



MEMORANDUM

To: Donna E. Shalala, President

From: Richard L. Williamson
Chair, Faculty Senate

A handwritten signature in black ink, appearing to read 'Richard L. Williamson'.

Date: March 27, 2012

Subject: Faculty Senate Legislation #2011-42(A) – Clarify the use in the *Faculty Manual* of the Words “Weeks” and “Months” to either “Academic Days” or “Calendar Weeks/Months” Sections (A3.1(e), A10.8, B3.6, C4.2, C5.2, C5.7, C14, C17.5(b), C17.7, Conflict of Interest, Leaves of Absence, Patent and Copyright Policy, Attendance Policy, and Undergraduate Final Examination Policy)

At its March 21, 2012 meeting, the Faculty Senate unanimously approved the proposal to clarify the use of the words “weeks” and “months” to either “academic days” or “calendar weeks/months” sections (A3.1(e), A10.8, B3.6, C4.2, C5.2, C5.7, C14, C17.5(b), C17.7, Conflict of Interest, Leaves of Absence, Patent and Copyright Policy, Attendance Policy, and Undergraduate Final Examination Policy).

Final approval requires the vote of the REGULAR FACULTY of the University and the approval of the Board of Trustees.¹

The supporting materials are enclosed for your reference.

This legislation is now forwarded to you for your action.

RW/rh

Enclosure

cc: Thomas LeBlanc, Executive Vice President and Provost
David Birnbach, Vice Provost, Faculty Affairs
Scott Ingold, Associate Vice President and University Registrar

¹ Faculty Manual Section A10.9: The procedure following adoption by the Senate of a Class A action shall be the same as for a Class B action, except that the action must be ratified by a majority of the members of the voting faculty who vote on the matter and subsequently approved by the Board of Trustees.

CAPSULE: Faculty Senate Legislation #2011-42(A) – Clarify the use of the Word “Weeks” and “Months” to either “Academic Days” or “Calendar Weeks/Months” Sections (A3.1(e), A10.8, B3.6, C4.2, C5.2, C5.7, C14, C17.5(b), C17.7, Conflict of Interest, Leaves of Absence, Patent and Copyright Policy, Attendance Policy, and Undergraduate Final Examination Policy)

PRESIDENT’S RESPONSE

APPROVED:  DATE: 4-2-12
(President’s Signature)

OFFICE OR INDIVIDUAL TO IMPLEMENT: FACULTY SENATE

EFFECTIVE DATE OF LEGISLATION: Upon approval of the vote of the faculty and the Board of Trustees, whichever comes last

NOT APPROVED AND REFERRED TO: _____

REMARKS (IF NOT APPROVED): _____

Proposed Revisions to *Faculty Manual* "Week" and "Month" References

Purpose: As currently written, various provisions in the *Faculty Manual* are ambiguous as to whether they pertain to academic weeks/months or calendar weeks/months. The proposed revisions here seek to provide clarity and uniformity throughout. These revisions are in addition to recent revisions regarding academic days and calendar days as proposed in [Faculty Senate Legislation #2011-25\(A\)](#).

A3.1(e) Extension of voting rights to LIBRARIAN FACULTY apply only in the Richter Library. ¹

²(e) Unless otherwise determined by the voting faculty of the department concerned, voting rights under subsections A3.1(a)-(d) shall be suspended during any continuous period that has exceeded ~~twelve months~~ one calendar year [KDR1] when the faculty member has no duties as a member of the faculty of the University, because he or she is on a voluntary leave of absence or long-term disability leave. All such voting rights will automatically be reinstated if and when the faculty member again takes up his or her duties as a member of the faculty of the University.

