



## **Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees**

**PRESENTED BY** Fulvio Cativo, Chair

**REVIEW DATES** SEC – February 26, 2019 | SENATE – March 6, 2019

**VOTING METHOD** In a single vote

**RELEVANT POLICY/DOCUMENT** [VII-7.50\(A\) – University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees](#)

**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 Exempt and Nonexempt Staff Employees (VII-7.50) in order to clarify federal obligations related to the Family and Medical Leave Act. In response, the University developed University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees (VII-7.50[A]), which 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 Staff Affairs Committee (SAC) with reviewing the USM policy and interim Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees; 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 Staff Affairs Committee recommends that the Senate approve the revised Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees (VII-7.50[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 SAC established a joint subcommittee with the Faculty Affairs Committee, which had been tasked with reviewing similar provisions for faculty. 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 clarifying language in the policy about the calendar change, updated punctuation and titles, and proposed several administrative recommendations designed to improve the University's communication about FML use. The subcommittee reported on its work to the SAC, which voted to approve the revised procedures and administrative recommendations at the committee's February 5, 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 Nonexempt and Exempt Staff Employees, leaving the interim procedures in effect. However, the University would lose the opportunity to clarify the procedures and provide staff with informational resources on the procedures.

## **RISKS**

---

There are no associated risks.

## **FINANCIAL IMPLICATIONS**

---

There are no financial implications.



## **Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees**

### **2018-2019 Committee Members**

**Fulvio Cativo** (Chair)  
**Amelia Barabak** (Ex-Officio Provost's Rep)  
**Darrell Claiborne** (Ex-Officio NV CUSS Rep)  
**Kayla Cullum** (Non-Exempt Staff)  
**Sarah Goff** (Ex-Officio CUSS Rep)  
**Judi Gorski** (Exempt Staff)  
**Philip Hammer** (Exempt Staff Contingent II)  
**Elizabeth Hinson** (Ex-Officio NV CUSS Rep)  
**Rosanne Hoas** (Non-Exempt Staff)  
**William Jackson** (Undergraduate Student)  
**Antonietta Jennings** (Non-Exempt Staff)  
**Dwonne Knight** (Non-Exempt Staff Contingent II)  
**Anne Martens** (Ex-Officio VP Administration & Finance Rep)

**Matthew Nesson** (Ex-Officio NV CUSS Rep)  
**Michael Paszkiewicz** (Exempt Staff)  
**Kalia Patricio** (Ex-Officio CUSS Rep)  
**Lealin Queen** (Non-Exempt Staff)  
**Jacqueline Richmond** (Ex-Officio Director of Human Resources Rep)  
**Erin Rooney-Eckel** (Exempt Staff)  
**Margaret Saponaro** (Faculty)  
**Maureen Schrimpe** (Ex-Officio CUSS Rep)  
**Kristin Stenson** (Exempt Staff)  
**Brooke Supple** (Ex-Officio VP Student Affairs Rep)

### **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 Family and Medical Leave 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 Exempt and Nonexempt Staff Employees (VII-7.50) in order to clarify federal obligations related to the Family and Medical Leave Act (FMLA). In response, the University developed Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees (VII-7.50[A]), which 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 Staff Affairs Committee (SAC) with reviewing the USM policy and interim Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees; 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 INTERIM PROCEDURES

---

The interim procedures reflect several substantive changes to the previous policy. The most significant is a change to the eligibility window for taking FML. Previously, staff employees 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 staff employees may use leave. Whenever a staff employee applies for FML, the University will look back at the previous 12 months to determine how many days of leave are available. Staff employees 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 staff employees will use the new 12-month rolling window. The procedures also identify a campus officer charged with implementing the procedures.

## COMMITTEE WORK

---

At its meeting on October 8, 2018, the SAC began discussing its charge. Because the Faculty Affairs Committee had been tasked with reviewing similar revisions to the faculty 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 then 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. The subcommittee recommended language explicitly indicating that all staff employees will follow the new calendar system after January 1, 2020. The subcommittee updated punctuation and corrected a title, and proposed several administrative recommendations designed to improve the University's communication regarding what types of leave staff employees 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 SAC, which voted to approve the revised procedures and administrative recommendations at the committee's February 5, 2019, meeting.

## RECOMMENDATIONS

---

The Staff Affairs Committee recommends that the Senate approve the revised Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees (VII-7.50[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 Faculty

Appendix 2 — Charge from the Senate Executive Committee

**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. **Leave for employees taking FML after January 1, 2020, will be calculated using the rolling 12-month period method in all cases.**

**III. DESIGNEE TO IMPLEMENT FML LEAVE**

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

## Appendix 1: Interim University of Maryland Procedures Related to Family and Medical Leave for Faculty



### **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.





**Review of the Interim University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees  
(Senate Document #18-19-04)**

**Staff Affairs Committee | Chair: Fulvio Cativo**

The Senate Executive Committee (SEC) and Senate Chair Walsh request that the Staff Affairs Committee review the interim University of Maryland Procedures Related to Family and Medical Leave for Nonexempt and Exempt Staff Employees (VII-7.50[A]).

Specifically, it asks that you:

1. Review the [USM Policy on Family and Medical Leave for Exempt and Nonexempt Staff Employees \(VII-7.50\)](#).
2. Review similar policies and procedures at Big 10 and other peer institutions.
3. Consult with a representative of University Human Resources.
4. Consult with a representative of the Office of General Counsel to better understand the new federal guidance on family medical leave.
5. Consult with a representative of the Office of Faculty Affairs on the implications of the staff procedures for faculty serving in administrative roles.
6. Coordinate the review of the procedures with the Faculty Affairs Committee in order to ensure consistency across the staff and faculty procedures.
7. Consult with a representative of the Office of General Counsel on any proposed changes to the University's procedures.
8. 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.



**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.