



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION, INFORMATION OR DISCUSSION

TOPIC: USM Policy on Sick Leave for Faculty Members

COMMITTEE: Education Policy and Student Life

DATE OF COMMITTEE MEETING: June 5, 2013

SUMMARY: Attached is a proposed policy that will amend the current USM Policy on Accident Leave and Creditable and Non-Creditable Sick Leave for Faculty Members, No. II—2.30. The policy has not been amended since it was first approved in November 1989, and changes in law, related USM policies, and institution practices have necessitated a thorough technical review and revision of the policy. The amendments, which have been reviewed by the Council of University System Faculty and appropriate institution officials, are intended to accomplish the following:

- Update language and better reflect principles underlying the federal Americans with Disabilities Act and the Family Medical Leave Act as they relate to the accrual and use of sick leave;
- Provide clear definitions of key terms and concepts;
- Comply with 2011 amendments to State pension laws that altered the terms under which accrued sick leave may be credited toward retirement service;
- Clarify that eligible faculty members may utilize accrued creditable sick leave to care for ill family members, bereavement, and parental leave and establish the terms under which sick leave is available for such purposes, consistent with related USM policies;
- Reorganize sections related to collegial sick leave and sick leave creditable as a retirement benefit; and
- Remove an outdated section regarding accident leave, to be replaced with a separate, new Policy on Accident Leave for Faculty.

The proposed sick leave policy and a red-lined copy of the current policy are attached.

ALTERNATIVE (S): The Committee may choose to not approve the proposed amendments or may recommend edits to the proposed changes.

FISCAL IMPACT: There is minimal fiscal impact associated with these amendments.

CHANCELLOR'S RECOMMENDATION: That the Committee on Education Policy and Student Life recommend that the Board of Regents approve the amendments to the USM Policy on Sick Leave for Faculty Members.

COMMITTEE RECOMMENDATION: Approval

DATE: June 5, 2013

BOARD ACTION:

DATE:

SUBMITTED BY: Joann Boughman

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II – 2.30 - USM POLICY ON SICK LEAVE FOR FACULTY MEMBERS

(Approved by the Board of Regents November 30, 1989, amended _____)

5-6-13 DRAFT

I. PURPOSE AND APPLICABILITY

A. The purpose of this policy is to:

1. Provide an informal system of colleague substitution for short-term incapacity of instructional faculty. This practice protects the interests of students by preventing disruptions to students' instructional programs during periods when the instructor must be on leave for illness or other reasons covered by this policy.
2. Provide a regularized and equitable basis for determining the eligibility of faculty members to be compensated when unable to work for reasons of illness, injury, childbirth, the need to care for a newborn or adopted child or an ill immediate family member, or bereavement.
3. Address the State law standards for the application of accrued sick leave to a faculty member's service credits for retirement.

B. This policy applies to tenured and tenure track full-time faculty, non-tenure track instructional faculty, as defined by USM Policies 1.05 and 1.06, and other faculty whose letters of appointment expressly provide that the faculty member is eligible for sick leave.

II. COLLEGIAL SICK LEAVE

A. **Underlying Principle.** It is the responsibility of the institution to have an agreed-upon procedure for continuing instruction when faculty members are absent for any reason, including illness, injury, or childbirth. Once instruction is underway, it is important to have it continued with minimal interruption to protect the interests of students. Thus, when a faculty member is absent for brief periods because of illness, injury, or childbirth, the "collegial" method of accommodating faculty absence is preferred.

B. **Definition.** "Collegial" leave is a form of collegially supported leave in which the colleagues of the faculty member, on a voluntary basis, assume responsibilities for an absent member's classes and other essential functions, in addition to carrying on their regular work.

- C. **Non-Creditable Leave.** Collegially sick leave is not credited toward retirement and cannot be carried over to a subsequent fiscal year.
- D. **Availability.** Collegial leave is available to a faculty member as follows:
1. When practicable, it is available up to a maximum of twenty-five (25) work days for each faculty member in one fiscal year. After that time, creditable sick leave shall be charged.
 2. The maximum collegially supported leave available to a faculty member during the summer is one-seventh (1/7) of the contract period. This will be included as part of the faculty member's yearly limit.
 3. An eligible faculty member, appointed for at least a semester but less than an academic year, may receive no more than half of the collegial protection awarded persons who are appointed for an academic year. Faculty appointed for periods of less than one semester may not receive collegial benefits.
 4. Collegially supported leaves for an individual faculty member in two fiscal years must be separated by active service of at least twenty-five (25) work days.
- E. **Relationship to Regular Sick Leave.** After that time, creditable sick leave shall be charged. If the absence continues after the faculty member has utilized all available collegial leave, regular sick leave or other accrued leave will be charged.