A10.8 Two official copies of a Class B action shall be prepared by the Secretary, certified by the Chair and transmitted to the President by the Secretary. If the President approves, the President shall note an approval upon one copy and return it to the Secretary. If the President disapproves or desires modification of the action, the President may request consideration by a Joint Referral Committee consisting of the Chair of the Senate, the Executive Vice President and Provost, two academic deans appointed by the Executive Vice President and Provost, and the two Senate Vice-Chairs. If the Joint Referral Committee is unable to recommend modifications that resolve the differences and the President does not either disapprove or approve the Senate action within a reasonable length of time, not to exceed 40 academic days,³ nor formally request a necessary reasonable length of time for further consideration, the action shall be deemed approved. If the President disapproves the action, the President shall present, in person or in writing, the reasons for the disapproval. The Senate shall then reconsider its action, and if reaffirmed, attempt, with the President, to arrive at a mutually acceptable solution. If no mutually acceptable solution is arrived at within six calendar months [KDR2], the matter may be referred by either the President or the Senate or both to the Board of Trustees for final action. Such final action shall be taken by the Board of Trustees within 60 academic days⁴ of referral, after an opportunity is provided for a representative of the Senate to present the Senate's position. The approved or final action shall be deemed effective and the action, or a summary of it, shall be duplicated by the Secretary and distributed to the faculty.

B3.6 [KDR3] At the March meeting of the Senate, a Nominating Committee for the Chair and the Vice-Chairs shall be formed, elected by the Senate or appointed by the Chair, as determined by vote of the Senate. The nominating Committee shall, no later than ~~one~~

¹ [#2002-04\(A\)](#)

² [#2004-06\(B\)](#)

³ [2011-25\(A\)](#) – pending a vote by the faculty and the Board of Trustees

⁴ [2011-25\(A\)](#) – pending a vote by the faculty and the Board of Trustees

weekfive academic days prior to the meeting at which the election will be held, submit its list of nominees to the Senate office, which shall promptly distribute it to the senators.

Elections for the new Senate officers and General Welfare Committee members shall take place at a meeting one-weekfive academic days after the April meeting of the Senate.⁵ At that meeting, the Senate would also elect an alternate General Welfare Committee member for each school to serve when the regular member cannot attend.⁶

C4.2(c) Faculty Status

(c) While under contract all members of the UNIVERSITY FACULTY in residence shall be entitled to an average of one working day of consultation per week [KDR4], either on a part-time or self-employed basis, unless a written exception allowing additional time is issued by the President. This policy does not apply to members of the University of Miami medical group practice.

C5.3 [KDR5] Notice of Termination of Appointment or Intention not to Reappoint for RESEARCH FACULTY, EDUCATOR FACULTY, and LIBRARIAN FACULTY.

(b) RESEARCH FACULTY members are entitled to one month's notice with pay for each year or part of a year of full-time continuous service as a RESEARCH FACULTY member at the University up to a maximum of twelve months. The RESEARCH FACULTY member will be expected to perform normal faculty duties during the notice period and such pay will cease upon the availability of other grant support at the University or initiation of employment elsewhere. A RESEARCH FACULTY member who has received notice pay earns the right to notice pay in the future at the rate of one month per year up to the maximum of twelve months.

(d) A faculty member is expected to inform the University of a decision not to accept reappointment either six months prior to the end of the current term of appointment or by the time specified for the return of salary memoranda for the following year.

C5.7⁷ Notice of Intention not to Reappoint Regular Faculty⁸

At the conclusion of the special review during the initial probationary period, an appointment to the REGULAR FACULTY may be terminated by written notice from the University. This notice shall be communicated to the faculty member at least twelve monthsone calendar year [KDR6] prior to the expiration of the appointment.

⁵ #2006-13 (B)

⁶ #2009-05(D)

⁷ 2010-17(B)

⁸ #2001-06(B)

(a) If a decision not to reappoint has a basis other than unsatisfactory academic performance, the faculty member shall be informed of the justification. Faculty members so informed may appeal a decision not to reappoint either to the Committee on Rank, Salary and Conditions of Employment or to the Committee on Professional Conduct as provided in Section B4.10 of the Bylaws, whichever is appropriate.

(b) A faculty member is expected to inform the University of a decision not to accept reappointment six calendar months [KDR7] prior to the end of the current term of appointment.⁹

C14 Trustee Authority in Tenure

Tenure may be earned only by a considered action of the University. The Board of Trustees is the final authority for the award of tenure. The award or denial of tenure shall be directly communicated to the candidate by the Executive Vice President and Provost immediately following the completion of the tenure process. If tenure is denied to a faculty member in the final calendar year [KDR8] of the probationary period, the faculty member shall receive at least twelve (12) calendar [KDR9] months notice prior to the expiration of the appointment.

