Faculty Senate Routing Form
(action/proposal attached)

I. Item Title: Policy 89 Revision
   a) Brief Description: Family Medical Leave Policy
   b) Initiated by:

II. Faculty Senate Action: ☒ approved ☐ not approved ☐ other date: 2/18/2016
   Vote: ☐ Voice Vote, Unanimous ☐ Voice Vote, Majority In Favor
      ☒ Vote by electronic Ballot: 23 Ayes; 0 Nays; 0 Abstentions
   FS Secretary signature: [Signature] date 3/11/16

III. Provost: ☐ for information ☐ Recognition of Receipt
         ☐ for action.................☐ approved ☐ not approved

   Comments: ________________________________ ________________________________

   Person responsible for Implementation:

   Provost signature: [Signature] date 3/14/16

IV. Chancellor: ☐ for information ☐ Recognition of Receipt
               ☐ for action.................☐ approved ☐ not approved

   Comments: ________________________________ ________________________________

   Chancellor signature: [Signature] date 5/16/16

Once finalized copies will be returned to the Provost Office’s representative who will scan and distribute electronically to:
Chancellor
Provost
Chair of Faculty Senate
Secretary of the Faculty Senate
Associate Provost (for catalog and handbook)
Associate Dean of Graduate School (for catalog)
Others (i.e. person responsible for implementation)
University Policy 89
Serious Illness and Disability Leave for Faculty

Initially approved: October 2005
Posted: December 9, 2005
Revised: __________, 2016
Policy Topic: Personnel
Administering Offices: Provost’s Office; Human Resources and Payroll

I. POLICY STATEMENT

It is the policy of Western Carolina University ("WCU" or the "University") to provide its faculty with job-protected leave for specified family and medical reasons in accordance with University of North Carolina ("UNC") policy 300.2.11, the Family and Medical Leave Act of 1993 ("FMLA"), and the North Carolina Family Illness Leave Policy ("OSHR Policy").

II. SCOPE AND INTERPRETATION

This policy shall apply to all faculty who are exempt from the North Carolina Human Resources Act, subject to the eligibility requirements set forth in Section III of this policy. This policy is to be interpreted and administered in accordance with applicable provisions of UNC policy, the FMLA, and the OSHR Policy, as amended from time to time.

III. ELIGIBILITY

Faculty members are eligible for leave under this policy if they: (1) do not accrue sick leave and are eligible to participate in the N.C. Teachers’ and State Employees’ Retirement System or the UNC Optional Retirement Program (i.e., continuing faculty who are employed at least 75% of full-time); and (2) are eligible for family and medical leave under the provisions of FMLA (i.e.,
who have been employed at least 1 year and have worked at least 1,040 hours within the last 12 months).

IV. DURATION AND NATURE OF LEAVE

An eligible faculty member may request leave with full pay and benefits for up to 1 semester, or 12 weeks over 2 consecutive semesters, exclusive of academic breaks, for any of the following conditions: [Drafter’s note: UNC policy requires that campus policies establish the duration of paid leave, with a minimum of 60 calendar days up to a maximum of 1 semester]

a. The birth of a child and/or to exercise primary responsibility for the care of the newborn child within 1 year of birth (an expectant mother may take leave before the birth of the child for prenatal care or if her condition makes her unable to work or requires a reduced work schedule);

b. To exercise primary responsibility for care of a child under the age of 5 who is placed with the faculty member for adoption or foster care, provided that the leave is taken immediately following placement (leave may be granted before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed);

c. To exercise primary responsibility for the care of the faculty member’s child, spouse or domestic partner [Drafter’s note: FMLA explicitly protects family and medical leave rights to employees in same-sex marriages. The term “domestic partner” if retained in this policy and applied in customary usage will extend benefits to faculty that are not available to any other employee.] or parent who has a serious health condition;

d. A serious health condition that makes the faculty member unable to perform the essential functions of his or her job;

e. Any qualifying exigency arising out of the fact that the faculty member’s spouse, child or parent is a covered military member on covered active duty or has been notified of an impending call to active duty (or 26 workweeks of leave during a single 12-month period to care for a covered military member with a serious injury or illness if the eligible employee is the military member’s spouse, son, daughter, parent or next of kin)
V. APPLICATION PROCEDURE

