

Creating a Family Friendly Department: Chairs and Deans Toolkit

UC Faculty Family Friendly Edge
<http://ucfamilyedge.berkeley.edu>

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The UC Faculty Family Friendly Edge is an initiative designed to develop and implement a comprehensive package of innovative work-family policies and programs for ladder-rank faculty in the UC system.



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the authors have sole responsibility for its contents.

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Executive Summary

The University of California's ability to attract and retain the best faculty over the next decade will depend largely on a culture that values and supports both the work and family life needs of all faculty over the course of their career. Department chairs and deans have a central responsibility in understanding the importance of a family friendly department, and in implementing policies, sharing resources, and reinforcing cultural practices to assist all faculty. Given that the tenure clock generally coincides with the biological clock, women faculty often face particular challenges in achieving balance and success.

This toolkit provides a wealth of essential practical information for department chairs and deans. As an online document, it can be read in its entirety or referenced for information on specific areas. All topics can be accessed directly by clicking on their title in the Table of Contents, and all web links are live.

Why should departments be family friendly?

Men and women PhDs typically experience family formation and academic career progression differently. Although women now earn 50% of PhDs granted to U.S. citizens, they remain significantly underrepresented among tenure-track and tenured faculty. This section of the Toolkit documents the effects of family formation on academic careers, the effects of career formation on family life, and explains their relevance to the recruitment, retention, professional success, and life satisfaction of academic men and women.

For the University to retain its world class reputation all faculty members must have equal opportunities to be productive contributors throughout the course of their careers. Family friendly departments are essential to the continued vitality of the University of California.

Creating a family friendly department

Department chairs and deans are key to creating a family friendly culture in their departments. This section of the Toolkit describes ten essential steps, including making family friendliness a priority, reviewing and assessing current department practices and climate, knowing the family accommodation policies and laws, publicizing and actively highlighting the policies and resources to all faculty, maintaining zero tolerance for discriminatory or disparaging comments or behavior, and establishing and maintaining transparency in the promotion and tenure process.

Processes around recruitment and hiring, and advancement and tenure are fundamental. Family friendly best practices often involve making fairly minor changes that can significantly improve the climate and experience for faculty with caregiving responsibilities. These are described in detail.

What policies and laws govern the faculty in my department?

Effective January 2006, UC's Academic Personnel Manual (APM) policies related to work and family issues were reorganized and many changes to family accommodation policies were incorporated. This section of the Toolkit describes the applicable policies and laws, providing direct links to each of them.

Birth mothers receive paid childbearing leave. New parents responsible for 50 percent or more of the care of the child may receive a total of up to one year of reduced duties plus leaves to care for a child. New parents responsible for 50 percent or more of the care of the child are entitled to a full term of active service-modified duties (ASMD); birth mothers may receive a second term. Assistant professors who are new parents with responsibility for 50 percent or more of the care of the child may stop the clock for one year for each birth/adoption event (up to two years during the probationary period). All parents may at any time request up to a year of unpaid parental leave. The Chancellor has the authority to approve sick leave for faculty to care for themselves or their family members for an unspecified period of time (revisions are currently under consideration for this policy). And faculty with caregiving needs can be granted a permanent change or temporary reduction in the percentage of time of a full-time appointment.

What can happen if a faculty member is denied or discouraged from making use of applicable policies or laws?

This section of the Toolkit explains the relevant legal responsibilities of department chairs and deans, provides examples of situations that can be evidence of discrimination, and describes case examples where faculty were successful in legal suits against institutions.

This section includes faculty descriptions of the significance of their relationship with their department chair regarding access to family accommodation policies for which they are eligible. For example: "I want to emphasize that the greatest source of work-related stress in relation to having a child has been the hostility and recalcitrance of my chair who announced that he thought of ASMD as a 'special privilege' and who fought it all the way" (Female faculty member).

Case examples and timelines for family accommodation leave

Faculty with need for family accommodations typically have a number of options available. This section of the Toolkit provides a number of best practice case examples in which family accommodation policies were successfully applied. Charts show the interaction of the various policies and laws, and illustrate the different choices that can be made given a particular situation. Additionally, two charts show timelines for the maximum leave available to faculty following a birth event or adoption.

Resources

The last section of the Toolkit provides a list of other family friendly resources and programs, and links to online resources for chairs.



I. Introduction

Investing in faculty is a long-term proposition. It is likely that over the course of their career nearly all faculty, regardless of family status, will at some point need the flexibility to adjust the balance between their academic and personal lives for the birth of a child, personal illness or disability, or illness of a spouse or partner, parent, or other relative.

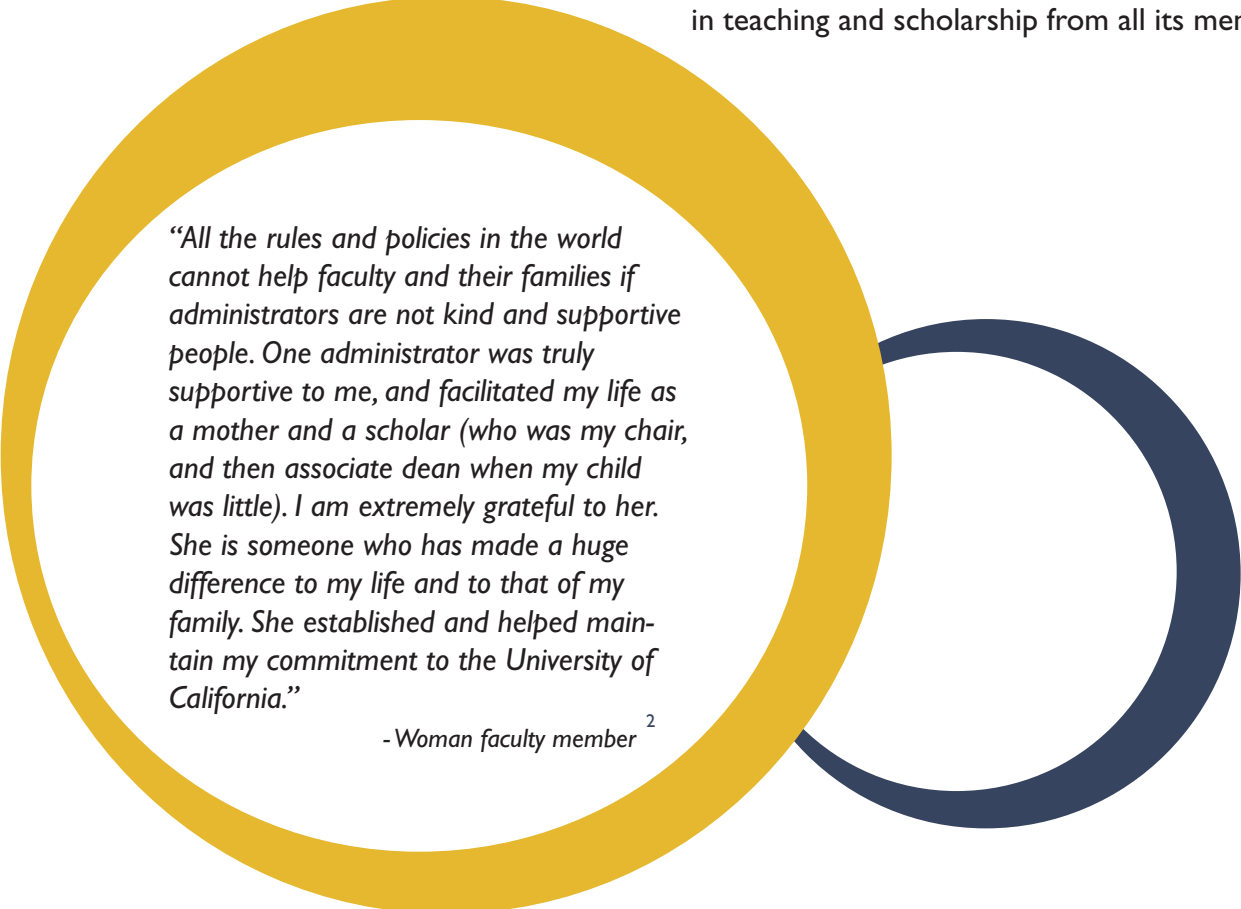
The excellence of the University of California depends on attracting and retaining the best and brightest scholars to its ranks. Making all departments “family friendly” – by creating and implementing policies, resources, and cultural practices to assist faculty in integrating workplace and family needs – is a crucial aspect of this process. Not only a matter of gender equity, it is a necessary response to the changing demographics of those who are now the majority of new PhD recipients in the U.S. – women and men who want to have both a satisfying and successful work and family life.