C17.5(b) Degree Enrollment and Tuition Benefits¹⁰

1. Dependents of Faculty with Appointments Commencing On or After September 1, 2002:

A spouse, same sex domestic partner or "dependent child" of a faculty member with an appointment commencing on or after September 1, 2002 is eligible for tuition remission at the University of Miami after completion of one full year of full-time regular service at the rate of 70% during years two through five, 85% during years six through ten and 100% thereafter. The one year waiting period before commencement of tuition remission is waived for Faculty who were continuously employed as a faculty member for twelve calendar months or one academic year [KDR10] at another accredited institution prior to appointment at the University.

C17.7 [KDR11] ¹¹ Faculty Parental Leave and Workload Relief¹²

1. This policy is intended to provide additional benefits (paid and unpaid), beyond those set forth in the FMLA as described below, and does not in any way diminish any rights or benefits to which a faculty member may be entitled under the FMLA.

⁹ [2007-22\(B\)](#)

¹⁰ [#2009-19\(D\)](#)

¹¹ [#2001-27\(B\)](#)

¹² [#2006-02\(B\)](#)

2. Under the Family and Medical Leave Act ("FMLA"), an eligible faculty member may take unpaid leave of up to 12 calendar weeks for the birth of the faculty member's child and/or in order to care for the infant child or for a child who has been placed with the faculty member for adoption or foster care. If both parents are employed by the University, FMLA leave is a combined 12 calendar week leave between both parents. Detailed information regarding rights and obligations under the FMLA is available in the Office of Faculty Affairs.
3. Members of the REGULAR, LIBRARIAN and EDUCATOR FACULTY (with the exception of those at the rank of Instructor and UMMG members) who hold appointments of at least .50 FTE, and full-time Senior Lecturers are eligible for additional benefits (beyond those provided by the FMLA) upon employment. Members of the RESEARCH FACULTY and the University of Miami Medical Group (UMMG), and faculty at the rank of Instructor who hold appointments of at least .50 FTE, and full-time Lecturers are eligible upon completion of 24 consecutive calendar months of employment. These benefits are set out in the following paragraphs.
4. Eligible faculty members of either sex who certify, on a form provided by the Office of Faculty Affairs, that they have primary responsibility for the care of their newly born, adopted or foster child are authorized to take up to 8 calendar weeks of *paid* parental leave to run concurrently with the leave provided by the FMLA. The pay rate calculated for the purpose of this paragraph will be 1) for UMMG faculty members: a monthly rate equal to the average of the previous 12 calendar months of compensation, excluding bonuses and/or other allowances, or 2) for all other faculty members: the monthly rate as reflected in the faculty member's salary letter.
5. Eligible faculty members taking parental leave as described in paragraph four who have accrued sick time or vacation time may elect to apply their accrued sick time, in accordance with University policy for the use of sick time and/or their vacation time for up to 4 additional calendar weeks of paid parental leave. Eligible faculty members, other than members of the RESEARCH FACULTY, may borrow against future accruals of sick or vacation days.

Conflict of Interest Policy

- IV. Consulting
 - A. Outside Consulting

Faculty may accept opportunities for outside consulting and similar services in their fields of specialization provided this work does not interfere or conflict with their teaching, research, examining, counseling, and other University responsibilities. No faculty member may profit from private services while receiving monies from the University for the performance of these same services. The receipt of honoraria, lecture fees, and monies for expert testimony is permitted provided the services performed for

such fees do not interfere or conflict with University responsibilities and the University has not provided or agreed to provide funds to the faculty member for performing those same services. The time involved in consulting activities shall not amount to more than an average of one day a week [KDR12] during the faculty member's period of appointment.

E. Relationships with Private Enterprises

Faculty members should not acquire a relationship with private enterprise that either (1) requires in excess of one day per week [KDR13] of their time during their period of appointment, or (2) presents the possibility of competition between the private enterprise and the University in terms of the services each could provide.

