

PARENTAL AND PERSONAL LEAVE POLICIES
APPLYING TO FACULTY MEMBERS
OF THE
HARVARD LAW SCHOOL

July 1, 2001

I. INTRODUCTION

A. Statement of Purpose

This document sets forth the parental and personal leave policies of Harvard Law School with respect to members of the School's faculty. 1

FN1. This document incorporates the provisions of the Family and Medical Leave Act (FMLA). Under the FMLA, eligible employees may take up to 12 weeks of unpaid leave in any 12-month period for (1) the birth of a child and to care for the newborn; (2) the placement of a child with the faculty member for adoption or foster care; (3) a serious health condition that makes the faculty member unable to perform the functions of his or her position; or (4) the care of a spouse, child, or parent with a serious health condition.

B. Definitions

1. "faculty"

In this document, "faculty" refers to:

(a) persons holding appointments at the rank of Professor of Law or Assistant Professor of Law; and

(b) persons holding appointments at the rank of Adjunct Professor of Law, Visiting Professor of Law, or Lecturer on Law, who teach under a contract of employment with the School of not less than five years duration, and who carry teaching loads of at least ten classroom credits per year. Faculty as defined under this subsection (b) are referred to herein as "other qualified faculty members."

2. "Dean"

In this document, "Dean" refers to the Dean of Harvard Law School or the Dean of Harvard Law School's designate for the implementation of the School's parental and personal leave policies.

3. "spouse"

In this document, "spouse" includes a qualified domestic partner. 2

FN2 "Qualified domestic partners" are defined under the policies of the University.

4. "child"

In this document, "child" includes the dependent child of a qualified domestic partner.

C. Notice

Requests for parental and personal leave should be made in writing to the Dean. When the need for leave is foreseeable based on an expected birth, placement of a child for adoption or foster care, or planned medical treatment, the faculty member must provide as much advance notice as possible of intent to take such leave. When leave is not foreseeable (for example, due to unanticipated medical circumstances), the faculty member must provide notice as soon as possible ordinarily within one or two business days of learning of the need for leave. The faculty member should provide the Dean with the approximate dates when such leave will begin and end. A faculty member on parental or personal leave may also be asked to report periodically on his or her status and intention to return.

D. Construction

The policies set forth in this document shall be construed to harmonize with the provisions of the current edition of the Harvard Law School Faculty Manual, the written employment policies and practices of Harvard University, and applicable state and federal laws. Faculty who have questions about the policies in this document are asked to contact the Dean.

E. Effective Date

The provisions of this document shall take effect on July 1, 2001.

II. PARENTAL LEAVE POLICIES

A. Maternity-Related Medical and Disability Leave

1. Maternity-Related Medical Leave. A faculty member may take a paid maternity leave of up to 8 weeks in connection with her pregnancy and childbirth. During the period when a faculty member is on maternity leave, she is excused from all usual obligations of faculty citizenship.

EXAMPLE 1: A faculty member gives birth on October 1. She goes on maternity-related medical leave one week prior to the birth and remains on leave for seven weeks after the birth. During this time she remains at full pay and is relieved of all faculty obligations, including teaching, committee service, Cambridge residency, faculty meeting attendance, student paper supervision, and office hours.

2. Maternity-Related Disability Leave. If a faculty member cannot perform her normal duties due to medical complications arising from her pregnancy or childbirth, she may apply to the Dean for a paid maternity-related disability leave. Such leave, if granted, shall not extend beyond the earlier of 6 months or the termination of her appointment. After that, if she is still unable to perform her duties, the faculty member goes on long-term disability. An application for maternity-related medical leave must be accompanied by a supporting letter from the applicant's physician. During the period a faculty member is on maternity-related disability leave, she is excused from all usual obligations of faculty citizenship.

EXAMPLE 2: Same scenario as Example 1, but at the end of 8 weeks, the faculty member is unable to resume her normal duties due to complications arising from childbirth. After making application and providing a letter from her physician attesting to her disability, the faculty member may remain at full pay for up to 6 months (or the end of her appointment, whichever is earlier). At the end of 6 months or the end of her appointment, if she is still unable to perform her duties, she goes on long-term disability.

3. Effect on Leave Eligibility. Eight weeks on maternity-related medical leave will be counted as one semester's absence from teaching for purposes of the Law School's timing guidelines for research and unpaid leaves, and (for tenured Professors) that semester will not count toward satisfying the University's sabbatical requirements. Time spent on maternity-related disability leave will be characterized as an absence from teaching for purposes of the Law School's timing guidelines for research and unpaid leaves. Tenured faculty do not accrue time toward their next sabbatical while on maternity-related disability leave.

