

C. Governance

Regent Mullin

1. Act on Recommendation to Adopt Board Policy on Paid Parental Leave

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Summary

Governor Colyer issued Executive Order No. 18-19 on November 21, 2018 to provide a new parental leave benefit to certain Executive Branch employees. In the Order he encourages the state universities to adopt comparable policies for their employees. The Board referred the issue to the Council of Presidents to gather relevant information and to make a recommendation on such a policy. The Council of Presidents sought input from their budget officers and human resource/benefits offices and, after considering amendments offered by the Governance Committee, recommend adoption of a university-tailored paid parental leave policy. Any policy adopted by the Board should also be made available to Board office employees in the same manner as made available to university employees. The Governance Committee will review this version of the proposed policy at its May 15 morning meeting.

Background

Executive Order No. 18-19 provides for paid parental leave for certain Executive Branch employees upon the birth or adoption of a child occurring on or after November 21, 2018. The Executive Order calls for six weeks of paid leave for each parent who is the primary caregiver of a newborn or newly adopted child and three weeks paid leave for each parent who is the secondary caregiver of a newborn or newly adopted child. Similarly, the Judicial Branch established its own parental leave benefit, effective December 28, 2018.

The Governor’s Executive Order does not apply to state university employees, however it specifically encourages the universities to adopt comparable policies for their employees.³ Board action is required to enable the universities to adopt such policies.

At its December 12, 2018 meeting, the Board referred the issue to the Council of Presidents to gather relevant information and to make a recommendation on such a policy to the Board’s Fiscal Affairs and Audit Committee at its February meeting. The Board directed the Council to consider whether a similar paid parental leave benefit would make sense in the Kansas higher education environment and, if so, to recommend policy language to address nine-month appointments, part-time positions and student employees, eligibility criteria, any limitations that should be placed on use of the benefit, the effective date of such policy and any other necessary details. Board members also requested the Council of Presidents to determine the cost associated with providing three- and six-week paid leave similar to what is provided under the Governor’s Executive Order.

The Council of Presidents sought input from the Council of Business Officers, who in turn sought information from the university budget officers and human resource/benefits offices, and voted in February to recommend adoption of a state university-tailored paid parental leave policy. The Council of Presidents were unanimous in their support of such a program for state university employees meeting the eligibility criteria. In March, the Board Governance Committee asked the Presidents to consider a few possible amendments to their proposal. The

³ Staff is unaware of any specific study, research or background leading to the Executive Order, but a quick in-house search produced a variety of approaches by public universities and higher education systems to parental leave. Some provide for paid leave while others provide only unpaid leave; some recognize parental leave specifically as a part of the federal Family and Medical Leave Act, while others create a discrete leave policy; the amount of leave differs from policy to policy; etc. Preliminary numbers provided by the State Employee Health Plan indicate that an average of 350 births per year over the last three years have occurred at the state universities. This number would not account for adoptions or individuals who are not on the State Employee Health Plan, or where the primary care giver parent does not work at a state university.

Council has now done so and accordingly offers an amended version for Board consideration. Regarding cost, the Council of Business Officers provided the Presidents with the following information:

Paid Parental Leave – Cost Estimate (provided by the campuses)

Employee Leave - Direct Cost Impact

When an employee elects to utilize Parental Leave, there are several scenarios which may impact the usage of the employee’s existing Vacation and Sick Leave balances. Examples of these scenarios are noted below:

Leave taken under the new program	vs	What employee would have done under current programs	Resulting Cost Impact	
	➔	Unpaid leave	Incremental cost	
	➔	Not taken leave	No incremental cost for salary (1)	
	➔	Vacation/Sick leave	No incremental cost now (but extra vacation/sick time for future)	➔ <u>Impact of extra vacation/sick time:</u> use over time (no incremental cost) forfeit (no incremental cost) paid at later date
(1) some cases would result in incremental cost to cover workload, but this often is at much lower cost				

It is difficult to predict how these scenarios will occur under the proposed policy. Many of the scenarios, including some of the more common ones, will not result in incremental [i.e. any additional] costs. Those scenarios that could result in incremental costs are less likely or are limited by other policies (e.g. limits on vacation carryover amounts). As a result, the Budget Officers did not specifically estimate costs related to these scenarios.

