Background information for: Policy 6-315 Parental Leaves of Absence, Revision 0
approved by Board of Trustees May 8, 2006, effective date July 1, 2006.

[Originally numbered as PPM 8-8.1 Later renumbered as Policy 6-315. Revision 0.]
Legislative history prepared by Bob Flores for the Institutional Policy Committee.

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From the agenda of the Academic Senate May 1, 2006.
Proposal for policy on parental leave for regular faculty
(for colleges other than the School of Medicine)

[Background:

From the April 3 agenda:

This proposal has been developed by the Presidential Commission on the Status of Women over some two-and-one-half academic years. The concept was presented to the Executive Committee during 2004-2005. The Executive Committee referred the proposal to the Annuities and Salary Committee and sought its commentary. In April 2005 the A&S chair provided commentary to Executive Committee, primarily in the form of opposing adoption of the PCSW's specific proposal for a parental leave policy and offering a 'counter-proposal' for a policy which would cover paid leave not only for parenting purposes but for a broad variety of other reasons, such as caring for elderly relatives. The Executive Committee requested that further work be done by both PCSW and A&S, strongly urged the two groups to find common ground, and requested that a completed proposal be brought forth early in the 2005-2006 year. The PCSW has taken the leading role in the project, joined by Associate Vice President Susan Olson, the office of general counsel, other involved administrators, and the Senate President.

The goal of a proposal fully supported by the A&S membership as well as the PCSW has not been realized. The proposal's developers have invested much time working with the membership of the A&S committee, obtaining and responding to their commentary through various means. The A&S members have also invested significant time. The two groups held one lengthy joint meeting, which I sat in on to assess the status of the project.

In the end, the views of the A&S members can best be described as internally divergent, perhaps even fractured, and as a consequence there will be no unified report coming to us from that group. So that the Senate will have some benefit from the work done by A&S, I have arranged to create a compilation of correspondence and other documents containing the views of various A&S members and am making that available to you through a website, at the URL listed below. I was contemplating developing for you a summary of those views, to ease your work in preparing for the deliberations we face, but I've decided that I best refrain from attempting to characterize their views in any detail. As you peruse the compilation on the website, you will find that some A&S members quite strongly support the PCSW proposal for a policy focusing on leave for parents of newborn/newly adopted children. At least some A&S members oppose the proposal. In particular some take the position that the only acceptable policy would be one that would allow paid leave for faculty facing any of a wide variety of other familial responsibilities, such as caring for elderly relatives. Some say that a narrower parental leave policy would be the right place to start and with some experience under that policy we could then usefully consider moving to a broader policy. Others say we ought not adopt any policy until we are ready to adopt their ultimate goal—a very broad policy. You'll find those points, and many more interesting views within the A&S compilation and I do urge you to review it carefully.

So, what we have before us is the final proposal of the PCSW, the background materials developed by the PCSW (available on the website), and my compilation of the diverse A&S commentaries on the website (too lengthy to include here). I have offered to accept and include in the A&S compilation any additional commentary its members may submit in the near future, and so you might check that website for updated materials in the coming month.

For much of the year, it was anticipated that the final proposed policy from the PCSW would apply for regular faculty in all of the University's colleges. Eventually, it became apparent that the complexities of faculty compensation models and workload arrangements within the School of Medicine would require that substantial additional work be done to develop a policy and funding mechanism suitable for that setting. It was decided that the policy proposed at this time will exclude medical faculty, and the various parties have committed to continue work on a special version of policy and a funding mechanism that will be workable in the medical school setting, and it is expected that those will be brought forward during the 2006-2007 year.

[T]he proposal was reviewed and very strongly endorsed by the Council of Academic Deans … and comes to the Senate with very strong encouragement from the two Senior Vice Presidents, including their commitment to provide central funding to support those departments whose faculty exercise the rights created under this policy.

