



The Director

## UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

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### **Memorandum for Heads of Executive Departments and Agencies**

**From:** Robert H. Shriver, III  
Acting Director

**Subject: Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care**

As the Nation's largest employer, the Federal Government must be a model for providing leave policies that allow employees time away from work to care for themselves or a loved one, while also performing their vital work for the American public.

OPM is pleased to issue the revised [Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care](#) (Handbook). The revised handbook incorporates the statutory change to the Family and Medical Leave (FMLA) entitlement providing 12 weeks of Paid Parental Leave (PPL) to eligible employees. PPL benefits both employees and agencies by increasing employee engagement and retention and attracting job seekers. Agencies are encouraged to ensure employees have knowledge of PPL to take advantage of benefits for which they are eligible. The Handbook also incorporates the statutory changes to FMLA eligibility that expanded the types of civilian and military service that count for FMLA eligibility purposes (see [CPM 2021-07](#), January 14, 2021, and [CPM 2024-05](#), February 13, 2024) as well as the statutory entitlement that provides 2 weeks of parental bereavement leave to employees whose qualifying child dies (see [CPM 2022-08](#), April 1, 2022).

The Handbook explains various leave and workplace flexibility options that can be used separately or in combination to help an employee balance work and family life related to childbirth, adoption, and foster care. It contains many tips and scenarios that explain the finer points of the use of leave and work schedule flexibilities for these purposes that result from OPM's interactions with our customers and our understanding of their needs and questions.

This Handbook, together with OPM's revised [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet and new [Paid Parental Leave](#) fact sheet, provide agencies and employees with robust guidance on these programs to help agencies and

employees better understand and apply them to employees' unique circumstances. OPM encourages agencies to share this Handbook with their employees and ensure employees are aware of the various leave and workplace flexibilities available to them, including paid parental leave for those who are eligible. Employees need to understand these options so they can take full advantage of these flexibilities and determine which ones are right for them.

### **Additional Information**

For additional information, agency headquarters-level human resources offices may contact OPM at [leavepolicy@opm.gov](mailto:leavepolicy@opm.gov). Component-level human resources offices must contact their agency headquarters for assistance. Employees must contact their agency human resources offices for further information on this memorandum.

cc: Chief Human Capital Officers (CHCOs), Deputy CHCOs, Human Resources Directors, and Work-Life Coordinators

Attachment

The U.S. Office of Personnel Management is in the process of rescinding or revising the guidance in this handbook in accordance with Executive Order 14168 [Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government](#) and the President's memorandum [Return to In-Person Work](#). In the interim, guidance in this handbook related to these Presidential directives should be considered rescinded.

# Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care



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## **I: Introduction**

In order to attract and retain a talented, engaged, and productive workforce, the Federal Government must ensure that Federal employees are provided an opportunity to use leave and workplace flexibilities that will enable them to thrive both at work and at home. The Federal Government recognizes the importance of family and is committed to assisting Federal employees in balancing their work and family responsibilities. When an agency supports an employee's use of leave and other workplace flexibilities for the purposes of childbirth, adoption, and foster care, the agency is fostering goodwill that can improve recruitment of new employees and strengthen retention of the existing workforce. Providing employees with the support they need to balance their professional and personal responsibilities is good not only for employees and their families, but also for agencies and the integrity of the Federal workforce. As a result, OPM is committed to working with our agency partners to encourage full utilization of leave and workplace flexibilities. This Handbook is intended to assist employees and agency officials in navigating the various leave and workplace flexibilities available when an employee welcomes a new child, either through birth or placement for adoption or foster care.

### **A. History of the Evolution and Expansion of Federal Leave Programs Related to Childbirth, Adoption, and Foster Care**

The Federal leave system is a dynamic system that has evolved over the years to better meet the needs of employees as well as those of Federal agencies. Combined with other workplace flexibilities, the program has expanded to serve the contemporary workforce in a manner that meets the needs of employees and is responsive to agency mission requirements. The Federal leave system dates back to 1893, with our current leave system enacted in 1951 that included annual leave, sick leave, and leave without pay (LWOP). Over the years, the leave system has expanded in a variety of ways, all of which have focused on responding to the changing needs of both employees and agencies. The following provides a brief history of the Federal leave programs as they relate to childbirth, adoption, and foster care:

**Federal Leave Sharing Act of 1988.** Authorized Federal agencies to participate in pilot voluntary leave transfer and leave bank programs allowing employees to donate their annual leave to an employee with a personal or family medical emergency who had

exhausted the employee's accrued annual and sick leave. The Federal Employee Leave Sharing Amendments Act of 1993 made the programs permanent.

**Family and Medical Leave Act (FMLA) of 1993.** Entitled an employee to up to a total of 12 workweeks of unpaid leave during any 12-month period for the following purposes: the birth of a son or daughter of the employee and the care of such son or daughter; the placement of a son or daughter with the employee for adoption or foster care; a serious health condition of the employee; or for the employee to care for a spouse, son, daughter, or parent with a serious health condition. The son or daughter must be under 18 or over 18 but incapable of self-care because of a mental or physical disability.

**Federal Employees Family-Friendly Leave Act of 1994.** Authorized an employee to use sick leave to care for a family member and to arrange for and/or attend the funeral following the death of a family member. Prior to 1994, employees were only able to use sick leave to care for themselves.

**Sick Leave for Adoption (1994).** Authorized an employee to use sick leave for purposes related to the adoption of a child.

**Implementation of *U.S. v. Windsor* (2013).** Supreme Court decision (*United States v. Windsor*) determined Section 3 of the Defense of Marriage Act (DOMA) to be unconstitutional, thereby entitling Federal employees with same-sex spouses to use FMLA leave to care for their spouse if the spouse has a serious health condition.

**Federal Employees Paid Leave Act (2019).** Entitled an employee to substitute up to 12 weeks of paid parental leave (PPL) for FMLA unpaid leave for the care of and bonding with the employee's [son or daughter](#) during the first 12 months following the birth of a child or the placement of a child with the employee for adoption or foster care.

**Parental Bereavement Leave (2022).** Entitled Federal employees to 2 workweeks of parental bereavement leave in connection with the death of an employee's child if the child is under 18 or over 18 but is incapable of self-care because of a mental or physical disability. (This entitlement is in addition to the entitlement to use sick leave for bereavement purposes.)

## **B. Roles and Responsibilities**

### **OPM's Role**

OPM provides leadership on Federal leave policies and programs by developing and maintaining Governmentwide rules and regulations on annual leave, sick leave, the Family and Medical Leave Act, Paid Parental Leave, Federal leave sharing programs, and other leave and workplace flexibilities and programs.

### **Agencies' Role**

Federal agencies are responsible for complying with the law and OPM's Governmentwide regulations and guidance. Agencies are also responsible for developing agency-specific policies dealing with the administration of leave programs and workplace flexibilities, including any discretionary benefits, in accordance with any applicable collective bargaining agreements.

### **Employees' Role**

Employees must review both OPM and agency-specific rules and regulations on leave and workplace flexibilities to understand the options available to them for childbirth or placement of a child for adoption or foster care. It is equally important for employees to consult with their agency's servicing human resources office to learn about their agency's policies and to ask any questions they may have about these programs.

This handbook provides various tools for employees to use in preparing and planning for time off for childbirth, adoption, and foster care. It must be read in conjunction with agency and component-specific policies on leave and workplace flexibilities and any applicable collective bargaining agreements.



## **C. Employee Checklist for Planning Time Off for Childbirth, Adoption, and Foster Care**

Use this printable checklist as a planning tool before you meet with your manager or servicing human resources office. Check with your servicing human resources office to confirm what flexibilities are available at your agency.

### **Things to Do:**

- Read the OPM Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care, and review all the relevant OPM fact sheets.
- Read your internal agency policies and guidelines for requesting and using leave and workplace flexibilities
- Determine the amount of time off you would like to use
  - Hours desired:
- Determine the date range(s) during which you intend to use the leave
  - Start Date:
  - End Date:
- Determine your potential eligibility for Family and Medical Leave (FMLA) and Paid Parental Leave (PPL)
- Determine your projected leave/paid time off balances in each category that you intend to use
  - Available sick leave hours:
  - Available annual leave hours:
  - Other available paid time off (compensatory time, credit hours):
  - Available FMLA/PPL hours:
  - Amount of unpaid time off (LWOP) you wish to take:
- Calculate the gap, if any, between the amount of leave/paid time off you would like to use and the amount of leave/paid time off you will have available at the time you wish to use the leave/paid time off
  - Hours of leave/paid time off desired minus hours of leave/paid time off available:

- Ask questions of your coworkers who have taken time off in connection with childbirth, adoption, and foster care
  - How much time did you take off and how did you structure that time off?
  - How did you transition back to work afterward?
  - Is there anything you would have done differently?

## **Know Your Options**

### ***Advanced Sick Leave and Advanced Annual Leave***

- What are my agency's advanced sick leave and advanced annual leave policies?
- What options does my agency provide to repay advanced leave?
- How will I repay the advanced leave?
- How long will it take to repay any leave advanced to me? (See below for option to repay using donated annual leave if leave was advanced for a situation that qualifies as a personal or family [medical emergency](#).)

### ***Voluntary Leave Transfer or Voluntary Leave Bank Programs***

- Familiarize yourself with your agency's policies and rules for participation well in advance of needing donated annual leave.
- Will I be eligible to become a leave recipient (that is to say, will I or my [family member](#) have a [medical emergency](#) that qualifies me to apply for these programs)?
  - If so, how/when should I apply?
- Does my agency have a leave bank?
  - If so, when is the open enrollment period and what do I need to do to join?
- Can/will I use donated annual leave to repay any potential advanced leave indebtedness?

### ***Family and Medical Leave Act (FMLA) and substitution of PPL***

- Will I be eligible for FMLA/PPL upon the date of birth or placement of my son or daughter?
  - If so, when will I invoke it?
  - If not, when will I become eligible for FMLA/PPL?

- Have I recently used FMLA for any other purpose such that it will reduce the amount of FMLA available to me at the time of the birth or placement of my son or daughter and for which I can substitute paid parental leave?
- Do I want to use my FMLA/PPL intermittently or on a reduced leave schedule?
  - If so, what is my agency's policy on requesting intermittent use of FMLA/PPL for childbirth, adoption, or foster care and who approves its use?

***Telework***

- Are telework options available to me? Review agency policies and any applicable bargaining agreement and discuss with my HR office and my manager.

***Work Schedules***

- What are flexible work schedule options available to me? Review agency policies and any applicable bargaining agreement and discuss with my HR office and my manager.

***Part-Time Employment and Job Sharing***

- Does my agency allow part-time employment or job sharing? Review agency policies and any applicable bargaining agreement and discuss with my HR office and my manager.

## **II: Leave and Workplace Flexibilities for Pregnancy and Childbirth**

The Federal Government offers various leave and workplace flexibilities to assist employees in meeting their work and family obligations. This chapter explains the leave and workplace flexibility options that can be used separately or in combination to help an employee balance work and family life related to pregnancy and childbirth. An employee who is pregnant may need time off from work for pregnancy-related issues, and an employee who has given birth may need time off for recovery from childbirth or to care for and bond with the baby. An employee whose spouse or domestic partner is pregnant may need time off from work to care for that spouse or domestic partner both during the pregnancy and just after the child's birth, as well as time to care for and bond with the baby. Note that an employee may also want to take leave to care for a variety of family members who are pregnant or have given birth to a child, including the employee's child or child's spouse, a parent, sibling, or grandchild, or also to care for new babies such as grandchildren.

This chapter contains many defined terms. Knowing how specific terms are defined in the leave regulations is essential to understanding the leave programs to which those definitions apply. Throughout this handbook, we provide hotlinks to the definitions of key terms used in the handbook. For a consolidated list of the definitions used in this handbook please see the [Definitions section](#) in [Additional Resources](#).

Note: This guidance must be read in conjunction with agency and component-specific leave policies and any applicable collective bargaining agreements.

### **A. Sick Leave**

An employee is entitled to use sick leave for personal medical needs while pregnant or recovering from childbirth, to care for a [family member](#) who is pregnant or recovering from childbirth because of the family member's [serious health condition](#), for general family care purposes such as well-baby doctor visits or illnesses, to accompany a family member to these appointments, or for bereavement purposes in the event of the death of a family member.

An agency may request administratively acceptable evidence indicating the duration of the employee's or family member's recovery from childbirth or for other sick leave purposes. Most health care providers certify that the recovery period following

childbirth is about 6-8 weeks, although this period can be longer depending on the needs of the individual and the certification provided by the healthcare provider.

**Tip:** Sick Leave is an entitlement that may be used without invoking leave under the Family Medical Leave Act (FMLA). An agency may not deny an employee's request to use sick leave without invoking FMLA. In addition, an agency may not require an employee to substitute sick leave for unpaid FMLA leave without the employee's express consent. [See Section F for information on FMLA.](#)

### **Sick Leave for Employee's Own Pregnancy and Recovery from Childbirth**

An employee who will be giving birth is entitled to use any accumulated or accrued sick leave for prenatal care, any period of incapacity due to pregnancy – including periods of morning sickness or medically prescribed bed rest – childbirth, and recovery from childbirth, including addressing post-partum depression or other mental health conditions following birth. There is no limit on the amount of accumulated and accrued sick leave an employee may use for the employee's own personal medical needs, provided that the leave is used for authorized sick leave purposes.

**Scenario:** Jody has given birth and has requested 12 weeks of sick leave. Is Jody entitled to use 12 weeks of sick leave?

Jody is only entitled to use sick leave for the period of incapacitation following childbirth. Although most medical professionals certify a 6 to 8 week recovery period, Jody would be entitled to take whatever amount of sick leave Jody's healthcare provider certifies for her recovery period, which may be longer than 6 to 8 weeks.

For more information, see our fact sheets on [Sick Leave \(General Information\)](#) and [Sick Leave for Personal Medical Needs](#).

### **Sick Leave to Care for a Family Member**

An employee is entitled to a total of 12 weeks (480 hours) of sick leave each leave year to care for a [family member](#) with a [serious health condition](#). Note: the definition of serious health condition in the sick leave regulations is the same definition as that used in OPM's FMLA regulations.

The individual for whom the employee is providing care must meet the definition of *family member* used for sick leave, voluntary leave transfer program (VLTP), and voluntary leave bank program (VLBP) purposes.

A family member is an individual with any of the following relationships to the employee:

- 1) Spouse, and parents thereof;
- 2) Sons and daughters, and spouses thereof;
- 3) Parents, and spouses thereof;
- 4) Brothers and sisters, and spouses thereof;
- 5) Grandparents and grandchildren, and spouses thereof;
- 6) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
- 7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

The agency determines whom they consider to be an “individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.” For important associated definitions, please see our fact sheet entitled [Definitions Related to Family Member and Immediate Relative](#).

Examples of authorized sick leave uses for a [serious health condition](#) are caring for the pregnant [family member](#) for prenatal care; any period of morning sickness or medically prescribed bed rest, childbirth, and recovery from childbirth, including addressing post-partum depression or other mental health conditions following birth; and care of the baby if the baby has a serious health condition.

The employee may also use 13 days (104 hours) of sick leave for general family care—including well-baby visits or minor illnesses. If the employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for all family care purposes.

When an employee requests sick leave to care for a family member, the agency may require the employee to document the employee’s relationship with that family

member. Agencies should establish consistent rules and follow the same documentation requirements for all relationships, but agencies have authority to request additional information in cases of suspected leave abuse.

### **Sick Leave to Care for a Family Member during Pregnancy and after Birth**

An employee caring for a [family member](#) who is pregnant or has given birth is entitled to use sick leave for the family member for prenatal care, any period of incapacity due to the pregnancy – including morning sickness or medically prescribed bed rest – childbirth, or for the family member’s recovery from childbirth. As mentioned above, most health care providers certify that the recovery period from childbirth is about 6-8 weeks, although this period can be longer depending on the needs of the individual and the certification provided by the healthcare provider.

**Scenario:** Demont’s wife, Sharise, is pregnant with quintuplets and is hospitalized because she is experiencing a high-risk pregnancy. Demont wants to use some of his 600 hours of accrued sick leave to be with her in the hospital. His supervisor denies his request for sick leave for the period of hospitalization, stating that since Demont’s wife will be in the hospital, Demont will not be caring for her and therefore is not entitled to sick leave for that period. Can Demont’s supervisor deny Demont’s invocation of his sick leave entitlement?

OPM’s sick leave regulations allow sick leave to be used if the [family member](#) of the employee requires psychological comfort and the family member would benefit from the employee’s care or presence; therefore, Demont’s sick leave request cannot be denied. However, the agency could request certification from the health care provider concerning the family member’s need for psychological comfort and that the family member would benefit from the employee’s care or presence.

### **Sick Leave to Care for a Newborn**

Employees may not use sick leave to be absent from work to bond with or care for a healthy newborn. There is no provision in law or regulation that permits the use of sick leave to bond with or care for a healthy newborn, or for other childcare responsibilities. However, an employee is entitled to use up to 13 days of sick leave each leave year for general family care purposes, i.e. to care for a child who has a routine illness or to take a child to well baby doctor visits or other medical, dental, or optical appointments. If the child has a [serious health condition](#), an employee is

entitled to use up to a total of 12 weeks (480 hours) to care for the child. These 13 days and the 12 weeks are part of the overall entitlement to use 12 weeks of sick leave in a leave year for all family care purposes.

In order to use sick leave to care for a newborn child, the child must meet the definition of [son or daughter](#) or [family member](#) for sick leave purposes.

An agency may request administratively acceptable evidence of a child's illness or treatment.

**Tip:** Based on the definition of [son or daughter](#), an employee could care for the son or daughter of the employee's domestic partner, even if the employee is not the child's biological or adoptive parent. Also, based on the definition of [family member](#), an employee could take sick leave to care for a grandchild for any of the purposes outlined above.

For information on using leave to care for or bond with a healthy newborn, please [see Section G on Paid Parental Leave](#) and [Section C on Annual Leave](#).

### **Sick Leave for Bereavement**

An employee may use up to 104 hours (13 days) of sick leave in a leave year to make arrangements following the death of a family member or to attend the funeral of a family member, to include the death of a newborn who is a family member or the death of a family member who has given birth.

In addition to sick leave for bereavement purposes, an eligible employee may use parental bereavement leave following the death of a [son or daughter](#) as that term is defined in the FMLA regulations. For more information, please see [Section H on Parental Bereavement Leave](#).

For more information, see our fact sheets on [Sick Leave \(General Information\)](#), [Sick Leave for Family Care or Bereavement Purposes](#), and [Sick Leave to Care for a Family Member with a Serious Health Condition](#).

### **B. Advanced Sick Leave**

Upon an employee's request, in accordance with sick leave laws and regulations and consistent with mission needs, an agency may grant advanced sick leave for the same purposes it grants sick leave, as specified in law and regulation. Advanced sick leave



may be especially beneficial to new employees within their first year of Federal service who have little or no sick leave accumulated and who do not yet meet the service eligibility requirements for Family and Medical Leave (FMLA) and the substitution of Paid Parental Leave (PPL). Employees are eligible for a maximum of 240 hours (30 days) of advanced sick leave for purposes of a [serious health condition](#) and a maximum of 104 hours (13 days) for general family care purposes (see previous discussion for the types of activities covered). Agencies are advised to advance sick leave to the maximum extent practicable for purposes related to pregnancy and childbirth.

**Tip:** Since advanced sick leave creates an indebtedness for the employee, a better option for an employee who qualifies for the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP) is to receive donated annual leave under the VLTP or VLBP. [See Section E on Leave Sharing Programs.](#)

### **Repayment of Advanced Sick Leave**

An employee is required to repay advanced sick leave, except in three circumstances – disability retirement; separation because of a disability; or death. Therefore, an employee requesting advanced sick leave should think carefully about whether the employee wants to incur this debt and how the debt will be repaid. Generally, advanced sick leave is repaid by subsequently earned sick leave, so if an employee were to use 13 days of advanced sick leave, it would take the employee a full year without using another hour of sick leave to repay the sick leave debt. Because advanced sick leave must be repaid, an agency should not advance sick leave when it is known (or reasonably expected) that the employee will not return to duty.