B. Parental Teaching Relief Policy

1. Purpose. The purpose of the School's parental teaching relief policy is to provide assistance in the form of relief from teaching obligations to faculty members who are the primary caregivers to their newborn or newly adopted children.

2. Definition. For purposes of the School's parental teaching relief policy, "primary caregiver" means a faculty member who is the sole caretaker of his or her newborn or newly adopted child at least 20 hours per week, from Monday through Friday, between the hours of 9:00 a.m. and 5:00 p.m.

3. Policy. A faculty member who is the primary caregiver for his or her newborn or newly adopted child is entitled to paid relief from teaching duties, for up to 5 classroom credits. The 5-credit reduction from the normal annual 10-credit load must be taken within one year before or after the birth or adoption. Subject to the limitation set forth in paragraph 5 of this subsection, the 5-credit reduction may be taken in a single semester, or spread across two consecutive semesters, as determined by the Dean in consultation with the faculty member and the School's curriculum planners.

EXAMPLE 3: A faculty member expects to give birth in September and become its primary caregiver. With the consent of the Dean, the faculty member will teach 0 credits in the Fall semester. She resumes her full-time teaching in January. She receives her full pay throughout the year.

EXAMPLE 4: A faculty member expects his spouse to give birth on July 1, and he will become the child's primary caregiver. With the consent of the Dean, the faculty member will teach 2 credits in the Fall semester and 3 credits in the following Spring semester. He receives his full pay throughout the year.

EXAMPLE 5: A faculty member expects to adopt a child in June and become its primary caregiver. To prepare for the placement, he anticipates having to travel extensively to Central America in the preceding winter and spring, to interview with adoption agencies. With the consent of the Dean, the faculty member will teach 2 credits in the Spring semester and 3 credits in the following Fall semester. He receives his full pay throughout the year.

4. Non-Teaching Faculty Obligations Not Affected. A faculty member who receives relief from teaching under the parental teaching relief policy is required to satisfy all non-teaching faculty obligations, including but not limited to remaining in residence in Cambridge, holding office hours, supervising third year papers, judging first-year Ames arguments, attending meetings of the faculty, recording outside activities, and serving on School committees at the request of the Dean.

EXAMPLE 6: A faculty member expects to give birth in September and become the child's primary caregiver. With the consent of the Dean, the faculty member will teach 0 credits in the Fall semester. However, when her 8-week maternity-related medical leave ends, she must resume her usual non-teaching faculty obligations. She resumes her full-time teaching in January. She receives her full pay throughout the year.

EXAMPLE 7: A faculty member expects to give birth on July 1 and be on maternity-related medical leave for 8 weeks thereafter. She will become the child's primary caregiver. With the consent of the Dean, the faculty member will teach 2 credits in the Fall semester and 3 credits in the following Spring semester. She must perform all of her usual non-teaching faculty obligations in Fall and Spring. She receives her full pay throughout the year.

5. Coordination with Maternity-Related Medical Leave and Maternity-Related Disability Leave. Teaching relief under the parental teaching relief policy is not granted as an addition to the 8-week maternity-related medical leave. A faculty member who anticipates taking maternity-related medical leave in part or in all during the Fall or Spring semester must "spend" credits of teaching relief in an amount sufficient to cover the number of weeks on maternity-related medical leave. An 8-week maternity-related medical leave shall be deemed to "cost" 3 credits of teaching relief. Teaching relief under the parental teaching relief policy is available in addition to maternity-related disability leave.

EXAMPLE 8: A faculty member anticipates that she will give birth around October 1. She expects to be on maternity-related medical leave for 8 weeks in the Fall semester. She will be the primary caregiver of her newborn and therefore will be eligible for parental teaching relief. The faculty member must use at least 3 of her 5 teaching-relief credits in the Fall semester. With the agreement of the Dean, she spends all 5 credits, and is relieved from teaching for the entire Fall semester.

EXAMPLE 9: Same scenario as Example 8, except the faculty member does not want to spend her remaining 2 credits of teaching relief at the end of her 8-week maternity-related medical leave, but wants to remain free of all faculty obligations for the remainder of the Fall semester. She may apply to the Dean for an unpaid leave for the remainder of the Fall semester, which, if granted, will result in a reduction of her annual salary by 2/10.