Note that the proposal incorporates a trial period, with a full review to be conducted afterward so that adjustments may be made on the basis of lessons learned during that trial.

Relevant materials are online at: http://www.sa.utah.edu/presidential/report.html
http://www.tacc.utah.edu/PCSW/pcsw.html
http://www.tacc.utah.edu/PCSW/A_and_S_comments_on_PCSW_policy.pdf]

Update for May 1 agenda: **On April 3 the Senate voted to approve this "in principle," to take effect for the 2006-07 year, with the understanding that specific features could be opened for discussion at the May meeting at the time of final approval of the policy. Subsequent to that meeting, senators have been invited to submit questions and suggestions, and I'm aware that a few have followed through on that invitation and had helpful dialogue. A few minor clarifying amendments have been made on the draft included here—clearly marked. Based on the recent dialogue there appears to be some possibility that one or two changes to specific features might be proposed during the May meeting. If that turns out to be true, we will consider any such proposals for revisions, and then proceed to vote on approval of the entire policy (with any approved amendments).**

Also, in April certain Senators expressed interest in there being a serious effort to examine alternatives for a broader policy or policies under which paid leave might be allowed for reasons other than parenting of infants (e.g., caring for elderly relatives), and such benefit might be provided for employees other than regular faculty (e.g., clinical faculty, professional staff). That suggestion is being looked into already in the waning days of this academic year. Associate V.P. Susan Olson and I have discussed the matter with V.P. Pershing's Academic Leadership Team and with the Senate Executive Committee. We and President-elect Kirtly Parker Jones have scheduled an April 24 meeting with representatives from Human Resources, including V.P. Loretta Harper. Let me not be misleading though—these efforts go toward a careful consideration of this topic, but should *not* be seen as assurance that any particular form of a specific policy proposal will emerge in the near future.

Bob Flores]

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Memorandum

TO: Senior Vice Presidents David W. Pershing and A. Lorris Betz
FROM: Associate Vice Presidents Susan M. Olson and Richard J. Sperry
DATE: February 16, 2006
SUBJECT: Faculty parental leave

We recommend to you and to President Young the attached proposed policy draft for Faculty Parental Leaves of Absence. The policy would guarantee one semester of release from duties and an elective extension of the probationary period for regular faculty who give birth to a child or provide more than half the primary care of a child following its birth or adoption. (See policy for exact terms.) We plan to distribute this draft widely for 2-3 weeks of comments before asking your support for a version to convey formally to the Senate Executive Committee for its March meeting and to the full Senate in April.

This policy rests on a report issued by the President's Commission on the Status of Women (PCSW) in January 2005 after extensive research on parental leave policies at other universities and a survey of women faculty about their experiences bearing or adopting children while employed at the University of Utah. The full report is posted at http://www.sa.utah.edu/presidential/report.html. In short, the report found that most of the peer institutions studied provide more support for faculty having children than we currently do. Our university policy currently provides only the minimum required by the federal Family and Medical Leave Act, which is for up to 12 weeks of unpaid leave. Employees taking this leave are paid to the extent they have accrued sick leave (one day per month during the 9- or 12-month appointment period). Because they have often deferred children while completing advanced degrees and other professional preparation, however, faculty members are most likely to be starting families when they have very little sick leave accrued. For this reason and because 12 weeks is an awkward length in the academic calendar, formal FMLA leave is rarely taken.

A small number of departments or colleges on campus (e.g., School of Business and Department of Chemistry) have developed their own written policies providing some paid parental leave time. Most units, however, handle these situations on an ad hoc basis, resulting in very uneven practices across campus and sometimes even within the same unit as chairs and deans change over time. The PCSW survey of women on our campus showed a wide range of experiences, but most were less than satisfactory.

Extensions of the tenure clock are now guaranteed if one takes a formal leave, which few people do, and are available with the support of chair and dean in other circumstances. Such extensions are usually but not always supported.

