II-2.31(A) UNIVERSITY OF MARYLAND POLICY ON FAMILY AND MEDICAL LEAVE FOR FACULTY
(Approved by the President, May 5, 2003)

I. Purpose and Applicability

The purpose of this policy is to clarify and implement the BOR - POLICY ON FAMILY AND MEDICAL LEAVE FOR FACULTY (II-2.31). The UMCP Policy applies to all eligible faculty of the University of Maryland (UMCP) who are covered by the provisions of UMS BOR Policy II-1.00 on Appointment, Rank, and Tenure of Faculty. Faculty are expected to engage in teaching, research, or service during the period of their contract on all official workdays. Under certain circumstances, a faculty member may be provided with up to a maximum of 60 workdays (excluding official university holidays) of unpaid leave during a twelve (12) month period for certain family and certain serious health condition reasons.

Faculty Eligibility:

This policy applies to any employee who is covered under the provisions of BOR Policy II-1.00 on Appointment, Rank, and Tenure of Faculty and (1) whose date of hire is 12 months prior to the date of the requested leave, and (2) whose employment during the twelve months preceding the leave request was 50 percent or more of full-time employment under a 9-, 9.5-, 10-, or 12-month contract. Faculty members who have been employed for at least twelve months (which need not be consecutive) and have worked at least 26 weeks during the twelve months preceding the leave request are also eligible.

II. Terms and Definitions

BOR II-2.31, section II, contains terms and definitions; these terms are applicable to the UMCP Policy. Section II H defines Immediate Family Member as the faculty member's parent(s), spouse, or child(ren), or legal wards. The UMCP Policy shall be extended to include domestic partners at such time that the Board of Regents recognizes domestic partners as immediate family members.

III. Reasons for Leave

A. A faculty member is entitled to take F&M leave for the following reasons:
   o the birth of the faculty member's child,
   o the placement of a child with the faculty member for adoption or foster care,
   o the need to take care of the faculty member's child within a twelve (12)
month period from birth or placement,
   o the need to take care of the faculty member's immediate family member
     who has a serious health condition, and
   o the serious health condition of the faculty member.
B. F&M leave is not intended to cover minor illnesses that last only a few days
   and short term medical and/or surgical procedures that typically do not involve
   hospitalization and require only a brief recovery period. These are normally
   handled through creditable and non-creditable sick leave (see UMS BOR II-
   2.30 and II-2.30(A).

C. Additionally, requests for leave to take care of the employee's school-age
   child under the age of fourteen (14) during the child's school vacations may be
   granted to the extent that the leave does not create a hardship with respect to
   the operational needs and work schedules of the applicable institutional unit.

IV. F&M Leave Entitlement

A. A full-time faculty member is entitled to a maximum of 60 workdays of
   F&M leave within a calendar year. A faculty member who works less than full-
   time is entitled to a pro rata share of the 60-day maximum.

B. F&M leave can be taken continuously or, under certain circumstances, on a
   reduced F&M leave schedule, or intermittently over the course of a calendar
   year. F&M leave entitlement shall not be carried over from calendar year to
   calendar year. All requests for intermittent leave or a reduced F&M leave
   schedule must be approved by the Provost. See below, Section XI.

C. When both husband and wife have faculty status, each one shall be entitled
   to a separate, individual, maximum F&M leave eligibility amount. The amount
   of leave for which one spouse may be eligible, or the amount of leave used by
   one spouse shall not limit or enhance the leave amount or the leave usage of
   the other spouse. Spouses shall be entitled to take leave in succession or
   simultaneously as long as simultaneous leaves do not substantially disrupt the
   academic program or unit of which the faculty members are a part.

V. Integration of Other Leave Taken with F&M Leave Entitlement

The actual F&M leave entitlement shall be integrated with the other types of
leave taken for F&M related reasons during the calendar year within which the
F&M leave is to begin. The following types of leave shall be deducted from the
actual F&M leave entitlement:
   o Any prior F&M leave taken within the applicable calendar year,
     including accrued paid leave and noncreditable leave substituted for
     F&M leave
   o Accident leave used within the applicable calendar year
   o Any type of unpaid leave for reasons related to family and medical
     circumstances taken within the applicable calendar year.