**Tip:** Donated annual leave under the VLTP or VLBP may be used to liquidate an indebtedness incurred by the leave recipient for advanced sick leave used because of a [medical emergency](#), such as medically prescribed bed rest or recovery from childbirth. Before using donated annual leave, however, the employee must first exhaust all accrued and accumulated annual and sick leave. [See Section E on Leave Sharing Programs.](#)

For more information, including information on repayment options, see our fact sheet on [Advanced Sick Leave](#).

## C. Annual Leave

Annual leave may be used for any purpose, subject to the right of the supervisor to approve a time when the annual leave may be taken. When scheduled according to agency procedures, therefore, annual leave may be used for pregnancy, childbirth, recovery from childbirth, including addressing post-partum depression or other mental health conditions following birth, bonding with or caring for a baby, for other childcare responsibilities including taking the child to medical, dental, or optical appointments or well-baby doctor visits, or for any other purpose. For pregnancy and childbirth, agencies are encouraged to grant annual leave to the maximum extent practicable consistent with mission needs.

**Scenario:** Makawee works for the U.S. Department of the Interior, Indian Arts and Crafts Board, and has a niece who is 6 months pregnant with twins. Makawee wants to use annual leave both to help transport her niece to and from medical appointments and to set up a nursery for the twins. Her supervisor denies her annual leave requests because an employee's niece isn't included in the definition of [family member](#) and because setting up a nursery isn't directly related to prenatal care. Is Makawee's supervisor correct to deny her requests for annual leave based on these reasons?

Makawee's supervisor appears to be confusing sick leave and annual leave. As long as the annual leave is properly scheduled, Makawee may use it for any reason she wishes, including assisting her niece during her niece's pregnancy and helping set up a nursery. In order to ensure she has the best opportunity to use the annual leave on the dates and times desired, she should schedule the annual leave within the timeframes set by the agency for annual leave requests.

## D. Advanced Annual Leave

Upon an employee's request, in accordance with annual leave laws and regulations and consistent with mission needs, an employee may be granted advanced annual leave for any purpose, including in connection with pregnancy and childbirth and bonding with the newborn. An agency may advance the amount of annual leave an employee would accrue during the remainder of the leave year. Note that this means that the later in the leave year the employee requests advanced annual leave, the smaller the amount that may be advanced. Similar to advanced sick leave, advanced annual leave may be

especially beneficial to new employees within their first year of Federal service who have little or no annual leave accumulated and who do not yet meet the service eligibility requirements for FMLA and the substitution of PPL. Agencies are advised to advance annual leave to the maximum extent practicable for purposes related to pregnancy and childbirth.

### **Repayment of Advanced Annual Leave**

An employee is required to repay advanced annual leave, except in three circumstances, disability retirement; separation because of a disability; or death. Therefore, an employee requesting advanced annual leave should think carefully about whether the employee wants to incur this debt and how the debt will be repaid. Note that generally advanced annual leave is repaid by subsequently earned annual leave. For example, if an employee in the first three years of employment who earns 4 hours of annual leave per pay period were to use 13 days of advanced annual leave, it would take the employee a full year without using another hour of annual leave to repay the annual leave debt.

**Tip:** Donated annual leave under the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP) may be used to liquidate an indebtedness incurred by the leave recipient for advanced annual leave used because of a [medical emergency](#), such as medically prescribed bed rest or recovery from childbirth. Before using donated annual leave, however, the employee must first exhaust all accrued and accumulated annual and sick leave. [See Section E on Leave Sharing Programs.](#)

### **Scheduling of Advanced Annual Leave**

An employee should consult the employee's local HR office for agency-specific details on how to request advanced annual leave. Because advanced annual leave must be repaid, an agency should not advance annual leave when it is known (or reasonably expected) that the employee will not return to duty. For pregnancy and childbirth, agencies are encouraged to grant advanced annual leave to the maximum extent practicable consistent with mission needs.

For more information, including information on repayment options, see our fact sheet on [Advanced Annual Leave](#).

## **E. Leave Sharing Programs—Voluntary Leave Transfer Program (VLTP) and Voluntary Leave Bank Program (VLBP)**

An employee may be eligible to apply for and receive donated annual leave under an agency's leave sharing programs if the employee or the employee's family member is experiencing a medical emergency and if the employee has exhausted or will exhaust all the employee's accrued annual and sick leave (referred to as employee's [available paid leave](#)). Donated annual leave may be provided, for example, to the employee during the employee's period of incapacitation following birth, or to address post-partum depression or other mental health conditions following birth, or to an employee to care for a family member during the family member's period of incapacitation or to address post-partum depression or other mental health conditions following birth. It may also be provided to an employee to care for a baby who has experienced a medical emergency. There are two leave sharing programs that can be used for these purposes – the Voluntary Leave Transfer Program (VLTP) and the Voluntary Leave Bank Program (VLBP). Each agency must administer a VLTP for its employees; agencies may also establish voluntary leave banks but are not required to do so.

Note that the definition of [family member](#) is the same for VLTP and VLBP purposes as it is for sick leave purposes.

### **Medical Emergency**

The term [medical emergency](#) means a medical condition of either the employee or the employee's [family member](#) that is likely to require an employee to be absent or expect to be absent from duty for a prolonged period and to result in a substantial loss of income (expected absence without available paid leave of at least 24 work hours for a full-time employee) because of the employee's lack of available paid leave (please refer to the definition for important information regarding what is and is not considered an employee's [available paid leave](#)). An employee's or family member's incapacity of at least 24 hours due to pregnancy and/or recovery from childbirth would therefore constitute a medical emergency for purposes of the VLTP or VLBP. Care of an employee's child with a [serious health condition](#) would also constitute a medical emergency.

**Tip:** The medical emergency related to pregnancy and childbirth is for any period of incapacitation relating to the birth of the child, including addressing post-partum depression or other mental health conditions following birth, or for care of a baby if the baby is seriously ill. Donated annual leave under the VLTP and VLBP cannot be used for bonding with a healthy newborn.

**Scenario:** Amina, a new employee of the African Development Foundation is pregnant and close to term. She has 20 hours of sick leave and 20 hours of annual leave. Her doctor has informed her that she will need to be off from work for at least 6 weeks for recovery post childbirth. She won't be eligible for FMLA because her needs will happen before she meets the service requirements for FMLA eligibility. Does Amina's routine recovery from childbirth qualify as a [medical emergency](#) under the leave sharing regulations?

Yes. A medical emergency for the purposes of leave sharing programs means a medical condition of an employee or family member that is likely to require the employee's absence from duty for a prolonged period of time (at least 24 work hours) and to result in a substantial loss of income to the employee because of the unavailability of paid leave. Even though Amina has a combined balance of 40 hours of sick and annual leave, her expected absence of 6 weeks for her recovery from childbirth means she meets the eligibility requirements for the VLTP or VLBP because she will be experiencing a medical emergency.

### **Voluntary Leave Transfer Program (VLTP)**

The VLTP allows an employee to donate annual leave directly to another employee who has a personal or family [medical emergency](#). Generally, employees receive donated annual leave under the VLTP from other employees in their agency. However, [family members](#) are entitled to donate annual leave to an approved leave recipient who works at another Federal agency. The agency may allow donations from Federal employees at other agencies if it believes that the employee may not otherwise receive enough donated annual leave to meet the employee's needs.

**Scenario:** Amina’s domestic partner works at the Department of Commerce and wants to donate 40 hours of annual leave to her. A coworker has volunteered to donate 80 hours of sick leave to her. A neighbor who is in the Marines has also said he will donate two days of annual leave to her. In addition, two other carpool members have volunteered to donate annual leave to her; one works for the U.S. Postal Service and the other for the Office of Personnel Management (OPM). How much leave may Amina’s spouse, coworker, neighbor, and the carpool members donate to Amina?

Sick leave may not be donated under the VLTP or VLBP, therefore Amina’s coworker may not donate sick leave to her. Generally, leave recipients may receive donations of annual leave only from employees of the same agency. However, any [family member](#) employed by another agency covered by the leave sharing programs in chapter 63 of title 5, of the United States Code is entitled to donate annual leave to a leave recipient, so Amina may receive donated annual leave from her domestic partner. If the African Development Foundation believes Amina may not receive enough donations from coworkers in her agency, it may decide to allow donations of annual leave from employees at other agencies covered by the leave sharing programs. Since employees of the U.S. Postal Service and members of the Marines are not covered by the title 5 leave system, Amina may not receive donated annual leave from the carpool member who is an employee of the U.S. Postal Service or the neighbor who is in the Marines.

### **Voluntary Leave Bank Program (VLBP)**

Each agency may establish a VLBP under which an employee may contribute unused annual leave for use by a leave bank member who is experiencing a personal or family [medical emergency](#). Agencies are strongly encouraged to establish a leave bank program. The agency’s leave bank board operates the leave bank and determines how much donated annual leave an employee may receive from the leave bank.

**Tip:** Every agency is required to have a voluntary leave transfer program. To ensure employees are eligible for the maximum benefits possible, agencies are also encouraged—but not required—to establish a voluntary leave bank program.

## **Retroactive Substitution of Donated Annual Leave**

Donated annual leave received through a VLTP or VLBP may be—

- Substituted retroactively by the employee for any period of leave without pay used because of a [medical emergency](#); or
- Used by the employee to liquidate an indebtedness incurred by the leave recipient for advanced annual or sick leave used because of a medical emergency.

## **Set-Aside Accounts**

While using donated leave under the VLTP or VLBP, a leave recipient accrues annual and sick leave into what are called “set-aside accounts” so that the employee has some sick and annual leave available when the medical emergency is over. An employee may accrue no more than 40 hours of annual leave and 40 hours of sick leave in the set-aside accounts. The leave in these accounts will be transferred to the employee’s regular leave accounts **either** when the medical emergency ends **or** if the employee exhausts all donated annual leave but the employee or the employee’s family member is still experiencing the medical emergency. Leave in set-aside accounts is not available for use by the employee until transferred to the employee’s regular leave accounts.

An employee who returns to work part-time and who uses donated annual leave part-time, for example, to care for a [family member](#) recovering from childbirth, accrues leave in the employee’s regular annual and sick leave accounts for the time spent in work status and in the employee’s set-aside annual and sick leave accounts when using donated leave.

**Scenario:** How does Amina, whom we met earlier, accrue annual and sick leave while using donated annual leave? Amina may accrue up to a maximum of 40 hours of sick leave and 40 hours of annual leave in set-aside accounts. Annual leave and sick leave in the set-aside accounts will become available for Amina’s use after it is transferred to her regular leave accounts when the medical emergency terminates or when she exhausts all donated leave but still needs more time to recover from childbirth.

## Leave Sharing Facts Related to Pregnancy and Childbirth

- Donated annual leave may be used only for circumstances that meet the definition of a medical emergency—and may be used, for example, for any period of pre or post birth incapacitation, or illness of the baby.
- There is no limit on the amount of donated annual leave a leave recipient may receive from the leave donor(s)/bank. However, any unused donated annual leave must be returned to the leave donor(s)/bank when the medical emergency ends.
- Donated annual leave may not be used to bond with or care for a healthy newborn, to care for a child with a routine illness, or to take the child to medical, dental, or optical appointments or well-baby doctor visits.
- An employee who returns to work part-time and who uses donated leave part-time accrues leave in the employee's regular annual and sick leave accounts for the time spent in work status and in the employee's set-aside annual and sick leave accounts when using donated leave.

**Tip:** An employee is not required to use advanced annual leave or advanced sick leave before receiving donated annual leave under the leave transfer programs. However, if the employee did receive advanced sick or annual leave, donated annual leave under the VLTP or VLBP may be used to liquidate an indebtedness incurred by the leave recipient for advanced leave used because of a [medical emergency](#), such as medically prescribed bed rest or recovery from childbirth.

For more information, see our fact sheets on the [Voluntary Leave Transfer Program](#) and the [Voluntary Leave Bank Program](#).

## F. Family and Medical Leave

### Entitlement

Under the FMLA, Federal employees are entitled to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of these purposes:

- the [birth](#) of a [son or daughter](#) of the employee and care of the newborn (leave must be used no later than the date that is 12 months after the date of birth);
- the [placement](#) of a son or daughter with the employee for adoption or foster care and the care of the son or daughter (leave must be used no later than the date that is 12 months after the date of placement);



- the care of an employee’s spouse, son, daughter, or parent with a [serious health condition](#); or
- a serious health condition of the employee that makes the employee unable to perform the essential functions of the employee’s position; and
- any qualifying exigency arising out of the fact that the [spouse](#), or a son, daughter, or [parent](#) of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. (See OPM’s [Family and Medical Leave Qualifying Exigency Leave](#) fact sheet for more information on this entitlement.)

**Tip:** In the case of FMLA use for birth of a son or daughter, each parent-employee has a separate entitlement to 12 weeks of FMLA leave in a 12-month period based on birth of a child—whether they work for the same office or agency or for separate offices or agencies.

FMLA leave is unpaid leave for which certain types of paid leave, including Paid Parental Leave (PPL) following the [birth](#) of a [son or daughter](#), may be substituted. See the [Substitution of Paid Leave for Unpaid FMLA Leave](#) section of OPM’s [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet for more information.

### **Eligibility**

To be eligible for FMLA leave under OPM’s FMLA regulations, an employee must –

- be covered by the title 5 leave system for annual and sick leave purposes;
- have completed 12 months of qualifying Federal civilian service, military service, or a combination of both (see OPM’s [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet for information on what constitutes qualifying service); and
- not be specifically excluded from eligibility. The following employees are excluded from coverage —
  - those with an intermittent work schedule;
  - those with temporary appointments not to exceed 1 year. (Note that employees on multiple temporary appointments not to exceed 1 year are not eligible for FMLA regardless of the cumulative total time of the appointments); and

- those who are Presidential appointees who are not covered under a leave system (since they cannot be charged leave for absences from work).

**Tip:** An employee must have completed at least 12 months of qualifying Federal civilian service, military service, or a combination of both, to be entitled to FMLA leave. The required 12 months of service do not need to be consecutive or recent and qualifying civilian service may have been performed at one or more agencies.

**Scenario 1:** Javier served honorably in the Army for 10 months and was medically retired when it was discovered he had a brain tumor that was causing a seizure disorder. Despite surgery, he still is under treatment. He is hired into Federal civilian service with the Department of Justice and has served for 7 months while still dealing with the seizure disorder. He immediately meets the 12-month service requirement for FMLA leave eligibility purposes because of his 10 months of honorable Army service and 7 months of civilian service.

**Scenario 2:** Cassidy worked for OPM for 4 months while in graduate school in 2019. She then graduated, and worked in the private sector for several years. She was hired by NASA in January 2024 and is expecting her first child in November 2024. Cassidy will be eligible for FMLA leave in September 2024, well in advance of her baby's birth, since by that time she will have 12 months of qualifying civilian service (4 months at OPM in 2019, as well 8 months of service at NASA in 2024.)

**Scenario 3:** Mary Jo has been employed for a decade as a Federal contractor with the Thrift Savings Plan (TSP). She then is hired into a Federal position with the TSP. After she becomes pregnant, she hears about the Federal Government's Paid Parental Leave (PPL) authority. Mary Jo asks her HR department if she qualifies for FMLA/PPL based on her ten years of work with TSP. What should the HR department tell Mary Jo?

Mary Jo's 10 years working as a contractor does not count for FMLA eligibility purposes—she would need 12 months of qualifying Federal civilian service, qualifying military service, or a combination of both to be eligible for FMLA and PPL. Her HR office should counsel her about other leave and workplace flexibility options available to her until she is eligible for FMLA and PPL.

## **12-Month FMLA Period and Timeframe for Use of FMLA for Birth of a Child**

An employee is entitled to 12 weeks of FMLA leave in a 12-month period. An employee's 12-month FMLA period (that is, the timeframe during which the employee may use the 12 weeks of FMLA leave) begins on the date the employee first takes FMLA leave and continues for a 12-month period from the date of first use. An employee is not entitled to 12 additional workweeks of FMLA leave until the previous 12-month period ends and the employee experiences another FMLA qualifying event, which may include a continuation of a previous circumstance.

For example, an employee who takes FMLA leave beginning on January 10, 2024, and exhausts the 12-week FMLA entitlement by mid-April 2024, may not take FMLA leave for any FMLA purpose until a new 12-month period begins for the employee on January 10, 2025.

Any holidays that occur during the period in which an employee is on FMLA leave do not count towards the 12-week entitlement to FMLA leave. Per the FMLA regulations, FMLA leave "is not applied to days designated as holidays and other nonworkdays when the employee would be excused from duty." Note that an employee is paid for a holiday if the employee is in pay status either before or after a holiday. If an employee substitutes paid leave for unpaid FMLA leave (or is in pay status for any reason) either before or after a holiday, the employee will receive pay for the holiday. For additional information, see OPM's [Federal Holidays - Work Schedules and Pay](#) fact sheet.

The entitlement to FMLA leave related to [birth](#) of a baby expires at the end of the 12-month period beginning on the date of the birth. This restriction is set in law and cannot be extended for any reason.

**Scenario:** Paul and his wife Colleen had a baby March 1, 2024. He used 6 weeks of sick leave to care for Colleen during her recovery following childbirth, from March 1-April 12, 2024. On April 8, 2024, Paul invokes his FMLA entitlement. He receives orders for a one-year deployment beginning on May 31, 2024. Can Paul use his remaining weeks of FMLA leave for the birth of his child when he returns from deployment?

No, he cannot. Paul's entitlement to FMLA leave related to the birth of his baby expires at the end of the 12-month period beginning on the date of the baby's birth. Since his baby was born on March 1, 2024, his entitlement to FMLA for the baby's birth expires on February 28, 2025. When Paul returns to his Federal civilian position in 2025, his 12-month FMLA entitlement period will have already ended. Because this restriction is set in law, there is no statutory authority to extend his 12-month FMLA period.

FMLA leave related to the birth of a child may be taken before the birth under certain conditions. In the case of an anticipated birth, the leave may be taken (1) by an employee who will give birth based on the employee's [serious health condition](#) related to pregnancy or (2) by an employee who is caring for a [spouse](#), [daughter](#), or [parent](#) who will give birth based on that person's serious health condition related to pregnancy.

Paid parental leave is provided as a substitute for FMLA unpaid leave. Employees should keep in mind that FMLA is limited to a maximum of 12 weeks during any 12-month period. Therefore, if an employee invokes FMLA prior to the birth of a child, the length and/or timing of paid parental leave will be affected. Agencies are encouraged to work with employees to allow for maximum flexibility when it comes to arranging leave options to allow for medical needs leading up to a child's birth and for bonding with and care of the child following the child's birth.

**Tip:** Since up to 12 weeks of PPL may be substituted for unpaid FMLA leave, employees should consider how use of any FMLA leave prior to the birth of a child will affect the timing of FMLA for birth of a child with substitution of paid parental leave.

**Scenario 1:** Jennifer is a Federal employee whose public-facing position is not conducive to telework. She has been placed on bed rest for the last two months of her pregnancy. She invokes FMLA prior to her baby's birth, using FMLA leave as of June 4, 2024, so her 12-month FMLA period runs from June 4, 2024, until June 3, 2025. She cannot use PPL during her period of bedrest since (PPL) can only be used following the birth of a child, so, she substitutes annual leave for unpaid FMLA leave from June 4-July 30, 2024. Her baby is born July 31, 2024. Since she is in a current 12-month FMLA period when her baby is born and has used 8 weeks of her 12-week FMLA leave entitlement, she only has 4 remaining weeks of FMLA leave that she may take (and for which she may substitute PPL) during her current 12-month FMLA period. On June 3, 2025, she will be entitled to begin a new 12-month FMLA period. On July 31, she uses 4 weeks of FMLA leave with substitution of PPL through August 28, 2024. She plans to invoke her FMLA entitlement again on June 3, 2025, when she can begin a new FMLA 12-month period, and substitute the remaining 8 weeks of PPL for unpaid FMLA from June 3, 2025, to August 5, 2025. However, since the entitlement to take FMLA leave for [birth](#) of a child expires at the end of the 12-month period beginning on the date of a baby's birth and her baby was born on July 31, 2024, she is only entitled to use FMLA leave for the baby's birth until July 30, 2025. She therefore is not able to take FMLA leave with substitution of PPL from July 31-August 5, 2025, as she had hoped.

