

Modified Duty following Medical Maternity and Adoption Leave Procedures for IANR Faculty May 2023

This document describes how IANR applies the required federal Family Medical Leave Act (FMLA), and the procedures that facilitate that application for Medical Maternity and Adoption Leave. These procedures directly and indirectly address N2025 Aims 2, 3, and 5 and IANR's goal to be equity-minded and inclusive in the application of university policies. They are designed to a) support success of our faculty members, and b) ensure that work-related outcomes and impact are accomplished. This document and the corresponding procedures:

- Communicate that eligible employees (regardless of gender or calendar/academic year appointment) are provided up to 12 weeks of job-protected leave for qualifying family and medical reasons, which includes the birth or placement of a child through adoption.
- Designate a one-stop resource for Family Medical Leave, Medical Maternity, Adoption, and Parental Leave. Assure that work responsibilities leading to expected outcomes are covered during, before and after the approved leave in a way that is equitably administered.
- Provide guidelines for designating modified duties for childbearing and adopting faculty.
- Ensure faculty members and unit administrators have advance knowledge of the policies and procedures so they can advocate for themselves and others.

Family Medical Leave Act and the University's Medical Maternity and Adoption Leave Policy

As required by the federal Family Medical Leave Act (FMLA), eligible employees are provided up to 12 weeks of job-protected leave for qualifying family and medical reasons. The birth or placement of a child through adoption qualifies for FMLA. While the federal requirement does not specify that this must be paid leave, per university policy all faculty members, except Lecturer/T, are eligible for 8 weeks of paid Medical Maternity and Adoption Leave protected by FMLA. In addition, if a physician certifies a need for up to 12 weeks of leave (inclusive of the 8 weeks described in the previous sentence), the additional 4 weeks provided by FMLA can be taken as paid sick leave. If a physician does not certify that 12 weeks are needed, the faculty member may take the additional four weeks protected by FMLA as any combination of vacation or unpaid leave depending on what balances are available to the employee. This applies to both Calendar Year and Academic Year faculty. The 12-weeks provided by FMLA run concurrently with any university paid leave as described above.

Up to five days of paid job protected Parental Leave is available to parents who are not giving birth or, in the case of adoption, are not considered the primary caregiver. In addition, if a physician certifies a need for additional leave to care for a family member, these individuals are also eligible for up to 12 weeks of job protected leave, which may be paid or not depending on the situation.

This procedure applies to all benefit eligible probationary and continuous appointment (pre-tenure/tenured) and special appointment faculty members (i.e., Extension, Research and Practice Faculty, Extension Educator, Extension Instructor, Geoscientist, Forester, Instructor, Lecturer, Senior Research Associate, and Postdoctoral Associate) at IANR. It does not apply to Lecturer/T faculty members. It applies to faculty members on both calendar year (CY) and academic year (AY) appointments.

Single Point of Contact Resource for Faculty and Unit Administrators

Nancy Re, Senior Human Resources Specialist, at nre2@unl.edu (or 402-472-6837), is the point of contact for administrators and faculty members about implementation of these policies in IANR, including the Modified Duty Plan (see below). Faculty members anticipating a need for Medical Maternity, Adoption, or Parental Leave are encouraged to talk with Nancy Re as soon as possible about navigating the complexities of the policies and procedures related to these leaves.

Assuring that Work Responsibilities are Covered and that Faculty Members are Treated Equitably

Depending on the timing of the leave, childbearing faculty may require an absence that causes significant interruption in instructional duties or other regularly scheduled events that transcend the leave period. Adoption leave, though not based on medical necessity, can cause similar significant interruptions. This is most likely to occur when the faculty member has the lead role in a regularly scheduled classroom instructional assignment. If this is the case, a faculty member may be released from responsibilities before or after the approved leave to lessen the disruption and increase the likelihood that expected outcomes will be achieved. For these faculty members, work is still required albeit with modified duties. An approved *modified duty plan* (see below) must be in place that details the alternative responsibilities, expected outcomes, and criteria for evaluation during the period before and/or after the approved-leave when the faculty member is being released from regularly scheduled activities.

For faculty members with a regularly scheduled teaching assignment that is interrupted by the period of leave, such a release from relevant teaching responsibilities will occur during the semester that is interrupted by the Medical Maternity or Adoption Leave period. Depending on the faculty member's apportionment and responsibilities, there may be other events that are similarly interrupted by the period of leave. Release from pre- and/or post-event activities may be needed to prevent disruption to achieving the expected outcomes of the event. This is not an extension of the approved leave; it is a modification/reassignment of duties. With an approved modified duty plan, the faculty member's salary will continue at 100% during the period while they are completing modified duties.

Without mutual agreement, administrators should not reschedule regularly scheduled teaching assignments or other events that are interrupted by the leave to occur before or after the leave period so that the person on Medical Maternity or Adoption Leave can fulfill those responsibilities at a different time. A suitable substitute should be found so that the course or event can move forward as originally scheduled. It is the primary responsibility of the unit administrator to find a suitable replacement for the period of Medical Maternity or Adoption Leave and modified duty period. While the faculty member may be consulted for suggestions and recommendations, it is not the responsibility of the faculty member to find the person who will be their replacement while they are on leave or have a modified duty plan.

A faculty member with a teaching assignment taking Medical Maternity or Adoption Leave at any point in the semester is to be offered a modified duty plan to account for their regularly scheduled instructional duties for the entire semester. When the leave spans both Fall and Spring semesters, the faculty member is to be offered a modified duty plan for both semesters to ensure teaching continuity.