Workload Coverage - Direct Cost Impact:

Currently, when an employee utilizes some type of leave for a birth or adoption event, units will often distribute the employee’s workload among other employees, or work is paused while the employee is on leave. In some instances, Units may elect to hire a temporary employee or provide additional pay to existing employees to cover the work of the employee while on leave. In this instance, a unit would incur increased costs under the Parental Leave program. It should be noted that this scenario existed under existing leave practices, and so is not always an incremental cost.

Recognizing this cost scenario, the Budget Directors estimated the cost impact by utilizing the following steps:

- Estimate the frequency of parental leaves based on historical data broken down by Faculty/Staff
- Determine the number of instances which would result in a unit incurring incremental costs due to the proposed parental leave policy – approximately 10%
- Apply expected leave duration
- Apply relevant estimated salary and benefit costs

This results in an estimate of the expected incremental cost of hiring temporary employees or utilizing additional payments to cover the duties of employees on Parental Leave. Based on these estimates the incremental cost for all Regents Universities is approximately \$250,000 per year (see detail by University below).

Paid Parental Leave								
University Cost Estimates								
	KU	KU Med	KSU	ESU	PSU	FHSU	WSU	Total
Faculty	21,823	14,524	21,814	5,670	3,242	4,119	8,197	79,389
Staff	60,674	39,270	42,208	6,963	4,742	3,660	12,818	170,335
Total	82,497	53,794	64,022	12,633	7,984	7,779	21,015	249,724

This should be considered as a directional estimate and is likely subject to a relatively wide level of variation over time.

Council of Presidents’ Recommendation

The Council of Presidents recommends that the Board adopt the proposed policy set forth below. The proposed policy differs from the Governor’s Executive Order in the following ways:

- University employees must have been employed by the State for at least 12 months to be eligible; the Executive Order contains no minimum length of service requirement.
- Qualifying event is defined as birth or placement of a child (up to 6 years of age) for adoption; the Executive Order has no age limitation for adoption.
- Universities may establish implementing policies and definitions consistent with the Board policy; under the Executive Order, the Office of Personnel Services within the Kansas Department of Administration was directed to issue guidelines and establish leave codes to implement the Order.
- The leave period for part-time employees is to be pro-rated to their part-time appointment and a multiple birth or adoption does not increase the length of paid parental leave for that event; the Executive Order does not directly address these circumstances.
- For academic year appointments and other less than 12-month appointments, paid parental leave is only available during periods when the employee is in paid status; the Executive Order does not address less than 12-month appointments.
- Each university is to determine whether employees will be permitted to take this paid parental leave intermittently within the 12-week period immediately following the qualifying event or in a solid block of time within that 12-week period; the Executive Order does not address this issue.
- The paid parental leave established pursuant to this proposed policy would be available for qualifying events occurring after the effective date of the policy July 1, 2019.

Board staff recommends that any policy adopted by the Board should also be made available to Board office employees in the same manner as made available to university employees. That proposed amendment is set out below the Council of Presidents’ recommendation for the university employee paid parental leave policy.

Proposed Policy

h Paid Parental Leave

Each state university shall provide for paid parental leave for eligible employees in accordance with this policy.

i Eligibility

Employees who meet benefits eligibility requirements, as defined by the employing university, and who have been employed for twelve months with the state shall be eligible to receive paid parental leave following a qualifying event (e.g., birth or placement of a child for adoption (up to

6 years of age)) occurring after the effective date of this policy. Each state university may establish implementing policies, including definitions, and may require otherwise-eligible employees to provide relevant information and notice of their intent to use the leave in order for the employees to be eligible.

ii Leave period

Each parent designated as the primary caregiver for purposes of this policy shall receive up to six weeks of paid parental leave, and each parent who is designated as the secondary caregiver for purposes of this policy shall receive up to three weeks of paid parental leave. For part-time employees, the leave shall be pro-rated to their part-time appointment for the applicable time period. The fact that a multiple birth or adoption occurs (i.e., the birth or adoption of twins) does not increase the length of paid parental leave for that event.

- (1) If both parents are employees and eligible for paid parental leave, one employee must be designated the primary caregiver and one employee must be designated the secondary caregiver.
- (2) In such instances, the paid parental leave may be taken concurrently, consecutively, or at different times within the 12-week period immediately following the qualifying event.

iii Benefit

Paid parental leave under this policy shall be at 100% of the eligible employee's regular rate of pay and, while using paid parental leave, employees continue to accrue vacation and sick leave, as well as all other regular benefits in accordance with applicable rules, regulations, Board policy and statutes.

