Memo

To: Faculty Senate
From: Senate Leadership
Date: March 2, 2017
Subject: Overview of Leave Policy amendments.

Order of discussion

As requested below is a discussion of the changes to the leave policy. My suggestion for the order of our meeting next week is as follows:

1. Revisions to subsection E regarding Parenting Leave (including substituting new language in E-1 and E-4).
2. Revisions to subsection L regarding Shared Leave.
3. Revisions to subsection M regarding Family Medical Leave (including substituting new language in M-2)
4. All other revisions to the policy.

Overview of Changes

1. Parenting Leave Revisions.
   E-1 (and M-5.a.6). Reorganization -- the definition of “parenting” was moved up from section M to section E-1. In addition after our 2/28 Senate meeting, we followed up on questions raised about this definition and are suggesting a revision to the language to clarify the grammar and make the definition more clear. This suggested language is below.

   E-2. Clarification – this is a further clarification of changes we made last year making employees eligible for parenting leave starting 6 months after hire – this is an expansion of the FMLA statutory requirement which only requires leave after 1 year of employment. The clarification is that employees must have completed their probationary period prior to eligibility for parenting leave.

   E-4 (and C-9). The big picture idea is that parents should not have to use up all their accumulated paid leave for parenting leave. Kids and parents get sick. We (last year’s Senate and Senate Leadership) wanted parents to be able to retain some paid leave after a parenting leave. The process we agreed on with HR and General Counsel is that an employee must use her or his accumulated sick leave first, up to that point in time when the employee’s total accumulated leave (sick, annual leave and/or compensatory time) combined together is 80 hours. At that point, the employee has a choice: she or he may preserve their remaining paid leave and elect to use unpaid leave for the remainder of their parenting leave OR she or he may continue to use up paid leave. Previously our policies required the employee to use up all her or his sick leave. The revision to C-9 eliminates old language that is inconsistent to this new approach.
E-4 is one of the sections of the policy for which General Counsel recommended a last minute change before our 2/28 meeting. General Counsel’s suggested language is below. Senate Leadership strongly recommends that the E-4 language suggested by General Counsel be substituted for E-4 in the draft policy. It clarifies the policy and removes a couple of complex ambiguities.

2. Shared Leave Revisions
L-3.b and d. Our existing policy was inconsistent on how shared leave was administered. The question is whether leave donated to a particular person is returned to an employee if it is not used by the intended donee. HR has indicated that it is very difficult administratively to track such donations and return unused amounts to the person who donated the leave. The policy amendments eliminate contradictory language and clarify that if donated leave is not used by the intended recipient, it goes into the general shared leave pool and is not returned to the donor. Leave donors who desire to donate only as much leave as a particular individual needs are encouraged to work with HR to make incremental donations to that person. After Senate discussion at the 2/28 meeting, we are recommending the addition of the last sentence above to the policy itself to advised employees who are worried about losing donated leave when it is not used by the intended recipient. We have included this recommendation below.

3. Family Medical Leave
M-2. The issue here is the same as the issue for Parenting Leave dealt with in E-4. The idea is to give employees the choice to use up their paid leave or, once they reach the level of 80 hours of combined paid leave, to be able to take unpaid leave for an FML leave. This is a change from existing policy which required employees to use up paid leave first before taking unpaid leave.

As with the amendment to E-4, General Counsel suggested a revision to the proposed language just before our 2/28 meeting. General Counsel’s suggested language is below. Senate Leadership strongly recommends that the M-2 language suggested by General Counsel be substituted for M-2 in the draft policy. It clarifies the policy and removes a couple of complex ambiguities.

4. Additional Minor changes:
   a. A-13 and C-8. This change removes the ability of individual supervisors to set standards for attendance. It also clarifies that any type of excessive absenteeism whether because of sickness or other causes may result in disciplinary action. Senate Leadership believes these changes reflect current policy and remove the ability of individual supervisors to set attendance standards that may not be consistent with university policy or that may be out of line with standards set by other supervisors.

   b. C-7. Title and grammatical changes. Senate Leadership thinks these changes clarify that pregnancy is not an illness.

   c. C-7. This revision makes our policy consistent with federal law.
d.  D-2. Minor change to reflect the addition of parentheticals to the headings (see #f below)

e.  M-17. Minor changes to bring our policy in line with our practice

f.  Additions to the Headings of big categories of leave to point employees to the eligibility rules for each type of leave. There are parentheticals added after “B Annual Leave”, “C. Sick Leave”, “D. Holidays”, “E. Parenting Leave”, “F. Military Leave”, “G. Leave for Court…”, “H. Leave for Campaigning…”, “I. Administrative Leave”, “J. Academic Transitional Leave”, “K. Terminal Leave”, “L. Shared Leave”, “M. Family Medical Leave”, “O. Personal Leave”, “P. Extended Medical Leave”, and “Q. Leave for Professional Improvement.” The addition of this information at the beginning of each major category of leave may help employees navigate the policy. We believe a major reorganization is needed and possibly the policy should be broken into separate sections. For now, however, we felt the addition of these parentheticals might be helpful.

**Proposed substituted language**

E-1. Substitute the following language for f E-1.a and b.:
   a. “Parenting” is defined as the period of bonding that occurs within the first twelve (12) months of the birth, adoption or foster placement of the child in the family.

   b. “Parenting Leave” is leave taken by an employee under this section E to bond with a child within the first twelve (12) months of the birth, adoption or foster placement of the child in the family. Parenting leave is separate and distinct from medical leave taken by a birth mother related to serious health conditions associated with pregnancy and child birth and from medical leave taken by either parent to care for a child with a serious health condition. See Family Medical Leave Section M-1 for the relationship of Parenting Leave under this Section E and Family Medical Leave under Section M of this FSH 3710.

c. Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and incapable of self-care because of a mental or physical disability.

E-4. Substitute the following language for all of E-4.:
   Employees can choose to use a combination of accrued paid leave or unpaid leave. Employees must first use accrued sick leave (see FSH 3710 M-2). However when the combination of the employees remaining sick leave plus any additional accrued paid leave that may be available to the employee falls below 80 hours, then the employee may elect to use unpaid leave for parenting.

L-3.d. Add the following sentence to the end of the paragraph:
   Leave donors who desire to donate only as much leave as the intended recipient needs are encouraged to work with HR to make incremental donations to that person.
Family medical leave and/or service member family medical leave is generally leave without pay. However, when the absence also qualifies for the use of sick leave, if available, employees must first use accrued sick leave. When the combination of the employee’s remaining sick leave plus any other accrued paid leave that may be available to the employee falls below 80 hours the employee may then elect unpaid leave for the Family Medical Leave. When the type of absence does not qualify for the use of sick leave, the employee must use other available accrued paid leave until the employee’s remaining sick leave plus any other accrued paid leave that may be available to the employee falls below 80 hours before the employee may use unpaid leave for the Family Medical Leave.