

**COLLEGE OF CHARLESTON
MODIFICATION OF DUTIES OF FACULTY
MEMBERS FOR
BIRTH OR ADOPTION OF A FAMILY MEMBER**

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE COLLEGE. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE COLLEGE RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

1.0 Policy

The College of Charleston is committed to fostering an educational community with a flexible and supportive work environment where faculty can thrive in both their professional and personal lives. Periodically a Faculty Member may need an adjustment or modification in the assignment of academic duties in order to respond to the birth or adoption of a child. The fact that faculty only accrue sick leave but not annual leave, and the highly structured nature of their scheduled teaching duties, often present unique circumstances that may present difficulties for both the Faculty Member and the College. These circumstances can limit the options available during semesters when faculty are addressing the legitimate needs of a new child and yet are expected to meet the standard instructional workload.

To address this issue, the College now adopts the following change to its workload expectations for faculty:

It is the Policy of the College of Charleston to assign Modified Duties to instructional faculty who have a legitimate need to care for a new born or newly adopted child as a caregiver when: (a) that family need would prevent the faculty Member from observing a regular schedule of classes associated with a full teaching workload during a given semester, and (b) the Faculty Member has exhausted all paid leave categories that would otherwise be available to pay the Faculty Member full pay and benefits during an approved period of absence to care for the child.

2.0 Effective Date

This policy will be effective as of **January 1, 2010**. Births and adoptions that occurred on or after **May 15, 2009** will be considered eligible events under this Policy.

3.0 Definition

For the purposes of this Policy the term “Modified Duties” means job tasks and other responsibilities that are substituted for part or all of the teaching requirements assigned or expected to be assigned to a Faculty Member, provided that, such tasks and responsibilities: (a) are deemed to be of equal value to those teaching responsibilities that they replace; (b) are not an essential element of another person’s job for which that other person is already receiving base pay; (c) are of direct benefit to the applicant Faculty Member’s School or an academic unit of the College; and (d) are otherwise determined by the Provost to be legitimate “Modified Duties”.

4.0 No Effect on Laws and Regulations

This Policy is not intended to modify in any way State of South Carolina personnel leave policies, the Family Medical Leave Act or any other state or federal law, rule or regulation. To the extent the Policy may subsequently be deemed by the State of South Carolina or any Court of competent jurisdiction to be inconsistent with respect to any such law, rule, or regulation, this Policy will be deemed modified to the extent needed to remove such inconsistency.

5.0 Applicability

Full-time Professors, Associate Professors, Assistant Professors, Senior Instructors, Instructors, and Librarians who have teaching responsibilities (“hereinafter referred to as “Faculty” or “Faculty Member”) are eligible for Modified Duties¹. When performing Modified Duties under this Policy, the Faculty Member remains a fulltime employee of the College and continues to receive full pay and benefits.

6.0 Use of Paid Sick Leave and Other Paid Leave

Prior to being assigned Modified Duties, the Faculty Member will be expected to exhaust all available paid sick leave and other paid leave categories that the Faculty Member is eligible to receive under the circumstances (See Appendix A). During the period of approved leave, the Faculty Member is not to be assigned any job task or responsibility. A Faculty Member cannot be on disability leave or on any other type of leave during a period of Modified Duties.

If the Faculty Member is unable to perform Modified Duties during a period for which Modified Duties have been approved, the Faculty Member must use sick or some other type of leave, as appropriate. The Faculty Member should contact the Office of Human Resources for further guidance regarding which type of leave is appropriate for his/her individual situation.

7.0 No Adverse Consequences

¹Visiting Professors/Instructors or Professors/Instructors with other term appointments are not eligible for Modified Duties.

No Member of the Faculty, including but not limited to, Tenure-track Faculty Members, will be penalized for receiving Modified Duties under this Policy.

(a) Tenure Review

The receipt of one or more semesters of Modified Duties will not reflect negatively on the Faculty Member's evaluation during his/her tenure review.

(b) Tenure Progress Review and Tenure Clock Extension

Consistent with section VI.G of the Faculty/Administration Manual, a Faculty Member who either uses 120 days or more of College sanctioned leave or adds a child to his or her family may elect to extend the tenure/probationary period by one year.

Application for an extension of the tenure/probationary period must be made in writing to the Provost. (See <http://www.cofc.edu/academicaffairs/manuals/> for the full policy and procedure, including deadlines for application.)

8.0 Other Eligibility Criteria

Faculty Members of either gender are eligible for a "Modified Duties Semester." Eligibility begins 12 months from the date of hire.

In the case that both parents are full-time Faculty Members employed by the College, only one parent is eligible for a Modified Duties Semester following the birth or adoption of a child. Each Faculty Member is entitled to apply for the equivalent of only one "Modified Duties Semester" per birth or adoption event.

A Faculty Member is eligible for a "Modified Duties Semester" even if the birth or adoption occurs during the summer months (May to August).

9.0 Review and Approval Process

All notifications and requests for Modified Duties Semesters must be submitted on the Modified Duties Semester Form ("Form")² and forwarded to the Chair of the relevant Department. A letter of explanation of the circumstances for the request and appropriate documentation must be attached to the Form. Such documentation may include a copy of the birth certificate, adoption papers, or a letter from the attorney or agency handling an adoption or foster placement.

Among other things, the Form shall contain an attestation by the Faculty Member that s/he will be the Primary Caregiver of the child(ren) at the time of birth or adoption or that s/he has substantial and sustained childcare duties during the semester for which Modified Duties are requested. These family duties must be of a nature that would

² <http://www.cofc.edu/academicaffairs>.

prevent the Faculty Member from observing a regular schedule of classes associated with a full teaching workload during the semester. In addition, the Faculty Member must attest that s/he has exhausted or will exhaust all paid leave categories prior to the commencement of the Modified Duties Semester and that, to the best of the Faculty Member's knowledge and belief, s/he is in compliance with the eligibility requirements for Modified Duties specified in this Policy.

The Chair will recommend an action on the Form within 10 days of receiving the Form. Thereafter, the form shall be submitted to the Dean. Once the Dean has recommended an action, the Form is to be sent to the Provost for final action. The Dean and the Provost shall act on the Form within 10 days after receipt.

The Office of Academic Affairs will be responsible for communicating the decision to the Faculty Member, the Chair and the Dean.

The College reserves the right to revoke Modified Duties status and/or to take other remedial measures (including discipline) if any statement contained in the Form is intentionally false or materially misleading.

10.0 Denials and Reconsiderations

If the Faculty Member's request for Modified Duties is denied, the reasons for denial must be outlined in an attachment to the Modified Duties Semester Form and returned to the Faculty Member. Within 5 days thereafter, the Faculty Member may submit a letter to the Provost requesting reconsideration. The grounds for reconsideration may be based only on one or more of the following: new information not available at the time of the original application, or misstatement of material fact in the original declination decision, or a mistake in procedure under this Policy that is of such significance that it prejudiced the original outcome of the application.

After receipt of the request for reconsideration, the Provost must reply within 10 working days. The decision of the Provost upon reconsideration shall be the final decision of the College.

11.0 Timing

Academic unit heads should be alerted as soon as possible about a potential need for a "Modified Duties Semester." The Modified Duties Semester shall be submitted at least four months before the start of the proposed semester or as soon as possible when it is less than four months. The Modified Duties Semester may occur during the fall or spring semester of a given academic year. Alternatively, the equivalent of one semester of Modified Duties (as described under "**Modified Duties**" below), including teaching relief when applicable, may be distributed over two semesters. In all events, however, the "Modified Duties Semester" must be concluded within the twelve-month period following the birth or adoption.

12.0 Modified Duties

Academic unit heads, deans and college/school leaders and administrators are expected to work with Faculty to accommodate birth and adoption situations, in accordance with this Policy and other applicable Academic Affairs and Human Resources policies. The Faculty Member, in consultation with his/her academic unit head, should determine the best set of Modified Duties to suit his/her needs and the needs of the department. Only one full-time Faculty Member per family unit is eligible to apply for Modified Duties during a semester.

(a) Modified Duties for Primary Caregiver.

If the Faculty Member is the birth mother and primary caregiver, or the birth father and the primary caregiver, of the child at the time of the birth, or the adoptive parent at the time of adoption, and will be the primary Caregiver, the Faculty Member may apply for Modified Duties in lieu of some or all of his/her on campus duties (such as classroom teaching, clinical field placement, and teaching, research or clinical laboratory duties) for one semester or the equivalent of one semester distributed over two semesters during the time s/he is acting as such a Caregiver. Additionally, the Faculty Member's departmental or administrative committee work and undergraduate advising duties may be modified to address the essential needs of the academic unit. Faculty responsibilities for research, professional development, and professional service that do not require onsite activities remain unchanged.

Examples of modified duties include research, professional development, professional service, and the development of curriculum and/or course materials, accreditation and/or certification materials, departmental operation manuals, communication materials, undergraduate or graduate student recruitment materials, and similar efforts. A maximum of one third of the usual instructional load will be reassigned as research.

(b) Modified Duties for Secondary Caregiver

In order to qualify for a semester of Modified Duties as a Secondary Caregiver, the applicant Faculty Member must establish that s/he (i) was the parent of a child at the time of birth or adoption and remains legally responsible for that child, and (ii) has or will have substantial and sustained childcare duties during the semester for which Modified Duties have been requested.

For a Secondary Caregiver, Modified Duties will normally be limited to the reassignment of one third of the faculty Member's usual instructional load and/or partial release from service responsibilities. Additional modifications may be approved in the case of exceptional circumstances.

Examples of modified duties may include research, professional development, professional service, and the development of curriculum and/or course materials, accreditation and/or certification materials, departmental operation manuals,

communication materials, undergraduate or graduate student recruitment materials, and similar efforts.

13.0 Special Workload Considerations

A Faculty Member is not required to “bank” or teach additional courses, serve on additional committees or advise additional undergraduate students in previous semesters in order to receive Modified Duties in a subsequent semester.

Notwithstanding the provisions of the preceding sentence, a Faculty Member who desires that additional instructional time be reassigned to research during a Modified Duties semester may request to teach more than his/her normal instructional load in the semester preceding the semester of Modified Duties. Pay and benefits during the Modified Duties semester will remain equal to that of a normal semester. All such understandings must be reduced to writing and contained in the Modified Duties form and pre-approved by the Provost.

14.0 Use of College Property or Data Off-Campus

If there is a legitimate need to allow a Faculty Member’s use of College property while off campus during a semester of Modified Duties, such need shall be documented and the Faculty Member must represent, in writing, that s/he is aware of all relevant policies dealing with the use of such property. In specific, confidential information may not be removed from the campus except in compliance with the College PRIVACY POLICY AND PROCEDURE ON THE SECURITY OF PROTECTED INFORMATION. Other property of the College may not be removed from the Campus except in compliance with College policy on PROPERTY MANAGEMENT.

15.0 Records

The Office of the Provost will keep a record of all Modified Duties Semester approvals and denials, and forward copies of the signed forms to Human Resources for the official personnel file.

When applicable, the Faculty Member will be responsible for placing a copy of the completed form and any accompanying documentation in his/her tenure and promotion file. This will be deemed relevant to the deliberations if a Modified Duties Semester granted under this Policy was cited as a justification to toll the tenure clock.

16.0 Funding

Individual departments are expected to fund a Modified Duties Semester for their Faculty. Deans, however, in the exercise of their discretion may provide replacement funds for Faculty Members on modified duties upon request. In cases where undue

financial hardships are placed upon the school, the Dean may request assistance from the Provost's Office.

17.0 Related Policies

See also:

Faculty & Administration Manual IV.G Tenure-Clock Modification Policy

Faculty & Administration Manual X.A. Faculty Leave Policies

APPENDIX A

Under applicable State regulations sick leave may be taken for the following reasons:

19-710.04. Using and Scheduling Sick Leave.

A. Leave taken under this Section may qualify as Family and Medical Leave Act (FMLA) leave and, if so, will run concurrently.

B. Reasons an employee shall be allowed to use sick leave are as follows:

1. Personal illness or injury that incapacitates the employee to perform duties of the position;

2. Exposure to a contagious disease such that presence on duty could endanger the health of fellow employees;

3. Appointment for medical or dental examination or treatment when such appointment cannot reasonably be scheduled during nonwork hours;

[Note: if possible, examination appointments must be approved in advance by the agency designee.]

4. Sickness during pregnancy or other temporary disabilities;

[Note: If possible, the date on which sick leave for disability is to begin shall be at the request of the employee based on the determination and advice of a health care practitioner.]

5. Treatment for alcoholism;

[Note: In accordance with *Section 8-11-110 of the South Carolina Code of Laws* which recognizes alcoholism as a treatable illness, sick leave will be granted for the purpose of participating in public and private treatment and rehabilitation programs which have been approved by the South Carolina Department of Mental Health.]

6. Caring for ill Members of immediate family;

[Note: Employees earning sick leave as provided in Section 19-710 may use not more than eight days of sick leave annually to care for ill Members of their immediate families. For purposes of this eight days of sick leave, the employee's "immediate family" means the employee's spouse and children and the following relations to the employee or the spouse of the employee: mother, father, brother, sister, grandparent, legal guardian, and grandchildren if the grandchild resides with the employee and the employee is the primary caretaker of the grandchild.]

7. Caring for an adoptive child;

[Note: An adoptive parent who is employed by this State, its departments, agencies, or institutions may use up to six weeks of his earned sick leave to take time off for purposes of caring for the child after placement. The agency shall not penalize an employee for requesting or obtaining time off according to this Section. The leave authorized by this Section may be requested by the employee only if the employee is the person who is primarily responsible for furnishing the care and nurture of the child.]

Leave with pay (without charge to the employee's leave account) is also available to faculty for donating an organ³ (30 days); for donating bone marrow⁴ (40 hours).

³ S.C. Code Ann. 8-11-65

⁴ S.C. Code Ann. 19-712.01