**Scenario 2:** Jaylen is an employee of the Social Security Administration whose mother was successfully treated for breast cancer and has been in remission for 15 years when the cancer returns aggressively. Jaylen takes several weeks of sick leave to care for his mother because of her [serious health condition](#), then on August 3, 2023, Jaylen invokes his FMLA entitlement and starts to use FMLA leave to continue to care for her, using 12 weeks of intermittent FMLA leave for her care through January 31, 2024, when she passes away. Jaylen’s 12-month FMLA period runs from August 3, 2023 (the day he first took FMLA leave to care for his mother) through August 2, 2024. Jaylen’s wife Tyrika gives birth to their baby on March 4, 2024. Since he exhausted his 12-week FMLA entitlement when caring for his mother, he cannot take FMLA leave when his baby is born. On August 3, 2024, he will be entitled to begin a new 12-month FMLA period. Jaylen exhausted his sick and annual leave caring for his mother, so is approved as a leave recipient under the Voluntary Transfer Program and uses donated annual leave to care for his wife during her period of incapacity. On August 5, 2024, he decides to invoke his FMLA entitlement for [birth](#) and care for his baby, taking 12 continuous weeks of unpaid FMLA leave for which he substitutes PPL from August 5-October 30, 2024.

### **FMLA Leave Related to Birth of a Child**

FMLA leave related to the birth of a baby may be taken “because of the birth” of an employee’s baby, which would include the following activities by an employee—

- to recover from giving birth, including addressing post-partum depression or other mental health conditions following birth;
- to care for the birth-giving parent during the post-birth recovery period, including addressing post-partum depression or other mental health conditions following birth. (Note that if FMLA is taken “because of the birth” to care for the birth-giving parent, the other parent can provide that care even if not married to the birth-giving parent); or
- to care for the newborn during the 12-month period following the baby’s birth. Caring for the baby includes periods of active care, time spent bonding with the baby, and short periods away from the child to buy supplies such as baby food, diapers, or other supplies. FMLA leave related to birth may not be used if an employee is not caring for the baby—for example, if the employee is physically located outside the area where the baby is.

The definition of [birth](#) for FMLA purposes reads as follows—

Birth means the delivery of a living child. When the term “birth” is used in connection with the use of FMLA leave before birth, it refers to an anticipated birth.

Because birth is defined as the delivery of a living child, FMLA for birth of a son or daughter cannot be used in cases of stillbirth or miscarriage. An employee who experiences a [serious health condition](#) that makes the employee unable to perform the essential functions of the employee’s position or whose [spouse](#) experiences a serious health condition because of a stillbirth or miscarriage is entitled to use FMLA for the serious health condition. FMLA leave used for this purpose would be unpaid FMLA leave for which annual leave, advanced annual leave, or donated annual leave under the VLTP or VLBP could be substituted. Although an employee could also substitute sick leave or advanced sick leave for the unpaid FMLA leave, it would be to the employee’s advantage to invoke sick leave separate from FMLA leave, thereby preserving access to the employee’s FMLA entitlement in case the employee would need it for another reason.

**Scenario 1:** Bill, a Federal employee who lives in Fort Collins, Colorado, and his former girlfriend Diane, who lives in Colorado Springs, Colorado, are having a baby. When the baby is born, Bill applies for 12 consecutive weeks of FMLA immediately following his baby’s birth. Is Bill entitled to these 12 weeks of FMLA?

Unless Bill moves in with Diane in Colorado Springs following the baby’s birth, it would be unlikely that he would be entitled to 12 consecutive weeks of FMLA following his child’s birth, since he and his baby are not living in the same home. Since the baby doesn’t live with Bill, and in fact, Bill lives in another geographic area, the only time Bill would be entitled to use FMLA is for any time he is spending time bonding with and caring for his baby or for short periods of time while he steps away from the baby to purchase supplies for the baby. Bill modifies his FMLA request and receives approval to take FMLA leave intermittently and makes many trips to Colorado Springs to care for and bond with his baby.

**Scenario 2:** Juan Carlos, an employee of the Federal Bureau of Investigation, received a call to active duty and has been deployed for 6 months. While he is away, his wife give birth to their third child. Juan Carlos has exhausted all his military leave. He informs his human resources office that he wants to invoke his FMLA entitlement for birth of his baby. Is Juan Carlos entitled to take FMLA for the birth of his baby while he is deployed?

No. Juan Carlos cannot take FMLA leave since he is not caring for his baby and is physically outside of the area where his baby is. When he returns home from deployment, he may invoke his FMLA entitlement to care for and bond with his baby.

**Tip:** Since sick leave and FMLA leave are two separate entitlements, an employee does not need to invoke FMLA to use sick leave for the period of recovery from childbirth. The employee is entitled to use the amount of sick leave certified by the healthcare provider for recovery from childbirth (generally 6-8 weeks although this period can be longer depending on the needs of the individual and the certification provided by the healthcare provider). See the [Sick Leave for Employee's Own Pregnancy and Recovery from Childbirth section](#) in Section A on Sick Leave.

### **FMLA to Care for Certain Family Members who are Pregnant or Have Given Birth**

An employee may wish to use FMLA leave to provide care for other members of the employee's family who are pregnant or have given birth because of their [serious health condition](#). The definition of a serious health condition includes "[a]ny period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days." Note that the broad definition of [family member](#) used for sick leave, VLTP and VLBP purposes does **not** apply to the FMLA, therefore an employee may only use FMLA leave to provide care for the individuals specified in law, which are an employee's [spouse](#), son or daughter, or parent with a serious health condition.



We are providing the definitions of [parent](#) and [son or daughter](#) for FMLA purposes in this text, so it is clear who is covered by these definitions. The definitions for parent and son or daughter for FMLA purposes are as follows—

[Parent](#) means a biological, adoptive, step, or foster father or mother, or any individual who stands or stood in loco parentis to an employee meeting the definition of son or daughter below. This term does not include parents “in law.”

Son or daughter means a biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing [in loco parentis](#) who is –

- 1) Under 18 years of age; or
- 2) 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” or “instrumental activities of daily living.” Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using telephones and directories, using a post office, etc. A “physical or mental disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in 29 CFR 1630.2 (h), (i) and (j).

**Scenario:** Samantha is a Federal employee whose 22-year old daughter Rose has given birth. Rose does not have a disability that makes her incapable of self-care. Rose’s husband has been called up for active duty in the Middle East. Samantha has requested 6 weeks of unpaid leave under the FMLA to care for Rose because her son-in-law will not be there to care for Rose. Is Samantha entitled to this leave?

The FMLA regulations provide entitlement to care for a [son or daughter](#) who is 18 years of age or older only if incapable of self-care because of a mental or physical disability. Since Rose is not incapable of self-care due to a mental or physical disability, Samantha cannot be granted unpaid FMLA. However, Samantha would be entitled to use sick leave to care for Rose during Rose’s period of recovery from childbirth, since the sick leave regulations do not include any age or capability qualifiers on use of sick leave to care for a son or daughter. Samantha could also request other types of leave or workplace flexibilities outlined in this Handbook in order to care for her daughter.

### **Intermittent Use of FMLA Leave or Use on a Reduced Leave Schedule**

Employees are entitled to use FMLA leave intermittently or on a reduced leave schedule when the leave is medically necessary for purposes of a serious health condition (of either the employee or of a qualified family member for whom the employee is caring) or for qualifying exigency purposes. A reduced leave schedule is a special kind of intermittent leave that amounts to a change in an employee’s usual number of working hours in a workweek or workday, in many cases reducing an employee’s full-time schedule to a part-time schedule for the period of FMLA leave.

For FMLA leave taken for the [birth](#) of a [son or daughter](#), an employee may use FMLA leave intermittently or on a reduced leave schedule upon mutual agreement between the agency and the employee—intermittent use is not an entitlement.

Agencies are encouraged to approve requests for intermittent FMLA for the birth of an employee’s son or daughter to the maximum extent practicable. In fact, it may be to the benefit of the agency to have the employee take FMLA leave intermittently or on a reduced leave schedule basis and return to work sooner rather than being away from the job for the full 12-week block. It is important for employees to consult with their supervisors regarding scheduling requests to minimize the impact on agency operations. In other words, employees should schedule intermittent FMLA leave in

advance and be flexible about their intermittent or reduced work schedule in consideration of agency needs.

**Scenario:** Eduardo and his wife just had a baby and he uses sick leave to care for his wife during her recovery from childbirth. He then takes FMLA leave with substitution of PPL for 7 weeks. He and his wife haven't yet found a child care provider that has openings for their baby. His wife will stay home Monday and Wednesdays with the baby. Her parents will care for the baby on Fridays. Eduardo wants to know if he can he take FMLA leave on a reduced work schedule on Tuesdays and Thursdays to continue to care for and bond with his baby.

Eduardo would have to discuss his work schedule with his manager in advance to minimize the impact of his absence on agency operations. However, subject to the agency's policy and any applicable collective bargaining agreement, Eduardo may request the use of FMLA on a reduced work schedule basis. This would allow Eduardo to use FMLA intermittently while he and his wife continue to look for child care.

### **FMLA Facts Related to Pregnancy and Childbirth**

- An employee must invoke the employee's entitlement to FMLA leave—an agency may not place an employee on FMLA leave. Generally, an employee may not retroactively invoke FMLA.
- An employee taking FMLA leave based on an expected birth of a son or daughter should provide not less than 30 calendar days' notice to the agency of the employee's intention to take FMLA leave—or as much notice as is practicable if the leave is to begin sooner, for example, if the baby is born early.
- An employee's 12-month period begins on the date an employee first takes FMLA leave for any purpose and continues for 12 months.
- The entitlement to FMLA leave taken for the [birth](#) of a son or daughter expires at the end of the 12 months after the baby's birth. This means that FMLA leave for this purpose may only be taken in the first 12 months of the child's life.

For more information, see our [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet.

## G. Paid Parental Leave

PPL is a type of paid leave that is authorized under the FMLA statute and is substituted for available unpaid FMLA leave for the birth of an employee's [son or daughter](#) and care of the newborn following childbirth, therefore in order for an employee to use PPL, the employee must be eligible for FMLA. [See Section F. Family and Medical Leave](#) for details on FMLA eligibility.

Please read the entire FMLA section before reading this section, since all the provisions governing use of FMLA leave following the birth of a baby apply to the use of PPL and the information we cover in the FMLA section is not repeated in this section.

The following are some of the key features of the PPL authority (with a focus on PPL used for birth of an employee's son or daughter and care of the newborn)—

- An employee must meet all eligibility requirements for use of FMLA leave in order to use PPL because PPL is a type of paid leave substituted for unpaid FMLA leave.
- The entitlement to PPL is triggered by the occurrence of a birth, which results in the employee having a parental role, therefore PPL may only be used **after** the birth has occurred.
- Eligible employees are entitled to up to 12 administrative workweeks of PPL per qualifying birth as long as the employee maintains a parental role.
- PPL is a separate category of paid leave, distinct from an employee's accrued sick leave or annual leave.
- PPL may only be used during the 12-month period following the birth of an employee's [son or daughter](#) and only during periods when the employee is acting in a parental role with respect to the newborn.
- [Birth](#) is defined as a live birth, so PPL cannot be used in cases of stillbirth or miscarriage where the employee is not acting in a parental role.
- Since PPL for birth may be used only by substituting it for unpaid FMLA leave based on the birth of a child and FMLA leave may not be used on holidays, PPL may not be used on holidays.
- An employee may not receive a lump-sum payment for any unused or forfeited PPL under any circumstance, and unused PPL may not be saved for use for a

future birth or placement of a child with the employee for adoption or foster care.

- An employee may request to use FMLA leave with substitution of PPL intermittently or on a reduced leave schedule. However, the employee may not use FMLA/PPL intermittently unless the agency agrees to such use—it is not an entitlement. See [Intermittent Use of FMLA Leave or Use on a Reduced Leave Schedule](#) portion of [FMLA section F](#) for more information.

**Tip:** An employee must be eligible for FMLA in order to use PPL. Since PPL must be used within the first 12 months of the child’s birth or placement, an employee who is not eligible for FMLA at the time of the child’s birth would be able to invoke FMLA and substitute PPL if the employee meets FMLA eligibility less than 12 months after the child’s birth.

**Scenario 1:** Mike and his partner just had a baby. Mike has worked for his agency for 3 years but works an intermittent schedule and is therefore ineligible for FMLA. Eight months after his baby’s birth, Mike moves to a part-time schedule. He immediately qualifies for FMLA leave, invokes FMLA and takes 12 weeks of FMLA with substitution of PPL for the birth and care of his baby.

**Scenario 2:** Ellis had no prior Federal civilian service when they were hired into a Federal civilian position on January 30, 2023. Ellis has a baby on May 15, 2023. Ellis meets the 12-month service requirement for FMLA/PPL purposes on January 29, 2024. They may use FMLA leave and substitute PPL for it from January 30, 2024, (the date Ellis’ FMLA leave eligibility begins), until May 14, 2024, the date that is the end of the 12-month period following the baby’s birth, since FMLA/PPL may only be used in the 12-month period following the [birth](#) of a [son or daughter](#).

Since PPL is substituted for unpaid FMLA leave, employees should keep in mind that an employee’s use of FMLA prior to the birth of the employee’s child may affect how much PPL the employee may take and when it may be taken.

**Scenario:** Chanel and Jack's 4-year old son Carson is diagnosed with acute lymphocytic leukemia. Chanel uses 12 weeks of FMLA leave for a [serious health condition](#) to care for Carson from June 3-August 28, 2024 (no FMLA leave is used on the Juneteenth or Independence Day holidays). Chanel's 12-month FMLA period therefore runs from June 3, 2024-June 2, 2025.

On October 15, 2024, Chanel and Jack's baby girl Estee is born. Although Estee's birth is a FMLA-qualifying event, there is no FMLA/PPL leave available for Chanel to use since she exhausted her entitlement to 12 weeks of FMLA leave in a 12-month period by using FMLA leave for Carson's serious health condition from June 3-August 28, 2024. Chanel must wait until June 3, 2025, (the first day after the expiration of the previous 12-month FMLA period), to again be able to use FMLA leave. Chanel's entitlement to FMLA/PPL for Estee's birth expires on October 14, 2025 (the end date of the 12-month period following the birth) and any FMLA/PPL for Estee's birth must be taken by this date. (For further discussion, see "Timeframe for Use of FMLA and Paid Parental Leave (PPL) Related to Birth or Placement of a Child" section of the [FMLA fact sheet](#).)

On June 3, 2025, Chanel invokes FMLA based on Estee's birth and takes 12 weeks of FMLA leave with substitution of PPL from June 3-August 28, 2025 (no FMLA/PPL is used on the Juneteenth or Independence Day holidays.)

To preserve her FMLA 12-month period and 12 weeks of FMLA/PPL for the birth of her baby, Chanel could have used up to 480 hours of sick leave outside of FMLA, since employees are entitled to us sick leave without invoking FMLA and may use up to 480 hours of sick leave for care of a family member with a serious health condition. Chanel could have also investigated use of other types of leave or paid time off to care for Carson.

**Scenario:** Samantha began working for the Office of Personnel Management on September 27, 2023. She and her husband learn soon afterwards that she is pregnant with an expected due date of June 27, 2024. The earliest possible date Samantha would be eligible for PPL under FMLA is September 27, 2024, months after her baby's birth. Can Samantha use PPL at that point, even though she will not be eligible for FMLA/PPL at the time of her child's birth?

An employee must qualify for FMLA on the date the PPL is to be used. Samantha will not be eligible for FMLA on the day of her baby's birth because she won't yet have completed a full year of employment with the Federal government. However, she will be able to use PPL once she is eligible for FMLA, even though this eligibility date is after the baby's birth. Samantha should work with her manager to coordinate options such as using sick leave immediately following the birth of her child so she can take time off to recover from having given birth. Due to Samantha's short tenure with the Federal government, she might consider applying for her agency's voluntary leave bank program or voluntary leave transfer program, since she will exhaust her accrued sick and annual leave and need donated annual leave for her post-birth recovery period.

### **Relationship to Child and Cases of Guardianship and Custody**

For purposes of childbirth, PPL is available to an employee for the [birth](#) of a son or daughter of the employee and care of the newborn. For purposes of FMLA and PPL, [son or daughter](#) means the following—

A biological, adopted, or foster child; a step child, a legal ward; or a child of a person standing [in loco parentis](#) who is –

- 1) Under 18 years of age; or
- 2) 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL's) or “instrumental activities of daily living” (IADL's). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc. A “physical or mental

disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in [29 CFR 1630.2 \(h\), \(i\) and \(j\)](#).

Here is a description of what is meant by [in loco parentis](#)—

In loco parentis refers to a situation of an individual who has day-to-day responsibility for the care or financial support of a child. In applying FMLA leave provisions—

- A child with respect to whom an employee has in loco parentis status is considered a child ([son or daughter](#)) of the employee; and
- A person who had in loco parentis status with respect to an employee when that an employee was a child is considered the employee’s “parent.”

A biological or legal relationship is not necessary. (For more information on the interpretation of “in loco parentis,” please see [CPM 2010-15, Interpretation of “Son or Daughter” Under the Family and Medical Leave Act.](#))

Employees who receive guardianship or custody of a child often want to know whether custody or guardianship of a child is qualifying for FMLA/PPL purposes. Under the FMLA statute, an employee is entitled to 12 administrative workweeks of unpaid FMLA leave “[b]ecause of the birth of a son or daughter of the employee and in order to care for such son or daughter”. Since guardianship or custody are not included as one of the statutory reasons for entitlement to FMLA leave, custody or guardianship of a child would generally not entitle an employee to FMLA leave with substitution of PPL. However, if an employee receives custody or guardianship of a newborn (that is, within the 1-year period following the baby’s birth), the employee would be standing in loco parentis to the infant, who would be considered the son or daughter of the employee. Because the infant is the son or daughter of the employee for purposes of FMLA, the employee would be entitled to FMLA/PPL because of the birth of the son or daughter and the care of the son or daughter until the end of the 12-month period following the infant’s birth.



**Scenario 1:** Ruth, an employee of the Department of Health and Human Services, takes on temporary custody of her 3-month-old grandson Benedict. Ruth turns her spare bedroom into a nursery for him. Although Ruth will be caring for her grandson for an extended period of time, she is not her grandson's foster parent, and she does not intend to adopt him because she hopes his parents will regain custody of him. Is Ruth eligible for FMLA/PPL?

Ruth is eligible for PPL because she is standing [in loco parentis](#) to her grandson who is less than 12 months old. Ruth moved her grandson into her house and took on what is equivalent to a parental role in his care and upbringing. Because she serves in loco parentis to her grandson, he falls within the FMLA definition of [son or daughter](#). Therefore, Ruth is eligible to use up to 12 weeks of FMLA/PPL for [birth](#) of and care for a [son or daughter](#) between the time her grandson moved in with her until the date that is 12 months from his date of birth.

**Scenario 2:** Thomas is an IRS employee who wants to help care for his newborn granddaughter, Rose, during the day so that the baby's parents can return to work full-time while they look for child care. Thomas asks his supervisor if he can use PPL while caring for his granddaughter. What should the supervisor tell Thomas?

Thomas is not eligible to use PPL because he is not the biological, adoptive, or foster parent of the newborn child. Additionally, Thomas is not standing [in loco parentis](#) to his granddaughter because he is only providing part-time care for her. Even though Thomas is not able to use PPL, there are other leave options that may be available to him so he can care for his granddaughter, such as annual leave and sick leave if the child is ill or to take her to well baby visits. Additionally, Thomas should discuss with his supervisor whether he has the option of working a flexible work schedule, so he can arrange his work hours in a manner that allows him to spend maximum time with his new granddaughter.

