

New Article 15

Old Article 20

Family Leave

20.1 Leave Entitlement Under the Family Medical Leave Act.

20.1.1 Under the Family Medical Leave Act, full-time or part-time employees with at least 12 months of qualified Federal service are entitled to take 12 weeks of unpaid leave during any 12-month period for one or more of the following reasons:

1. a serious health condition that makes the employee unable to perform the essential functions of his/her position;
2. the birth of a son or daughter and to care for such son or daughter;
3. the placement of a son or daughter with the employee for adoption or foster care; or
4. the care of an employee's family member (spouse, son, daughter or parent) who has a serious health condition.

20.1.2 Consistent with current law and regulations governing the granting and use of annual or sick leave, an employee may, at his or her option, substitute paid leave (annual or sick) for unpaid leave under FMLA.

20.1.3 Entitlement to leave under FMLA shall be administered in accordance with applicable law, government-wide regulations and NRC regulations.

20.1.4 Employees must indicate that they are invoking their entitlement to family and medical leave. They are required to submit a written request on OPM 71 or its equivalent, along with any required documentation. If the employee intends to substitute paid leave, it should be requested at this time. If the employee wishes to request advanced leave, it should also be requested at this time. Employee requests to use family and medical leave shall be granted or denied promptly.

20.1.5 If the family and medical leave to be taken is foreseeable, based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee should advise his/her supervisor not less than thirty calendar days prior to the date the leave is to begin.

20.1.6. If leave must be taken beginning within thirty calendar days, notice is required as soon as practicable. If the need for leave is not foreseeable, such as a medical emergency or the unexpected availability of a child for adoption or foster care, and the employee cannot provide thirty calendar days' notice of his/her need for leave, the employee should provide notice within a reasonable period of time appropriate to the circumstances. If an employee or his or her personal representative is physically or mentally incapable of invoking the employee's entitlement to FMLA leave during the entire period in which the employee is absent from work

for a FMLA-qualifying purpose, the employee may retroactively invoke his or her entitlement to FMLA leave within two days of returning to work.

20.1.7. The scheduling of use of Family Medical Leave for a planned medical procedure or treatment will be approved unless the employee's requested absence would disrupt unduly the operations of the Agency. In the event a supervisor denied an employee's request for family and medical leave during a specific time period due to workload restrictions, the supervisor will, if requested and to the extent practicable, specify an alternative time when the block of requested leave may be taken.

20.1.8. The employee will be notified as soon as possible as to what documentation will be required for the family and medical leave request. Rules and procedures concerning requests for medical documentation are set forth in Article 16, Section 16.5.

20.1.9. Upon request, an employee will be provided with a statement indicating the balance of time available under the Family Medical Leave Act, indicating the applicable 12-month period. A decision by the Agency to deny an employee's request for family and medical leave, based on the exhaustion of his or her 12-week entitlement, must be supported by documentation showing family and medical leave usage during the 12-month period.

## 20.2 Maternity Leave

For leave purposes, pregnancy shall be treated like any other medically certified temporary disability. Maternity leave may be a combination of as many as three separate kinds of leave: sick leave, annual leave, and LWOP. Leave for maternity purposes will be granted or denied by the supervisor based on the request of the employee, advice of her physician, and in accordance with applicable law, policy, and regulation for such leave. ~~Employees should also refer to Article 15 (Annual Leave), Article 16 (Sick Leave), Article 18 (Leave Without Pay), and Sections 20.6 and 20.7 of this Article, as appropriate.~~ Absent an emergency situation, she must request any such leave from her supervisor prior to her absence for maternity reasons. The employee may request up to six months of maternity leave. The NRC will normally grant three months of maternity leave. An additional three months may be granted by the supervisor, subject to workload considerations. The employee, at her discretion, may use earned sick leave, annual leave, LWOP, (including leave entitlement under the Family Medical Leave Act, as set forth in Section 20.1) or any combination of these for maternity leave purposes.