6. Faculty Who Are Not Primary Care-Givers. The benefit under this policy is not intended for faculty parents whose newborn or newly adopted child is primarily cared-for by someone else, e.g., by a spouse, other family member, or a child care provider. Faculty who are ineligible for the benefit under this policy, however, may take up to one semester (5 credits) of leave within 12 months of the birth or adoption to nurture their newborn or newly adopted child. Such leave shall be unpaid. Said one semester of unpaid leave is not granted as an addition to the 8-week maternity-related medical leave, but is available in addition to the maternity-related disability leave.

EXAMPLE 10: A faculty member expects to go on maternity-related medical leave for 8 weeks in the Fall semester. During this time, she will receive full pay. She expects that after an 8-week maternity-related medical leave, she will hire a nanny to provide full-time care for her child. Because she will not be the primary caregiver, she will not be eligible for parental teaching relief. The faculty member may take the Fall semester off and be paid for 8 weeks of maternity-related medical leave, and have her salary for that year reduced by 2/10 (the remaining 5 weeks of the Fall semester).

EXAMPLE 11: A faculty member's spouse gives birth. She becomes the primary caregiver. The faculty member is not entitled to parental teaching relief. However, he may take up to one semester of unpaid leave to nurture the child.

Faculty members on unpaid leave under this section are relieved of all usual Law School faculty obligations. During any unpaid leave, however, certain University policies will still apply, such as the policy on Conflict of Commitments, which prohibits teaching at any other educational institution (including an on-line organization) without written prior permission of the Dean and the Harvard Corporation. In addition, a semester on unpaid leave under this section will be counted as an absence from teaching for purposes of the Law School's timing guidelines for research and unpaid leaves, and will not count toward satisfying the University's sabbatical requirements.

7. Application. Faculty seeking relief from teaching under this section, whether paid or unpaid, must discuss their plans with the Dean at the earliest opportunity, as described more fully in Part I (C) above. The purpose of the meeting is to establish their eligibility as primary caregivers if such eligibility is claimed, and to discuss the potential impact their absence will have on the School's teaching program. If, after discussion, the Dean determines that the integrity of the teaching program would be seriously harmed by the timing of the proposed relief, the faculty member may be asked to take his or her relief from teaching in another semester or year. Faculty claiming status as primary caregivers should be prepared to attest to or document this status, as a condition of receipt of this benefit.

C. Childcare Appointment Extension Policy

1. Purpose. The purpose of the School's childcare appointment extension policy is to provide flexibility in the timing of promotion review for Assistant Professors, and reappointment review for other qualified faculty members, in order to accommodate their substantial and sustained responsibility for their children.

2. Policy. Subject to the exception noted in subsection (5) below, an Assistant Professor or other qualified faculty member who assumes substantial and sustained responsibility for the care of his or her child may apply for an extension of his or her appointment. An Assistant Professor or other qualified faculty member who has received relief from teaching under the parental teaching relief policy is not presumed to receive an appointment extension, but must apply for one, and satisfy the requirements set forth in (3), below.

3. Requirements. To qualify for an extension of appointment under this policy, the Assistant Professor or other qualified faculty member must demonstrate, to the satisfaction of the Dean, substantial and sustained responsibility for his or her child. "Substantial and sustained responsibility" shall be deemed to be sole full-time caregiving of at least 40 hours per week, for at least one semester during the term of the initial appointment or any previous extension thereof. Caregiving shall not be deemed "sole full-time" when any part of the required 40 hours is performed by someone other than the faculty member.

EXAMPLE 12: An Assistant Professor had a child in the second year of her five-year contract with the School. She can demonstrate that she spent 40 hours Monday through Friday, between 9:00 a.m. and 5:00 p.m., caring for the infant during the semester following the child's birth. Because she can demonstrate substantial and sustained responsibility for her child, she is qualified to apply for an extension of her contract.

4. Length of Extension. Extensions of appointments granted under this policy will not exceed one year from the date of the expiration of the initial contract of employment or any previous extensions thereof (including extensions granted apart from the childcare appointment extension policy). However, where additional children are born to or adopted by the Assistant Professor or qualified faculty member during the term of his or her contract, additional years of extension may be granted.

5. Exception to Policy. This policy does not apply to an Assistant Professor or other qualified faculty member who has been informed by the Dean that his or her contract of employment will not be renewed.