The proposed policy spreads the cost of the parental leaves. The faculty member would contribute five percent of her or his annual base salary for that semester to help with replacement costs. For the 2006-07 fiscal year, the Senior Vice President for Academic Affairs has offered to contribute $3,000 for each such leave to departments under his jurisdiction and plans to continue to do so in future years. The Senior Vice President for Health Sciences has agreed to do the same

for faculty in the colleges of Health, Nursing, and Pharmacy. The School of Medicine has asked for another year in which to develop a funding mechanism since it has such a small percentage of state funding and depends so heavily on clinical revenues. Thus, the policy delays the effective date for the School of Medicine until July 1, 2007.

We recognize that this policy provides a more generous parental leave plan for regular faculty than for other categories of university employees or for other types of situations in one's personal life that complicate professional life. Nothing in the policy prohibits its discretionary extension to other employees, of course, or more generous benefits than those guaranteed, if a unit chose to provide them. In fact, the School of Medicine intends to cover some categories of auxiliary faculty as it develops its funding mechanism. Moreover, we recommend that the university move ahead with addressing more systematically issues of work-life balance for all its employees. The need to begin with this policy at this time, however, is based on several assumptions.

- Young tenure-track faculty are uniquely burdened by a clash between the tenure clock and family-building.
- Women faculty members and, increasingly, young male faculty members take parental leave policies into account as they choose academic jobs. In a competitive market for the best young faculty, we need such a policy.
- The work of the majority of regular faculty is so tied to semester calendars that any shorter period of leave is infeasible because of problems of institutional scheduling.

In sum, we submit this draft to you and the campus community with the intent of having a final version by early March to ask that you recommend to President Young for his approval and forwarding to the Academic Senate and Board of Trustees.

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[Draft of **April 19**, 2006] {*A few minor clarifications made since the draft generally approved by the Senate on April 3 are marked with strikethrough for deletions and underline for additions.*}

Policy: xxx Rev:
Date: _____2006

Subject: **Faculty Parental Leaves of Absence**

I. PURPOSE

To outline the university's policy for parental leaves of absence for the birth or adoption of children by regular faculty. Any questions regarding this policy should be referred to the Office of the Senior Vice President for Academic Affairs or the Office of the Senior Vice President for Health Sciences.

II. EFFECTIVE DATE

The effective date of this policy for regular faculty in all colleges except the School of Medicine shall be July 1, 2006. For regular faculty in the School of Medicine, the effective date of either this policy or a different policy on this subject adopted specifically

for the School of Medicine shall be July 1, 2007. Until that time current policy on FLMA in PPM 2-21 and on probationary period extensions in PPM 8-6 will remain in effect in the School of Medicine.

III. REFERENCES

PPM 2-21, Leaves of Absence (Health-Related)

PPM 2-22, Leaves of Absence (Non Health-Related)

PPM 8-6, Faculty Retention and Tenure of Regular Faculty

PPM 8-8S, Leaves of Absence

29 Code of Federal Regulations 825.100 et seq., Family and Medical Leave Act Regulations

IV. DEFINITIONS

A. “Academic year” is defined for purposes of this policy as August 16 to May 15 for faculty on nine-month appointments and July 1 to June 30 for faculty on twelve-month appointments.

B. "Adopted child” refers to a child under six years of age or a special needs child placed for adoption. “Special needs child” means a child under the age of 18 who is incapable of self-care on a daily basis because of a mental or physical disability that substantially limits one or more major life activities.

C. "Annual base salary" means the total compensation approved in advance as the amount payable to a faculty member for normal and expected working time and effort, not in excess of 100% of full-time, for all services to be performed under all assignments during the appointment period. This term does not include compensation for separate assignments during nonworking intervals, approved overload assignments in the Division of Continuing Education, additional compensation for occasional services or payments made pursuant to authorized consulting or professional service contracts. (See PPM 2-67, Additional Compensation and Overload Policy.)