Since entitlement to FMLA leave and PPL in such situations is very fact specific, agencies should examine each situation on a case-by-case basis. Employees should provide all the relevant facts pertaining to their requests for FMLA leave and PPL under such circumstances to the agency and discuss the situation with them, since employees may not know what information they need to provide in order for the agency to make a determination as to whether FMLA leave and PPL are available. For

example, an employee may request FMLA/PPL based on receiving custody or guardianship of a baby but may not realize the importance of also sharing that they are standing in loco parentis to the child and the impact of these facts on their FMLA/PPL entitlement. The agency may request any necessary documentation to support the employee's request for FMLA leave with substitution of PPL under such circumstances.

### **Use of PPL and Parental Role**

The definition of [paid parental leave](#) makes clear that PPL for [birth](#) is a type of leave that is used after an employee assumes a parental role for a child following the birth of the employee's child.

Paid Parental Leave means paid time off from an employee's scheduled tour of duty that is granted to cover periods of time within the 12-month period commencing on the date of birth or placement to an employee who has a current parental role in connection with the child whose birth or placement was the basis for granting FMLA unpaid leave under 5 CFR 630.1203(a)(1) or (2). This leave is not available to an employee who does not have a current parental role.

The purpose of PPL is for the employee to assume this parental role and to care for and bond with the baby. In order to use PPL, the employee must be engaged in activities directly related to the care of the child. PPL can be used during short periods away from the child's physical presence to support the care of the child, such as:

- Staying with or visiting the baby in the hospital immediately after the baby's birth when the employee may not be involved in direct care of the child;
- Making necessary preparation to bring the baby home after being discharged from the hospital; and
- Engaging in periods away from the baby to buy baby food, diapers, or other supplies.

If an employee is not engaged in activities directly connected to care of the child or if the employee is outside the local geographic area where the child is located, use of PPL would not be appropriate. For example, if an employee does not live in the same home as the employee's newborn, the employee could receive FMLA/PPL during the care activities described in this paragraph or when spending time bonding with the child. However, when an employee is away from the baby and is not caring for or bonding with the child—such as if the employee is on active duty military—an employee is not eligible for FMLA/PPL.

**Scenario:** Charles, who works for the Bureau of Land Management, recently welcomed his first child and is using 12 weeks of FMLA/PPL to care for the baby. Near the end of his use of FMLA/PPL, Charles' parents surprise him and his spouse by offering to babysit the baby so the couple can spend a week in Scotland searching for Nessie. Can Charles continue to use FMLA/PPL while he and his spouse are on vacation in Scotland?

FMLA/PPL is to be used by an employee in order to care for the employee's baby. Therefore, Charles would not be able to use FMLA/PPL for the week he spends in Scotland with his spouse while his parents are taking care of the baby since he will not be caring for the baby while he is away and would therefore not be eligible to use FMLA/PPL during the trip. Charles should discuss with his supervisor whether he may use annual leave if he wishes to travel to Scotland. If he hasn't used his full 12 weeks of FMLA/PPL and Charles wants to go to Scotland, he will also need to request approval from his agency to take FMLA/PPL on an intermittent basis in order to continue to use FMLA/PPL when he returns from his trip, since the trip will interrupt his continuous use of FMLA/PPL. An employee may only use FMLA intermittently if the agency agrees to the intermittent use.

PPL may only be substituted for unpaid FMLA leave taken for the [birth](#) of an employee's child in the 12 months following the baby's birth to care for and bond with the baby. PPL may only be used as long as the employee has a continuing parental role. An employee who does not maintain a continuing parental role with respect to the newborn would not be eligible for PPL once the parental role has ended. For example, an employee's parental role would end in the following circumstances:

- the employee surrenders custody of a child under a surrogacy agreement;
- the employee gives the child up for adoption;
- the employee's parental rights to the child are terminated (for example, based on a court order); or
- The employee's baby dies in the 12-month period following baby's birth.

Employees who do not have a continuing parental role can use other types of paid or unpaid leave or work schedule flexibilities if they need to be away from work after their parental role has ended.

**Scenario:** Almaz, an employee of the Federal Energy Regulatory Commission, volunteered to serve as the gestational surrogate for her sister and after a difficult labor, gave birth to a baby which she surrenders to her sister. Almaz has 40 hours of sick leave and 15 hours of annual leave. Her doctor has informed her she will need to be off from work for at least 6 weeks. Almaz uses 20 hours of sick leave and then requests use of PPL for the rest of her recovery period following childbirth. Is Almaz entitled to PPL for her period of recovery following this childbirth?

No. Since Almaz was serving as a gestational surrogate for her sister, once Almaz gives the baby to her sister, she no longer has a parental role and would not be entitled to PPL. She would, however, be entitled to use of unpaid FMLA leave or sick leave for her own serious health condition. Since she can demonstrate that she will exhaust her sick and annual leave during her period of recovery, she can also apply to be a leave recipient under the VLTP or VLBP since she will be experiencing a medical emergency. As a reminder, a [medical emergency](#) for the purposes of leave sharing programs means a medical condition of an employee or family member that is likely to require the employee's absence from duty for a prolonged period of time (at least 24 work hours) and to result in a substantial loss of income to the employee because of the unavailability of paid leave. For purposes of leave sharing programs, a medical emergency is likely to result in a substantial loss in income if it will result in the employee being absent from duty without available paid leave for at least 24 hours.

### **Multiple Births or Placements**

If an employee has multiple children born on the same day, the birth event is considered a single event and the employee is entitled to a single 12-week period of paid parental leave. If an employee has one or more children born or placed during the 12-month period following the date of an earlier birth or placement of a child of the employee, each event will generate a 12-week leave entitlement to be used during the 12-month period following the birth or placement. However, any use of PPL during an overlap period (that is, a period contained within more than one 12-month period following a birth or placement) will count toward the 12-week limit for each birth or placement involved.

**Scenario:** Emmanuel and Patience have two children. On June 1, 2023, Patience gives birth to their third child, Nathaniel. Emmanuel invokes and uses FMLA leave with substitution of PPL starting June 1, 2023, thus his 12-month FMLA period runs from June 1, 2023, to May 31, 2024. Emmanuel uses FMLA leave with PPL intermittently, using 8 weeks of FMLA/PPL intermittently following Nathaniel's birth. On January 1, 2024, Emmanuel and Patience have a foster child, Mario, placed with them. There are still 4 weeks of PPL remaining in Emmanuel's current FMLA 12-month period, and he uses 4 weeks of FMLA leave with substitution of PPL during the period from the date of Mario's placement to the end of the 12-month FMLA period following Nathaniel's birth (January 1, 2024, through May 31, 2024). That period is the overlap period for the 12-month period following Nathaniel's birth and the 12-month period following Mario's foster care placement. The 4 weeks of PPL leave used during that overlap period count toward the 12-week limit on PPL for each birth/placement event. Thus, as of May 31, 2024, Emmanuel has used a total of 12 weeks of PPL in connection with Nathaniel's birth and 4 weeks of PPL in connection with Mario's placement. During the period from June 1, 2024, (the beginning of a new 12-month FMLA period) through December 31, 2024, (the end of the 12-month period following Mario's foster care placement), Emmanuel may use 8 weeks of unpaid FMLA leave for which PPL can be substituted. Because Emmanuel had an overlap period (January 1, 2024, to May 31, 2024) when simultaneously caring for two children during the first year after their birth and placement, the 4 weeks of PPL used during that overlap period are counted against the PPL entitlement associated with each child. Therefore, under this example, Emmanuel has access to a total of 20 weeks of FMLA/PPL.

### **12 Week Work Obligation and Advance Written Service Agreement**

Prior to using PPL, an employee is required to enter into a written service agreement to work for the applicable employing agency for not less than 12 weeks after the day on which the employee's use of PPL concludes. The applicable employing agency is the agency employing the employee at the time PPL concludes. This means that if an employee transfers to a new (gaining) agency or separates from an agency and is later re-employed by a new agency during the 12-month period following the [birth](#) of the employee's child and the employee has not exhausted the employee's 12-week PPL entitlement, the employee may continue to use PPL at the gaining agency.

Upon transferring to a new employing agency, an employee is not required to enter into a new written service agreement with the gaining agency. The service agreement entered into with the previous agency is sufficient to obligate the employee to the required 12-week work obligation.

**Scenario:** Alanzo, an employee of the African Development Foundation (ADF), enters into a written service agreement with the ADF and uses 5 weeks of PPL for the birth of his son Marco. Alanzo then transfers to the Department of Commerce (Commerce) and uses 7 weeks of PPL at Commerce. Commerce is the applicable employing agency (that is, the agency employing the employee at the time PPL concludes), so Alonzo must work for Commerce for not less than 12 weeks beginning on the date he concludes use of PPL.

The 12-week work obligation is statutorily fixed and applies regardless of the actual amount of leave used (that is, an employee who uses less than 12 weeks of paid parental leave would still be obligated to work 12 weeks).

**Scenario:** Matteo and his wife Viviana have a baby on April 3, 2023, and Matteo uses 7 weeks of FMLA with substitution of PPL from April 3, 2023-May 22, 2023. Matteo plans to use his remaining 5 weeks of FMLA/PPL around Thanksgiving and Christmas. On November 3, 2023, however, he is mobilized for a one-year deployment, and returns to his agency on November 4, 2024. Matteo's entitlement to FMLA leave related to the [birth](#) of his baby expires on April 2, 2024, since this is the end of the 12-month period beginning on the date of the baby's birth, so he can no longer use any FMLA/PPL when he returns. Even though he only used 7 weeks of PPL, he must still work for his agency for 12 weeks to fulfill his work obligation.

The date PPL concludes is—

- the workday on which an employee finishes using the 12 workweeks of PPL; or
- if the employee uses less than 12 workweeks of PPL during the 12-month period following the birth, the last workday on which the employee used PPL. (In practical terms, the agency may not know when the last day is that the employee will use PPL until the end of the 12-month period following birth or placement. Even if the employee expresses an intention to use less than 12 weeks of PPL, the employee would have an entitlement to use the full 12 weeks until the expiration of this 12-month period.)

**Scenario:** Trevor works for the Federal Trade Commission (FTC) in Washington, D.C. Following the birth of his daughter on March 1, 2024, Trevor takes 8 weeks of FMLA/PPL from March 1-April 26, 2024. He discontinues use of PPL because his mother, who lives in Michigan, has a stroke on April 27, 2024. Trevor immediately flies to Michigan to care for his mother while she is hospitalized, then in a rehabilitation unit, and then returns home. Since he is no longer acting in a parental role to his baby while he is in Michigan with his mother, he discontinues use of PPL and uses 2 weeks of sick leave for care of a [family member](#) with a [serious health condition](#). He then uses 4 weeks of unpaid FMLA leave to continue to care for his mother because of her serious health condition, thus exhausting his entitlement to 12 weeks of FMLA in a 12-month period. After the 6 weeks of caring for his mother, Trevor returns to work at the FTC. Although he only used 8 weeks of PPL, he must still work for his agency for 12 weeks to fulfill his work obligation.

The term “work” means a period during which the employee is in duty status, excluding any periods (paid or unpaid) of leave, time off (including holiday time off), or other nonduty status (including furlough or AWOL status). Any of these periods will not count toward completion of the work obligation.

**Scenario:** Alisa uses 12 weeks of FMLA/PPL following the birth of her daughter, concluding her PPL on September 30, 2024. She takes 4 days annual leave on December 23-24 and December 26-27, 2024. The 5 holidays (Columbus Day, Veterans Day, Thanksgiving, Christmas, and New Year’s Day) and her 4 days of annual leave do not count as “work,” so her 12-week work obligation runs through January 3, 2025.

An employee who does not fulfill the 12-week work obligation may be required to reimburse the agency or agencies that employed the employee during use of PPL for any Government contributions paid to maintain the employee’s Federal Employee Health Benefits (FEHB) coverage during the period the employee used PPL. If the employee is not enrolled in FEHB coverage or is enrolled but is not the primary FEHB policy holder, the reimbursement requirement does not apply and the agency may not impose any other reimbursement requirement.

For more information, including information on scheduling PPL, supporting documentation for use of PPL, and the potential penalties for not fulfilling the 12-week work requirement, see our [Paid Parental Leave](#) fact sheet.

## H. Parental Bereavement Leave

An employee has an entitlement to 2 workweeks of parental bereavement leave because of the death of the employee's qualifying [son or daughter](#). PBL is a stand-alone type of paid leave that is administered independently from any other type of leave, including sick leave for funeral purposes.

**Tip:** Sick leave for bereavement uses an employee's accrued sick leave and is part of an employee's entitlement to use 13 days of sick leave per leave year for general family care purposes. It is activity based and may only be used to make arrangements necessitated by the death of a family member or attend the funeral of a family member.

PBL is a separate category of paid leave. Unlike sick leave for bereavement, use of PBL is not activity based—it can be used purely to grieve the loss of the employee's child without engaging in any specific activity related to the death.

Even though the parental bereavement leave law references certain FMLA requirements, it is not authorized under FMLA and is administered separately from an employee's FMLA entitlement. Therefore, an employee does not invoke FMLA in order to use parental bereavement leave nor is parental bereavement leave substituted for unpaid FMLA leave.

However, the law provides that an employee must meet [FMLA eligibility requirements](#) at the time of the child's death in order to be eligible for parental bereavement leave. The deceased child must meet the definition of [son or daughter](#) used for FMLA purposes, which means a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability.

The death of an employee's child triggers the law's one-time entitlement to 2 workweeks of parental bereavement leave in connection with that death, which must be used within the 12-month period following the death of the child. Parental bereavement leave must be used continuously unless the agency agrees to allow the employee to use it intermittently.



Congress did not authorize OPM in the parental bereavement leave statute to regulate parental bereavement leave. To the extent the law is unclear or silent with respect to the interpretation of certain provisions, OPM cannot issue definitive or binding guidance as to how the law is to be interpreted and applied. For example, the parental bereavement leave statute does not address use of parental bereavement leave for stillbirth or miscarriage. Agencies are responsible for administering PBL for their employees so they should consult agency counsel to review the parental bereavement leave statute and OPM's PBL guidance to apply the statute to specific facts at issue.

### **Relation to Paid Parental Leave and Other Types of Leave**

As indicated in Section G, paid parental leave provides parents time to bond with and care for a newborn child during the first year of the child's life. If the newborn dies, the employee is no longer eligible to use paid parental leave in connection with the child's birth but is entitled to parental bereavement leave. Agencies should accommodate employees' requests to use other types of leave in combination with parental bereavement leave.

**Scenario 1:** Amista and Felu's baby Bendison dies 3 days after birth. Because of Bendison's death, Amista no longer has an entitlement to PPL, but is still recovering from childbirth. Amista invokes sick leave and uses 3 weeks of sick leave to cover part of her recovery from childbirth. During that time, the funeral takes place. She then uses 3 weeks of unpaid FMLA leave for the rest of her recovery period. Following the 6 weeks of sick leave and FMLA leave, Amista invokes parental bereavement leave and takes 2 weeks of parental bereavement leave.

**Scenario 2:** Noor and Hamza's twins Ashraf and Ali are born prematurely. Ali dies a day after birth. Noor takes 2 workweeks of parental bereavement leave because of Ali's death and then takes 12 weeks of FMLA with substitution of PPL because of the birth of and care for Ashraf.

For more information, see our memo on [Parental Bereavement Leave](#).

## **I. Leave Without Pay**

An employee may request leave without pay (LWOP) to be absent from work for purposes related to pregnancy, childbirth, or care of the baby. An employee does not

need to be eligible for FMLA in order to request LWOP and can request LWOP even if the employee has accrued annual or sick leave. LWOP may be especially beneficial to new employees within their first year of Federal service who have little or no annual and sick leave accumulated and who do not yet meet the service eligibility requirements for FMLA leave and the substitution of PPL. In accordance with the February 02, 2023, [Memorandum on Supporting Access to Leave for Federal Employees](#), agencies are encouraged to consider providing leave without pay for Federal employees, as appropriate and consistent with applicable law, including to bond with a new child, to care for a family member with a serious health condition, and to address an employee's own serious health condition. Supervisors should refer to agency internal policy and collective bargaining and/or union agreements prior to granting approval.

LWOP may be requested in addition to the leave programs and flexibilities that are already available, subject to agency policy and any applicable collective bargaining agreement.

### **Effect of LWOP on Leave Accrual and Other Benefits**

Being on leave without pay (or unpaid leave) status affects various employee entitlements, including the accrual of annual and sick leave. When a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status, either in one pay period or over the course of several pay periods, the employee will not earn annual and sick leave in the pay period where the employee reaches 80 hours of nonpay status. If the employee again accumulates 80 hours of nonpay status, the employee will again not earn leave in the pay period in which that new 80-hour total is reached.

While on LWOP status, the Government continues to advance the employee's share of contributions toward the employee's health insurance premiums. The employee may choose between paying the agency directly on a current basis or having the premiums accumulate and be withheld from pay upon return to duty.

For more information on leave without pay and the impact it has on Federal benefits, see our fact sheets on [Leave Without Pay](#) and the [Effect of Extended Leave Without Pay \(LWOP\) \(or Other Nonpay Status\) on Federal Benefits and Programs](#).

## **J. Compensatory Time Off**

Three types of compensatory time off may be earned and used by employees: compensatory time off in lieu of overtime pay; compensatory time off for travel; and religious compensatory time off.

### **Compensatory Time Off In Lieu of Overtime Pay**

This type of compensatory time off with pay is for (1) irregular or occasional overtime work; or (2) when permitted under agency flexible work schedule programs, regularly scheduled or irregular or occasional overtime work. One hour of compensatory time off is granted for each hour of overtime work. Accrued compensatory time off must generally be used by the end of the 26th pay period after the pay period during which the compensatory time off was earned. It is subject to agency policy and the premium pay limitation, and there are separate Fair Labor Standards Act (FLSA) rules for employees who are covered (i.e., FLSA non-exempt) or not covered (i.e., FLSA exempt) by FLSA.

**Scenario:** Vivek works as an FLSA exempt Budget Analyst, and he and his wife Sunita are expecting a baby in December. It is near the end of the fiscal year, and the office is short-staffed. Vivek's supervisor asks if he could work extra hours to make sure they close out all fiscal year end tasks on time. They agree that Vivek will work this time as compensatory time off in lieu of overtime pay so that he can use this to take time off for his wife's prenatal appointments and to set up the nursery before the baby is born.

### **Compensatory Time Off for Travel**

This type of compensatory time may be earned by an employee for time spent in travel status away from the employee's official duty station when such time is not otherwise compensable. Once earned, compensatory time off for travel may be used as paid time off during an expected future absence. There is no limitation on the amount of compensatory time off for travel an employee may earn, but it is generally forfeited if not used by the end of the 26th pay period after the pay period during which it is earned.

**Scenario:** Noor is helping with her agency's efforts to recruit STEM students to come work at NASA. It is January, and she is in her first trimester of pregnancy. She is traveling a lot to campus recruiting fairs and is earning a lot of comp time for travel in the process. Although Noor is eligible for FMLA and paid parental leave, she wants to maximize the amount of time away from work following the birth of her daughter, but she has a low number of accrued sick leave hours. In addition to her sick leave, can she use the compensatory time for travel she is earning during her period of recovery from childbirth?

Noor should speak with her supervisor and explain that she wants to use the compensatory time off for travel she has earned to cover some of the time off she will need to recover from childbirth. It will be up to her supervisor to approve the request. Noor should keep in mind that compensatory time off for travel must be used by the end of the 26th pay period after the pay period in which she earned it.

### **Religious Compensatory Time Off**

Religious compensatory time off permits an employee to rearrange work hours to fulfill religious obligations. Employees may earn and use religious compensatory time off to the extent that doing so does not interfere with the efficient carrying out of agencies' missions. Compensatory time off for religious observances may be earned up to 13 pay periods in advance of the pay period in which the religious observance occurs. Employees interested in earning religious compensatory time off should speak with their supervisors.

**Scenario:** Aaron and Rachel's son is due next month. Aaron has gotten approval to work some extra hours in advance as religious compensatory time off that he will take time off for his son's "bris," a Jewish religious circumcision ceremony for an infant male.