VI. The Use of Paid Leave During F&M Leave

F&M leave is defined as an unpaid leave. However, accrued paid leave may be
applied to F&M leave if the faculty member so designates in the application for F&M leave. Any paid leave applied to F&M leave (sick leave, annual leave, and personal leave) shall run concurrently with F&M leave. N.B. The accumulation of paid leave must have been documented by the faculty member's academic unit, and the use of paid leave must be documented by the academic unit.

Only after all sources of accrued paid leave are exhausted, may a faculty member request permission from his or her chair to draw upon collegial leave [UMCP Policy and Procedures for Non-Creditable Sick Leave for Faculty Members (II-2.30 A)]. The following conditions must be met: A faculty member agrees to fulfill another faculty member’s instructional obligations during the semester in which the requesting faculty member is unable to teach; the chair or director approves the substitute as qualified to teach the course or courses required; and there is no additional compensation in salary or release time for the faculty member providing collegial or substitute instruction. Documentation of collegial leave shall be kept in the faculty members’ academic unit.

VII. Status of Benefits While on Family and Medical Leave

A. A faculty member who is granted an approved F&M leave under this policy shall continue to be eligible for all employment benefits that he/she enjoyed immediately prior to the F&M leave.

B. When the faculty member uses unpaid leave, the faculty member on F&M leave may elect to continue employer-subsidized health care benefits during the period of leave. The Chief Benefits Officer or designee shall provide advance written notice to the faculty member of the terms and conditions under which premium payments are to be made by the faculty member. A copy of this notice must be attached to the leave application form (see Section VIII). The subsidy shall cease if a faculty member gives notice that he/she no longer wishes to return to work. The institution shall recover its share of health premiums during unpaid F&M leave if the faculty member fails to return to work, or returns to work but fails to stay thirty (30) calendar days, unless the reason for not returning or staying is due to the continuation, recurrence or onset of a serious health condition, or other circumstances beyond the faculty member’s control.

C. Except as noted in Section IX, Job Protection, upon return from leave a faculty member shall be restored to his or her position, with all the rights, benefits, and privileges attendant on that position.

D. While on any unpaid portion of an F&M leave, a faculty member shall not earn or accrue any additional leave, nor shall the leave days be counted as service towards retirement.

E. Faculty members on unpaid leave do not earn credit for retirement. Thus during their leave, neither they nor the university contributes to their retirement plan. However, if the faculty member is under a state pension system, the faculty member may elect to purchase service credit at the time of retirement.
for prior leaves without pay that are qualified by the Maryland State Retirement and Pension Systems. Upon approval of a leave without pay, a faculty member shall follow the institutional procedure to assure that this option may be exercised. (See Section VIII).

VIII. Application for an F&M Leave

A. When the need for F&M leave is foreseeable, a faculty member should complete the application for use of F&M leave at least thirty (30) calendar days before the leave is to begin. The application shall include (a) the appropriate medical certification or legal certification of adoption or foster child placement, (b) certification of eligibility by the department chair (where applicable), dean, and Associate Provost for Faculty Affairs, (c) a form from the Benefits Office stipulating the arrangements for health and retirement benefits.

B. When the need for leave is not foreseeable, a faculty member shall apply as soon as practicable but within two (2) working days of learning of the need for leave. If this is not possible due to a medical emergency, then the faculty member or the faculty member's designee shall give written notice and provide the appropriate application/certification as soon as practicable.

IX. Job Protection

A. A tenure-track faculty member who has or has had approved F&M leave may request through his or her department chair or appropriate appointing authority that the mandatory tenure review be postponed. See UMCP Policy II-1.00(D). Post tenure reviews may also be postponed during FMLA until the semester the faculty member returns.

B. Except as provided in IX.C., a faculty member returning to work at the conclusion of a F&M leave shall be restored to his/her former position with the pay, benefits and terms and conditions of employment currently applicable to that position.

C. A faculty member whose appointment expires in the course of F&M leave is not entitled to restoration if the President or designee determines that the faculty member had been hired for a specific term or only to perform work on a specific project defined in writing and the term or project is over and the institution would not otherwise have continued to employ the faculty member.