D. “Partner” refers to a spouse or, in the case of unmarried faculty, to an adult who is certified as **an** ~~**benefits**~~ eligible partner through Human Resources procedures.

E. "Primary caregiver" means a faculty member who provides the majority of child contact hours during the faculty member’s regular academic working hours for a period of at least 15 weeks.

F. "Regular faculty” is defined as tenured or tenure-eligible faculty under PPM 9-2.

V. FACULTY PARENTAL LEAVE

A. Eligibility

Benefits under this policy are available to a regular faculty member who either a) gives birth to a child within the academic year or within six weeks before the beginning of the academic year, or b) serves as the primary caregiver of her or his own newborn child or a partner's newborn child or of a newly adopted child within the period for which leave is sought. This policy does not apply to birth mothers who do not anticipate becoming the legal parent of the child following birth. In such cases, the faculty member will be covered by sick leave and FMLA policies.

Leave under this policy shall begin no more than three months prior to the birth/placement of a child and shall be completed no more than 12 months following the birth/placement. Exceptions must be approved by the cognizant senior vice president.

Only one University of Utah faculty member is guaranteed to qualify for this leave for a given instance of childbirth or adoption.

B. Notification

The eligible faculty member should notify her or his department chair of a request for a modification of duties as soon as possible and normally no fewer than three months prior to the arrival of the child. The request for an extension to the pre-tenure probationary period or post-tenure review process may be made at the same time and must be made within three months of the arrival of the child and before a review begins. An application form is available <give URL>.

C. Modified Duties

Upon request, an eligible faculty member will be granted modified duties for one semester for faculty on nine-month appointments or an equivalent period for faculty on twelve-month appointments. The faculty member may choose to and is likely to want to continue some professional activities (e.g., meeting students, doing research, participating in hiring or RPT decisions) during this semester. The faculty member will receive pay at the rate of 95% of her or his annual base salary during that semester. If a portion of the compensation is received from grants or contracts, that portion of compensation must be based on actual effort performed for the award. All award requirements must be met. A faculty member will automatically receive modified duties no more than twice. Any subsequent requests will be subject to the approval of the cognizant senior vice president. For teaching loads that are unbalanced across the academic year, arrangements should be coordinated wherever

possible such that modified duties would coincide with the semester with fewer teaching duties.

Parental leave under this policy is substituted for unpaid leave under the Family and Medical Leave Act (FMLA). Eligible faculty members may in addition qualify for unpaid leave under the FMLA during the same twelve (12) month period, but only in connection with a serious health condition. Such **FMLA** leave is normally unpaid except that accrued sick leave must be used. See PPM 2-21 for more information.

Other leave that has been taken or is scheduled to be taken by an eligible faculty member shall not preclude parental leave under this policy. Correspondingly, parental leave taken or scheduled under this policy shall have no bearing on decisions regarding other leave for an eligible faculty member.

D. Adjustments to Tenured or Tenure-Eligible Appointments

Upon request, an eligible faculty member will automatically receive a one-year extension on her or his timetable for RPT or post-tenure reviews. Faculty members should not be expected to maintain normal scholarly productivity during an extension granted under this policy. A faculty member will automatically receive this extension no more than twice. Any subsequent requests will be subject to the approval of the cognizant vice president.

E. Unanticipated Events

Not all events surrounding pregnancy, childbirth, and the health of a young child can be fully anticipated by this policy. Requests for exceptions to this policy should be directed to the cognizant senior vice president.

F. Obligation to Return

The obligation to return to university service following the leave, applicable to other leaves under PPM 8-8S, Sec. 9, B., applies to this policy as well.

VI. RELATIONSHIP TO OTHER POLICIES

Nothing in this policy precludes academic units from providing similar benefits to faculty in addition to regular faculty or providing to any faculty members more extensive benefits for parental or other family responsibilities or personal disability. If any other University policy is inconsistent with the provisions herein, this policy shall govern.