Given that the tenure clock generally coincides with the biological clock, women faculty face particularly difficult timing decisions regarding this balance. To that end, departments should seek to offer supportive solutions.¹

The job of department chair requires that one person wear many hats – simultaneously handling an enormous range of responsibilities and duties. This Toolkit provides a rationale for the importance of a family friendly department and practical how-to information in one document.

As the front-line administrators for each department, it is the responsibility and obligation of all department chairs and deans to be knowledgeable about these policies and practices, and to promote and support them. The use of many of UC’s family accommodation policies and laws is an entitlement for all eligible faculty men and women, not an area for negotiation.

Departments that are family friendly have the best opportunity to achieve the highest level of excellence in teaching and scholarship from all its members.



“All the rules and policies in the world cannot help faculty and their families if administrators are not kind and supportive people. One administrator was truly supportive to me, and facilitated my life as a mother and a scholar (who was my chair, and then associate dean when my child was little). I am extremely grateful to her. She is someone who has made a huge difference to my life and to that of my family. She established and helped maintain my commitment to the University of California.”

-Woman faculty member²

II.

Why should departments be family friendly?

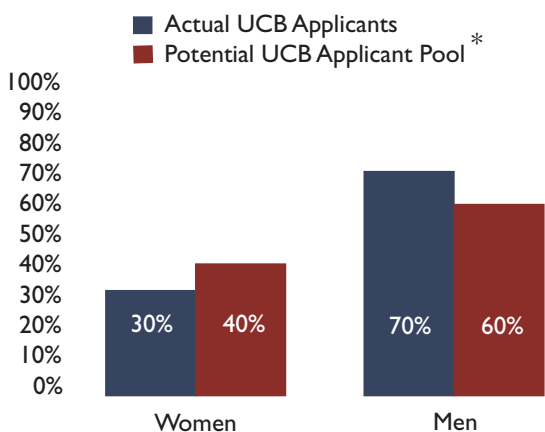
DID YOU KNOW?

FACTS ABOUT WOMEN AND MEN FACULTY EXPERIENCES IN THE ACADEMY

- **Although women now earn 50% of PhDs granted to U.S. citizens, at UC they represent only 27% of all tenure-track faculty.**

Compared to the pool of qualified PhD candidates, women under-apply to our faculty positions relative to their national rates of academic achievement.³

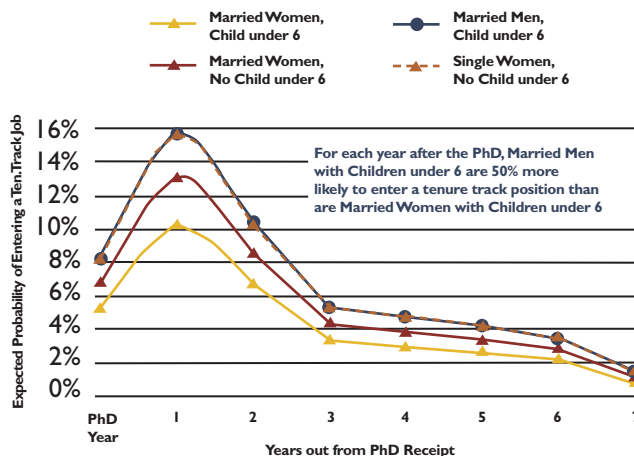
The Pool Problem at UC Berkeley: Ladder Rank Faculty



*Data prepared by Angelica Stacy, Associate Vice Provost for Faculty Equity, UCB. Potential UCB Applicant Pool is derived from NCES data on PhD degrees granted in 2000, cut to a selected group of top ranked graduate institutions and cut to relevant disciplinary fields for UCB.

- **Family formation helps to explain why women are overall less likely than men to enter tenure-track positions and to achieve tenure.**⁴
- Analyses from the Survey of Doctorate Recipients (SDR)⁵ indicate that for each year after the PhD, married men with children under 6 are 50% more likely to enter a tenure-track position than are married women with children under 6.
- Many women with “early babies” (within five years of the PhD) leave academia before obtaining their first tenure-track job.
- Women with “late babies” (more than five years after the PhD) do as well as women without children.

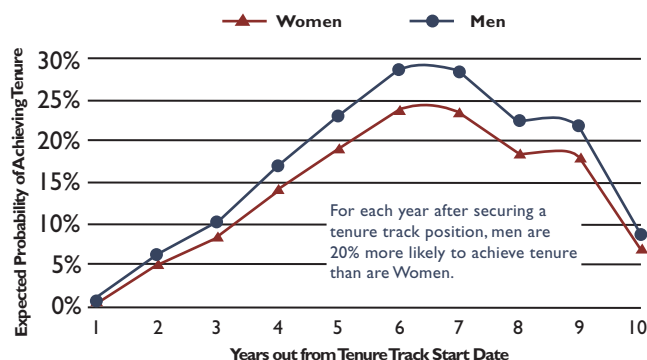
Leaks in the Pipeline: PhD to Tenure Track Position



Source: Survey of Doctorate Recipients, Sciences & Humanities, 1981 to 1995. Note: The use of NSF data does not imply NSF endorsement of research methods or conclusions contained in this report.

- For each year after securing a tenure-track position, men are 20% more likely to achieve tenure than are women.

Leaks in the Pipeline: Tenure Track to Tenure

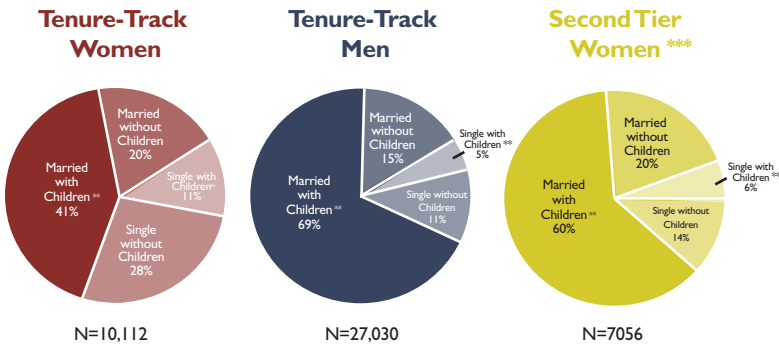


Source: Survey of Doctorate Recipients, Sciences and Humanities, 1981 to 1995. Note: The use of NSF data does not imply NSF endorsement of research methods or conclusions contained in this report.

- **Faculty careers often have a negative effect on women’s family lives.**⁶
- Analyses of the life courses of PhD recipients using the SDR show that only one in three women without children who take a fast-track university job ever become mothers.
- Women who achieve tenure are more than twice as likely as men who achieve tenure to be single 12 years out from the PhD.

- If married, faculty women are significantly more likely than faculty men to experience divorce or separation.

Family Status Twelve Years Out From PhD Receipt *



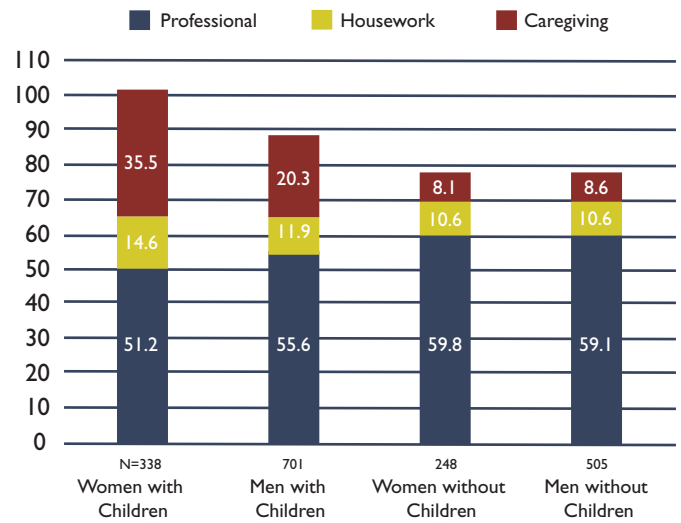
* PhDs from 1978 - 1984 Who Are Tenure Track Faculty 12 Years out from PhD (tenured/pre-tenure).
 ** Had a child in the household at any point post PhD to 12 years out.
 *** Non-Tenure Track, Part Time, or Not Working.