A. Submission of Leave Request to Department Head

When a faculty member finds it necessary to take such leave, a request in writing must be submitted to the department head, or immediate supervisor if the faculty member’s unit does not have a department head, stating (i) the reason for the leave of absence; (ii) the requested start date and anticipated end date; and (iii) if applicable, the requested intermittent leave or reduced workload. Requests should be submitted at least 60 days in advance of the leave start date or as soon as practicable after the need for the leave is foreseeable. Certification of the faculty member’s serious health condition, including a physician’s statement about the probable length of absence from normal duties, will be required by the Benefits Manager in the Office of Human Resources and Payroll. If the leave request is for the purpose of caring for a family member or dependent, the Benefits Manager may request medical certification of that person’s serious health condition as well as other applicable information.

B. Approval of Leave

Following review of the faculty member’s request and related documentation and consultation with the Benefits Manager, the department head or immediate supervisor will make his/her recommendation to the dean concerning whether to grant the faculty member’s leave request. The dean is responsible for either approving or denying the leave request. The dean must provide his/her written decision to the faculty member, with a copy to the Benefits Manager, within 14 calendar days from receipt of the leave request. If the dean denies the faculty member’s request, the written decision must include the grounds for denial.

C. Appeal of Dean’s Decision

A faculty member may appeal the dean’s denial of a leave request by submitting a written appeal to the provost within 7 calendar days from receipt of the denial. The appeal should include the grounds for appeal. Following review of the relevant documents and consultation with the department head/immediate supervisor, dean, and Benefits Manager, the provost must meet with the faculty member to discuss the appeal. The provost must provide his/her written decision to the faculty member, with a copy to the Benefits Manager, within 7 calendar days of the meeting.
D. Extension of Leave

Upon extraordinary circumstances, a faculty member may request an extension of leave provided under this policy. Requests should be made in accordance with the procedures set forth in this Section V. An extension of leave in excess of 1 semester or 12 weeks over 2 consecutive semesters, if approved, will be leave without pay. Additionally, a faculty member may consult with the Benefits Manager to determine eligibility for short-term disability benefits.

VI. COVERAGE OF FACULTY MEMBER’S RESPONSIBILITIES

The department head is responsible for securing, to the extent possible, substitute personnel/coverage for the duration of the faculty member’s leave. The faculty member is not responsible for arranging for coverage. If the department head/Immediate supervisor recommends approval of the leave request, he/she must provide a coverage plan to the dean prior to the commencement of the leave. Any adjustments in work schedules within the department are at the discretion of the department head with the approval of the dean and are subject to departmental and institutional needs and resources.

Funding for substitute personnel shall be determined by the dean, upon consultation with the provost.

The faculty member must provide written notice of his/her expected date of return at least 30 days in advance of the beginning of the next regular academic term.

VII. EFFECT ON TENURE (TENURE CLOCK) AND COLLEGIAL REVIEW

At the time a request for leave is granted, the faculty member, department head, and dean will agree in writing whether time spent on leave will count as probationary service; a 1-year extension of the tenure clock will be the default condition of leave. A maximum of 2 automatic 1-year extensions of the tenure clock will be granted to a faculty member under this policy. Notwithstanding the foregoing, a faculty member may opt out of the automatic 1-year extension to the tenure clock by giving written notice of such decision to the dean, with a copy to the department head.

Tenured faculty members granted leave under this policy may have his/her 5-year post-tenure review delayed by a period agreed upon by the faculty member, department head, and dean.
Faculty will not be penalized in their condition of employment because they require time away from work caused by or related to conditions that necessitated the leave. The faculty member shall be reinstated to the same position held when the leave began or one of like pay, benefits, and other conditions of employment.

VIII. HUMAN RESOURCES ADMINISTRATIVE PROCEDURES

A. Coordination of Benefits

FACULTY MEMBERS WHO NEED LEAVE FOR ANY OF THE REASONS PROVIDED IN SECTION IV OF THIS POLICY SHOULD CONSULT WITH THE HUMAN RESOURCES BENEFITS MANAGER TO ENSURE COORDINATION OF ALL OF THE BENEFITS AVAILABLE TO THE FACULTY MEMBER.

All periods of paid leave under this policy will be construed as family and medical leave under the FMLA. The FMLA entitlement of up to 12 weeks of leave without pay will run concurrently with any period of paid leave under this policy.