## ~~20.2~~—Medical Certificate

The NRC may request a medical certificate from the employee if there is a question as to the employee's physical fitness to continue work before delivery or to return to work after delivery, in accordance with 5 C.F.R.339, Medical Qualification Determinations, or in accordance with applicable law and regulation.

Where it is in the best interest of the government, the NRC agrees to pay the cost of the employee's physician for a medical certificate authorizing continued work or return to work and prescribing any precautionary measures that should be taken by NRC.

### 20.3 Pregnancy Accommodations

If, after consulting her physician, a pregnant employee requests modification of her work duties or a temporary reassignment, every reasonable effort will be made to accommodate her request. NRC may request a medical certificate to aid in its determination as to whether or not a modification is appropriate.

### 20.4 Paternity Leave

A male employee who desires to aid or assist in the care of his newborn child, and/or to care for the mother of his newborn child as it relates to incapacity due to pregnancy or childbirth may request and be granted sick leave, annual leave or LWOP in accordance with applicable law, policy, and regulation, and the provisions of this Agreement. Article 15 (Annual Leave), Article 16 (Sick Leave), Article 18 (Leave Without Pay), and Sections 20.6 and 20.7 of this Article, as appropriate. Employees should provide as much advance notice to their supervisor as practicable.

### ~~20.5 Adoption Leave~~

~~An employee may request and be granted annual leave, sick leave, or LWOP related to the placement of a child with the employee for adoption and foster care in accordance with applicable law, policy, and regulation. Employees should also refer to Article 15 (Annual Leave), Article 16 (Sick Leave), Article 18 (Leave Without Pay), and Sections 20.6 and 20.7 of this Article, as appropriate. Employees should provide as much notice to their supervisor as practicable. Such leave may be rescheduled based upon an unforeseen change in the adoption or placement date.~~

### 20.6 Major provisions of the Family Friendly Leave Act and 5 CFR 630.401 (Sick Leave) [Address in Article 16, as amended]

~~To the extent permitted by this law and regulation, earned sick leave shall be granted to an employee when the employee:~~

~~20.6.1 Receives medical, dental, or optical examination or treatment;~~

~~20.6.2 Is incapacitated for the performance of duties by physical or mental illness, injury, pregnancy, or childbirth;~~

~~20.6.3 Provides care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental, or optical examination or treatment;~~

~~20.6.4 Makes arrangements necessitated by the death of a family member or attends the funeral of a family member;~~

~~20.6.5 Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease;~~

~~20.6.6 Must be absent from duty for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; and any other activities necessary to allow the adoption to proceed.~~

~~A family member as described in 3. and 4. above includes: spouse and parents of spouse; children, including adopted children, and their spouses; parents; brothers and sisters and their spouses; or any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.~~

~~The amount of earned sick leave granted to a full-time employee during any leave year for purposes described in 3. and 4. above may not exceed 104 hours provided the employee maintains a balance of at least 80 hours of earned sick leave. An employee with a balance of less than 80 hours may use up to 40 hours of earned sick leave for these purposes. These limits and entitlements are proportionate (based on the average number of hours per week) for part-time employees.~~

#### ~~20.7—Major Provisions of the Family and Medical Leave Act (FMLA) and 5 CFR 630, Subpart E~~

~~As provided under FMLA, a full-time employee who has been employed for more than one (1) year is entitled to a total of 12 administrative workweeks of LWOP, which may be used consecutively or intermittently, during any 12-month period for one (1) or more of the following reasons:~~

~~20.7.1 The birth of a son or daughter and care for the newborn child;~~

~~20.7.2 The placement of a child with the employee for adoption or foster care;~~

~~20.7.3 The care of a spouse, son, daughter, or parent with a serious health condition;~~

~~20.7.4 A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position.~~

~~The entitlement of LWOP under 1. and 2. above may begin prior to, or on the actual birth, adoption, or placement in foster care and will expire 12 months after the date of birth, adoption, or placement in foster care.~~