Source: Survey of Doctorate Recipients, Science and Humanities, 1979-1996

- **One of the reasons why women leave the academy and have such different family formation patterns from men faculty is the tension between work and family responsibilities – a tension experienced more strongly by women.**
- Data from the University of California Work and Family Survey,⁷ a survey of 8,705 ladder-rank faculty from all nine active UC campuses (with a response rate of 51 percent, or 4,460), shed light on these issues. In particular, the data indicate that stresses are especially pressing for women faculty ages 30 to 50 with children, who report spending over 100 hours a week (compared to less than 90 for men with children) on professional, domestic and caregiving activities (e.g., providing care for children, spouse, or elders).
- Both men and women faculty work, on average, over 50 hours a week for the majority of their career. Not until the age of 62 does the average number of hours worked per week begin to decline



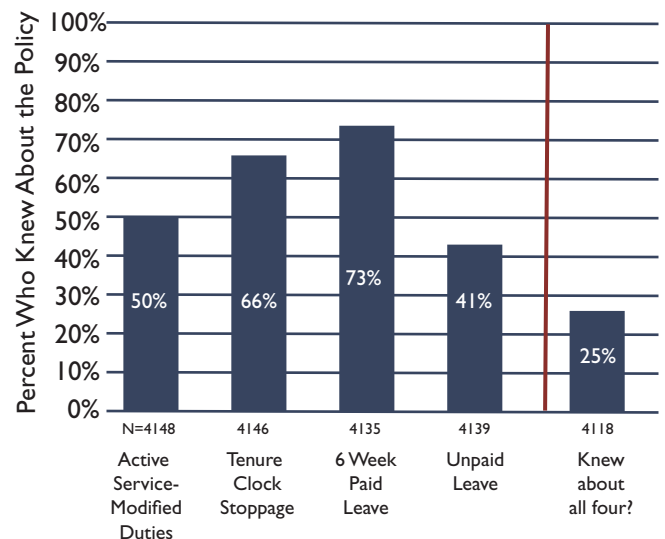
Everybody is Very Busy (UC Faculty, ages 30-50)



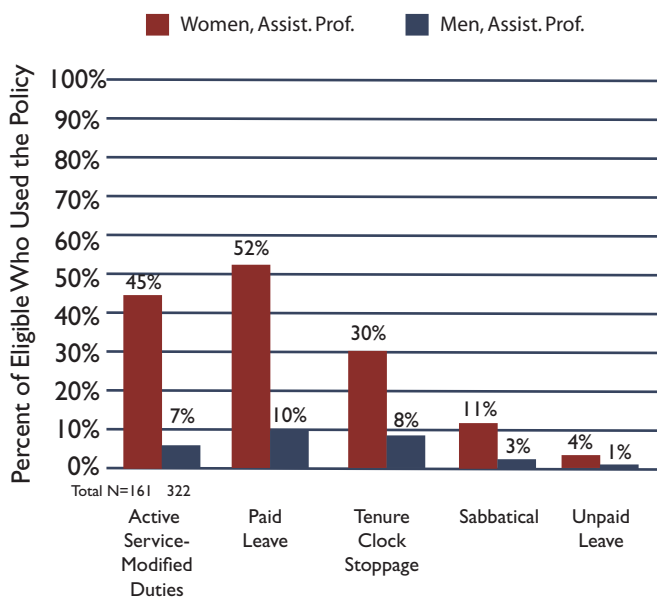
Source: Mason, Mary Ann, Angelica Stacy, and Marc Goulden, 2003. "The UC Faculty Work and Family Survey" (<http://ucfamilyedge.berkeley.edu>)

- **Many faculty attempt to minimize the negative consequences associated with parental obligation.**
- Substantial proportions of UC faculty parents, particularly mothers, avoid bringing their children to work because they worry that it would bother their colleagues; others try to time childbirth to the summer; and still others miss important events in their children's lives or return to work sooner than they would have liked after becoming a parent so as to appear fully committed to their career.⁸
- **Although UC's three cornerstone family accommodation policies — active service-modified duties (ASMD), tenure clock extension, and paid leave — have existed for over a decade, too few faculty know about the policies and too few eligible faculty use them.**

UC Faculty Members' Awareness of Policies



Use of Family Friendly Policies & Sabbaticals by Eligible UC Assistant Professors



* At the time of first child's entry into household at assistant professor rank, post policy implementation (August 1, 1988 to present). The faculty member needed to be employed at UC at time of child's arrival into the household and the policy had to be in place.

- When eligible UC faculty were asked why they did not make use of the policies, two major issues came to the forefront: the aforementioned lack of knowledge, and *fear of policy use*. Fifty-one percent of women did not use ASMD because they feared it would hurt their chances for promotion or tenure.
- Many UC faculty avoid behavior that they fear might result in negative repercussions. This fear-based response is observable not only in the low use rates of existing family friendly policies by eligible faculty, but also in the conscious efforts of faculty women to delay or forgo fertility.
- Delaying child rearing is often not the desire of women faculty – 40% of our faculty women (compared to just 20% of men) past the age of likely fertility indicated that they had fewer children than they wanted.
- **Women with family caregiving needs sometimes contend with a sense of hostility from colleagues and a chilly campus climate.**

- This atmosphere is often invisible to many men, who tend to describe a better climate for women than women themselves report, as indicated by faculty surveys at UC Berkeley⁹, MIT, Princeton, the University of Michigan, and the University of Wisconsin.¹⁰
- **Numerous studies on the role of unconscious and implicit assumptions reveal the fact that even the most careful people have biases related to caregiving and gender**¹¹ (also see Project Implicit for more information: www.implicit.harvard.edu).

For example:

- In a study of job seekers¹², male and female evaluators were asked to rate a candidate randomly assigned a male or female name and parental status or not. When asked if they would hire the applicant, 84% of participants said they would hire the woman without children, compared to only 47% of the mothers. In assigning a pay range, non-mothers were offered \$11,000 more than mothers. In contrast, fathers were offered \$6,000 more in salary than non-fathers.
- When asked to assess the contributions of skill and luck to successful performance of a task, evaluators more frequently attributed success to skill for males and to luck for females, even though males and females succeeded equally.
- Evaluators who were busy, distracted by other tasks, and under pressure gave women lower ratings than men for the same written evaluation of job performance.
- In a national study, 238 academic psychologists (male and female) evaluated a resume randomly assigned a male or a female name. Both male and female participants gave the male applicant better evaluations for teaching, research, and service experience and were more likely to hire the male than the female applicant.

III.

Creating a family friendly department

Ten essential steps for department chairs

- ① Make becoming family friendly a major priority and goal for your department. Departments are family friendly when they offer and support policies, resources, and cultural practices that allow faculty to successfully integrate work and family needs.
- ② Review and assess your department's current practices and climate around family friendliness.
- ③ Become conscious about unconscious bias issues concerning caregiving and gender.
- ④ Know the family accommodation policies and laws that apply to your faculty – most faculty learn about them from their department chair.
- ⑤ Actively highlight, advertise and support your department's family accommodation policies and procedures for all faculty – this helps assure faculty that they won't be arbitrarily disadvantaged in promotion, advancement or compensation.
- ⑥ Make the use of family accommodations the standard for conducting business in your department rather than viewing them as exceptions or "special privileges."
- ⑦ Maintain "zero tolerance" for discriminatory and disparaging comments and behaviors. Make it clear to all faculty that hostile comments and behaviors are unacceptable and violate the rules governing professional conduct (see APM – 015, The Faculty Code of Conduct <http://www.ucop.edu/acadadv/acadpers/apm/apm-015.pdf>).
- ⑧ Be proactive about recruiting and hiring diverse faculty for your department, including those who have temporarily slowed down their career for family caregiving reasons.

- ⑨ Establish and maintain transparency in the promotion and tenure process, and advocate for your faculty who have used family accommodation policies through the promotion and tenure process, e.g., communicating with Deans, budget committees, and outside reviewers.
- ⑩ Implement small changes that can have a significant impact on the culture of your department, e.g., family friendly scheduling for meetings and teaching schedules, funds for caregiving when traveling, and acknowledging the diversity of faculty needs.

Recruitment and Hiring

- Actively highlight your department's family friendly policies, benefits, and resources for faculty recruits and new faculty.
- Provide or make use of dual career assistance, child care support, and relocation assistance when recruiting finalists.
- Communicate that your department is a place where faculty with current or potential caregiving responsibilities can thrive. Some things that may make the department more attractive in this way are:
 - Clear, well-publicized policies and procedures for evaluation and promotion when family accommodation policies are used.
 - Mentoring resources for junior faculty parents about combining work and family
 - An explicit plan to promote family friendliness within the department.¹³

For full toolkits on recruitment and hiring for a diverse faculty, and a specific focus on gender issues, see the [University of Washington's Faculty Recruitment Toolkit](http://www.washington.edu/admin/eoo/forms/ftk_01.html)

and the [University of Michigan's Faculty Recruitment Handbook](http://www.umich.edu/~advproj/handbook.pdf)



Advancement and tenure

- **Maintaining open communication:**

The more information faculty who have used family accommodation policies are given about their progress toward advancement or tenure, the greater the likelihood that they will perceive the environment as open and the chair as someone they can trust.