For more information, see our fact sheets on [compensatory time off in lieu of overtime pay](#), [compensatory time off for travel](#), and [religious compensatory time off](#).

### **K. Alternative Work Schedules**

Alternative Work Schedules (AWS) permit an employee to complete an 80-hour biweekly pay period in less than 10 days. Employees have a right to request an

alternative work schedule without fear of retaliation in accordance with agency policy and any collective bargaining agreements. These schedules help employees better balance work, personal, and family obligations while simultaneously enabling managers and supervisors to meet their program goals. Alternative Work Schedules may permit employees to work fewer than 10 days in a pay period or adjust their daily work schedules, thus freeing up time for family responsibilities, medical appointments, and bonding. There are two categories of Alternative Work Schedules – compressed work schedules and flexible work schedules.

### **Compressed Work Schedules**

These are fixed work schedules that enable full-time employees to complete the basic 80-hour biweekly work requirement in less than 10 workdays. These schedules must be negotiated through collective bargaining or, when not applying to a bargaining unit, voted on by a majority of the employees to be covered by the schedule. Once established, there are no provisions for employee flexibility in reporting or quitting times.

**Example:** John works in a work unit that is under a compressed work schedule. He is required to work 4 days a week, 10 hours each day and has every Friday off. This is a fixed schedule that John cannot change without taking leave. Now that his partner has gone back to work full time following her parental leave, his partner's parents care for his 4 month old baby Monday through Thursday, and he cares for the baby on Fridays.

### **Flexible Work Schedules**

These are flexible work schedules that enable employees to select and alter their work schedules to better fit their personal needs and help balance work, personal, and family responsibilities. Employees who work under Flexible Work Schedules often may adjust working hours to accommodate medical appointments, saving earned leave for other times. Also, Flexible Work Schedules can help parents arrange work in hours in line with daycare or school hours. There are various types of flexible work schedules that provide different degrees of flexibility within the 80-hour biweekly work requirement:

- Flexitour – employees elect start/stop times, which then become fixed.
- Gliding – employees may vary start/stop times daily.

- Variable Day – employees may vary the length of the workday.
- Variable Week – employees may vary the number of hours worked each week within a biweekly pay period.
- Maxiflex – employees may work less than 10 workdays biweekly.

**Example 1:** LaTonya has a gliding work schedule. She usually drops her infant daughter off at day care and her wife picks up the baby in the afternoons. However, depending on what is going on at each of their jobs, sometimes her wife drops their baby off in the mornings and LaTonya changes her work schedule to come in earlier and leave earlier in order to pick up her daughter from daycare in the afternoon.

**Example 2:** Nathan participates in both the agency’s maxiflex work schedule and telework programs. The agency maxiflex work schedule has core hours (those hours when all employees must be working unless an absence during those hours is specifically approved) each Tuesday from 11:00 am to 1:30 pm (excluding a 30-minute unpaid lunch break). The agency maxiflex work schedule has flexible hours (those hours during which an employee may choose to vary their starting or stopping times and/or times of arrival and departure from the work site) available Monday through Friday between the hours of 5:00 am through 11:00 pm. Nathan and his spouse have recently had their first child. The baby has a well child visit scheduled at 2:30 pm on a Thursday. Nathan reports to the agency worksite on Thursday at 7:00 am and works until 12:00 noon. Since Thursday contains no core hours, Nathan departs the worksite at 12 noon without the need to take leave or other time off. Nathan will complete the remainder of the workday after the 2:30 pm well child appointment by teleworking between the hours of 4:00 pm and 7:00 pm.

For more information, see our [Handbook on Alternative Work Schedules](#).

### **Credit Hours**

Some agencies permit employees who work under a flexible work schedule to earn credit hours, which are hours that an employee with a flexible schedule can work in excess of the employee’s basic work requirement that allows the employee to vary the length of a workweek or workday. Credit hours can assist employees to better manage family responsibilities related to pregnancy and childbirth. Based on agency policy and any applicable collective bargaining agreement, employees may request to work

additional hours for use at a later time. A total of 24 credit hours may be carried over to be used in a later pay period.

For more information, see our fact sheet on [Credit Hours Under a Flexible Work Schedule](#).

### **Alternative Work Schedule Facts Related to Pregnancy and Childbirth**

- Alternative Work Schedules may permit employees to work fewer than 10 days in a pay period, freeing up a day or more for family responsibilities, medical appointments, and bonding with a newborn.
- Employees who work under Flexible Work Schedules may adjust working hours to accommodate medical appointments or other needs related to pregnancy and childbirth.
- Flexible work schedules can help parents arrange work hours to align with daycare hours, or for other needs related to pregnancy or childbirth.

### **L. Telework**

Telework is a work flexibility arrangement that can be used to help employees better manage their work, family, and personal responsibilities. Under an agency's telework policy, an employee may be permitted to work at an approved worksite other than the location from which the employee would otherwise work for predefined day(s) in an employee's workweek.

Telework must be approved by the employee's supervisor based on the agency telework policy, which takes into consideration overall organizational health and performance, and the ability of the employee to accomplish the employee's work while teleworking. When determining an employee's telework eligibility following childbirth, the employee's work and the ability of the employee to perform official duties will be a primary focus of the supervisor's determination.

**Tip:** It is important to remember that an employee may not care for a newborn while engaged in the performance of official duties. However, telework can free up valuable time for family responsibilities since the employee will not have a commute on those telework days. When determining an employee's telework eligibility following childbirth, a supervisor should focus on the employee's work and the ability of the employee to perform official duties. Decisions should be made consistent with the agency telework policy.

### **Expectations to Consider in a Telework Agreement Related to Childbirth**

Requests for telework prior to a child's birth (for example, if an employee is placed on bedrest while pregnant) or related to an employee's transition back to work after the birth of a child should be accompanied by a formal written telework agreement that details expectations. The written telework agreement should outline a work schedule that indicates the days, hours, and location where the employee will be working, list technology requirements, clarify any assumptions regarding the frequency and modes of communication (e.g., email vs. telephone, core hours for contact, or speed or expected timeframe for returning calls and emails) and establish terms under which the agreement can be modified or terminated.

**Scenario:** Mason's son Mahlon was born several months ago. Mason used 6 weeks of sick leave to take care of his wife as she recovered from childbirth and then 12 weeks of paid parental leave to bond with the newborn. Mason usually performs his work in the office. He discusses with his supervisor the fact that his mother, who lives nearby, has offered to care for Mahlon in her home every Wednesday and Thursday during Mason's workday. Mason's supervisor has approved him to telework on Wednesdays and Thursdays. As a sleep deprived young parent, Mason appreciates the extra sleep he can get on those mornings and also enjoys the extra time he has to decompress after work since he doesn't have a commute.

### **Telework Facts Related to Childbirth**

- Telework can provide employees with valuable additional time to spend with family members by reducing commuting time.
- Telework is not a substitute for dependent care and an employee may not care for a newborn while working from the home or an alternative worksite. To



support work accomplishment, the employee cannot be expected to effectively accomplish work while actively caring for a newborn.

- Telework is a valuable tool that can be used when the employee transitions back to work following the birth of a child.

For more information, please see OPM's telework [webpage](#).

## **M. Part-Time Employment and Job Sharing Arrangements**

Employees who are pregnant, have recently given birth, whose family member is pregnant or has given birth, or who need additional time to care for a newborn, may also be interested in part-time schedules or participating in job sharing programs if they are available at their agency. When job sharing programs are planned for organizations where employees are represented by a labor organization with exclusive recognition, agencies are legally required to notify the union and bargain in good faith on any negotiable proposals the union submits. Employees are encouraged to discuss their needs and interests with their supervisor and their human resource office.

### **Part-Time**

A part-time employee works between 16 and 32 hours each week (32 to 64 hours per biweekly pay period) on a prearranged schedule and is eligible for benefits. Part-time employees are eligible for the same benefits, on a prorated basis, as those benefits available to full-time employees: leave, retirement, and health and life insurance coverage.

### **Job Sharing**

Job sharing is a form of part-time employment in which the schedules of two or more part-time employees are arranged to cover the duties of a single full-time position. Generally, a job sharing team consists of two employees at the same grade level, but other arrangements are possible. Job sharing does not necessarily mean that each job sharer works half-time, or that the total number of hours worked by a job sharing team is 40 per week.

For more information, see OPM's [Part-Time & Job Sharing Handbook](#).

## **N. Reasonable Accommodation under the Pregnant Workers Fairness Act**

The Equal Employment Opportunity Commission has issued [final regulations and interpretive guidance](#) to implement the Pregnant Workers Fairness Act. Under the Act, agencies are required to provide reasonable accommodations to a qualified employee's known limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause an undue hardship on the operation of the agency's business. The regulations are codified at [29 CFR 1636](#). The regulations at 29 CFR 1636.3(b) provide a non-exhaustive list of pregnancy, childbirth, or related medical conditions that may be the basis for reasonable accommodations under the Act; at 29 CFR 1636.3(i) provide a non-exhaustive list of examples of reasonable accommodations; and at 29 CFR 1636.3(a)(2) provide that conditions can be a limitation under the Act "whether or not such condition meets the definition of disability specified in section 3 of the Americans with Disabilities Act of 1990, [42 U.S.C. 12102](#)."

The supplementary section of the final rule contains helpful explanatory material about the regulations. In its section on "Costs" in the supplementary information of the rule, the EEOC recognized that "the Federal Government provides 12 weeks of paid parental leave to eligible Federal employees upon the birth of a new child. As a result, these Federal employees may make fewer requests for leave as a reasonable accommodation under the PWFA as they are already guaranteed a certain amount of paid leave."

OPM did not issue and does not administer these regulations. We are providing this information solely to make employees and agencies aware of these regulations. Any questions related to this matter should be directed to the agency's human resources office.

### **III: Leave and Workplace Flexibilities for Adoption and Foster Care**

The Federal Government offers various leave and workplace flexibilities to assist employees in meeting their work and family obligations. This chapter explains the available leave and workplace flexibility options that can be used either separately or in combination to help an employee balance the employee's work and family life in connection with adoption and foster care.

An employee who is adopting or fostering a child may need time off from work to meet with adoption or foster care agencies, attend court proceedings, travel in accordance with adoption requirements or child-visitation needs, and to care for and bond with the child. An employee may also want to take leave to help care for the adoptive or foster children of family members.

This chapter contains many defined terms. Knowing how specific terms are defined in the leave regulations is essential to understanding the leave programs to which those definitions apply. Throughout this handbook, we provide hotlinks to the definitions of key terms used in the handbook. For a consolidated list of the definitions used in this handbook please see the [Definitions section](#) in [Additional Resources](#).

Note: Guidance must be read in conjunction with agency and component-specific leave policies and any applicable collective bargaining agreements.

#### **A. Sick Leave**

An employee is entitled to use sick leave when the employee is required to be absent from work for purposes related to the employee's adoption of a child, for general family care purposes such as well-child doctor visits or illnesses, or for care of an adopted or foster child with a [serious health condition](#).

**Tip:** Sick Leave is an entitlement that may be used without invoking leave under the Family Medical Leave Act (FMLA). An agency may not deny an employee's request to use sick leave without invoking FMLA. In addition, an agency may not require an employee to substitute sick leave for unpaid FMLA leave without the employee's express consent. [See Section F for information on FMLA](#).

## **Sick Leave for Adoption Related Purposes**

There is a unique form of sick leave that is provided for adoption related purposes. An employee is entitled to use sick leave when required to be absent from work for purposes related to the employee's adoption of a child.

Examples of such adoption-related purposes may include but are not limited to:

- Appointments with adoption agencies, social workers, and attorneys;
- Court proceedings;
- Required travel in connection with the adoption;
- Any periods of time the adoption agency or court **requires or orders** the employee to take time off from work to care for or bond with the adopted child; and
- Any other activities necessary to allow the adoption to proceed.

## **Facts Related to Sick Leave for Adoption and Foster Care**

- An employee who is fostering a child is not entitled to use sick leave for adoption-related purposes unless the employee is adopting the foster child.
- An employee who is accompanying a [family member](#) to activities related to the placement of a child for adoption is not entitled to use sick leave for adoption, unless the employee is also in the process of adopting the child.

**Example:** Patrick, an employee at the Department of Education, recently married his partner, Miesha. Patrick is the sole custodial parent of his son, and Miesha will be adopting the child. As part of the adoption process, Patrick is required to accompany Miesha to meetings with the adoption attorney, and he asks his supervisor if he can use sick leave for adoption related purposes to attend these mandatory attorney meetings. Should Patrick's supervisor approve his request to use sick leave?

No. Sick leave for adoption related purposes may only be used by an employee who is adopting a child. Even though Patrick is required to attend meetings with the adoption attorney, since he is not the person adopting the child, he may not use sick leave for his time away from work. Patrick may request other leave such as annual leave or leave without pay, or request workplace flexibilities, to attend these appointments.

- An employee may generally not use sick leave to bond with a foster child or an adopted child. The one exception is that sick leave for adoption may be used to bond with an adopted child if a period of bonding is ordered or required by the adoption agency or by the court.
- An agency may request administratively acceptable evidence for the use of sick leave for adoption-related purposes. There is no limitation on the amount of sick leave that may be used for adoption related purposes. Sick leave for adoption-related purposes does not count toward the 104-hour (13 day) limit of sick leave each leave year for family care and bereavement purposes or toward the overall limit of 12 weeks of sick leave each year for all family care purposes.

### **Sick Leave for Care of the Child**

An employee is entitled to use 12 weeks of sick leave each leave year to care for the employee's adopted or foster child with a serious health condition. The definition of a [serious health condition](#) is the same as used in OPM's regulations for administering the Family and Medical Leave Act (FMLA) of 1993 and is further detailed in the fact sheet entitled [Sick Leave to Care for a Family Member with a Serious Health Condition](#). As part of this 12-week entitlement, an employee may use up to 13 days (104 hours) sick leave for general family care purposes each leave year. General family care purposes include care for a child who has routine illness or taking the child to medical, dental, or optical appointments or well-child doctor visits.

The child must meet the definition of [son or daughter](#) for sick leave, VLTP, and VLBP purposes.

**Tip:** Based on the definition of [son or daughter](#), an employee with a domestic partner could care for the adopted or foster child of the employee's partner, even if the employee is not adopting or fostering the child.

### **Sick Leave for Bereavement Purposes**

An employee may use up to 104 hours (13 days) of sick leave each leave year to make arrangements necessitated by the death of a [family member](#) or to attend the funeral of a family member, to include the death of an adopted or foster child.

In addition to sick leave for bereavement purposes, an eligible employee may use parental bereavement leave following the death of a [son or daughter](#), as that term is

defined in the FMLA regulations. For more information, please see [Section H on Parental Bereavement Leave](#).

For more information, see our fact sheets on [Sick Leave \(General Information\)](#), [Sick Leave for Family Care or Bereavement Purposes](#), and [Sick Leave to Care for a Family Member with a Serious Health Condition](#).

## **B. Advanced Sick Leave**

### **Advanced Sick Leave for Adoption and Foster Care Purposes**

Upon an employee's request and in appropriate circumstances, an employee may be granted advanced sick leave to the maximum extent practicable, in accordance with sick leave laws and regulations and consistent with mission needs in connection with adoption and foster care. Advanced sick leave may be especially beneficial to new employees within their first year of Federal service who have little or no sick leave accumulated and who do not yet meet the service eligibility requirements for Family and Medical Leave (FMLA) with substitution of Paid Parental Leave. Employees are eligible for a maximum of 240 hours (30 days) of advanced sick leave for purposes related to the employee's adoption of a child or to care for an adopted or foster child with a [serious health condition](#), and a maximum of 104 hours (13 days) to care for an adopted or foster child with a routine illness or to take the child to medical, dental, or optical appointments or well-child doctor visits. A full-time employee may have a maximum of 240 hours of advanced sick leave to the employee's credit at any one time. An agency may grant advanced sick leave for the same reason it grants sick leave as specified in law and regulation.

**Tip:** Since advanced sick leave creates an indebtedness for the employee, a better option for an employee who qualifies for the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP) is to receive donated annual leave under the VLTP or VLBP. [See Section E on Leave Sharing Programs](#).

### **Repayment of Advanced Sick Leave**

An employee is required to repay advanced sick leave, except in three circumstances – disability retirement; separation for disability; or death. Therefore, an employee requesting advanced sick leave should think carefully about whether the employee wants to incur this debt and how the debt will be repaid. Generally, advanced sick leave

is repaid by subsequently earned sick leave, so if an employee were to use 13 days of advanced sick leave, it would take the employee a full year without using another hour of sick leave to repay the sick leave debt. Because advanced sick leave must be repaid, an agency should not advance sick leave when it is known (or reasonably expected) that the employee will not return to duty.

**Tip:** Donated annual leave under the Voluntary Leave Transfer Program or Voluntary Leave Bank Program may be used to liquidate an indebtedness incurred by the leave recipient for advanced sick leave used because of a [medical emergency](#), such as a [serious health condition](#) of the employee’s adopted or foster child or an adopted or foster child who is a [family member](#) of the employee. Before using donated annual leave, however, the employee must first exhaust all accrued and accumulated annual and sick leave. [See Section E on Leave Sharing Programs.](#)

## C. Annual Leave

Annual leave may be used for any purpose, subject to the right of the supervisor to approve a time when the annual leave may be taken. When scheduled according to agency procedures, annual leave may be used for adoption or foster care purposes, for bonding with or caring for an adopted or foster child, or for other child care responsibilities including taking the child to medical, dental, or optical appointments or well-child doctor visits, or for any other purpose.

### Scheduling of Annual Leave

Employees have the right to request annual leave, subject to the right of the supervisor to approve the time when the employee takes the annual leave. For adoption and foster care, agencies are encouraged to grant annual leave to the maximum extent practicable consistent with mission needs.

**Scenario:** After several years of fostering Kegan and Keiligh, the big day has arrived, and Ash uses sick leave to go to court for their adoption. Now there are a few surprises planned—a family cookout followed by a surprise trip to Disney World. Maybe the kids don’t know about this—but Ash’s supervisor has been in on these plans for months and has approved Ash to take 10 days of annual leave to celebrate with the children.

## **D. Advanced Annual Leave**

### **Advanced Annual Leave for Adoption and Foster Care Purposes**

Upon an employee's request, in accordance with annual leave laws and regulations and consistent with mission needs, an employee may be granted advanced annual leave for any purpose, including in connection with adoption and foster care and bonding with the newly placed child. An agency may advance the amount of annual leave an employee would accrue during the remainder of the leave year. Note that this means that the later in the leave year the employee requests advanced annual leave, the smaller the amount that may be advanced. Advanced annual leave may be especially beneficial to new employees who may have little or no annual leave accumulated and who do not yet meet the service eligibility requirements for Family and Medical Leave (FMLA) and the substitution of Paid Parental Leave (PPL). Agencies are advised to advance annual leave to the maximum extent practicable for purposes related to adoption and foster care.

### **Repayment of Advanced Annual Leave**

An employee is required to repay advanced annual leave, except in three circumstances— disability retirement; separation because of a disability; or death. Therefore, an employee requesting advanced annual leave should think carefully about whether the employee wants to incur this debt and how the debt will be repaid. Note that generally advanced annual leave is repaid by subsequently earned annual leave. For example, an employee in the first 3 years of employment who earns 4 hours of annual leave per pay period were to use 13 days of advanced annual leave, it would take the employee a full year without using another hour of annual leave to repay the annual leave debt.

### **Scheduling of Advanced Annual Leave**

An employee should consult the employee's local HR office for agency-specific details on how to request advanced annual leave. Because advanced annual leave must be repaid, an agency should not advance annual leave when it is known (or reasonably expected) that the employee will not return to duty. For adoption and foster care, agencies are encouraged to grant advanced annual leave to the maximum extent practicable consistent with mission needs.

For more information, including information on repayment options, see our fact sheet on [Advanced Annual Leave](#).