III. CREDITABLE SICK LEAVE

- A. **Definition.** Creditable sick leave is leave that is accrued during the course of the faculty member's service and, subject to the conditions described in Section III.C of this policy, may be credited toward the faculty member's service for retirement benefit purposes.
- B. **Accrual.**
1. Creditable sick leave for faculty is accrued at the rate of 1.25 work days per month at full salary. Accrual of sick leave for summer employment by academic-year faculty is determined by the institution. In no case may an individual accrue more than fifteen (15) days of sick leave during any fiscal year.
 2. Part-time faculty members who are employed at least 50 percent time are eligible for sick leave benefits proportionate to the percentage of their employment.
 3. Individuals eligible to earn sick leave credits will accrue such credit for each calendar month in which they are on paid status for fifteen (15) or more days within that month. No sick leave credit will be accrued for any month during which the individual is on paid status for less than fifteen (15) days.

4. Sick leave is accrued while the individual is on sabbatical leave, but not while on leave without pay.
5. A faculty member may be required to provide medical verification to support the use of accrued sick leave.
6. When all accrued sick leave has been expended, and as authorized by the Family Medical Leave Act and related USM policies and consistent with the requirements of the Americans with Disabilities Act, the individual will be removed from salaried status, except in unusual circumstances as approved by the President. The institution will assist the faculty member in evaluating the options of modified duty, disability retirement, regular retirement, or disability insurance as appropriate.
7. If there is a break in an individual's employment with the State of Maryland of less than three (3) years, a sick leave balance will be restored. A leave of absence without pay is considered a break in employment. Sick leave balances may be brought to the University System from another State agency.

C. **Sick Leave Creditable as a Retirement Benefit.** Unused creditable sick leave may be credited toward a faculty member's service for retirement benefit calculation purposes under conditions specified in Ann. Code MD, State Personnel and Pensions Article Section 20-206 and related statutes as follows:

1. **Members of the Maryland Employees' or Teachers' pension or retirement systems.** For faculty members enrolled in the Maryland State retirement and pension systems, who retire within thirty (30) days after leaving employment with the USM or another participating governmental unit, unused creditable sick leave is applied toward the individual's retirement service credit, as follows:
 - a. In the case of an individual who was hired prior to July 1, 2011, and resigns after at least five (5) years of employment, and leaves contributions with the Maryland State retirement system, any unused creditable sick leave will be "vested", that is, it will be credited toward retirement benefits when the employee begins to draw benefits.
 - b. In the case of an individual who was hired on or after July 1, 2011, and resigns after at least ten (10) years of employment, and who leaves contributions with the Maryland State retirement system, any unused creditable sick leave will be "vested."
 - c. Unused sick leave may not be credited toward eligibility service in the case of an early retirement, nor does it alter an early retirement reduction factor.
 - d. A faculty member who returns to employment after retirement and is receiving Maryland State Retirement System benefits may not receive creditable service toward retirement for any sick leave accrued after the return to employment.

2. **Members of the Optional Retirement Plan.** Sick leave accrued by faculty members who are members of the Optional Retirement Plan is not creditable toward retirement.
 3. There is no cash payment for accrued, unused sick leave at the termination of employment, regardless of whether the accrued sick leave may be creditable toward retirement.
- D. **Use of Accrued Creditable Sick Leave.** In addition to using non-creditable “collegial” sick leave, a faculty member may accrue and use creditable sick leave as provided in this section.
1. **Employee’s Personal Health.** Creditable sick leave is available when a faculty member is absent because of:
 - a. Illness, injury or disability; or
 - b. A medical appointment that cannot be scheduled during non-work hours.
 2. **Care of Ill Family Members.** Creditable sick leave is available for a faculty member in cases of illness or injury in the faculty member’s immediate family and medical appointments for an immediate family member that cannot be scheduled during non-work hours.
 - a. “Immediate family” as used in this policy means:
 - i. A spouse, child, step-child, grandchild, mother, father, mother-in-law, father-in-law, brother, sister, grandparent, brother-in-law, sister-in-law, or legal dependent of the faculty member; or
 - ii. Any other relative who permanently resides with and is cared for by the faculty member.
 - b. The faculty member may be required to provide medical verification and other documentation to support the need to use sick leave care for a family member.
 - c. Up to fifteen (15) days of accrued sick leave shall be granted during a calendar year for the medical care of a family member.
 3. **Bereavement.** For the death of a close relative, a faculty member may use up to three (3) days of accrued sick leave, or five (5) days if the death of a close relative requires a faculty member to travel and stay away from home overnight.
 - a. “Close relative” as used in this policy means: a spouse, child, step-child, parent (or someone who took the place of a parent), mother-in-law, father-in-law, brother, sister, brother-in-law, sister-in-law, or other relative who permanently resided in the faculty member’s household.
 - b. A faculty member may use one day of sick leave for reasons related to the death of an aunt, uncle, niece or nephew of the faculty member or his or her spouse.