- (1) Academic year appointments. Paid parental leave only applies during periods when the employee is in paid status. Employees on academic year or less than 12-month appointments may not request or receive paid parental leave for periods when not in a paid status.
- (2) Holidays. Official and observed holidays do not count against paid parental leave. Employees utilizing paid parental leave on an official or observed holiday shall receive holiday credit. Employees may be permitted to take leave of other types (i.e., sick leave and vacation leave) in addition to the six or three weeks of paid parental leave, in accordance with other applicable Board and university policies.
- (3) Timing. Paid parental leave must be taken within the 12 weeks immediately following the date of birth or date of placement for adoption of a child. Each state university may determine whether employees will be permitted to take this leave intermittently or in a solid block of time within that 12 weeks. Any paid parental leave shall run concurrently with leave permitted under the Family Medical Leave Act (FMLA), if applicable.

iv Paid parental leave under this policy is not transferrable and cannot be donated through a shared leave program or in any other way. Any amount of paid parental leave not utilized by the eligible employee in the 12-week period shall be forfeited.

v Nothing in this policy shall be construed as prohibiting a state university from providing additional leave beyond that permitted under this policy, to the extent allowed by applicable rule.

regulation, Board policy or statute, or from reassigning an eligible employee’s duties while the employee is on paid parental leave.

- vi Each university shall implement this policy on or before July 1, 2019 for qualifying events occurring after its effective date. The effective date for this policy shall be July 1, 2019. Employees represented by bargaining units where the contract requires meet and confer to implement this policy shall not be covered under this policy without ratification by the bargaining unit.

Additional Staff Recommendation

CHAPTER I: BOARD OF REGENTS MEMBERS, OPERATIONS AND STAFF

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B BOARD OFFICE STAFF AND OFFICE OPERATIONS

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2 BOARD OFFICE STAFF

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c Leave

- i All Board office staff members, both classified and unclassified, are subject to the same provisions for sick leave as those applicable to state civil service personnel, including but not limited to K.A.R. 1-9-5. Sick leave shall be scheduled and approval from the President and Chief Executive Officer, or designee, obtained in advance to the extent possible.

Sick leave is forfeited upon termination of employment, if the employee is not retiring or is not retirement-eligible, but may be reinstated if the employee returns within one year to a regular position with a State of Kansas agency. Sick leave will be paid at retirement or when the employee separates from service and is retirement eligible if the employee has accrued a minimum of 800 sick leave hours.

- ii Unclassified Board office staff in regular positions shall accrue annual leave in accordance with this provision. Full-time, exempt unclassified Board office staff members shall accrue one day of annual leave each pay-period, not to exceed twenty-two days (176 hours) per fiscal year. Part-time, exempt, unclassified Board office staff shall accrue pro-rated annual leave based upon their FTE. Full- and part-time non-exempt unclassified Board office staff shall accrue annual leave based on hours paid in the pay period. Unclassified Board office staff members may accumulate a maximum of thirty-eight working days (304 hours) of annual leave; provided, however, that no employee may receive, upon termination, payment for more than twenty-two days (176 hours) of annual leave; and upon retirement, or when retirement eligible, payment for more than thirty days (240 hours) of annual leave.

- iii Each classified Board office staff member in a regular position shall accrue annual leave in accordance with K.A.R. 1-9-4.

- iv Official state holidays and any special holidays declared by the Governor are not counted as days of annual leave.

- v Annual leave shall be scheduled in advance and granted by the President and Chief Executive Officer, or designee, for periods of time requested by the staff member subject to the

operational needs of the Board office. Annual leave requested as a result of personal or family emergency shall be treated on an individual basis by the President and Chief Executive Officer.

vi Board office staff members in regular positions may be granted leave with pay upon the death of a close relative. Such leave shall in no case exceed six working days. The employee's relationship to the deceased and necessary travel time shall be among the factors considered in determining whether to grant bereavement leave, and, if so, the amount of leave to be granted.

vii Unclassified Board office staff members who accumulate sick leave shall be eligible to participate in the shared leave program of the State of Kansas in the same manner as unclassified staff at the state universities. Classified Board office staff members in regular positions who accumulate sick leave are eligible to participate in the shared leave program of the State of Kansas as provided in K.A.R. 1-9-23. The Board office shall adopt, as part of its employee policies and procedures, appropriate limitations and qualifications for accumulation and use of shared leave.

viii Board office staff members in regular, benefits-eligible positions shall be eligible for paid parental leave in accordance with Board policy section II.C.10.h., to the same extent as university employees covered by that policy.