- **Transparency in the promotion and tenure process:**

A common perception of the promotion and tenure process is that it is not transparent or consistent. To allay concerns about the process, departments should develop and maintain transparent and consistent criteria for granting tenure and promotions and inform their faculty of these expectations.¹⁴

- **Information to review committees:**

Review committees should be directed to focus on quality and total quantity of scholarly productivity rather than time since degree or job hire so that faculty who slow down due to family obligations are not unduly penalized in the peer review process (see APM-210, <http://www.ucop.edu/acadadv/acadpers/apm/apm-210.pdf>).



Best practices

- **Departmental climate change rests on wide-scale acknowledgement and acceptance of the diversity of faculty family structures, situations and needs.**

For example, dispelling myths about lack of seriousness among faculty who extend the clock to meet family needs, or nursing mothers who bring babies to conferences or presentations will go far in fostering a family friendly culture.

- **Family friendly scheduling:**

Scheduling of faculty meetings, classes, seminars, and receptions should take into account the competing and often simultaneous demands of work and caregiving for faculty trying to excel in both realms. Whenever possible, departmental events should be scheduled between 8 a.m. and 5 p.m. (during regular child care provider hours) to allow faculty parents to meet more easily the dual needs of work and family. A small change of this type can have a large impact on departmental culture, feelings of inclusion among faculty, and faculty success in the academic arena.

- **Mentoring faculty:**

Junior faculty, particularly women, can benefit greatly from mentoring by department chairs or senior faculty about combining work and family. To counter feelings that work/family balance is a unique situation to be figured out alone, junior faculty need to hear from and see others who are able to successfully balance their professional and personal lives without negative repercussions.

- **Travel funds:**

A travel fund available to faculty who must bring a young child with them for research or conferences (particularly if breastfeeding), or who must hire additional help when they are away, should exist at the department or campus level.

- **Accommodations of pregnancy:**

During pregnancy many women may benefit from or need modifications to their position.

- **Accommodations following leave:**

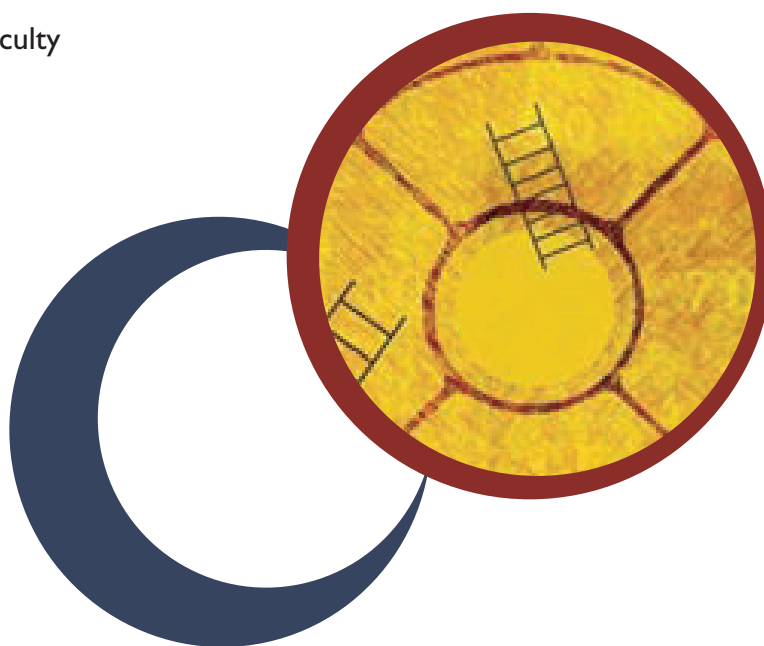
Chairs should work closely with faculty members to determine course and committee assignments that may be more manageable during the semester of their return.

Additional information

- **Centralized funding** exists to offset the costs incurred by departments when faculty use active service-modified duties (ASMD).
- For descriptions of policies and laws, and examples of how the use of different policies interact, refer to Sections IV (Family accommodation policies and laws), VI (Case examples) and VII (Charts/timelines) of the toolkit.
- For a complete description of family accommodation policies, refer to the Academic Personnel Manual:
 - APM - 133, Limitation on Total Period of Service with Certain Academic Titles
<http://www.ucop.edu/acadadv/acadpers/apm/apm133.pdf>
 - APM - 210, Review and Appraisal Committees
<http://www.ucop.edu/acadadv/acadpers/apm/apm-210.pdf>
 - APM - 220, Professor Series
<http://www.ucop.edu/acadadv/acadpers/apm/apm-220.pdf>
 - APM-760, Family Accommodations for Child-bearing and Childrearing
<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>.
- Failure to be knowledgeable or support faculty can result in negative legal repercussions (see Section V).

Faculty voices from UC campuses¹⁵

- *“Allowance must be made for women to stop the tenure and promotion clock. Measures should be taken to inform senior colleagues (especially chairs) of family friendly policies and to prevent discrimination against primary care givers. At my campus, most women are afraid to admit that they even have children.”*
- *“Information about the policies should be published on an annual basis to the faculty, so all the faculty know about them, the senior faculty as well as the junior faculty. Department chairs should encourage, not discourage, faculty from using them. Their use should become a regular part of the personnel system, not the exception. Information about how many faculty use the policies should be published to encourage their use.”*
- *“When I was chair of the UC [campus] CAP, I had to * remind * male colleagues on the committee regularly that “stop the clock” time does not count in the calculation of years at UC [campus]!”*





IV. What policies and laws govern the faculty in my department?

A number of family friendly policies and laws exist to assist faculty in balancing their needs between work and family. Birth mothers receive paid childbearing leave.

New parents responsible for 50 percent or more of care may receive a total of up to one year of reduced duties plus leaves.

New parents responsible for 50 percent or more of care are entitled to a full term of active service-modified duties (ASMD); birth mothers may receive a second term.

Assistant professors who are new parents with responsibility for 50 percent or more of the care of a child may stop the clock for one year for each birth/adoption event (up to a total of two years during the probationary period). All parents may at any time request up to a year of unpaid parental leave. The Chancellor has the authority to approve sick leave for faculty to care for themselves or their family members for an unspecified period of time (revisions are currently under consideration for this policy). And faculty with family needs can be granted a permanent change or temporary reduction in the percentage of time of a full-time appointment.

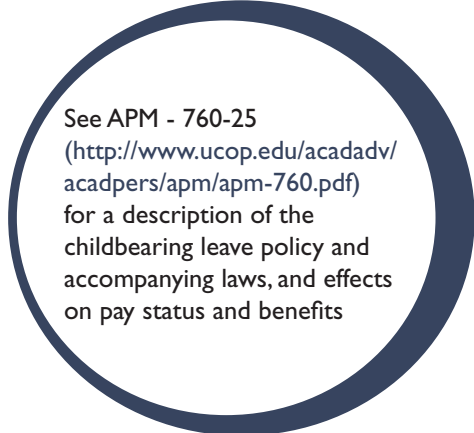
See Sections VI and VII for best practice case examples and charts displaying the interaction of the different policies and laws

Policies¹⁶

● Childbearing leave with or without pay

An academic appointee who gives birth is eligible for childbearing leave for the period prior to, during, and after childbirth. Childbearing leave consists of time an appointee is temporarily disabled because of pregnancy, childbirth, or related medical conditions. Leave for childbirth and recovery normally will be for at least 6 weeks; more time may be necessary for medical reasons. If an academic appointee is disabled because of pregnancy, childbirth, or related medical conditions

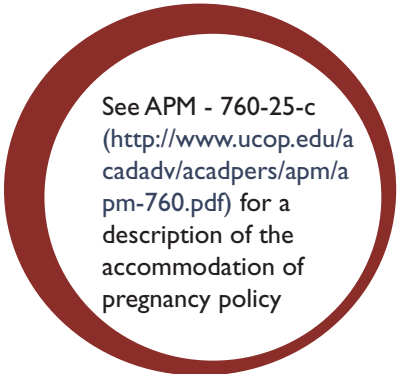
she is eligible to take an unpaid childbearing leave (“pregnancy disability leave”) for up to 4 months during the period of actual disability. During a childbearing leave, no duties shall be required by the University. Childbearing leave need not be taken in one continuous period of time but may be taken on an intermittent or reduced schedule basis when medically necessary. An academic appointee may also be eligible for employer-paid Short-Term Disability Insurance Plan benefits and, if enrolled, for employee-paid Supplemental Disability Insurance Plan benefits if unable to work because of her physical condition.



See APM - 760-25 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the childbearing leave policy and accompanying laws, and effects on pay status and benefits

● Accommodation of pregnancy

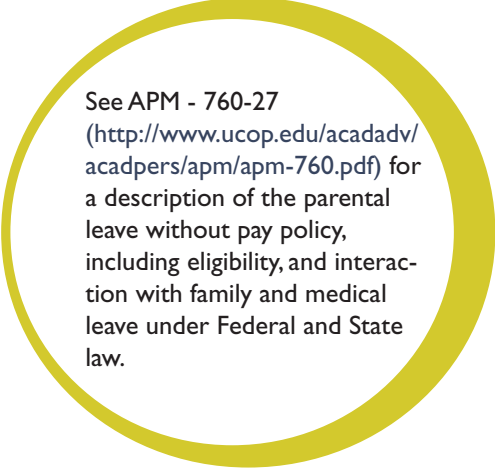
Pregnant women are also eligible for a temporary modification of their position or transfer to a less strenuous or hazardous position if it is medically necessary and it can be reasonably accommodated. This accommodation does not count against paid and unpaid leave time unless the modification has taken the form of intermittent leave or a reduced work schedule.



See APM - 760-25-c (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the accommodation of pregnancy policy

- **Parental leave without pay**

Women and men are eligible for full-time or part-time parental leave without pay for up to one year for the purpose of caring for their child, or a child of their spouse or domestic partner. Up to 12 workweeks of the unpaid parental leave runs concurrently with family and medical leave when eligible and provides health coverage benefits.

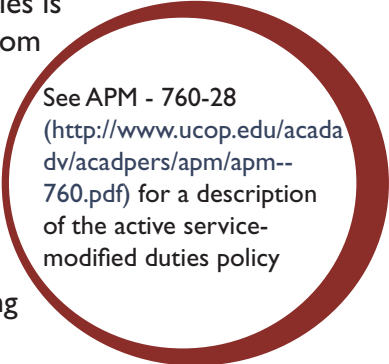


See APM - 760-27 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the parental leave without pay policy, including eligibility, and interaction with family and medical leave under Federal and State law.

- **Active service-modified duties (ASMD)**

Active service-modified duties (ASMD) is a period during which normal duties are reduced to prepare and/or care for a newborn or a child under age 5 newly placed for adoption or foster care. Eligibility normally extends from 3 months prior to 12 months following the birth or placement. In order to use ASMD, faculty must be responsible for 50 percent or more of the child's care. Non-birth mothers and fathers may take ASMD for one semester. Birth mothers may take a total period of childbearing leave plus ASMD for two semesters, provided she has had a full-time appointment for at least one full academic year.

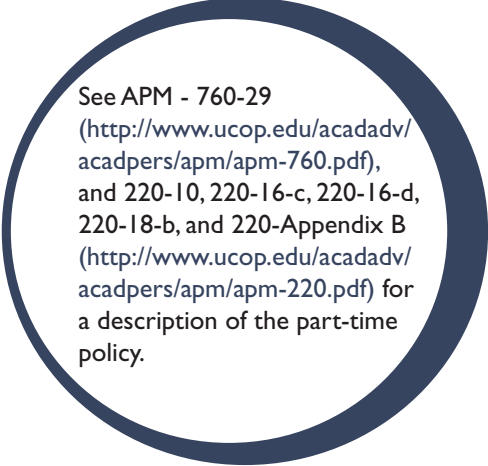
During ASMD faculty are expected to meet some portion of their normal duties – it is not a leave of absence. For ladder-rank faculty, the modification of duties is normally partial or full relief from teaching, without the assignment of additional teaching duties before or after to offset the teaching relief. In the quarter or semester of a childbearing leave, there must be full relief from teaching duties.



See APM - 760-28 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the active service-modified duties policy

- **Part-time appointment and reduction in percentage of appointment to accommodate family needs**

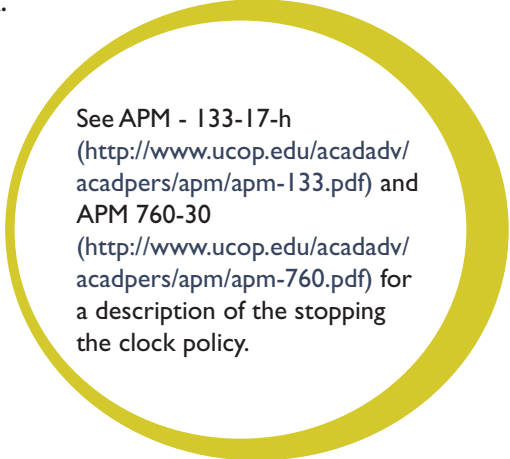
Faculty may be eligible for an appointment to a part-time position or may be eligible to reduce their percentage of time of an appointment from full-time to part-time, temporarily or permanently to accommodate family needs. However, for faculty at the Assistant level, the eight-year limitation of service (APM - 133) still applies (not counting up to two years of clock stoppage).



See APM - 760-29 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>), and 220-10, 220-16-c, 220-16-d, 220-18-b, and 220-Appendix B (<http://www.ucop.edu/acadadv/acadpers/apm/apm-220.pdf>) for a description of the part-time policy.

- **Stopping the clock for the care of a child or children**

Faculty may stop the clock at the Assistant level to care for a newborn child or a child under age five newly placed for adoption or foster care. The child may be the faculty member's child or that of his or her spouse or domestic partner. To be eligible, faculty must be responsible for 50 percent or more of the care of the child. Faculty are eligible to stop the clock for up to one year during the probationary period for each event (up to a maximum of two years), and do not have to take a formal leave or use ASMD to stop the clock.



See APM - 133-17-h (<http://www.ucop.edu/acadadv/acadpers/apm/apm-133.pdf>) and APM 760-30 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the stopping the clock policy.

● Personnel reviews

Faculty at the Associate level or above may request a deferral of a personnel review to accommodate family needs in accordance with campus policies.

Personnel reviews that are deferred due to the use of family accommodation policies should be treated the same as personnel reviews conducted at the normal period of service and evaluated without prejudice.

See APM - 133-17-j (<http://www.ucop.edu/acadadv/acadpers/apm/apm-133.pdf>) and APM - 760-31 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the personnel review policies that accommodate family needs.

Laws

● Family Medical Leave Act of 1993

The federal Family and Medical Leave Act (FMLA) allows eligible faculty to take unpaid leave for the birth and care of a new child, for the placement of a child for adoption or foster care, to care for a sick child, parent, spouse, or themselves during a serious health condition (UC family and medical leave policy also allows leave for the care of a domestic partner). The FMLA permits academics to take leave on an intermittent or reduced schedule basis, within a 12-month period (under UC policy, the 12-month period is a calendar year). The university maintains its portion of group health insurance coverage during the leave.

See APM - 715 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-715.pdf>) for a description of the family and medical leave policy.
Go to: <http://www.dol.gov/esa/regs/compliance/whd/1421.htm> for a complete description of the Family and Medical Leave Act.

● California Pregnancy Disability Law

Pregnancy disability leave permits a female faculty member up to four months leave for the period during which she is disabled due to childbirth or a related medical condition.

See APM - 760-25 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-760.pdf>) for a description of the childbearing leave policy.
Go to: <http://www.dpa.ca.gov/benefits/health/workcomp/pubs/Disability/page8.shtm> for a complete description of the California Pregnancy Disability Law

● California Family Rights Act

The California Family Rights Act (CFRA) provides 12 workweeks of unpaid leave for eligible employees following the period of pregnancy disability leave. CFRA cannot be taken for pregnancy disability purposes but is for baby bonding. For non-birth parents, CFRA runs concurrently with FMLA. Twelve workweeks of CFRA leave can also be used to care for a sick child, parent, spouse, or self, but runs concurrently with FMLA leave.

See APM - 715 (<http://www.ucop.edu/acadadv/acadpers/apm/apm-715.pdf>) for a description of the family and medical leave policy.
Go to: <http://www.dpa.ca.gov/benefits/health/workcomp/pubs/Disability/page7.shtm> for a complete description of the California Family Rights Act.



What can happen if a faculty member in my department is denied or discouraged from making use of applicable policies or laws?