## **E. Leave Sharing Programs—Voluntary Leave Transfer Program (VLTP) and Voluntary Leave Bank Program**

An employee may be eligible to apply for and receive donated annual leave under an agency's leave sharing program(s) if the employee's adopted or foster child or an adopted or foster child who is the employee's [family member](#) is experiencing a medical emergency and if the employee has or will exhaust the employee's accrued annual leave and sick leave (referred to as the employee's [available paid leave](#)). There are two leave sharing programs that can be used to care for a child with a [medical emergency](#) – the Voluntary Leave Transfer Program (VLTP) and the Voluntary Leave Bank Program (VLBP). Each agency must administer a voluntary leave transfer program for its employees. Agencies may also establish voluntary leave banks but are not required to do so.

Note that the definition of [family member](#) is the same for VLTP and VLBP purposes as it is for sick leave purposes.

### **Medical Emergency**

The term [medical emergency](#) means a medical condition of either the employee or the employee's family member that is likely to require an employee to be absent or expect to be absent from duty for a prolonged period and to result in a substantial loss of income (expected absence without available paid leave of at least 24 work hours for a full-time employee) because of the employee's lack of available paid leave (please refer to the definition for important information regarding what is and is not considered an employee's [available paid leave](#)). Care of an employee's adopted or foster child or care of an adopted or foster child who is the employee's family member with a [serious health condition](#) would also constitute a medical emergency.

**Tip:** Since donated annual leave under the VLTP or VLBP is only authorized for a medical emergency, an employee cannot receive donated annual leave for purposes related to the adoption or foster care placement of a child or for bonding with the child.

**Scenario:** Evelyn, an undercover agent with the FBI, recently finished the process of adopting her 12-year-old foster daughter. Evelyn is in her first year of Federal employment and does not yet meet the eligibility requirements for FMLA with the substitution of PPL. Between attorney appointments, home visits, and court proceedings, Evelyn has used much of her annual and sick leave and only has 30 hours of sick leave and 15 hours of annual leave to her credit. Last night, Evelyn rushed her foster daughter to the emergency room after the child spiked a very high fever and started complaining about severe stomach pain. Her foster daughter was diagnosed with appendicitis. Evelyn’s foster daughter will be hospitalized for 5 days and then will need to be cared for at home for 1.5 weeks. When can Evelyn apply for her agency’s VLTP and receive donated annual leave? Can her agency allow her to receive donations of annual leave before she exhausts her accrued annual and sick leave?

Because she only has 45 hours of sick and annual leave and will need to be out of the office for 2 workweeks or 80 hours, Evelyn is experiencing a [medical emergency](#), since her expected absence without [available paid leave](#) meets the regulatory requirements to be out of the office without available paid leave for at least 24 work hours. Therefore, she can immediately apply to be a leave recipient under the VLTP or VLBP—she does not need to exhaust all her annual and sick leave before she receives donations of annual leave under either program. The expectation that she will exhaust available paid leave meets the requirements “to be without available paid leave of at least 24 hours”.

### **Voluntary Leave Transfer Program (VLTP)**

The VLTP allows an employee to donate annual leave directly to another employee who has a personal or family medical emergency. Generally, employees receive donated annual leave under the VLTP from other employees in their agency. However, [family members](#) are entitled to donate annual leave to an approved leave recipient who works at another Federal agency. The agency may allow donations from Federal employees at other agencies if it believes that the employee may not otherwise receive enough donated annual leave to meet the employee’s needs.

**Scenario:** Evelyn’s sister works at the Forest Service and wants to donate 40 hours of annual leave to her so Evelyn can care for her daughter following her appendicitis. A coworker has volunteered to donate 80 hours of sick leave to her, and the coworker’s spouse, who is in the Army, wants to donate 10 hours of leave to her. How much leave may Evelyn’s sister, her coworker, and the coworker’s spouse donate to Evelyn?

Sick leave may not be donated under the VLTP, therefore Evelyn’s coworker may not donate sick leave to her. Generally, leave recipients may receive donations of annual leave only from employees of the same agency. However, any [family member](#) employed by another agency covered by the leave sharing programs in chapter 63 of title 5, of the United States Code is entitled to donate annual leave to a leave recipient. Therefore, Evelyn may receive donated annual leave from her sister. If Evelyn’s agency believes she may not receive enough donations from coworkers in her agency, it may decide to allow donations from employees at other agencies covered by the leave sharing programs. Since military departments are not covered by the title 5 leave system, Evelyn may not receive donated annual leave from the neighbor’s spouse who is in the Army.

### **Voluntary Leave Bank Program (VLBP)**

Each agency may establish a VLBP under which an employee may contribute unused annual leave for use by a leave bank member who is experiencing a personal or family [medical emergency](#). Agencies are strongly encouraged to establish a leave bank program. The agency's leave bank board operates the leave bank and determines how much donated annual leave an employee may receive from the leave bank. After an employee’s medical emergency has ended, any unused donated annual leave is returned to the leave bank.

**Tip:** Every agency is required to have a voluntary leave transfer program. To ensure employees are eligible for the maximum benefits possible, agencies are also encouraged—but not required—to establish a voluntary leave bank program.

## **Retroactive Substitution of Donated Annual Leave**

Donated annual leave received through a VLTP or VLBP may be—

- Substituted retroactively by the employee for any period of leave without pay used because of a [medical emergency](#); or
- Used by the employee to liquidate an indebtedness incurred by the leave recipient for advanced annual or sick leave used because of a medical emergency.

## **Set-Aside Accounts**

While using donated leave under the VLTP or VLBP, a leave recipient accrues annual and sick leave into what are called “set-aside accounts”. This ensures that the employee will have some sick and annual leave available when the medical emergency ends. An employee may accrue no more than 40 hours of annual leave and 40 hours of sick leave in the set-aside accounts. The leave in these accounts will be transferred to the employee’s regular leave accounts **either** when the medical emergency ends **or** if the employee exhausts all donated annual leave but the employee or the employee’s family member is still experiencing the medical emergency. Leave in set-aside accounts is not available for use by the employee until transferred to the employee’s regular leave accounts.

An employee who returns to work part-time and who uses donated annual leave part-time, for example, to care for a [family member](#) recovering from childbirth, accrues leave in the employee’s regular annual and sick leave accounts for the time spent in work status and in the employee’s set-aside annual and sick leave accounts when using donated leave.

## **Leave Sharing Facts Related to Adoption and Foster Care**

- Donated annual leave may be used only for a medical emergency—e.g., any period of illness of the adopted or foster child that will result in the employee’s absence without [available paid leave](#) of at least 24 work hours for a full-time employee—and may not be used to care for a healthy child.
- There is no limit on the amount of donated annual leave a leave recipient may receive from the leave donor(s)/bank. However, any unused donated leave must be returned to the leave donor(s)/bank when the medical emergency ends.
- Donated annual leave may not be used for activities related to the placement of a child for adoption or foster care purposes, to bond with or care for a healthy

child, to care for a child with a routine illness, or to take the child to medical, dental, or optical appointments.

**Tip:** An employee is not required to use advanced annual leave or advanced sick leave before receiving donated annual leave under the leave transfer programs. However, if the employee did receive advanced sick or annual leave, donated annual leave under the VLTP or VLBP may be used to liquidate an indebtedness incurred by the leave recipient for advanced leave used because of a medical emergency, such as caring for an adopted or foster child who is seriously ill or injured.

For more information, see our fact sheets on the [Voluntary Leave Transfer Program](#) and the [Voluntary Leave Bank Program](#).

## **F. Family and Medical Leave**

### **Entitlement**

Under FMLA, Federal employees are entitled to a total of up to 12 workweeks of unpaid leave during any 12-month period for one or more of these purposes:

- the [birth](#) of a [son or daughter](#) of the employee and care of the newborn (leave must be used no later than the date that is 12 months after the birth);
- the [placement](#) of a son or daughter with the employee for adoption or foster care and the care of the son or daughter (leave must be used no later than the date that is 12 months after the placement);
- the care of an employee's [spouse](#), son, daughter, or [parent](#) with a [serious health condition](#); or
- a serious health condition of the employee that makes the employee unable to perform the essential functions of the employee's position; and
- any qualifying exigency arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces. (See OPM's Family and Medical Leave Qualifying Exigency Leave fact sheet for more information on this entitlement.)

**Tip:** In the case of FMLA use for [placement](#) of a son or daughter for adoption or foster care, each parent-employee has a separate entitlement to 12 weeks of FMLA leave in a 12-month period based on the placement of a child—whether they work for the same office or agency or in separate agencies.

FMLA leave is unpaid leave for which certain types of paid leave, including Paid Parental Leave (PPL) following the placement of a [son or daughter](#) for adoption or foster care, may be substituted. See the [Substitution of Paid Leave for Unpaid FMLA Leave](#) section of OPM’s [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet for more information.

### **Eligibility**

To be eligible for FMLA leave under OPM’s FMLA regulations, an employee must –

- be covered by the title 5 leave system for annual and sick leave purposes;
- have completed 12 months of qualifying civilian service, military service, or a combination of both (please see OPM’s [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet for information on what constitutes qualifying service); and
- not be specifically excluded from eligibility. The following employees are excluded from coverage —
  - those with an intermittent work schedule;
  - those with temporary appointments not to exceed 1 year. (Note that employees on multiple temporary appointments not to exceed 1 year are not eligible for FMLA regardless of the cumulative total time of the appointments); and
  - those who are Presidential appointees who are not covered under a leave system (since they cannot be charged leave for absences from work).

**Tip:** An employee must have completed at least 12 months of qualifying civilian service, military service, or a combination of both to be entitled to FMLA leave. The required 12 months of service do not need to be consecutive or recent and qualifying civilian service may have been performed at one or more agencies.

**Example 1:** Javier served honorably in the Army for 10 months and was medically retired when it was discovered he had a brain tumor that was causing a seizure disorder. Despite surgery, he still is under treatment. He is hired into Federal civilian service with the Department of Justice while still dealing with the seizure disorder. After he has served for 7 months, a child is placed with him and his wife for adoption. He immediately meets the 12-month service requirement for FMLA leave eligibility purposes because of his 10 months of honorable Army service and 7 months of civilian service.

**Example 2:** Hakeem worked for the Department of Commerce (Commerce) for 4 months in 2010 while he was getting his MBA. He then graduated and worked in finance in the private sector for many years. He was hired by the Small Business Administration (SBA) in September 2023. Hakeem has been a foster parent for several years. A foster child is newly placed with him in June 2024. Hakeem will be eligible for FMLA leave some time in May or June 2024 (his agency will have to do the exact calculations), since by that time he will have 12 months of qualifying civilian service (4 months at Commerce in 2010, as well 8 months of service at SBA in 2024).

**Scenario:** Mary Jo has been employed for a decade as a Federal contractor with the Thrift Savings Plan (TSP). She then is hired into a Federal position with the TSP. Mary Jo has been pursuing adoption, and she hears about the Federal Government's Paid Parental Leave (PPL) authority. Mary Jo asks her HR department if she qualifies for FMLA/PPL based on her ten years of work with TSP. What should the HR department tell Mary Jo?

Mary Jo's 10 years working as a contractor won't count for FMLA eligibility purposes—she would need 12 months of qualifying Federal civilian service, qualifying military service, or a combination of both to be eligible for FMLA and PPL. Her HR office can counsel her about other leave and workplace flexibility options available to her until she is eligible for FMLA and PPL.

### **12-Month FMLA Period and Timeframe for Use of FMLA for Placement of a Child**

An employee is entitled to 12 weeks of FMLA leave in a 12-month period. An employee's 12-month FMLA period (that is, the timeframe during which the employee

may use the 12 weeks of FMLA leave) begins on the date the employee first takes FMLA leave and continues for a 12-month period from the date of first use. An employee is not entitled to 12 additional workweeks of FMLA leave until the previous 12-month period ends and the employee experiences another FMLA qualifying event, which may include a continuation of a previous circumstance.

Any holidays that occur during the period in which an employee is on FMLA leave do not count towards the 12-week entitlement to FMLA leave. Per the FMLA regulations, FMLA leave “is not applied to days designated as holidays and other nonworkdays when the employee would be excused from duty.” Note that an employee is paid for a holiday if the employee is in pay status either before or after a holiday. If an employee substitutes paid leave for unpaid FMLA leave (or is in pay status for any reason) either before or after a holiday, the employee will receive pay for the holiday. For additional information, see OPM’s [Federal Holidays - Work Schedules and Pay](#) fact sheet.

For example, an employee who takes FMLA leave beginning on January 10, 2024, and exhausts the 12-week FMLA entitlement by mid-April 2024, may not take FMLA leave for any FMLA purpose until a new 12-month period begins for the employee on January 10, 2025.

The entitlement to FMLA leave related to the placement of a child for adoption or foster care expires at the end of the 12-month period beginning on the date of the placement. This restriction is set in law and cannot be extended for any reason.



**Scenario:** Paul and his wife Colleen had a child placed with them for adoption on March 1, 2024. Paul uses 8 weeks of FMLA leave from March 1-April 26, 2024. He plans on using the remaining 4 weeks of FMLA around the Christmas and New Year's holidays when their extended family gets together for their annual family holiday celebrations. Paul receives orders for a one-year military deployment beginning on May 31, 2024. Due to his military obligations, Paul will not be able to use the remaining 4 weeks of FMLA leave as he had planned around the Christmas and New Year's holidays in 2024/2025. Can Paul use those remaining 4 weeks of FMLA leave for the placement of his child when he returns to his Federal civilian position around June 1, 2025, following his military deployment?

No, he cannot. Paul's entitlement to FMLA leave related to the placement of his child for adoption expires at the end of the 12-month period beginning on the date of the child's placement. Since his child was placed with them on March 1, 2024, his entitlement to FMLA for the child's placement for adoption expires on February 28, 2025. His military deployment won't end until May 30, 2025. When Paul returns to his Federal civilian position in 2025, his 12-month FMLA entitlement period will have already ended. Because this restriction is set in law, there would be no statutory authority to extend his 12-month FMLA period.

FMLA leave related to the placement of a child for adoption or foster care may be taken before the placement under certain conditions. In the case of an anticipated placement, the leave may be taken when the employee must be absent to engage in activities necessary to allow an anticipated adoption or a foster care arrangement to proceed.

Paid parental leave is provided as a substitute for FMLA unpaid leave. Employees should keep in mind that FMLA is limited to a maximum of 12 weeks during any 12-month period. Therefore, if an employee invokes FMLA prior to the placement of a child, the length and/or timing of paid parental leave will be affected. Agencies are encouraged to work with employees to allow for maximum flexibility when it comes to arranging leave options to allow for bonding with and care of the child following the child's placement.

**Tip:** Since up to 12 weeks of PPL may be substituted for unpaid FMLA leave, employees should consider how use of any FMLA leave prior to the placement of a child will affect the timing of FMLA for placement of a child with substitution of paid parental leave.

**Scenario:** Charles has worked for the Department of Transportation for 3 years. He and his wife are adopting a sibling group from Kazakhstan. As a requirement for the adoption to happen, they both must travel for a month-long first trip to visit the children each day in the orphanage, and then return 30 days later to finalize the adoption and bring the children home. Charles invokes FMLA and takes 4 weeks of FMLA leave with substitution of annual leave beginning March 1, 2024, so his 12-month FMLA period runs from March 1, 2024, until February 28, 2025. In May, he takes 2 weeks of FMLA leave to pick up the children. In all, he has used 6 weeks of FMLA leave prior to the adoption. The actual placement of the children with Charles and his wife occurs on May 15, 2024. Since Charles is in a current 12-month FMLA period when the placement happens and the adoption becomes final and he has used 6 weeks of his 12-week FMLA entitlement, he only has 6 remaining weeks of FMLA leave that he may take (and for which he may substitute PPL) during his current 12-month FMLA period. On March 1, 2025, he will be entitled to begin a new 12-month FMLA period. Beginning May 16, 2024, he uses the remaining 6 weeks of his FMLA entitlement with substitution of PPL. He plans to invoke his FMLA entitlement again on March 3, 2025, when he can begin a new FMLA 12-month period, and substitute the remaining 6 weeks of PPL for unpaid FMLA from March 3, 2025, to April 18, 2025.

### **FMLA Leave Related to Placement of a Child for Adoption or Foster Care**

FMLA leave related to the placement of a child with the employee for adoption or foster care may be taken “because of the placement” of an employee’s adopted or foster child, which would include activities by an employee to care for the child during the 12-month period following the child’s placement. Caring for the child includes periods of active care, time spent bonding with the child, and short periods away from the child to buy supplies such as baby food, diapers, or other supplies.

FMLA leave related to placement for adoption or foster care may not be used if an employee is not caring for the child—for example, if the employee is physically located outside the area where the child is.

**Scenario 1:** Francine and spouse Maia adopted a child but divorced two months after the adoption. Maia moved 200 miles away with their adopted child. Francine, who is a Federal employee, started using FMLA as soon as the child was placed with them and used 8 weeks of FMLA prior to Maia moving away. Can Francine continue using the remaining 4 weeks of FMLA?

Francine would only be entitled to use FMLA when caring for and bonding with her adopted child. Since the child doesn't live with Francine, and in fact, Francine lives in another geographic area than her adopted child, the only time Francine would be entitled to use FMLA for any time she is bonding with and caring for the child. She may also use FMLA during short periods of time while she is away from the child to run errands that are related to the care of the child, such as going to the store to buy baby formula, diapers, wipes, etc. Francine modifies her FMLA request and receives approval to take FMLA leave intermittently and makes many trips to where Maia and the child are now living to bond with her adopted child.

**Scenario 2:** Alang, an employee of the U.S. Agency for International Development, and his wife have a foster son placed with them. Alang applies for continuous FMLA leave to care for and bond with his foster son. After using 8 weeks of FMLA leave, he receives military orders and is deployed for 6 months. He continues to indicate to his payroll technician that he is using FMLA leave during his deployment. Is he entitled to take FMLA for the placement of the foster child with him and his wife while he is deployed?

No. Alang cannot take FMLA leave since he is not caring for his foster son and is physically outside of the area where his foster son is located. When he returns home from his military deployment, he may use the remaining 4 weeks of FMLA leave as long as it is used within the 12-month period following his foster son's placement with him and his wife.

The definition of [placement](#) for FMLA [birth or placement](#) purposes reads as follows—

Placement means a new placement of a son or daughter with an employee for adoption or foster care. For example, this excludes the adoption of a stepchild or a foster child who has already been a member of the employee's household and has an existing parent-child relationship with an adopting parent. When the term “placement” is used in connection with the use of leave under the FMLA regulations before placement has occurred, it refers to a planned or anticipated placement.

The entitlement to FMLA for adoption or foster care is not merely for the act of adopting or fostering a child; it is for the placement of a child with the employee for adoption or foster care. Note that the definitions of [placement](#) and [birth or placement](#) provide that only a **new** placement of a son or daughter with an employee entitles an employee to use FMLA/PPL for placement of a child for adoption or foster care. This means the terms placement and birth or placement exclude the adoption of a stepchild or a foster child who has already been a member of the employee’s household and has an existing parent-child relationship with an adopting parent. If an employee later adopts a child who was placed with the employee for foster care, the placement had already occurred; there is no new placement with the employee that would entitle the employee to use of FMLA/PPL when the employee adopts the child. If an employee is pursuing adoption of a child the employee is fostering, the employee may invoke and use FMLA/PPL in the 12-month period following the new placement of the child with the employee.

**Scenario 1:** Karim married Yolanda, a single mother of three. Karim is devoted to his stepchildren and has wanted to adopt them, but they aren’t yet ready for that step. After several years, his stepchildren surprise him on Father’s Day with a Father’s Day card asking if he will adopt them. Karim puts in a request for FMLA leave for adoption. Is Karim entitled to FMLA for this purpose?

No, he is not. FMLA for placement for adoption is for a new placement of a child with an employee for adoption and cannot be used for the adoption of a child who has already been a member of the employee’s household.

**Scenario 2:** Ingrid is a foster mother to two sisters in a foster-to-adopt placement. They were both placed with her on the same day. After seven months, the children's parents sign a voluntary termination of parental rights, and Ingrid can now adopt her foster daughters. May she use FMLA leave now?