X. Medical Certification

A. For leaves related to serious health conditions and to childbirth, the faculty member shall provide medical certification(s) from the faculty member's or family member's health care provider. The faculty member shall have fifteen (15) calendar days to obtain the medical certification unless not practicable to do so despite the faculty member's diligent good faith efforts. Such certification shall include but not be limited to:
   - A statement of medical facts meeting the criteria for "serious health condition,"
o Date condition commenced,
o Regimen of treatment to be prescribed,
o The duration of absence from work,
o In the case of the faculty member's serious health condition, certification that the faculty member is unable to perform the essential functions of his/her position and prognosis of the faculty member's ability to return to his/her position,
o In the case of the faculty member's need to care for a seriously ill family member, certification of the necessity for and duration of the faculty member's presence; of the requirements of inpatient care; and of assistance for basic needs, safety and transportation,
o Title and original signature of an accredited, licensed or certified medical provider.

B. The President or designee may require a second medical opinion at the institution's expense. In the case of conflicting opinions, the opinion of a third health care provider, agreed upon by both faculty member and the President or designee and obtained at the institution's expense, shall be final. The second and third opinions shall not be provided by individuals who are employed on a regular basis by the institution.

C. The President or designee may require reasonable recertification as the F&M leave continues, and may require a faculty member to provide periodic progress reports as to the serious health condition for which he/she is taking leave and the faculty member's ability to return to work at the end of the leave. Recertification shall not be requested more often than every thirty (30) calendar days unless the faculty member requests an extension of F&M leave, changed circumstances occur during the illness or injury, or the institution receives information that casts doubt upon the continuing validity of the most recent certification.

D. Consistent with FMLA and other applicable laws, all medical-related documentation will be kept confidential and maintained in a file separate from the faculty member's official institutional personnel file. The faculty member shall have access to this file upon request, as long as the faculty member is employed by the University.

XI. Intermittent or Reduced Leave

A. In a case that qualifies for F&M leave, a faculty member shall be entitled to request intermittent leave and/or a schedule that reduces the number of hours worked per day or the number of days worked per week for purposes of the faculty member's or the immediate family member's serious health condition. The faculty member shall attempt to schedule intermittent leave or leave on a reduced schedule in a way that will not substantially disrupt the academic program or unit of which the faculty member is a part. All requests for intermittent leave or a reduced F&M leave schedule must be approved by the Provost.

B. The President or designee may temporarily reassign a faculty member on intermittent or reduced F&M leave to an alternative position that better accommodates reduced or intermittent periods of leave.
XII. Scheduling of Treatment In Instances of Serious Health Conditions

A. In instances of the serious health condition of a family member or of the faculty member himself or herself, and in keeping with the requirements of the appropriate health care provider, the faculty member shall make reasonable efforts to schedule any medical treatments so as not to substantially disrupt the academic program or unit of which the faculty member is a part.

B. During the course of the treatment and as the President or designee deemed appropriate, the faculty member may be requested to provide certification from the appropriate health care provider of the unavailability of treatment during non-work time, or at times that are less disruptive to the academic program or unit of which the faculty member is a part.

XIII. Providing Information About F&M Leave

Regardless of the reason for the leave, a faculty member shall provide complete, accurate and timely information related to the request for, continuation of, modification(s) to, and return from an F&M leave.

XIV. Early Return from Leave

A faculty member interested in returning to work from an F&M leave prior to the agreed upon end of the leave date shall provide the President or designee with a written request at least seven (7) calendar days prior to the date on which the faculty member is interested in returning. The President or designee shall make a good faith effort to restore the faculty member to his/her former or an equivalent position as soon as possible but no later than thirty (30) calendar days after receipt of the request.

XV. Extensions of Leave

Faculty members may extend the date of return from an F&M leave to the extent that they have F&M leave entitlement available. A request for an extension of F&M leave shall be considered under this policy as if it was an initial request.

XVI. Failure to Return from Leave

A. A faculty member who will not be returning to the institution at the conclusion of a leave shall so notify the President or designee in writing as soon as practicable. The President or designee may request certification of reasons for the faculty member's failure to return to work. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

B. If applicable, any benefit entitlement based upon length of service shall be calculated as of the faculty member's last paid day.

C. Employer costs of any payments made to maintain the faculty member's
benefit coverage when on unpaid F&M leave shall be recovered if a faculty member fails to return to work as described in Section VII.B.