4. **Childbirth and Parental Leave.**

- a. A female faculty member may use accrued sick leave for medical conditions related to pregnancy or childbirth and its immediate physical recovery.
- b. Accrued sick leave also may be used to care for a child following the birth of a child or placement of the child with the faculty member for adoption, subject to the provisions of the USM Faculty Parental Leave Policy.

IV. REPORTING

- A. Each faculty member, regardless of the source of funding or retirement system in which he or she is enrolled, who is employed at least 50 percent time, must complete monthly positive time reports and sign the fiscal year summary record unless an exemption has been requested by the individual and approved by the President. When an exemption is approved, the faculty member thereby waives all claims from that date forward to credit any unused sick leave toward retirement benefits. With the approval of the President, the faculty member may revoke his or her exemption, and unused sick leave earned from the time of revocation forward will be credited toward retirement.
- B. Each institution shall establish procedures for positive time reporting by faculty. The institution shall retain monthly time reports for each individual for five (5) years, and shall retain summary records of these reports until the individual leaves employment.

II – 2.30 - ~~USM POLICY ON ACCIDENT LEAVE AND CREDITABLE AND NON-CREDITABLE SICK LEAVE FOR FACULTY MEMBERS~~

(Approved by the Board of Regents November 30, 1989, amended _____)

5-1-13 DRAFT

~~I. OBJECTIVES~~ **PURPOSE AND APPLICABILITY**

- A. **The purpose of this policy is to:**
1. Provide an informal system of colleague substitution for short-term incapacity of instructional faculty. This practice protects the interests of students by ~~insuring the supply of qualified substitutes who are familiar with the disabled teacher's educational objectives, methods, and standards.~~ **preventing disruptions to students' instructional programs during periods when the instructor must be on leave for illness or other reasons covered by this policy.**
 2. Provide a regularized and equitable basis for determining the eligibility of faculty members to receive ~~salary payments during extended periods of incapacity~~ **be compensated when unable to work** for reasons of illness, injury, ~~or childbirth,~~ **the need to care for a newborn or adopted child or an ill immediate family member, or bereavement.**
 3. ~~provide a regularized and equitable procedure for disability coverage by way of disability retirement, regular retirement, or disability insurance, once the limits of the extended leave period have been reached and the health prognosis is unfavorable.~~ **Address the State law standards for the application of accrued sick leave to a faculty member's service credits for retirement.**
- B. **This policy applies to tenured and tenure track full-time faculty, non-tenure track instructional faculty, as defined by USM Policies 1.05 and 1.06, and other faculty whose letters of appointment expressly provide that the faculty member is eligible for sick leave,**

~~II. NON-CREDITABLE SICK LEAVE: COLLEGIALLY SUPPORTED~~ **COLLEGIAL SICK LEAVE**

- A. **Underlying Principle.** It is the responsibility of the institution to have an agreed-upon procedure for continuing instruction when faculty members are absent for any reason, including illness, injury, or childbirth. Once instruction is underway, it is important to have it continued with minimal interruption to protect the interests of students. Thus, when a faculty member is ~~incapacitated~~ **absent** for brief periods ~~because of~~ **because of** illness, injury, or childbirth, the "collegial" method of accommodating faculty ~~disability~~ absence is preferred.

- B. **Definition.** ~~This is the practice whereby~~ **Collegial” leave is a form of collegially supported leave in which the colleagues** of the ~~disabled~~ faculty member—on a voluntary basis—**assume responsibilities for an absent member’s** ~~or her~~ classes and other essential functions, in addition to carrying on their regular work.
- C. **Non-Creditable Leave.** Collegially supported sick leave is not credited toward retirement and cannot be carried over to a subsequent fiscal year.
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 3. Individuals eligible to earn sick leave credits will accrue such credit for each calendar month in which they are on paid status for fifteen (15) or more days within that month. No sick leave credit will be accrued for any month during which the individual is on paid status for less than fifteen days.