FMLA leave for placement of a child for adoption or foster care is for a **new** placement of a child with the employee for adoption or foster care and expires at the end of the 12 months following the placement of the child with the employee. Since the children were placed with Ingrid 7 months ago for foster care, she may still use FMLA leave until the end of the 12-month period following their placement with her or foster care. Since she couldn't know that the children's parents would decide to sign over their parental rights 7 months into the foster care placement, she could have made specific plans to use her FMLA entitlement following their placement for foster care with her so that she didn't risk losing access to her FMLA entitlement. For example, if the girls' birthparents had signed over the parental rights 15 months after their placement with Ingrid, Ingrid could not have used FMLA leave since the girls' placement had already happened over a year ago, and the children were already a part of her household when she adopted them.

### **Intermittent Use of FMLA Leave or Use on a Reduced Leave Schedule**

Employees are entitled to use FMLA leave intermittently or on a reduced leave schedule when the leave is medically necessary for purposes of a serious health condition or for qualifying exigency purposes. A reduced leave schedule is a special kind of intermittent leave that amounts to a change in an employee's usual number of working hours in a workweek or workday, in many cases reducing an employee's full-time schedule to a part-time schedule for the period of FMLA leave.

For FMLA leave taken for the placement of a [son or daughter](#) with the employee for adoption or foster care, an employee may use FMLA leave intermittently or on a reduced leave schedule only upon mutual agreement between the agency and the employee—intermittent use is not an entitlement.

Agencies are encouraged to approve requests for intermittent FMLA leave for placement of a child with the employee to the maximum extent practicable. In fact, it may be to the benefit of the agency to have the employee take FMLA leave intermittently or on a reduced leave schedule basis and return to work sooner rather

than being away from the job for the full 12-week block. It is important for employees to consult with their supervisors regarding scheduling requests to minimize the impact on agency operations. In other words, employees should schedule intermittent FMLA leave in advance and be flexible about intermittent or reduced work schedule in consideration of agency needs.

**Scenario:** Ed and his husband Ray just adopted a baby daughter. Ed takes FMLA leave with substitution of PPL for 7 weeks from the day their daughter is placed with them. He and Ray haven't yet found child care for their newly adopted daughter. Ray will stay home Monday and Wednesdays with their daughter. Ed's parents will care for her on Fridays. Ed wants to know if he can he take FMLA leave intermittently on Tuesdays and Thursdays to continue to care for and bond with his new daughter.

Ed would have to discuss his work schedule with his manager in advance to minimize the impact of his absence on agency operations. However, subject to the agency's policy and any applicable collective bargaining agreement, Ed may request the use of FMLA on a reduced work schedule basis. This would allow Ed to use FMLA intermittently while he and his husband continue to look for child care. If his agency approves the intermittent use of FMLA leave for the placement of his daughter with him for adoption, Ed will only be allowed to use FMLA intermittently until the end of the 12-month period following his daughter's placement with him for adoption. He could request other workplace flexibilities outside of his FMLA entitlement.

### **FMLA Facts Related to Placement of a Son or Daughter for Adoption or Foster Care**

- An employee must invoke the employee's entitlement to FMLA leave—an agency may not place an employee on FMLA leave. Generally, an employee may not retroactively invoke FMLA.
- An employee taking FMLA leave based on an expected placement of a [son or daughter](#) should provide not less than 30 calendar days' notice to the agency of the employee's intention to take FMLA leave—or as much notice as is practicable if the leave is to begin sooner, for example, if a child unexpectedly becomes available for adoption or foster care.
- An employee's 12-month period begins on the date an employee first takes FMLA leave for any purpose and continues for 12 months.

- The entitlement to FMLA leave taken for the placement of a [son or daughter](#) expires at the end of the 12 months after the placement. This means that FMLA leave for this purpose may only be taken in the first 12 months after the child's placement with the employee.

For more information, see our [Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#) fact sheet.

## G. Paid Parental Leave

PPL is a type of paid leave that is authorized under the FMLA statute and is substituted for available unpaid FMLA leave for the [placement](#) of a son or daughter with the employee for adoption or foster care and the care of the son or daughter; therefore, in order for an employee to use PPL, the employee must be eligible for FMLA. See [Section F. Family and Medical Leave](#) for details on FMLA eligibility.

Please read the entire FMLA section before reading this section, since all the provisions governing use of FMLA leave following the placement of a son or daughter with the employee apply to the use of PPL and the information we cover in the FMLA section is not repeated in this section.

The following are some of the key features of the PPL authority (with a focus on PPL used for placement of a child with the employee for adoption or foster care)—

- An employee must meet all eligibility requirements for use of FMLA leave in order to use PPL because PPL is a type of paid leave substituted for unpaid FMLA leave.
- The entitlement to PPL is triggered by the occurrence of placement of a child with the employee for adoption or foster care, which results in the employee having a parental role, therefore PPL may only be used **after** the placement has occurred.
- Eligible employees are entitled to up to 12 administrative workweeks of PPL per qualifying placement as long as the employee maintains a parental role.
- PPL is a separate category of paid leave, distinct from an employee's accrued sick leave or annual leave.
- PPL may only be used during the 12-month period following the placement of an employee's son or daughter and only during periods when the employee is acting in a parental role with respect to the newly placed child.

- Since PPL for placement may be used only by substituting it for unpaid FMLA leave based on the placement of a child and FMLA leave may not be used on holidays, PPL may not be used on holidays.
- An employee may not receive a lump-sum payment for any unused or forfeited PPL under any circumstance, and unused PPL may not be saved for use for a future birth or placement.
- An employee may request to use FMLA leave with substitution of PPL intermittently or on a reduced leave schedule. However, the employee may not use FMLA/PPL intermittently unless the agency agrees to such use—it is not an entitlement. See [Intermittent Use of FMLA Leave or Use on a Reduced Leave Schedule](#) portion of FMLA section F.
- Use of PPL for placement for adoption covers placement with an employee for the purpose of adoption pending finalization of the adoption and is legitimate even if the adoption later falls through.

**Tip:** An employee must be eligible for FMLA in order to use PPL. Since PPL must be used within the first 12 months of the child’s birth or placement, an employee who is not eligible for FMLA at the time of the child’s placement would be able to invoke FMLA and substitute PPL if the employee meets FMLA eligibility less than 12 months after the child’s placement.

**Scenario 1:** Rogelio and his wife just had a 4-year old named Alessandro placed with them for adoption. Rogelio has worked for his agency for 3 years under an intermittent appointment and is therefore ineligible for FMLA. Eight months after Alessandro’s placement, Rogelio moves to a part-time (non intermittent) appointment. He immediately qualifies for FMLA leave, invokes FMLA and takes 12 weeks of FMLA with substitution of PPL for placement and care of Alessandro.



**Scenario 2:** Reese had no prior Federal civilian service when they were hired into a Federal civilian position on January 30, 2023. Reese has a child placed with them for foster care on May 15, 2023. Reese meets the 12-month service requirement for FMLA/PPL purposes on January 29, 2024. They may use FMLA leave with the substitution of PPL from January 30, 2024 (the date Reese’s FMLA leave eligibility begins), until May 14, 2024, the date that is the end of the 12-month period following the child’s placement, since FMLA/PPL may only be used in the 12-month period following the placement of a [son or daughter](#) with the employee for foster care.

**Tip:** Since PPL must be used within the first 12 months of the child’s birth or placement, an employee who is not eligible for PPL at the time of the child’s placement would be able to invoke FMLA/PPL if the employee meets FMLA eligibility less than 12 months after the child’s placement with the employee for adoption or foster care.

**Scenario:** Ed is a new employee who has worked for the Federal Government for nine months. He and his husband have just been notified by the adoption agency that there is a baby girl available for adoption. Ed wants to use FMLA with the substitution of PPL to bond with and care for his new daughter. His agency explains that he must meet FMLA eligibility requirements in order to take FMLA and use PPL. He decides to take FMLA/PPL three months after his daughter’s placement with them for adoption when he meets the 12 months of service required for FMLA/PPL eligibility.

Since PPL is substituted for unpaid FMLA leave, employees should keep in mind that an employee’s use of FMLA prior to the [placement](#) of a child with the employee for adoption or foster care may affect how much PPL the employee may take and when it may be taken.

**Scenario:** Chanel and Jack’s 4-year old son Carson is diagnosed with acute lymphocytic leukemia. Chanel uses 12 weeks of FMLA leave for a [serious health condition](#) to care for Carson from June 3-August 28, 2024 (no FMLA leave is used on the Juneteenth or Independence Day holidays). Chanel’s 12-month FMLA period therefore runs from June 3, 2024-June 2, 2025.

On October 15, 2024, Chanel and Jack have a baby girl named Estee placed with them for adoption. Although Estee’s [placement](#) is a FMLA-qualifying event, there is no FMLA/PPL leave available for Chanel to use since she exhausted her entitlement to 12 weeks of FMLA leave in a 12-month period by using FMLA leave for Carson’s serious health condition from June 3-August 28, 2024. Chanel must wait until June 3, 2025, (the first day after the expiration of the previous 12-month FMLA period), to again be able to use FMLA leave. Chanel’s entitlement to FMLA/PPL for Estee’s placement expires on October 14, 2025 (the end date of the 12-month period following the birth) and any FMLA/PPL for Estee’s placement must be taken by this date. (For further discussion, see “Timeframe for Use of FMLA and Paid Parental Leave (PPL) Related to Birth or Placement of a Child” section of the FMLA fact sheet.)

On June 3, 2025, Chanel invokes FMLA based on Estee’s placement and takes 12 weeks of FMLA leave with substitution of PPL from June 3-August 28, 2025 (no FMLA/PPL is used on the Juneteenth or Independence Day holidays.)

### **Relationship to Child, Including Cases of Guardianship and Custody**

The entitlement to FMLA for placement for adoption or foster care is for a **new** [placement](#) of a [son or daughter](#) with the employee for adoption or foster care. An employee may not take FMLA leave for a child who is already part of the employee’s family. Examples include—

- An employee’s foster child who is then adopted by the employee; or
- An employee’s stepchild who is part of the household and whom employee adopts

For example, if an employee first fostered a child, the employee cannot take FMLA when adopting the child, even if the employee did not take FMLA for the foster placement.

See discussion and examples in the “FMLA Leave Related to Placement of a Child for Adoption or Foster Care” portion of section F. Family and Medical Leave.

For purposes of [placement](#), paid parental leave is available to an employee for the placement of a son or daughter of the employee and care of the child. For purposes of FMLA and PPL, [son or daughter](#) means the following—

A biological, adopted, or foster child; a stepchild, a legal ward; or a child of a person standing [in loco parentis](#) who is –

- 1) Under 18 years of age; or
- 2) 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL's) or “instrumental activities of daily living” (IADL's). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc. A “physical or mental disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in [29 CFR 1630.2 \(h\), \(i\) and \(j\)](#).

Here is a description of what is meant by [in loco parentis](#)—

In loco parentis refers to a situation of an individual who has day-to-day responsibility for the care or financial support of a child. In applying FMLA leave provisions—

- A child with respect to whom an employee has [in loco parentis](#) status is considered a child ([son or daughter](#)) of the employee; and
- A person who had [in loco parentis](#) status with respect to an employee when that an employee was a child is considered the employee’s “parent.”

A biological or legal relationship is not necessary. (For more information on the interpretation of “in loco parentis,” please see [CPM 2010-15, Interpretation of “Son or Daughter” Under the Family and Medical Leave Act.](#))

Employees who receive guardianship or custody of a child often want to know whether custody or guardianship of a child is qualifying for FMLA/PPL purposes. Under the FMLA an employee is entitled to 12 administrative workweeks of unpaid FMLA leave “[b]ecause of the birth of a son or daughter of the employee and in order to care for

such son or daughter. Since guardianship or custody are not included as one of the statutory reasons for entitlement to FMLA leave, custody or guardianship of a child would generally not entitle an employee to FMLA leave with substitution of PPL. However, if an employee receives custody or guardianship of a newborn (that is, within the 1-year period following the baby's birth), the employee would be standing [in loco parentis](#) to the infant, who would be considered the [son or daughter](#) of the employee. Because the infant is the son or daughter of the employee for purposes of FMLA, the employee would be entitled to FMLA/PPL because of the birth of the son or daughter and the care of the son or daughter until the end of the 12-month period following the infant's birth.

**Scenario:** Sam, an employee of the Nuclear Regulatory Commission, is awarded guardianship of his infant grandson Julian when his daughter Cara is in the hospital in a coma following complications during childbirth. Although Sam will be caring for his grandson for an extended period of time, he is not his grandson's foster parent, and he does not intend to adopt him because he hopes Cara will recover and regain custody of him. Is Sam eligible for FMLA/PPL?

Sam is eligible for PPL because he is standing [in loco parentis](#) to his infant grandson. Sam moved his grandson into his house and took on what is equivalent to a parental role in his care and upbringing. Because he serves in loco parentis to his grandson, he falls within the FMLA definition of [son or daughter](#). Therefore, Sam is eligible to use up to 12 weeks of FMLA/PPL for [birth of and care for a son or daughter](#) between the time his grandson Julian moved in with him until the date that is 12 months from his date of birth.

If an employee receives custody or guardianship of a child over the age of 12 months, different rules would apply. There are situations where an employee may not have been planning on becoming an adoptive or foster parent, but the employee suddenly takes on care of a child, perhaps because of an emergency. The employee may take custody or assume guardianship of the child.

In situations where there is a **new** placement of a child over the age of 12 months with an employee and the employee is working towards becoming the child's foster or adoptive parent but has not yet become the official foster or adoptive parent, the child would be viewed as being placed with the employee for foster care or adoption purposes. In this situation, the employee would be eligible for unpaid FMLA leave

during the 12-month period following the placement and the employee could substitute PPL for that leave. However, if the child has already been living with the employee and the employee is granted custody or guardianship of the child, the arrangement does not constitute a new placement of the child, and the arrangement would not qualify for FMLA leave with substitution of PPL. In another example, if a child is placed with the employee for custody or guardianship purposes and the employee is **not** working towards becoming the child's official foster or adoptive parent, the arrangement would not qualify for FMLA leave with substitution of PPL because the placement is not for foster care or adoption purposes.

**Scenario:** Cate is an employee of the Railroad Retirement Board. Cate's nieces Jennifer and Chris are suddenly placed with Cate for custody after Jennifer and Chris' parents are both killed in a car accident. Cate begins the process of pursuing adoption of her nieces. Since Cate is working towards adopting Jennifer and Chris, she would be entitled to unpaid FMLA leave with substitution of PPL because this new placement can be considered a placement with the employee for adoption purposes.

**Scenario:** John is an employee of the Farm Credit Administration whose mother is unable to care for her three youngest children, ages 7, 10, and 12. John's three siblings are placed with him for foster care while he pursues becoming their guardian. Because John knows he is entitled to unpaid FMLA leave with substitution of PPL for foster care purposes, but would not be entitled to FMLA/PPL when he becomes his siblings' guardian because they are all over the age of 12 months and FMLA for care of a [son or daughter](#) within 12 months of birth would not apply to his situation, he takes 12 weeks of unpaid FMLA leave with substitution of PPL as soon as they are placed with him for foster care. He therefore uses his full FMLA/PPL entitlement while he is fostering his siblings and before he becomes their guardian.

Since entitlement to FMLA leave and PPL in such situations is very fact specific, agencies should examine each situation on a case-by-case basis. Employees should provide all the relevant facts pertaining to their requests for FMLA leave and PPL under such circumstances to the agency and discuss the situation with them, since employees may not know what information they need to provide in order for the agency to make a determination as to whether FMLA leave and PPL are available. For

example, an employee may request FMLA/PPL based on receiving custody or guardianship of a child but may not realize the importance of also sharing that they are pursuing foster care or adoption of the child and the impact of these facts on their FMLA/PPL entitlement. The agency may request any necessary documentation to support the employee's request for FMLA leave with substitution of PPL under such circumstances.

### **Use of PPL and Parental Role**

The definition of [paid parental leave](#) makes clear that PPL for [placement](#) for adoption or foster care is a type of leave that is used after an employee assumes a parental role for a child following the placement of the employee's child.

Paid Parental Leave means paid time off from an employee's scheduled tour of duty that is granted to cover periods of time within the 12-month period commencing on the date of birth or placement to an employee who has a current parental role in connection with the child whose birth or placement was the basis for granting FMLA unpaid leave under [5 CFR 630.1203\(a\)\(1\) or \(2\)](#). This leave is not available to an employee who does not have a current parental role.

The purpose of PPL is for the employee to assume this parental role and to care for and bond with the child. In order to use PPL, the employee must be engaged in activities directly related to the care of the child. PPL can be used during short periods away from the child's physical presence to support the care of the child, such as engaging in periods away from the child to buy supplies for the child's care.

If an employee is not engaged in activities directly connected to care of the child or if the employee is outside the local geographic area where the child is located, use of PPL would not be appropriate. For example, if an employee does not live in the same home as the employee's child, the employee could receive FMLA/PPL during the care activities described in this paragraph or when spending time bonding with the child. However, when an employee is away from the child and is not caring for or bonding with the child—such as if the employee is on active duty military—an employee is not eligible for FMLA/PPL.

**Scenario:** Christoph, who works for the Department of the Interior, has been wanting to adopt a baby with his spouse. An infant suddenly becomes available for adoption and is placed with Christoph and his husband. Christoph invokes and is granted 12 weeks of PPL so that he can spend time bonding with his adoptive child. While he is on FMLA/PPL, Christoph's sister surprises Christoph and his spouse by offering to babysit the child so they can spend a week in the Galapagos, since they didn't expect the placement and hadn't had time for the "babymoon" they had expected to take prior to the placement of a baby with them. Can Christoph continue to use paid PPL while he and his spouse are on vacation while someone else cares for the child?

No. PPL is to be used by an employee to care for and bond with a child following the [placement](#) of a child with the employee for adoption or foster care. Therefore, it would not be appropriate for Christoph to use PPL for the week he spends in the Galapagos with his spouse while his sister cares for the baby. He will not be caring for the baby while he is away and would not be eligible to use FMLA/PPL during the trip. Christoph should discuss with his local HR representative whether he has the option of using annual leave or workplace flexibilities during the time he wishes to travel to the Galapagos. Since he hasn't used his full 12 weeks of FMLA/PPL, if he does wish to go to the Galapagos, he will also need to request approval from his agency to take FMLA/PPL on an intermittent basis in order to continue to use FMLA/PPL when he returns from his trip, since the trip will interrupt his continuous use of FMLA/PPL. An employee may only use FMLA intermittently if the agency agrees to the intermittent use.

PPL may only be substituted for unpaid FMLA leave taken for the placement of a child with the employee for adoption or foster care in the 12 months following the child's placement to care for and bond with the child. PPL may only be used as long as the employee has a continuing parental role. An employee who does not maintain a continuing parental role with respect to the child would not be eligible for PPL once the parental role has ended. For example, an employee's parental role would end in the following circumstances:

- the adoption of the child falls through; or
- a foster child moves to another foster placement or is reunited with the child's birth parents.

**Tip:** There is no provision in the law that permits the use of PPL prior to the child's placement with the employee or while the employee is not caring for the adoptive or foster child. Employees who wish to maximize the amount of PPL available should avoid using FMLA shortly prior to the child's placement. An employee who will be adopting is entitled to use sick leave for any activity necessary for an adoption to proceed without invoking FMLA, which will help employees preserve eligibility for a full 12 weeks of paid parental leave.

### **Multiple Births or Placements**

If multiple children are placed with an employee for adoption or foster care on the same day, the placement is considered a single event and the employee is entitled to a single 12-week period of PPL. If an employee has one or more children born or placed during the 12-month period following the date of an earlier birth or placement of a child of the employee, each event will generate a 12-week leave entitlement to be used during the 12-month period following the birth or placement. However, any use of PPL during an overlap period (that is, a period contained within more than one 12-month period following a birth or placement) will count toward the 12-week limit for each birth or placement involved.