~~The entitlement of LWOP under 3. and 4. above will begin on the date the employee first takes leave for these purposes.~~

~~Leave available for part-time employees is calculated on an hourly basis and will equal 12 times the average number of hours in an employee's regularly scheduled administrative workweek.~~

~~An employee who wishes to invoke their entitlement under FMLA should do so in writing.~~

~~If leave taken under this section is foreseeable, the request for leave is to be made no less than 30 calendar days before the date the leave is to begin. If the need for leave is not foreseeable and the employee cannot provide 30 calendar days notice of their need for leave, the employee must provide notice within a reasonable period of time appropriate to the circumstances involved.~~

~~In those instances involving planned treatment, the employee should consult with management to discuss appropriate scheduling, given the employee's treatment needs, and the operational needs of the agency.~~

~~20.7.2 Leave requested under 20.7.1.3. and 20.7.1.4. above must be supported by written medical certification issued by the health care provider of the employee or of the employee's family member, as appropriate. The medical information will include:~~

~~20.7.2.1 — The date the serious health condition started;~~

~~20.7.2.2 — The probable duration of the serious health condition to include information as to whether the condition is chronic or continuing and whether the employee is presently incapacitated for their position and, if so, the frequency of episodes and duration of such incapacity;~~

~~20.7.2.3 — The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a general statement as to the incapacitation, examination, or treatment that may be required by a health care provider;~~

~~20.7.2.4 — A statement from the health care provider that a covered family member requires psychological comfort and/or physical care; needs assistance for basic medical, hygienic, nutritional, safety, or transportation needs or in making arrangements to meet such needs; and would benefit from the employee's care or presence; and a statement from the employee on the care he or she will provide and an estimate of the amount of time needed to care for the family member; and~~

~~20.7.2.5 — A statement from the health care provider concerning the ability of the employee to perform one or more of the essential functions of the employee's position.~~

~~Paid leave may be substituted for unpaid leave at the election of the employee.~~

~~Leave under FMLA may not be applied retroactively.~~

~~20.48 Other Family Leave Provisions Major Provisions of Expanded Family and Medical Leave Pursuant to Presidential Memorandum dated April 11, 1997~~

In accordance with applicable ~~law, policy, and~~ regulation, employees may request and be granted up to 24 hours of LWOP for the following activities:

20.48.1 Participate in school activities directly related to the educational advancement of a child (such as parent-teacher conferences, field trips, etc.);

20.48.2 Accompany a child to routine medical or dental appointments, examinations and vaccinations; or

20.48.3 Accompany an elderly relative to routine medical or dental appointments or other professional services related to the care of the relative, such as providing for housing, meals, telephones, and banking services.

Employees may request such leave for educational purposes even if the employee does not have a child in school, as long as the absence relates to the educational advancement of a child.

Leave obtained through the Voluntary Leave Transfer Program may not be used for the expanded FMLA purpose. The use of donated leave is restricted to medical emergencies. Use of leave under the expanded FMLA provisions must be requested and approved in advance. Approval of such leave will depend on whether the employee's absence would unduly disrupt Agency operations. ~~supervisor determines the employee can be spared during the time requested for leave.~~

#### ~~20.9—Organ Donor and Bone Marrow Absences~~

~~In accordance with applicable law, policy, and regulation, employees may request and be granted:~~

~~20.9.1 Up to 30 days excused absence in a calendar year to serve as an organ donor;~~

~~20.9.2 Up to seven (7) days excused absence in a calendar year to donate bone marrow.~~

~~Employees may request additional time off for these purposes in accordance with applicable leave procedures outlined in agency policy and the Collective Bargaining Agreement.~~

#### ~~20.510 Part-Time Accommodations~~

NRC will, to the extent practicable, consider employee requests for part-time or job sharing opportunities for employees with a child under 1 year of age.