Legal do's and don'ts for chairs ^{17,18}

- Having responsibility for personnel decisions means that you need to be aware of and understand the variety of legal issues relevant to your role as department chair.
- Ignoring the legal realities of the chair role can have significant negative consequences.
- As department chair, you nominally act as agent for the institution; your acts are attributable to the University.
- As agent, one of your major responsibilities is carrying out the University's policies and procedures. Having a working knowledge of the main policies that affect faculty is necessary. If conflicts arise and are taken to court, the governing principles of the University will be used as the basis of judgment.
- When making a decision that has the potential for legal intervention, it is important that you inform and involve your academic dean.
- A wise department chair will emphasize the central role of academic policy implementation in his or her actions and take care to harmonize decision making with the academic objectives of the department and the University.¹⁹

Comments made by administrators can be submitted as evidence of discrimination

Faculty members who bring lawsuits against educational institutions can use comments made in the past by their colleagues or administrators. Examples of comments offered as evidence in litigation over the denial of tenure from various institutions include:

- A mother who received tenure “*would not show the same level of commitment she had shown because she had little ones at home.*” – Reason given for denial of tenure to a school psychologist.²⁰
- In defending his decision to ask women applicants questions about their family lives, an employer said they were relevant “*because he did not want to hire a woman who would get pregnant and quit.*”²¹
- “*The promotions committee decided that you wouldn't be happy here, and that other members of the department would resent you and be demoralized.*” – Department chair's explanation to a woman who was denied tenure.²²
- “*That's a problem. There are different standards for males and females.*” – Interim dean, discussing with a male colleague the successful tenure candidacy of a female professor. The male was later denied tenure.²³

Legal case examples

- A 2005 ruling by the Equal Employment Opportunity Commission (EEOC) found “reasonable cause” that a female assistant professor was a victim of sex discrimination when she was turned down for tenure. The professor's complaint, supported by the EEOC, stated that her department gave her rave reviews until she took two leaves, one each for the birth of her two daughters. After that time, other faculty members raised “doubts” about how productive she would be, and ultimately denied her tenure despite an impressive objective record and positive assessment from experts in her field. She was subsequently granted retroactive tenure, however as of 2006 the final details of the case are still pending.²⁴

Faculty quotes about negative responses from chairs to requests for family accommodations ²⁷

- In a tenure-denial lawsuit involving a reported tentative settlement of \$495,000, the provost at the University of Oregon allegedly told another professor that the mother's decision to "stop the clock" was a "red flag"; the department chair also wrote in a memo that she "knew as a mother of two infants, she had responsibilities that were incompatible with those of a full-time academician."²⁵
- "In 2003, the U.S. Supreme Court ruled that states are not immune under the Eleventh Amendment from suits by individuals, including professors at state universities and colleges, for monetary damages under the 'family leave' provisions of the Family and Medical Leave Act (FMLA) of 1993. ... The Court described Congress's enactment of the FMLA as 'narrowly targeted at the fault line between work and family – [which is] precisely where sex-based overgeneralization has been and remains strongest.' The Court further reasoned that 'notions that mothers are insufficiently devoted to work, and that work and motherhood are incompatible' constitute gender discrimination."²⁶
- A 2005 opinion piece challenges the University of California to go farther than simply instituting family friendly policies, by holding department chairs and deans accountable for the decisions they make:

(http://www.imdiversity.com/villages/woman/dialogue_opinion_letters/fishman_family_friendly_0905.asp).

- "I want to emphasize that the greatest source of work-related stress in relation to having a child has been the hostility and recalcitrance of my chair who announced that he thought of ASMD as a 'special privilege' and who fought it all the way." – Female faculty member
- "[I received] a sneering denial by chair, who said that, while another male colleague at Berkeley may have enjoyed that 'vacation' our department couldn't spare my teaching services." – Male faculty member referring to denial of ASMD by chair
- "I was told by my department chair, as untenured faculty, actually using the stopped tenure clock or leave would be held against me. I was back teaching a day after getting out of the hospital." – Female faculty member
- "All of the maternity benefits were lumped under the same heading by the chair as 'unfair advantage.' I saw the two other women with young children get punished on reviews for not getting enough published even though they 'had time off and had more time to write.' I wasn't going to risk it." – Female faculty member
- "My chairman initially tried to pressure me to not take ASMD 'for the good of the department' because he did not want to set a precedent and because he said that the university would not reimburse the department for the expense of hiring a replacement teacher." – Male faculty member

VI. Case examples - best practices

Steven Smith, Assistant Professor (Provider of 50% or more of the care of a child)

Dr. Smith is a second-year Assistant Professor. He is married and his wife also works full time. Dr. Smith tells you that he and his wife are expecting a child in October, and wants to know what choices he has for leave when his son is born. You tell him about the family accommodation policies and laws, and assure Dr. Smith that you are supportive of his desire to care for his son. He is entitled to make use of the policies he is eligible for, and will not be disadvantaged when his case is reviewed for tenure. Dr. Smith has responsibility for 50 percent of the care of his son and is therefore eligible to request a one-year extension of the tenure clock. If he elects to take ASMD he will have partial or full relief from teaching during that particular semester. His tenure review will take place in year 6 instead of year 5, but his work will be evaluated as if he did not use an additional year, and his teaching as if he had taught a full load.

	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept
<i>Options</i>	<i>Fall Semester</i>			<i>Spring Semester</i>				<i>Summer</i>			<i>Fall Semester</i>	
1	1 semester ASMD			Unpaid parental leave – full or part-time (12 workweeks of unpaid FMLA/CFRA run concurrently)				Summer months			Unpaid parental leave*	
2	1 semester ASMD			FMLA/CFRA – 12 workweeks unpaid leave				Summer months			Same as above	
3	FMLA/CFRA – 12 workweeks unpaid leave			1 semester ASMD				Summer months			Same as above	
4	FMLA/CFRA – 12 workweeks unpaid leave			Unpaid parental leave – full or part-time				Summer months			Same as above	

*full or part-time

Maria Garcia, Assistant Professor, Adoptive Parent

Dr. Garcia is a fourth-year Assistant Professor. Her husband is a professor in another department on campus. Dr. Garcia and her husband are adopting a three-year-old child from Guatemala and expect to bring her home in March. Dr. Garcia meets with you in December to plan for the arrival of her child and to consider her options for family accommodations. You tell her that there are several options available and she is welcome to use any of them freely. If she provides 50% or more of the care of her daughter she will be eligible for a one-year extension of her tenure clock. If she elects to take ASMD, during that semester she will have partial or full relief from teaching, without the assignment of additional teaching before or after to offset the relief. Upon review for merit or promotion, her case will be reviewed as if she were on time and had taught a full course load.

	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb
<i>Options</i>	<i>Spring Semester</i>				<i>Summer</i>			<i>Fall Semester</i>						
1	1 semester ASMD				Summer months			FMLA/CFRA – 12 workweeks unpaid leave				Unpaid parental leave – full- or part-time		
2		FMLA/CFRA – 12 workweeks unpaid leave			Summer months			1 semester ASMD				Unpaid parental leave*		
3		FMLA/CFRA – 12 workweeks unpaid leave			Summer months			Unpaid parental leave – full- or part-time				Same as above		

*full or part-time

Janet Johnson, Assistant Professor, Birth Mother

Dr. Johnson is a third-year Assistant Professor. She has a domestic partner who is employed part-time, and a 6-year-old son. Dr. Johnson approaches you in the early spring to tell you that she will be having a baby in the summer and wants to discuss her options for reduced duties in the coming year. She and her partner each plan to provide 50 percent of the care for the baby.

Because her 6-year-old son was born prior to her current appointment, she is concerned about how the use of accommodation policies will be perceived by her colleagues, worries that other faculty will have to “pick up the slack” while she is away, and fears that using family accommodation policies will result in being denied tenure. You explain to Dr. Johnson that she is a valued member of the department and is entitled to use them. Centralized funding can be accessed to hire a replacement lecturer if she decides to take ASMD for either one or both semesters of the academic year. Her tenure review committee will receive information about any tenure extension, period of leave, or use of ASMD, and her work will be judged on her productivity rather than length of time or total number of courses taught. She will also be eligible for a one-year extension of her tenure clock.

June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
<i>Summer months</i>		<i>Fall Semester</i>					<i>Spring Semester</i>					
<i>Options</i>												
1	Birth - summer	I semester ASMD					I semester ASMD					Summer
2	Birth - summer	I semester ASMD					FMLA/CFRA – 12 workweeks unpaid leave/unpaid parental leave					Summer
3	Birth - summer	FMLA/CFRA – 12 workweeks unpaid leave			Unpaid leave		I semester ASMD					Summer
4	Birth - summer	FMLA/CFRA – 12 workweeks unpaid leave			Unpaid leave		Unpaid parental leave – full- or part-time					Summer

Michael Lee, Associate Professor, Temporary Part-Time

Dr. Lee is a second year Associate Professor. He is married and has two school-age children. His elderly widower father, who has Alzheimer’s disease, lives nearby in an assisted living situation. Dr. Lee spends many hours each week helping to care for his father. He comes to you because he is having an increasingly difficult time balancing his work with providing care to his family and father. He feels that his work, as well as his physical and mental health, is suffering and does not know what to do about the situation. You begin by assuring Dr. Lee that he is a valuable member of your department and has made many contributions. You tell him about the elder/dependent care resources available through the faculty/staff assistance program and also suggest that he either use his 12 weeks of FMLA/CFRA leave or consider shifting his appointment temporarily to part-time.