**Scenario 1:** Zee, an employee of International Trade Commission, has opened their home to take foster children for both short and long term placements. Zee had a foster child placed with them on February 1, 2024, and used 12 weeks of FMLA with PPL substitution to care for and bond with their foster child. While that child was still with them, they had another child place on June 14, 2024, and while those two foster children were still with them, had another child placed on October 30, 2024. Their agency has given them 12 weeks of PPL for each placement, for a total of 36 weeks of PPL, stating that an employee is entitled to 12 weeks of PPL for placement of a child with an employee for foster care. Is this correct?

No. The agency is advising Zee incorrectly. PPL is paid leave that is substituted for FMLA leave without pay. Under FMLA, an employee is entitled to a total of 12 administrative workweeks of unpaid FMLA leave during any 12-month period. Therefore, Zee was entitled to 12 weeks of FMLA leave with PPL substitution for the first foster child placement starting February 1, 2024. Their 12-month FMLA period begins with the placement of the first foster child on February 1, 2024, and runs through January 31, 2025. Zee is entitled to take 12 weeks of FMLA/PPL during this time period. They are not entitled to additional FMLA/PPL until February 1, 2025, the day after the first FMLA period ends.

**Scenario 2:** Doris is an employee of the U.S. Department of Labor. She and her husband Dave have four children. On June 1, 2023, Doris gives birth to their fifth child, Nathaniel. Doris invokes and uses FMLA leave with substitution of PPL starting June 1, 2023, thus her 12-month FMLA period runs from June 1, 2023, to May 31, 2024. Doris uses FMLA leave with PPL intermittently, using 8 weeks of FMLA/PPL intermittently following Nathaniel's birth. On January 1, 2024, Doris and Dave have a foster child, Eleazar, placed with them. There are still 4 weeks of PPL remaining in Doris' current FMLA 12-month period, and she uses 4 weeks of FMLA leave with substitution of PPL during the period from the date of Eleazar's placement to the end of the 12-month FMLA period following Nathaniel's birth (January 1, 2024, through May 31, 2024). That period is the overlap period for the 12-month period following Nathaniel's birth and the 12-month period following Eleazar's foster care placement. The 4 weeks of PPL leave used during that overlap period count toward the 12-week limit on PPL for each birth/placement event. Thus, as of May 31, 2024, Doris has used a total of 12 weeks of PPL in connection with Nathaniel's birth and 4 weeks of PPL in connection with Eleazar's placement. During the period from June 1, 2024, (the beginning of a new 12-month FMLA period) through December 31, 2024, (the end of the 12-month period following Eleazar's foster care placement), Doris may use 8 weeks of unpaid FMLA leave for which PPL can be substituted. Because Doris had an overlap period (January 1, 2024, to May 31, 2024) when simultaneously caring for two children during the first year after their birth and placement, the 4 weeks of PPL used during that overlap period are counted against the PPL entitlement associated with each child. Therefore, under this example, Doris has access to a total of 20 weeks of FMLA/PPL.

Please see the sample calendars for examples of how the timing of paid parental leave might vary following the placement of multiple children in a 12-month period.

### **12 Week Work Obligation and Advance Written Service Agreement**

Prior to using PPL, an employee is required to enter into a written service agreement to work for the applicable employing agency for not less than 12 weeks after the day on which the employee's use of PPL concludes. The applicable employing agency is the agency employing the employee at the time PPL concludes. This means that if an employee transfers to a new (gaining) agency or separates from an agency and is later re-employed by a new agency during the 12-month period following the [placement](#) of a

[son or daughter](#) with the employee for adoption or foster care and the employee has not exhausted the employee's 12-week PPL entitlement, the employee may continue to use PPL at the gaining agency.

Upon transferring to a new employing agency, an employee is not required to enter into a new written service agreement with the gaining agency. The service agreement entered into with the previous agency is sufficient to obligate the employee to the required 12-week work obligation.

**Scenario:** Jerome, an employee of the Tennessee Valley Authority (TVA), enters into a written service agreement with the TVA and uses 5 weeks of PPL for the placement of his son Arthur with him for adoption. Jerome then transfers to the Department of Labor (DOL) and uses his remaining 7 weeks of PPL at DOL. DOL is the applicable employing agency (that is, the agency employing the employee at the time PPL concludes), so Jerome must work for DOL for not less than 12 weeks beginning on the date he concludes use of PPL.

The 12-week work obligation is statutorily fixed and applies regardless of the actual amount of leave used (that is, an employee who uses less than 12 weeks of paid parental leave would still be obligated to work 12 weeks).

**Scenario:** Hieu and his wife Thao have a baby placed with them for adoption on April 3, 2023, and Hieu uses 7 weeks of FMLA with substitution of PPL from April 3, 2023, through May 22, 2023. Hieu plans to use his remaining 5 weeks of FMLA/PPL around Thanksgiving and Christmas. On November 3, 2023, however, he is mobilized for a one-year military deployment, and returns to his agency on November 4, 2024. Hieu's entitlement to FMLA leave related to the placement of his baby expires on April 2, 2024, since this is the end of the 12-month period beginning on the date of the baby's placement with Hieu. He can no longer use any remaining FMLA/PPL when he returns. Even though he only used 7 weeks of PPL, he must still work for his agency for the full 12 weeks to fulfill his work obligation.

The date PPL concludes is—

- the workday on which an employee finishes using the 12 workweeks of PPL; or
- if the employee uses less than 12 workweeks of PPL during the 12-month period following the birth, the last workday on which the employee used PPL. (In

practical terms, the agency may not know when the last day is that the employee will use PPL until the end of the 12-month period following birth or placement. Even if the employee expresses an intention to use less than 12 weeks of PPL, the employee would have an entitlement to use the full 12 weeks until the expiration of this 12-month period.)

**Scenario:** Philip works for the Environmental Protection Agency (EPA) in Washington, D.C. Following the placement of his daughter for adoption on March 1, 2024, Philip takes 8 weeks of FMLA/PPL from March 1, 2024, through April 26, 2024. He discontinues use of PPL because his father, who lives in Colorado, falls and breaks his hip on April 27, 2024. Philip immediately flies to Colorado to care for his father while he is hospitalized. During this time, his father has a heart attack while hospitalized, is moved to a rehabilitation unit, and finally returns home. Since Philip is no longer acting in a parental role to his daughter while he is in Colorado with his father, he discontinues use of FMLA/PPL and uses 2 weeks of sick leave for care of a [family member](#) with a [serious health condition](#). He then uses 4 weeks of unpaid FMLA leave to continue to care for his father because of his father's serious health condition, thus exhausting his entitlement to 12 weeks of FMLA in a 12-month period. After 6 weeks of caring for his father, Philip returns to work at the EPA. Although he only used 8 weeks of PPL, he must still work for the EPA for the full 12 weeks to fulfill his work obligation.

The term “work” means a period during which the employee is in duty status, excluding any periods (paid or unpaid) of leave, time off (including holiday time off), or other nonduty status (including furlough or AWOL status). Any of these periods will not count toward completion of the work obligation.

**Scenario:** Simone uses 12 weeks of FMLA/PPL following the placement of a sibling pair with her for foster care, concluding her PPL on September 30, 2024. She takes 4 days of annual leave on December 23, 24, 26, and 27, 2024. The time period during which she is fulfilling her work obligation contains 5 holidays (Columbus Day, Veterans Day, Thanksgiving, Christmas, and New Year's Day) and the 4 days of annual leave. These days do not count as “work”. Therefore, Simone's 12-week work obligation will conclude on January 3, 2025, since it was extended by the 5 holidays and the 4 days of annual leave.

An employee who does not fulfill the 12-week work obligation may be required to reimburse the agency or agencies that employed the employee during use of PPL for any Government contributions paid to maintain the employee's Federal Employee Health Benefits (FEHB) coverage during the period the employee used PPL. If the employee is not enrolled FEHB or is enrolled but is not the primary FEHB policy holder, the reimbursement requirement does not apply and the agency may not impose any other reimbursement requirement.

For more information, including information on scheduling PPL, supporting documentation for use of PPL, and the potential penalties for not fulfilling the 12-week work requirement, see our [Paid Parental Leave](#) fact sheet.

## H. Parental Bereavement Leave

An employee has an entitlement to 2 weeks of parental bereavement leave because of the death of the employee's qualifying [son or daughter](#). Parental bereavement leave is a stand-alone type of paid leave that is administered independently from any other type of leave, including sick leave for funeral purposes.

**Tip:** Sick leave for bereavement uses an employee's accrued sick leave and is part of an employee's entitlement to use 13 days of sick leave per leave year for general family care purposes. It is activity based and may only be used for making arrangements necessitated by the death of a family member or attending the funeral of a family member.

Parental bereavement leave is a separate category of paid leave. Unlike sick leave for bereavement, use of parental bereavement leave is not activity based—it can be used purely to grieve the loss of the employee's child without engaging in any specific activity related to the death.

Even though the parental bereavement leave law references certain FMLA requirements, it is not authorized under FMLA and is administered separately from an employee's FMLA entitlement. Therefore, an employee does not invoke FMLA in order to use parental bereavement leave nor is parental bereavement leave substituted for unpaid FMLA leave.

However, the parental bereavement leave law provides that an employee must meet FMLA eligibility requirements at the time of the child's death in order to be eligible for

parental bereavement leave. The deceased child must meet the definition of [son or daughter](#) used for FMLA purposes, which means a child who is under 18 years of age or is 18 years of age or older and incapable of self-care because of a mental or physical disability.

The death of an employee's child triggers the law's one-time entitlement to 2 workweeks of parental bereavement leave in connection with that death, which must be used within the 12-month period following the death of the child. Parental bereavement leave must be used continuously unless the agency agrees to allow the employee to use it intermittently.

Congress did not authorize OPM in the parental bereavement leave statute to regulate parental bereavement leave. To the extent the law is unclear or silent with respect to the interpretation of certain provisions, OPM cannot issue definitive or binding guidance as to how the law is to be interpreted and applied. For example, the parental bereavement leave statute does not address use of parental bereavement leave for stillbirth or miscarriage. Agencies are responsible for administering parental bereavement leave for their employees and should consult with their agency counsel to review the parental bereavement leave statute and OPM's parental bereavement leave guidance to apply the statute to specific facts at issue.

### **Relation to Paid Parental Leave and Other Types of Leave**

As indicated in Section G, paid parental leave provides parents time to bond with and care for a newborn child during the first year of the child's life. If the newborn dies, the employee is no longer eligible to use paid parental leave in connection with the child's birth but is entitled to parental bereavement leave. Agencies should accommodate employees' requests to use other types of leave in combination with parental bereavement leave.

**Scenario:** Mara and her husband Eli tried to have children for years but weren't successful. They decide to adopt, and 13-year old Benjamin joins their family. Mara invokes and uses 12 weeks of FMLA with substitution of PPL for the placement and care of her son, from February 1, 2024, through April 25, 2024. Her 12-month FMLA period runs from February 1, 2024, through January 31, 2025. On October 12, 2024, Benjamin is hit by a car while riding his bike and is seriously injured. Mara uses sick leave outside of FMLA for care of a [family member](#) with a [serious health condition](#) while Benjamin is hospitalized. Sadly, Benjamin dies. Mara then uses 10 days of sick leave to plan and attend the funeral. Following the 10 days of sick leave, she invokes parental bereavement leave and takes the 2 weeks of parental bereavement leave. Mara is devastated, and the one-year anniversary of Benjamin's placement with her and her husband provokes a mental health crisis for her. Her healthcare provider diagnoses Mara with suicidal ideation and clinical depression. She invokes FMLA for her serious health condition on February 3, 2025, and takes 8 weeks of FMLA leave, substituting annual leave for 3 weeks and taking 5 weeks as unpaid FMLA leave.

For more information, see our memo on [Parental Bereavement Leave](#).

## **I. Leave Without Pay**

An employee may request leave without pay (LWOP) to be absent from work for purposes related to adoption and foster care. An employee does not need to be eligible for FMLA in order to request LWOP and can request LWOP even if the employee has accrued annual or sick leave. LWOP may be especially beneficial to new employees within their first year of Federal service who have little or no annual and sick leave accumulated and who do not yet meet the service eligibility requirements for FMLA leave and the substitution of PPL. In accordance with the February 02, 2023, [Memorandum on Supporting Access to Leave for Federal Employees](#), agencies are encouraged to consider providing leave without pay for Federal employees, as appropriate and consistent with applicable law, including to bond with a newly placed son or daughter, and to care for the child if the child has a serious health condition. Supervisors should refer to agency internal policy and collective bargaining and/or union agreements prior to granting approval.

LWOP may be requested in addition to the flexibilities that are already available, subject to agency policy and any applicable collective bargaining agreement.

## **Effect of LWOP on Leave Accrual and Other Benefits**

Being in leave without pay (or unpaid leave) status affects various employee entitlements, including the accrual of annual and sick leave. When a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status, either in one pay period or over the course of several pay periods, the employee will not earn annual and sick leave in the pay period where the employee reaches 80 hours of nonpay status. If the employee again accumulates 80 hours of nonpay status, the employee will again not earn leave in the pay period in which that new 80-hour total is reached.

While on LWOP status, the Government continues to advance the employee's share of contributions toward the employee's health insurance premiums. The employee may choose between paying the agency directly on a current basis or having the premiums accumulate and be withheld from pay upon return to duty.

For more information on leave without pay and the impact it has on Federal benefits, see our fact sheets on [Leave Without Pay](#) and the [Effect of Extended Leave Without Pay \(LWOP\) \(or Other Nonpay Status\) on Federal Benefits and Programs](#).

## **J. Compensatory Time Off**

Three types of compensatory time off may be earned and used when an employee needs to be absent from work in connection with placement of a child with the employee for adoption or foster care: compensatory time off in lieu of overtime pay; compensatory time off for travel; and religious compensatory time off.

### **Compensatory Time Off In Lieu of Overtime Pay**

This type of compensatory time off with pay is for (1) irregular or occasional overtime work; or (2) if permitted under agency flexible work schedule programs, regularly scheduled overtime work or irregular or occasional overtime work. One hour of compensatory time off is granted for each hour of overtime work. Accrued compensatory time off must generally be used by the end of the 26th pay period after the pay period during which the compensatory time off was earned. It is subject to agency policy and the premium pay limitation, and there are separate Fair Labor Standards Act (FLSA) rules for employees who are covered (i.e., FLSA non-exempt) or not covered (i.e., FLSA exempt) by FLSA.



**Scenario:** Rashida works as an FLSA exempt Contract Analyst, and she and her wife Ebony are expecting placement of a foster child in October. It is near the end of the fiscal year, and the office is short-staffed. Rashida's supervisor asks if she could work extra hours to make sure they close out all fiscal year end tasks on time. Can Rashida request that she receive compensatory time off in lieu of overtime pay so that she can use this to take time off to shop for everything their foster child will need and set up the child's bedroom?

Yes. Rashida should speak with her supervisor regarding her desire to receive compensatory time off instead of overtime pay for the extra hours she has been asked to complete. With approval, Rashida may receive compensatory time off in lieu of overtime pay and can use these hours for all the pre-placement activities.

### **Compensatory Time Off for Travel**

This type of compensatory time may be earned by an employee for time spent in travel status away from the employee's official duty station when such time is not otherwise compensable. Once earned, compensatory time off for travel may be used as paid time off during an expected future absence. There is no limitation on the amount of compensatory time off for travel an employee may earn, but it is generally forfeited if not used by the end of the 26th pay period after the pay period during which it is earned.

**Scenario:** Oleksander is helping with his agency's efforts to recruit STEM students to come work at the Cybersecurity and Infrastructure Security Agency (CISA). It is January, and he is in the process of adopting a child from India. Oleksander is traveling a lot to campus recruiting fairs and is earning a lot of comp time for travel in the process. Since Oleksander has a low number of accrued sick leave hours, can he use the compensatory time for travel he is earning to cover required travel and legal proceedings in connection with his adoption of a child?

Oleksander should speak with his supervisor and explain that he wants to use the compensatory time off for travel he has earned to cover the time off he will need to attend required court proceedings and travel overseas in connection with the adoption. He may then use it with approval of his supervisor. Oleksander should keep in mind that compensatory time off for travel must be used by the end of the 26th pay period after the pay period in which he earned it.

## **Religious Compensatory Time Off**

Religious compensatory time off permits an employee to rearrange work hours to fulfill religious obligations. Employees may earn and use religious compensatory time off to the extent that doing so does not interfere with the efficient carrying out of agencies' missions. Compensatory time off for religious observances may be earned up to 13 pay periods in advance of the pay period in which the religious observance occurs. Employees interested in earning religious compensatory time off should speak with their supervisors.

**Scenario:** Christina works in a VA Hospital and often works weekend shifts. Christina's adopted son is receiving his First Holy Communion at Sunday mass next month. Can Christina work extra hours in advance so she can take time off for this religious milestone?

Yes. Christina should speak with her supervisor and request approval for religious compensatory time. If approved, Christina will be able to work extra hours in advance and earn religious compensatory time off, which she can then use to attend her son's First Holy Communion.

For more information, see our fact sheets on [Compensatory Time Off in Lieu of Overtime Pay](#), [Compensatory Time Off for Travel](#), and [Religious Compensatory Time Off](#).

## **K. Alternative Work Schedules**

Alternative Work Schedules (AWS) permit an employee to complete an 80-hour biweekly pay period in less than 10 days. Employees have a right to request an alternative work schedule without fear of retaliation in accordance with agency policy and any collective bargaining agreements. These schedules help employees better balance work, personal, and family obligations while, at the same time, enabling managers and supervisors to meet their program goals. By permitting employees to work fewer than 10 days in a pay period, an AWS assists employees by freeing up a day or more per pay period for family responsibilities, medical appointments, and bonding. There are two categories of Alternative Work Schedules – (1) compressed work schedules and (2) flexible work schedules. Additionally, employees under flexible work schedules may earn credit hours if permitted by agency policies or collective bargaining agreements.

## **Compressed Work Schedules**

These are fixed work schedules that enable full-time employees to complete the basic 80-hour biweekly work requirement in less than 10 workdays. These schedules must be negotiated through collective bargaining or, when not applying to a bargaining unit, voted on by a majority of the employees to be covered by the schedule in the work unit. Once established, there are no provisions for employee flexibility in starting and stopping work time or modifying the employee's regular day off during the biweekly pay period.

**Example:** John and his wife recently adopted a child. John works in a work unit that is under a compressed work schedule. He is required to work 4 days a week, 10 hours each day and has every Friday off. This is a fixed schedule that John cannot change without taking leave. John has gone back to work full time following his parental leave, his parents-in-law care for his 4-month-old baby Monday through Thursday, and he cares for the baby on Fridays.

## **Flexible Work Schedules**

These are flexible work schedules (FWS) that enable employees to select and alter their work schedules to better fit their personal needs and help balance work, personal, and family responsibilities. Employees who work under an FWS often may adjust working hours to accommodate medical appointments, saving earned leave for other times. Also, an FWS can help parents arrange work hours to better align with daycare or school hours. There are various FWS types that provide different degrees of flexibility within the 80-hour biweekly work requirement:

- Flexitour – employees elect start/stop times, which then become fixed.
- Gliding – employees may vary start/stop times daily.
- Variable Day – employees may vary the length of the workday.
- Variable Week – employees may vary the number of hours worked each week within a biweekly pay period.
- Maxiflex – employees may work less than 10 workdays biweekly.

**Example 1:** Julie has a gliding work schedule. She usually drops her foster daughter off at day care and her husband picks up their foster daughter in the afternoons. However, depending on what is going on at each of their jobs, sometimes her husband drops their foster daughter off in the mornings and Julie changes her work schedule to come in earlier and leave earlier in order to pick up her foster daughter from daycare in the afternoon.

**Example 2:** Sharon participates in both the agency's maxiflex work schedule and telework programs. The agency maxiflex work schedule has core hours (those hours when all employees must be working unless an absence during those hours is specifically approved) each Tuesday from 11:00 am to 1:30 pm (excluding a 30-minute unpaid lunch break). The agency maxiflex work schedule has flexible hours (those hours during which an employee may choose to vary their starting or stopping times and/or times of arrival and departure from the work site) available Monday through Friday between the hours of 5:00 am through 11:00 pm. