, as the 12-month rolling window provides greater flexibility. They also reduced some ambiguities regarding how faculty with administrative appointments are treated.

The subcommittee learned that constraints imposed by state and federal law, as well as USM policy, limited its scope of action. It determined that the definition of "eligible faculty" should be revised in the procedures. The interim procedures define eligible faculty as only those holding titles included in the University System Policy on Appointment, Rank, and Tenure of Faculty (II-1.00). That policy, however, does not include all of the professional track faculty titles used by the University. As such, the subcommittee recommended including a reference to the University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty (II-1.00[A]), which includes a comprehensive list of the relevant titles. The subcommittee also recommended language explicitly indicating that all faculty will follow the new calendar system after January 1, 2020. Finally, the subcommittee updated punctuation and corrected a title. The subcommittee also proposed several administrative recommendations designed to improve the University's communication regarding what types of leave faculty members are eligible for and precisely what family and medical leave covers.

While the charge requested research on practices at Big 10 and peer institutions, the subcommittee determined that limitations associated with state and federal law, as well as USM policy, rendered such comparative research of little value. The Senate Leadership agreed that there was no need to conduct this review.

The subcommittee reported on its work to the FAC, which voted to approve the revised procedures and administrative recommendations at the committee's February 13, 2019, meeting.

RECOMMENDATIONS

The Faculty Affairs Committee recommends that the Senate approve the revised Procedures Related to Family and Medical Leave for Faculty (II-2.31[A]), which immediately follow this report.

The committee also recommends that:

- University Human Resources should review and expand existing informational resources that describe the types of leave available to all employees who earn leave.
- The Office of Faculty Affairs should review and expand existing informational resources that describe the types of leave available to different categories of faculty who earn leave, ensuring that they address variations based on characteristics such as title, nature and duration of funding, and full-time or part-time status.
- University Human Resources and the Office of Faculty Affairs should review and expand existing informational resources defining family members and events that qualify for Family and Medical Leave use.

APPENDICES

Appendix 1 — Interim University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees

Appendix 2 — Charge from the Senate Executive Committee

II-2.31(A) UNIVERSITY OF MARYLAND PROCEDURES RELATED TO FAMILY AND MEDICAL LEAVE FOR FACULTY

(Approved on an interim basis by the President, August 31, 2018 pending University Senate review)

The University of Maryland adheres to University System of Maryland (USM) II-2.31 USM Policy on Family and Medical Leave for Faculty (Approved by the Board of Regents on October 6, 1995; Amended on April 20, 2018-). For complete policy requirements and provisions, refer to USM II-2.31.

I. PURPOSE AND APPLICABILITY

The procedures herein are implemented by the University of Maryland (UMD) in accordance with the USM Policy II-2.31 – Policy on Family and Medical Leave for Faculty, amended April 20, 2018, (the “Policy”) and are the exclusive procedures that govern the calculation of Family Medical Leave (FML) at UMD. Under the Policy, eligible faculty are granted up to 12 work weeks of unpaid or paid leave within a 12-month period (leave year) for qualifying family and medical reasons.

II. ELIGIBLE FACULTY MEMBER

- A. Eligible Faculty Member: An employee who is covered under the provisions of USM BOR policy II-1.00 – University System Policy on Appointment, Rank, and Tenure of Faculty **or II-1.00(A) University of Maryland Policy on Appointment, Promotion, and Tenure of Faculty**; and
1. Has been employed for a total of at least twelve (12) months as a USM or State of Maryland employee; and
 2. Whose employment during the twelve- (12-) month period immediately prior to the beginning date of the FML was at least 50 percent or greater of full-time under a nine- (9-) month or longer contract, or who has worked for at least 1,040 hours during the twelve- (12-) month period immediately prior to the beginning date of the FML as a USM or State of Maryland employee.
- B. Concurrent Administrative Appointment: If a faculty member holds a concurrent administrative appointment under USM BOR policy II-1.03 – University System Policy on Concurrent Faculty and Administrative Appointments, FML shall be governed by USM BOR policy VII-7.50 – Policy on Family and Medical Leave for Nonexempt and Exempt Staff Employees, and VII-7.50(A) University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees. However, application of the Staff FML Policy and Procedures shall not result in any loss of rights applicable to the concurrent faculty appointment, including the right to postpone mandatory tenure review.

III. PROCEDURES FOR CALCULATING FML LEAVE

Effective April 20, 2018, the method of calculating a faculty member’s FML entitlement shall change from a calendar year to a rolling 12-month period measured backward from the date a faculty member uses FML. Under the rolling 12-month period measured backward, each time a faculty member takes FML, the University will “look back” over the last 12 months, add up all of the FML leave taken during

that period of time, and subtract it from the standard 12-week/60-day FML entitlement. The remaining balance is the amount of FML available for the faculty member's use at the start of their FML.

Faculty taking FML in the period between April 20, 2018, to January 1, 2020, will do so under whichever method (calendar year or rolling 12-month period) yields the greatest benefit to the faculty member. **Leave for faculty taking FML after January 1, 2020, will be calculated using the rolling 12-month period method in all cases.**

IV. DESIGNEE TO IMPLEMENT FML LEAVE

The Associate Provost for Faculty Affairs shall be the UMD designee to implement FML for Faculty and shall coordinate implementation with the Assistant Vice President for University Human Resources.



VII-7.50(A) UNIVERSITY OF MARYLAND PROCEDURES RELATED TO FAMILY AND MEDICAL LEAVE FOR NONEXEMPT AND EXEMPT STAFF EMPLOYEES

(Approved on an interim basis by the President, August 31, 2018 pending University Senate review)

The University of Maryland adheres to University System of Maryland (USM) VII-7.50 *USM Policy on Family and Medical Leave for Nonexempt and Exempt Staff Employees* (Approved by the Board of Regents on August 27, 1993; Amended on April 16, 2004; Amended on October 22, 2004; Amended on June 18, 2010; Amended on October 9, 2015; Amended on April 20, 2018.) For complete policy requirements and provisions, refer to USM VII-7.50.

I. PURPOSE AND APPLICABILITY

The procedures herein are implemented by the University of Maryland (UMD) in accordance with the USM Policy VII-7.50 – *Policy on Family and Medical Leave for Nonexempt and Exempt Staff*, amended April 20, 2018, (the “Policy”) and are the exclusive procedures that govern the provision of Family Medical Leave (FML) at UMD. Under the Policy, eligible employees are granted up to 12 work weeks of unpaid or paid leave within a 12-month period (leave year) for qualifying family and medical reasons.

II. PROCEDURES FOR CALCULATING FML LEAVE

Effective April 20, 2018, the method of calculating an employee’s FML entitlement shall change from a calendar year to a rolling 12-month period measured backward from the date an employee uses FML. Under the rolling 12-month period measured backward, each time an employee takes FML, the University will “look back” over the last 12 months, add up all of the FML taken during that period of time, and subtract it from the standard 12-week/60-day FML entitlement. The remaining balance is the amount of FML available for the employee’s use at the start of their FML. Employees taking FML in the period between April 20, 2018 to January 1, 2020 will do so under whichever method (calendar year or rolling 12-month period) yields the greatest benefit to the employee.

III. DESIGNEE TO IMPLEMENT FML LEAVE

The Assistant Vice President/University Human Resources shall be the UMD designee to implement FML for Exempt and Nonexempt Staff.



Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty (Senate Document #18-19-03)

Faculty Affairs Committee | Chair: Jack Blanchard

The Senate Executive Committee (SEC) and Senate Chair Walsh request that the Faculty Affairs Committee review the interim University of Maryland Procedures Related to Family and Medical Leave for Faculty (II-2.31[A]).