6. Application.

a. *Process.* An Assistant Professor and other qualified faculty member who desires to apply for an extension of his or her appointment under this policy should send a letter to the Dean. The letter should set forth the proposed dates of extension, and document in detail the applicant's substantial and sustained responsibility for the care of his or her child.

b. *Timing.* The applicant's letter should be sent as far in advance of his or her tenure or performance review as possible. The applicant's assumption of substantial and sustained responsibility for his or her child must have begun prior to the start of tenure review for Assistant Professors or performance review for other qualified faculty in order for the application to be timely filed. The start of tenure or performance review is presumed to be July 1 of the last year of the applicant's employment contract or any previous extensions thereof (including extensions granted apart from the childcare appointment extension policy), in the absence of a written statement by the Dean to the faculty member expressly providing for a different date for the start of tenure or performance review.

III. PERSONAL LEAVE POLICIES

A. Leave for a Serious Health Condition

1. Policy. A faculty member may take up to 12 weeks of leave for his or her own serious health condition or to care for a spouse, child, parent, or in-law with a serious health condition. Leave may be taken on an intermittent basis or on a reduced leave schedule when medically necessary. Faculty members taking leave for their own serious health condition are eligible for up to 12 weeks of pay during the leave and, should the faculty member's health condition so warrant, the period of paid leave may be extended for up to 14 additional weeks (or a total of 26 weeks). After that, if he or she is still unable to perform his or her duties, the faculty member goes on long-term disability. Leave to care for a spouse, child, parent, or in-law will ordinarily be without pay.

2. Medical Certification. A faculty member requesting leave for his or her own serious health condition or that of a spouse, child, parent, or in-law must provide a completed Medical Certification Form in a timely manner, generally within 15 days. If the faculty member fails to provide timely certification, the leave may be delayed until the required certification is submitted. Re-certification may be required during the leave.

EXAMPLE 13: A faculty member develops a serious health condition, which continues for 36 weeks. The faculty member's physician has certified the condition. The faculty member remains on the HLS payroll at full pay for 26 weeks, then goes on long-term disability for 10 weeks.

EXAMPLE 14: A faculty member's mother-in-law develops a serious health condition. The mother-in-law's physician has certified the condition. The faculty member may take unpaid leave for up to 12 weeks to care for his mother-in-law.

EXAMPLE 15: A faculty member's cousin develops a serious health condition, which the cousin's physician will certify. The faculty member is not entitled to take unpaid leave.

3. Effect on Leave Eligibility. Time spent on leave for a serious health condition will be characterized as an absence from teaching for purposes of the Law School's timing guidelines for research and unpaid leaves. Tenured faculty do not accrue time toward their next sabbatical while on leave for a serious health condition.

B. Personal Leave Appointment Extension Policy

1. Purpose. The purpose of the School's personal appointment extension policy is to provide flexibility in the timing of promotion review for Assistant Professors, and reappointment review for other qualified faculty members, who take leave for their own serious health condition or to care for a spouse, child, parent, or in-law with a serious health condition.

2. Policy. Subject to the exception noted in paragraph (4) of this subsection, an Assistant Professor or other qualified faculty member who takes leave because of his or her own serious health condition or that of a spouse, child, parent, or in-law may request an extension of his or her appointment; provided, however, that requests for extensions of appointments to accommodate a faculty member's substantial and sustained responsibility for his or her child are controlled by the provisions of the School's childcare appointment extension policy, set forth above at section II (C).

3. Length of Extension. Extensions of appointments granted under this policy ordinarily will not exceed one year from the date of the expiration of the initial contract of employment or any previous extensions thereof.

4. Exception to Policy. This policy does not apply to an Assistant Professor or other qualified faculty member who has been informed by the Dean that his or her contract of employment will not be renewed.

5. Application.

a. *Process.* An Assistant Professor or other qualified faculty member who desires to apply for an extension of his or her appointment under this policy should send a letter to the Dean. The letter should set forth the proposed dates of extension and discuss the impact of the applicant's situation on his or her scholarly work-in-progress, future research agenda, projected teaching program, and availability to fulfill the applicant's ordinary non-teaching faculty obligations.

b. *Timing.* The applicant's letter should be sent as far in advance of his or her tenure or performance review as possible. The leave for the applicant's own serious health condition or to care for a covered family member must have begun prior to the start of tenure review for Assistant Professors or performance review for other qualified faculty. The start of tenure or performance review is presumed to be July 1 of the last year of the applicant's employment contract or any previous extensions thereof (including extensions granted apart from the childcare appointment extension policy), in the absence of a written statement by the Dean to the faculty member expressly providing for a different date for the start of tenure or performance review.

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