After discussing the options with his family, Dr. Lee decides to take a one-year temporary reduction in the percentage time of his appointment from full-time to 50%. You work with him to create a memorandum of understanding that clearly describes the expectations of the appointment, including a reduction in teaching and service expectations, and provisions for additional time to meet the normal expectations for a merit review. The unused portion of Dr. Lee’s salary will be used to cover back-up teaching needs in the department.

Emma Goldberg, Assistant Professor, Temporary Part-Time

Dr. Goldberg is in the beginning of her third year as an Assistant Professor. She is married and has two young children – a four-year-old and a 2-month-old. She is currently using her first of two semesters of ASMD. Dr. Goldberg proposes to you that she shift to part-time status at the end of her period of ASMD, rather than returning to full-time immediately. She tells you that her husband's work is also very demanding and that it will be difficult for her to meet the needs of her family while maintaining her research, teaching, and service responsibilities. She would like to stop the tenure clock for one year (her first child was born before her appointment at UC), and arrange to work 50% for one year.

You assure Dr. Goldberg that going part-time temporarily for family caregiving reasons is permissible. You work with her to create a memorandum of understanding that clearly states the expectations of the appointment, including a reduction in teaching and service expectations. Depending on what is decided in the memorandum, she will go up for tenure either in year seven or year eight (however, the eight-year limitation of service could be extended out an additional year to account for stopping the clock). You assure Dr. Goldberg that her use of family accommodation policies and extended time will not count against her for tenure review. The unused portion of Dr. Goldberg's salary will be used to cover back-up teaching needs in the department.

Susan Summers, Professor, Unpaid Leave

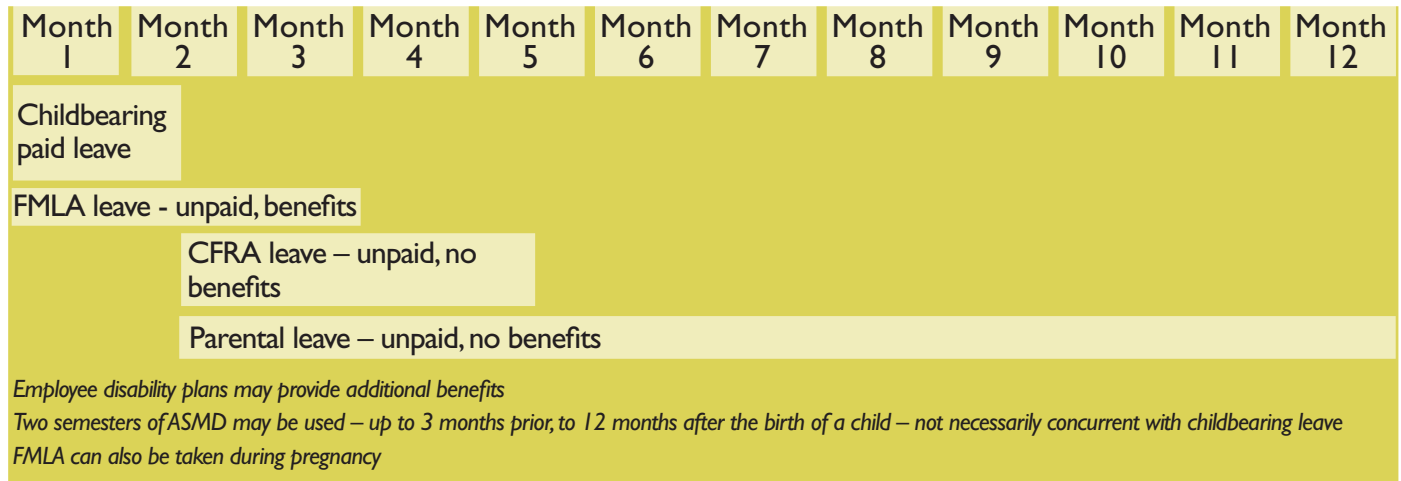
Dr. Summers is a full professor and has been employed at UC for 17 years. She comes to you in the summer to request an unpaid parental leave because her adolescent daughter has been diagnosed with cancer and will require surgery and chemotherapy treatment. Dr. Summers requests that her leave last through the end of the calendar year but is not sure whether she will be able to return after that. You inform her that she is eligible for a full-time or part-time parental leave without pay for up to one year to care for her daughter (12 workweeks of the leave will run concurrently with FMLA/CFRA leave and include benefits). After discussing the options, Dr. Summers decides to take a full-time leave for the remainder of the year, and then shift to part-time leave with reduced duties. You offer assurance that Dr. Summer's position in the department is secure and that she will be supported during her difficult time.



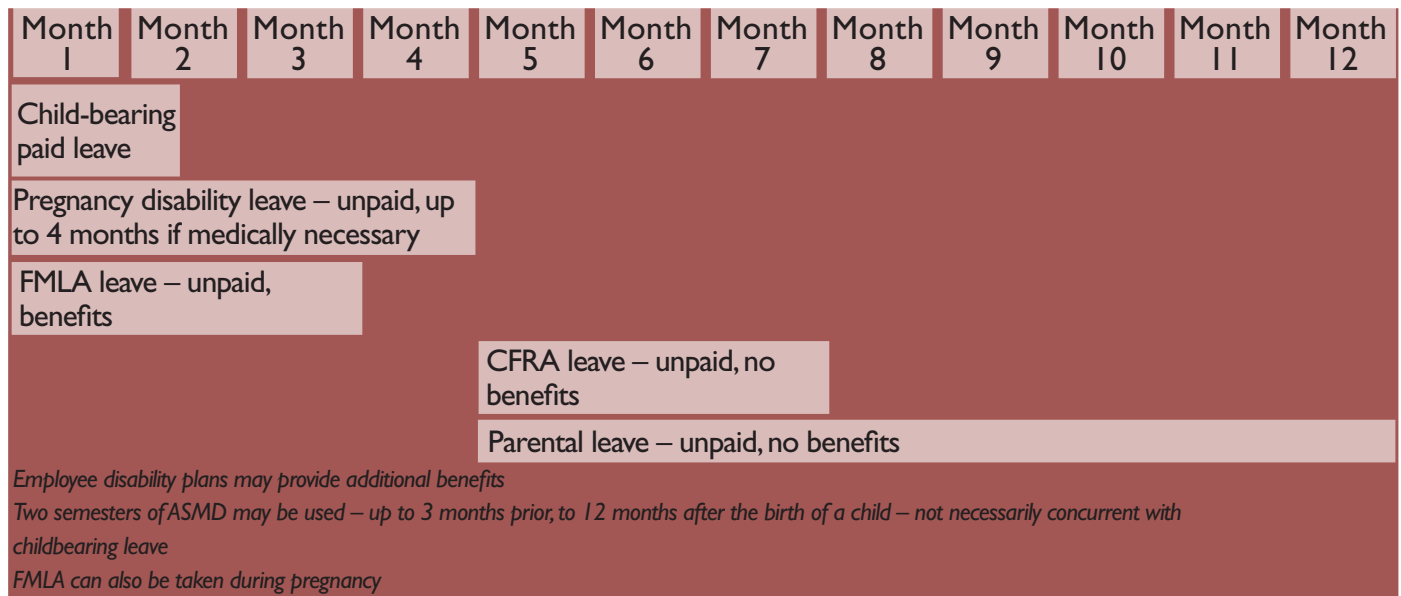


VII. Charts and timelines for family accommodation leave

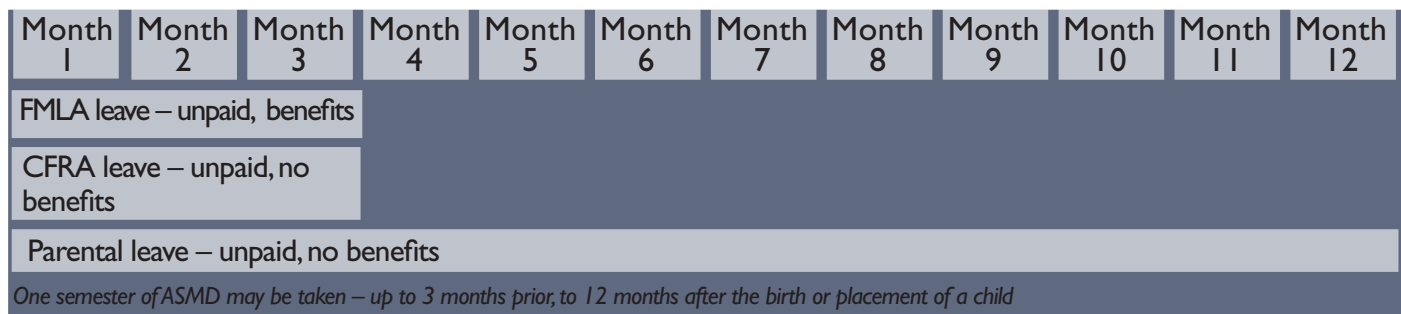
NORMAL PREGNANCY - Maximum leave available to birth mothers in accordance with federal and state laws, and UC policies (the aggregate duration of all leaves and periods of active service-modified duties may not exceed one year) ²⁸