The OSHR Policy allows for an extension of up to 52 weeks of leave without pay during a 5-year period in cases of serious illness of a child, spouse, or parent.

Employees are eligible for short-term disability benefits under the North Carolina Disability Income Plan if they have at least one year of contributing membership service in the North Carolina Teachers’ and State Employees’ Retirement System or the UNC Optional Retirement Program earned within the 36 calendar months preceding the disability. Benefits become payable following a 60-day waiting period from the date of disability onset. In addition to their eligibility for the North Carolina Disability Income Plan, faculty should consider enrolling in one of the supplemental disability income plans available to UNC employees.

B. Miscellaneous Provisions

Unused leave under this policy shall not be accumulated or carried over to another academic year, allowable as terminal leave payment when the faculty member leaves the University, or used to extend years of creditable state service for state retirement benefit purposes.

Employees with a balance of accrued leave from a previous 12-month appointment must exhaust that leave before receiving leave under this policy.
The Benefits Manager is responsible for maintaining official University leave records and related medical documentation.

Communications concerning leave requested or granted under this policy are subject to the same confidentiality requirements as other personnel records.

Paid leave provided for under this policy has no negative impact on the faculty member’s other employment benefits; the faculty member’s health insurance coverage is maintained during the period of leave.

X. POLICY REVIEW

This policy will be reviewed and revised as necessary every 4 years.

XI. RELATED POLICIES AND RESOURCES

UNC Policy 300.2.11, Serious Illness and Disability Leave for Faculty, http://www.northcarolina.edu/apps/policy/index.php?page=vs&id=316&added=1

UNC Policy 300.2.11[R], Guidelines on Serious Illness and Disability Leave for Faculty, http://www.northcarolina.edu/apps/policy/index.php?page=vs&id=317&added=1

Proposed Resolution to Colleagial Review Council of the Faculty Senate: Full Election of Colleagial Review Committee Membership

Whereas, the role of faculty committees in the collegial review process consists of recommendations at every level (department, college, university) and represents the sole opportunity for faculty input in the collegial review process;

Whereas, the faculty handbook (4.07 D) states that "collegial review is the responsibility of the faculty";

Whereas, the recommendations of faculty committees are advisory and superseded at all levels by administrative voice;

Whereas, University and College election data over the past five years demonstrate a clear balance of rank and representation in nominations and elections, negating the perceived need of appointments to provide "balance;"

Whereas, departmental collegial review committees are wholly elected and include appointments only in exceptional cases (when departments do not include at least three tenured faculty);

Whereas, the clear majority of institutions both within the UNC system and peer institutions outside of the UNC system have only elected members at the college and university levels;

Be it resolved that the Faculty Senate should remove requirements and provisions within the Faculty Handbook for appointed membership on the university and college collegial review committees in order to more fairly represent faculty voice in the collegial review process. Implementation of this updated policy is to be in place for the spring 2017 elections of collegial review committees to ensure fully-elected committees in academic year 2017-18.

Also, be it resolved CONEC shall determine how the staggering of newly elected positions at the university level will be managed.

Also, be it resolved that the faculty of each college is responsible for managing the transition from appointed to elected membership and updating college by-laws accordingly no later than December 15, 2016.

Action:

4.07 D. 2. College collegial review committees:

   a. Each college shall have a collegial review committee chaired by the dean (non-voting) and composed of not less than six nor more than 12 tenured faculty members elected from the faculty of the college in accordance with college by-laws to serve staggered three year terms. Each college shall determine the total number of faculty
members to be included on the committee.

b. In colleges with six or more departments, no more than one faculty member may be elected from a single department. In colleges with fewer than six departments each department must be represented by at least one elected member.

c. In departments with no tenured faculty members or an insufficient number of tenured faculty members, the department head, in consultation with the dean, will nominate tenured faculty from other departments within the College or University, to be elected or appointed (see D.2.b. above) to serve as a representative(s) for that department.

d. Deans of other colleges and senior administrative officers are not eligible for service on a college committee.

4.07 D. 3. University Collegial Review Committee

a. The University Collegial Review Committee shall consist of the Provost as nonvoting chair; the Dean of the Graduate School, two tenured faculty members elected from each college by the faculty of the college, and one tenured faculty member elected by the faculty of the university library.

b. Members of the committee shall serve three-year terms, staggered so that one-third of the elected members are elected each year. Elected members may not serve consecutive elected terms.