VII.. POLICY REVIEW

The implementation and the fiscal impact of the parental leave policy will be reviewed in three years from the date of passage. The report will be given to the Academic Senate. Concerns should be reported to the cognizant Associate Vice President for Faculty or for Health Sciences.

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Application for Parental Leave Under PPM 8-??
And Concurrent FMLA Leave in Connection with Birth or Adoption.

Please check appropriate boxes and complete blanks. The request for modified duties or for an extension to the pre-tenure probationary period or post-tenure review clock must be made within three months of the arrival of the child. A faculty member requesting modified duties should notify her or his department chair as soon as possible.

To: □ Senior Vice President for Academic Affairs
□ Senior Vice President for Health Sciences

Name_____
Department_____
Date_____

Copies to: Department Chair and Academic Dean

I hereby apply for a modification of my academic duties, or extension of my tenure clock, or both, under the university's parental leave policy.

1. I am eligible for the policy

□ as a birth mother whose due date falls within the academic year or within six weeks of the beginning of the academic year.

□ as the primary caregiver for my or my partner's newborn child or newly adopted child (please complete the affidavit below).

2. The anticipated (or actual) date of arrival of my child is**/was** _____.

□ I request a modification of my duties for the Fall semester of _____.
□ I request a modification of my duties for the Spring semester of _____.
□ I request a modification of my duties for the Summer semester of _____.
□ I am not requesting a modification of my duties.

3. Requests to extend the tenure or post-tenure review clock must be made before external reviewers are solicited to begin a formal review or within three months after the arrival of the child, whichever is earlier.

□ I wish to extend my tenure or post-tenure review clock by one year.
□ I do not wish to extend my tenure or post-tenure review clock by one year.
□ I am not applying at this time, but may do so within the limits stated above.

Affidavit of Eligibility for Faculty Parental Leave Policy (complete if applicable)

I attest that I will be providing the majority of child contact hours during my regular academic working hours for the period of at least 15 weeks.

Name (please print) Department
Signed Application date

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Excerpt from the minutes of the May 1, 2006 meeting of the Academic Senate

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b. Proposal for parental leave policy

Prof. Liz Tashjian attended to answer questions on the proposal developed by the Presidential Commission on the Status of Women. At the April 3 meeting, the Senate voted to approve this in principle, to take effect for the 2006-07 year. In the interim between that meeting and this, several discussions have taken place and some minor clarifying amendments proposed. There still is interest in looking at a broader kind of policy (elder care, etc.) and HR has engaged a consultant to look at what other higher education institutions are doing, and to look at our own institution internally, which may lead to a later policy proposal here. Questions from senators included:

--if this passes today, would a more extensive policy be an amendment to this one or separate? That would have to be determined later.

--Last time there was a discussion on the 95% salary replacement. There are different models (Canadian, e.g.) Departments may provide more, but can't be less generous than the policy states.

--if the department is not going to replace the faculty member on leave do they still need to give 5%? Yes.

--Why not both parents? The language says only one is guaranteed but if a couple can negotiate some sharing, that's fine. This does not preclude other arrangements.

--Limits on leave? There are guarantees for this leave to be used twice, but a parent can apply for additional leave.

It was moved and seconded to strike the phrase in 5c "and is likely to want to." This amendment carried with one abstention.

Senator Cynthia Stark moved to eliminate the 6-week restriction for qualifying as a birth mother and being eligible for leave without having to certify as being the primary caregiver. During the discussion, senators suggested that the concept is good but that the Senate ought to pass the policy now without the amendment and provide the opportunity for legal counsel to review the concept to determine whether such a change would subject the policy to too great a risk of being unlawfully discriminatory. After discussion, the maker withdrew the motion

It was moved, seconded, and carried unanimously to refer the question addressed in the motion to legal counsel for further exploration.

It was then moved, seconded, and carried unanimously to adopt the entire policy as previously amended.

--end—