COMPLICATED PREGNANCY OR DELIVERY - Maximum leave available to birth mothers in accordance with federal and state laws, and UC policies (the aggregate duration of all leaves and periods of active service-modified duties may not exceed one year)



Maximum leave available to caregivers (fathers, adoptive parents) in accordance with federal and state laws, and UC policies (the aggregate duration of all leaves and periods of active service-modified duties may not exceed one year)





Resources

Examples of family friendly resources/programs on UC campuses

- Dual-career relocation services
- Faculty/staff assistance programs
- Elder/adult dependent care resources
- Online guides for work and family issues
- Offices of Faculty Equity
- Early childhood education programs
- University health services

Online resources for chairs

- Academic Personnel Manual (APM) -
<http://www.ucop.edu/acadadv/acadpers/apm/welcome.html>
- UC Office of the President (UCOP) faculty/staff pages -
<http://www.universityofcalifornia.edu/facultystaff/welcome.html>
- UC Faculty Family Friendly Edge -
<http://ucfamilyedge.berkeley.edu/>
- UC Affirmative Action Guidelines for Recruitment and Retention of Faculty -
<http://www.ucop.edu/acadadv/fgsaa/affirmative.pdf>
- AAUP Statement of Principles on Family Responsibilities and Academic Work -
<http://www.aaup.org/AAUP/pubsres/policydocs/workfam-stmt.htm>
- ACE Department Chair Online Resource Center -
<http://www.acenet.edu/resources/chairs/>
- University of Washington Faculty Recruitment Toolkit -
http://www.washington.edu/admin/eoo/forms/ftk_01.html
- University of Washington Faculty Retention Toolkit -
<http://www.engr.washington.edu/advance/resources/Retention/index.html>
- University of Michigan Dean and Department Chair Toolkit -
<http://www.umich.edu/~advproj/Toolkit.pdf>
- University of Michigan Faculty Recruitment Handbook –
<http://www.umich.edu/~advproj/handbook.pdf>
- Family and Medical Leave Act (FMLA) -
<http://www.dol.gov/esa/whd/fmla/>
- California Family Rights Act (CFRA) -
<http://www.dfeh.ca.gov/Statutes/cfra.asp>
- Pregnancy Disability Leave Law (PDL) -
<http://www.dpa.ca.gov/benefits/health/workcomp/pubs/Disability/page8.shtm>

- 1 Family Leave and Tenure Clock Extension. First National Leadership Workshop for SEM department chairs, 2004. ADVANCE Center for Institutional Change, University of Washington.
- 2 Mary Ann Mason, Angelica Stacy, and Marc Goulden, "The UC Work and Family Survey," 2003. <http://ucfamilyedge.berkeley.edu>
- 3 Mary Ann Mason, Angelica Stacy, Marc Goulden, Carol Hoffman and Karie Frasch. 2005. "University of California Faculty Family Friendly Edge: An Initiative for Tenure-Track Faculty at the University of California." Report. Berkeley, CA. <http://ucfamilyedge.berkeley.edu/ucfamilyedge.pdf>
- 4 Mary Ann Mason and Marc Goulden (2002). "Do Babies Matter? The Effect of Family Formation on the Lifelong Careers of Academic Men and Women," *Academe*, 88(6), 21-27. <http://www.aaup.org/publications/Academe/2002/02nd/02ndmas.htm>
- 5 The Survey of Doctorate Recipients (SDR) is a biennial weighted, longitudinal study following more than 160,000 PhD recipients across all disciplines until they reach age 76. The SDR is sponsored by the National Science Foundation and other government agencies. The use of NSF data does not imply NSF endorsement of research methods or conclusions contained in this toolkit.
- 6 Mary Ann Mason and Marc Goulden (2004). "Do Babies Matter (Part II)? Closing the Baby Gap," *Academe*, 90(6), 3-7. <http://www.aaup.org/publications/Academe/2004/04nd/04ndmaso.htm>
- 7 The University of California Work and Family Survey was conducted in 2002-2003, and included 4,460 ladder-rank faculty from all nine active UC campuses (with a 51% overall response rate). See also endnote #2 above
- 8 See Robert Drago, et al. (2005). "Bias Against Caregiving: Family Members Rarely Take Advantage of Family Friendly Workplace Policies. What are we so afraid of?" *Academe*, 91(5). <http://www.aaup.org/publications/Academe/2005/05so/05sodrag.htm>
- 9 UC Berkeley Office for Faculty Equity (2004). "Faculty Climate Survey and Report," <http://gradresearch.berkeley.edu/UCBclimate.html>.
- 10 Handelsman et al., 2005. "Careers in Science: Enhanced: More Women in Science," *Science*, 309(5783), 1190-1191. <http://www.sciencemag.org/cgi/content/full/309/5738/1190>
- 11 Office of the Provost. "Influence of Unconscious Assumptions and Biases," in *Enhancing Department Climate: A Chair's Role*. WISELI – Women in Science and Engineering Leadership Institute, University of Wisconsin – Madison. http://wiseli.engr.wisc.edu/initiatives/climate/ResourceBook_05.pdf
- 12 "Mothers Face Disadvantages in Getting Hired, Cornell Study Says." www.news.cornell.edu/stories/Aug05/soc.mothers.dea.html
- 13 Faculty Recruitment Handbook, NSF at the University of Michigan. 2004-2005. <http://www.umich.edu/~advproj/handbook.pdf>
- 14 Ibid.
- 15 Same as endnote #2 above
- 16 <http://www.ucop.edu/ucophome/coordrev/policy/PP020806APMs.pdf>
- 17 ACE Department Chair Online Resource Center: Legal Issues for Chairs. From, Irene W. D. Hecht, Mary Lou Higgerson, Walter H. Gmelch, and Allan Tucker, "Legal Issues for Chairs," *The Department Chair as Academic Leader* (Phoenix, AZ: ACE Oryx Press, 1999), 212-214. http://www.acenet.edu/resources/chairs/docs/HECHT_legal_issues.PDF
- 18 ACE Department Chair Online Resource Center: Agency and Indemnification. From, Mary Ann Connel, Ann H. Franke, and Barbara A. Lee, "Agency and Indemnification," *Nobody Said This Was Going to Be Easy: Legal and Managerial Challenges for Department Chairs and Other Academic Administrators*. Originally prepared for Stetson University Law School conference on law and higher education, February 2001. http://www.acenet.edu/resources/chairs/docs/Connell_agency_indemn.pdf
- 19 Same as endnote #17 above
- 20 Donna R. Euben, 2004. "Legal Watch: Family Matters," *Academe*, 90(6), 31. <http://www.aaup.org/publications/Academe/2004/04nd/04ndLVV.htm>
- 21 Joan C. Williams, 2004. "Hitting the Maternal Wall," *Academe*, 90(6)8-12. <http://www.aaup.org/publications/Academe/2004/04nd/04ndwill.htm>
- 22 ACE Department Chair Online Resource Center: Responsibilities of Department Chairs: Legal Issues. From, Ann H. Franke, and Lawrence White, "Responsibilities of Department Chairs: Legal Issues," prepared for Collaboration Toward the Common Good: Faculty and Administration Working Together conference, Washington, D.C., Oct. 26-28, 2000. http://www.acenet.edu/resources/chairs/docs/franke_white.pdf
- 23 *ibid*
- 24 "Faux Family Friendly," *Inside Higher Education*, September 15, 2005. <http://www.insidehighered.com/news/2005/09/15/ucsb>
- 25 Joan C. Williams, 2004. "Hitting the Maternal Wall," *Academe*, 90(6)8-12. <http://www.aaup.org/publications/Academe/2004/04nd/04ndwill.htm>
- 26 Donna R. Euben, 2004. "Legal Watch: Family Matters," *Academe*, 90(6), 31. <http://www.aaup.org/publications/Academe/2004/04nd/04ndLVV.htm>
- 27 Same as endnote #2 above
- 28 APM – 760-35-b(1)