Specifically, it asks that you:

1. Review the [USM Policy on Family and Medical Leave for Faculty \(II-2.31\)](#).
2. Review the interim [University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees \(VII-7.50\[A\]\)](#).
3. Review similar policies and procedures at Big 10 and other peer institutions.
4. Consult with a representative of University Human Resources.
5. Consult with a representative of the Office of General Counsel to better understand the new federal guidance on family medical leave.
6. Consult with a representative of the Office of Faculty Affairs on the implications of the staff procedures for faculty in administrative roles.
7. Coordinate the review of the faculty procedures with the Staff Affairs Committee in order to ensure consistency across the faculty and staff procedures.
8. Consult with a representative of the Office of General Counsel on any proposed changes to the University's procedures.
9. If appropriate, recommend whether the procedures should be revised and submit recommended revisions for Senate consideration.

We ask that you submit a report to the Senate Office no later than **February 1, 2019**. If you have questions or need assistance, please contact Reka Montfort in the Senate Office, extension 5-5804.



II-2.31(A) UNIVERSITY OF MARYLAND PROCEDURES RELATED TO FAMILY AND MEDICAL LEAVE FOR FACULTY

(Approved on an interim basis by the President, August 31, 2018 pending University Senate review)

The University of Maryland adheres to University System of Maryland (USM) II-2.31 *USM Policy on Family and Medical Leave for Faculty* (Approved by the Board of Regents on October 6, 1995; Amended on April 20, 2018.) For complete policy requirements and provisions, refer to USM II-2.31.

I. PURPOSE AND APPLICABILITY

The procedures herein are implemented by the University of Maryland (UMD) in accordance with the USM Policy II-2.31 – *Policy on Family and Medical Leave for Faculty*, amended April 20, 2018, (the “Policy”) and are the exclusive procedures that govern the calculation of Family Medical Leave (FML) at UMD. Under the Policy, eligible faculty are granted up to 12 work weeks of unpaid or paid leave within a 12-month period (leave year) for qualifying family and medical reasons.

II. ELIGIBLE FACULTY MEMBER

- A. Eligible Faculty Member: An employee who is covered under the provisions of USM BOR policy II-1.00 – *University System Policy on Appointment, Rank, and Tenure of Faculty*; and
 1. Has been employed for a total of at least twelve (12) months as a USM or State of Maryland employee; and
 2. Whose employment during the twelve- (12-) month period immediately prior to the beginning date of the FML was at least 50 percent or greater of full-time under a nine- (9-) month or longer contract, or who has worked for at least 1,040 hours during the twelve- (12-) month period immediately prior to the beginning date of the FML as a USM or State of Maryland employee.

- B. Concurrent Administrative Appointment: If a faculty member holds a concurrent administrative appointment under USM BOR policy II-1.03 – *University System Policy on Concurrent Faculty and Administrative Appointments*, FML shall be governed by USM BOR policy VII-7.50 – *Policy on Family and Medical Leave for Nonexempt and Exempt Staff Employees*, and VII-7.50(A) *University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees*. However, application of the Staff FML Policy and Procedures shall not result in any loss of rights applicable to the concurrent faculty appointment, including the right to postpone mandatory tenure review.

III. PROCEDURES FOR CALCULATING FML LEAVE

Effective April 20, 2018, the method of calculating a faculty member's FML entitlement shall change from a calendar year to a rolling 12-month period measured backward from the date a faculty member uses FML. Under the rolling 12-month period measured backward, each time a faculty member takes FML, the University will "look back" over the last 12 months, add up all of the FML leave taken during that period of time, and subtract it from the standard 12-week/60-day FML entitlement. The remaining balance is the amount of FML available for the faculty member's use at the start of their FML. Faculty taking FML in the period between April 20, 2018 to January 1, 2020 will do so under whichever method (calendar year or rolling 12-month period) yields the greatest benefit to the faculty member.

IV. DESIGNEE TO IMPLEMENT FML LEAVE

The Associate Provost for Faculty Affairs shall be the UMD designee to implement FML for Faculty and shall coordinate implementation with the Assistant Vice President/University Human Resources.