XVII. Abuse of F&M Leave

The President or designee shall review, investigate and resolve suspected cases of bad faith, fraud or abuse of the F&M leave program. Cases of bad faith, falsification of documents, or fraudulent information related to the F&M leave provided to the institution, or other abuses of the F&M leave program, may result in but are not limited to: revocation of the leave, recovery of institutional costs for paid-time leave and insurance benefits premiums, and disciplinary action up to and including termination.

XVIII. Implementation Procedures

The President shall identify his/her designee(s), if appropriate, for this policy; shall develop procedures as necessary, for the posting, record-keeping and implementation of this policy.

Appendix A

Terms and Definitions:

Accrued Leave: Earned and unused annual, holiday, and personal leave (these types of leave are accrued only while serving under 10- and 12- month appointments) and sick leave (see Section VI).

Alternative Position: A position to which a faculty member may be temporarily reassigned during a period of intermittent F&M leave and/or reduced schedule. The alternative position shall have the same benefits and pay as the position from which the faculty member was reassigned.

Care: The term care is intended to be read broadly to include both physical and psychological care. The language applies to the period of inpatient care and home care as well.

Child: A person who is the son or daughter of a faculty member and who is under eighteen years of age; or, eighteen years of age or older and incapable of self-care because of a mental or physical disability during the period of the serious illness. The son(s) and/or daughter(s) may be the biological, adopted, step, or foster child(ren) of the faculty member. A child is also someone who is the legal ward of the faculty member or someone for whom the faculty member has provided sufficient, notarized affidavit(s) and proof of financial dependence that he/she is standing in loco parentis.

Equivalent Position: A position at the institution to which a faculty member shall be restored upon the completion of the F&M leave. The equivalent position shall have the same benefits, pay, and other terms and conditions of employment as the position from which the faculty member took leave.

Health Care Providers: Doctors of medicine or osteopathy, podiatrists, dentists,
clinical psychologists, optometrists, chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist), nurse practitioners and nurse midwives (as authorized to practice by the State of Maryland) and Christian Science Practitioners (listed with the First Church of Christ Scientist in Boston).

**Immediate Family Member:** The faculty member’s parent(s), spouse, or child(ren), or legal wards.

**In Loco Parentis:** "In the place of a parent; instead of a parent; charged, factitiously, with a parent's rights, duties and responsibilities." Any eligible faculty member claiming an in loco parentis relationship with a child, or claiming to be the child of in an in loco parentis relationship may be requested to provide documentation of such relationship.

**Institution:** The University of Maryland.

**Parent:** The faculty member's biological, adoptive, step or foster mother or father, or someone who stood in loco parentis to the faculty member when the faculty member was a child.

**Restoration:** Restoration is an institutional guarantee that at the conclusion of the F&M leave the faculty member will be returned either to the same position from which he/she took leave, or to an equivalent faculty position.

**Serious Health Condition:** An illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential medical care facility, or home care, or continuing treatment by a health care provider. A serious health condition is also intended to cover conditions or illnesses that affect the faculty member's health or the health of the faculty member's immediate family to the extent that the family member is in the hospital or other health care facility or at home and unable to care for his/her own basic hygienic or nutritional needs or safety such that the faculty member must be absent from work on a regular and recurring basis for more than a few days for treatment or recovery. With respect to the faculty member, a serious health condition means that the faculty member must be incapacitated from performing the essential functions of his/her position.

Examples of serious health conditions applicable to the faculty member or the faculty member's immediate family member include, but are not limited to: heart conditions requiring heart bypass or valve operations; most types of cancer; back conditions requiring extensive therapy or surgical procedures; severe respiratory conditions; appendicitis; emphysema; spinal injuries; pneumonia; severe arthritis; severe nervous disorders; injuries caused by serious accidents; ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy, such as severe morning sickness, the need for prenatal care, childbirth, and recovery from childbirth. Additional examples are a faculty member or immediate family member whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, or clinical depression, who is recovering from major surgery, or who is in the final stages of a terminal illness.

**Spouse:** The person to whom the faculty member is legally married.
**Work Week:** Faculty F&M leave is computed on the basis of a 5-day work week excluding university holidays such as Labor Day.