Leaves of Absence

Leave of absence without salary may be arranged with the faculty member for the purpose of faculty exchange, advanced study, research, public service, and, in some instances, business or industrial employment, without prejudice to future promotions in rank, provided that the period of absence does not work undue hardship on the University. Normally, permission will not be granted for more than two consecutive semesters of leave.¹³ Unless otherwise determined by the voting faculty of the department concerned, after such a leave of absence has exceeded twelve months one calendar year [KDR14], the voting rights of faculty members on leave will be suspended and will be reinstated upon their return. Requests for leave of absence must be made in writing to the appropriate academic dean and referred to the Executive Vice President and Provost.

Faculty members on academic leave, including sabbatical leave, may arrange for continuing coverage under certain benefit programs as provided by University policy during such periods of absence. The period of leave may be counted as credited service under the Employee Retirement Plan as provided by that Plan.

Patent and Copyright Policy

III. Discoveries and Inventions¹⁴

- 3.1 Disclosure of Discoveries and Inventions. Any faculty member or staff member or student of the University who has made a discovery or invention that is arguably patentable (hereinafter referred to as "patentable") shall bring such discovery or invention to the attention of the President of the University, or a designee, for the purpose of determining whether and to what extent the University has an interest in the discovery or invention. Any such discovery or invention shall be so disclosed promptly, but in any event within a period of not more than two months 45 academic days [KDR15].

¹³ #2004-06(B)

¹⁴ #2011-21(B)

- 3.3(e) To determine, in the case of a discovery or invention in which the University has a property interest, whether the University should attempt to obtain a patent or should submit the discovery or invention to the University's patent agent, any such determination to be made within ~~two months~~ 45 academic days [KDR16] from the date the discovery or invention has been disclosed to the Committee or, if sooner, within thirty (30) calendar days after a written request that such determination be made is received from the President of the University or from the inventor or inventors.
- 3.3(g) To report to the President of the University and other interested parties its findings and determinations with respect to a discovery or invention within four (4) calendar months of the receipt by it of knowledge of the discovery or invention except in those situations for which a different period of time for making a determination is established.

Attendance Policy [KDR17]¹⁵

Regular and punctual class attendance is vital for all students. Each instructor will announce during the first meeting of a class the penalties for non-attendance and for missed quizzes and examinations, since these vary. Any student may be dropped from a course or receive a lowered grade for unauthorized absences that are in excess of those permitted without penalty by the instructor. Unless a student is absent for University-approved reasons the instructor determines whether or not an absence is for an acceptable reason. Within one calendar week of return to school, the student should contact the instructor about making up missed work. It is the student's responsibility to know the instructor's policies regarding examinations, penalties for absences, and late or missed work.

...

No department or official of the University may schedule for any student or group of students in the name of the University any activity that will entail continuous absence from classes for more than one calendar week during a regular semester. Exceptions to this rule require the prior approval of the Academic Deans' Administrative Council; it is the responsibility of officials desiring such exceptions to make prior arrangements with the Council. If permission is granted, it becomes the responsibility of the official to make sure there is no undue interference with the student's academic work.

Undergraduate¹⁶ Final Examination Policy [KDR18]

Final Examinations may not be given during a regularly-scheduled class period.

No examination shall be permitted during the reading period.

¹⁵ This policy has proposed revisions pending.

¹⁶ [2010-18\(B\)](#)

Final Examinations may be rescheduled only with the permission of the dean.

No student shall be required to take more than two final examinations in a twenty-four hour period. A student having three or more final examinations scheduled during a twenty-four hour period may request the instructor of the course most easily rescheduled (normally the course with the smallest enrollment) to reschedule the examination for that individual. The request shall be made no later than two calendar weeks before the last class day.

A student who has a conflict between a final examination and a religious observation may request that the instructor reschedule that student's examination. The request shall be made no later than two calendar weeks before the last class day.

For the resolution of any problem pertaining to the scheduling of final examinations, a student should consult with the following entities or persons in this order: the relevant_instructor, the department chair, the Dean or designee. If the matter cannot be resolved at the school or college, the student should contact the Office of the Provost.