4. Sick leave is accrued while the individual is on sabbatical leave, but not while on leave without pay.
5. A faculty member may be required to ~~present appropriate diagnostic or medical evidence to support his or her sick leave~~ **provide medical verification to support the use of accrued sick leave.**
6. When all accrued sick leave has been expended, **and as authorized by the Family Medical Leave Act and related USM policies and consistent with the requirements of the Americans with Disabilities Act,** the individual will be removed from salaried status, except in unusual circumstances as approved by the President. The institution will assist the faculty member in evaluating the options of **modified duty**, disability retirement, regular retirement, or disability insurance ~~if the health prognosis is unfavorable~~ **as appropriate.**
7. If there is a break in an individual's employment with the State of Maryland of less than three years, a sick leave balance will be restored. A leave of absence without pay is considered a break in employment. Sick leave balances may be brought to the University System from another State agency.

C. Sick Leave Creditable as a Retirement Benefit *Combination of old and new text:*

~~A maximum of 130 sick leave days could be creditable as a retirement benefit as of January 1, 1975. Since that date, there has been no limit on accumulation of sick leave. For individuals employed in former Board of Regents institutions, there may be additional sick leave in reserve which cannot be credited toward retirement.~~ **Unused creditable sick leave may be credited toward a faculty member's service for retirement benefit calculation purposes under conditions specified in Ann. Code MD, State Personnel and Pensions Article Section 20-206 and related statutes as follows:**

1. Members of the Maryland Employees' or Teachers' pension or retirement systems. **For faculty members enrolled in the Maryland State retirement and pension systems, who retire within 30 days after leaving employment with the USM or another participating governmental unit, unused creditable sick leave is applied toward the individual's retirement service credit, as follows:**
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 - b. **In the case of an individual who was hired on or after July 1, 2011, and resigns after at least ten (10) years of employment,** and who leaves contributions with the Maryland State retirement system, any unused creditable sick leave will be "vested."
 - c. Unused sick leave may not be credited toward retirement service in the case of an early retirement.

- d. A faculty member who returns to employment after retirement and is receiving Maryland State Retirement System benefits may not receive creditable service toward retirement for any sick leave accrued after the return to employment.
 2. Members of the Optional Retirement Plan. **Sick leave accrued by** faculty members who are members of the Optional Retirement Plan ~~do not accrue sick leave that is~~ **is not** creditable toward retirement.
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 - ii. **Any other relative who permanently resides with and is cared for by the faculty member.**
 - b. **The faculty member may be required to provide medical verification and other documentation to support the need to use sick leave care for a family member.**
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- B. Each institution shall establish procedures for positive time reporting by faculty. The institution shall retain monthly time reports for each individual for five years, and shall retain summary records of these reports until the individual leaves employment.

V. ACCIDENT LEAVE *To be replaced with a separate faculty accident leave policy that is updated to reflect current state workers compensation law.*

- ~~A. A faculty member who, in the actual performance of his or her duties, sustains an accidental personal injury that is otherwise compensable under the Maryland Worker's Compensation Law, shall be granted accident leave with full pay if, after medical examination, a physician certifies that the injury or accident disables the employee. Accident leave is unavailable only to those who are eligible for sick leave.~~
- ~~B. Accident leave shall be granted from the date of the job related injury until a physician certifies that the individual is healed and is physically able to return to work. The period of accident leave must be supported by a valid physician's certificate. In no event may accident leave be extended beyond one year from the date the accidental personal injury occurred.~~
- ~~C. Accident leave is not sick leave. An employee on accident leave status will continue to earn sick leave and annual leave credits. Holiday leave will be reported for scheduled holidays occurring during the period of accident leave.~~

- ~~D. After the injured employee has used all available accident leave and does not elect to receive temporary total benefits, he or she may use other leave with pay, including sick leave, annual leave, compensatory leave, and holiday leave. If, after using all leave with pay, the individual does not elect to receive temporary total benefits, he or she may request the President to extend sick leave. After the use of all possible leave with pay, the individual shall be placed on leave of absence without pay.~~
- ~~E. The injured employee shall not receive temporary total benefits under Worker's Compensation while receiving accident leave with full pay and shall not be paid any other leave benefits while on accident leave.~~
- ~~F. Each institution shall establish procedures in accord with the System personnel policies and the Worker's Compensation Law with regard to the: employee's notice of injury; physician's certification; responsible administrator's report; employee's claim; required medical examinations; granting of leave; and notification of the State Accident Fund.~~