A faculty member with a research or extension appointment taking Medical Maternity or Adoption Leave at any point in the calendar year may request a modified duty plan for relevant research or extension responsibilities if the circumstances warrant. If the faculty member with a research or extension appointment is able to schedule programming or research outside of the Medical Maternity or Adoption Leave period, they may do so without the request of a modified duty plan.

The Modified Duty Plan

A written modified duty plan, stating reassigned duties and evaluation criteria in lieu of teaching, research or extension is created by the unit administrator and faculty member, and shall be agreed upon in writing by the faculty member, unit administrator, and cognizant Dean. The written modified duty

Guidelines for the Modified Duty Plan

- The faculty member may work with their unit administrator to find a suitable replacement for the period of modified duties, but it is the unit administrator's responsibility to find the replacement.
- Unit administrator is responsible for allocating resources to support costs associated with hiring or engaging a replacement.
- It will be the primary responsibility of the faculty member to help transition and familiarize the replacement with the duties to be covered.
- The faculty member may request an amendment to the Modified Duty Plan if unanticipated medical issues occur. Amendments need to be approved by the Unit Administrator and the appropriate Dean.
- The option to extend the pre-tenure probationary period is available to tenure-track faculty. More information can be found at <https://executivevc.unl.edu/faculty/pre-tenure-extensions>.

plan should be created and approved by all parties prior to the Medical Maternity or Adoption leave start date. Modified duties should be relevant to the particular skills and knowledge of the faculty member and the needs of the unit and should be approximately equivalent in effort as the duties for which the faculty member is being released. Examples of modified duties may be provided by Unit Head upon request.

Following approval by the cognizant administrators, the signed Modified Duty Plan (one page Word document is sufficient) will be submitted along with the FMLA request form and the Faculty Leave Request form to Nancy Re, Senior Human Resources Specialist at nre2@unl.edu. IANR Human Resources will gather the appropriate approvals and notify the faculty members, supervisor and unit head when finalized. The Modified Duty Plan must be included in annual faculty evaluation and promotion and/or tenure documentation and be considered when conducting faculty evaluation.

Ensuring Unit Administrators and Faculty Members are Adequately Informed

The policies and procedures affecting FMLA and Medical Maternity and Adoption Leave are available on the IANR web site under the tab Faculty and Staff Resources and the IANR Business and Finance website. These policies and procedures are also described during onboarding for new faculty members at both the IANR- and unit-level.

If there are any conflicts between the University policy and provisions of the Federal Acts, the provisions of the Federal Acts will supersede, except for situations where the University policy, handbooks, or bargaining agreements provide benefits greater than the Acts. The Federal Acts and the Federal Regulations will be used to resolve issues that arise.

Examples

Example A: An academic year faculty member with regularly scheduled teaching responsibilities in the Fall and Spring Semesters is expected to deliver a baby on October 1. The faculty member's 8-week paid leave protected by FMLA is expected to occur from October 1 through November 30. They choose to forgo the additional four weeks of leave protected by FMLA. They are released from teaching their assigned course for the entirety of the Fall semester and a modified duty plan is developed to detail what is expected of the faculty member in lieu of teaching their assigned course. The course is not rescheduled to be taught by the faculty member for the Spring Semester. The course is taught during the originally scheduled semester by an individual identified by the unit administrator. The faculty member teaches the course that was regularly scheduled to be taught in the Spring Semester.

Example B: The faculty member in Example A is scheduled to deliver a baby on December 1. The faculty member's 8-week approved leave is now expected to occur from December 1 through January 31. They are released from their assigned courses for the entirety their FMLA/Maternity Leave period and a modified duty plan may be developed for both the Fall and Spring semesters to ensure teaching continuity.

Example C: A faculty member has a lead role in coordinating a department-sponsored research symposium as part of the expectations for their research apportionment. This event occurs the first week of March every year. Critical planning and preparation for the event occurs in the six months leading up to the event. The faculty member is expected to deliver a baby in November. They meet with their unit leader to discuss the extent to which the planning for the event will be disrupted by their approved leave protected by FMLA. As a result of this discussion, they may be released from their responsibilities for the planning of the event and a modified duty plan is developed for the entirety of the planning period (September through first week of March). The modified duty plan includes the identification of a replacement for the faculty member to ensure the event is successful. The modified duty plan may include activities related to the planning for the event that the faculty member would like to retain and that they could reasonably accomplish in a way that does not require work during the period of approved leave.

Example D: At a Research, Education, and Extension Center, it is a calendar-year faculty member's turn to have a leadership role in the planning of the annual Field Day event in late-August. This planning is part of their Extension responsibilities. This faculty member will be the primary caregiver for a child that they will be adopting on April 20. Planning for the Field Day will begin mid-June. Because the FMLA 12-week approved leave period will not end until July 20, the administrator offers to release the faculty member from their responsibilities to provide leadership in the planning of the field day and offers to identify someone else as a replacement. If appropriate, a modified duty plan will be developed to document the alternative responsibilities that the faculty member will be expected to

fulfill in lieu of the responsibilities they are being released from. This counts as that faculty member's turn in providing leadership for this event; their turn is not merely postponed until the following year nor do they trade with another faculty member.

Example E: A faculty member with a calendar year appointment is scheduled to teach a for-credit class in the Fall semester. This faculty member delivers a baby on May 20. The 12-week FMLA period extends to August 20, a date before Fall semester classes begin. Because the FMLA period interrupts the faculty member's ability to prepare for the class, the department head should not require the faculty member to teach the class as scheduled, and instead offer a modified duty plan for that semester. The faculty member may choose to teach the class as scheduled or work with the department head in determining a modified duty plan.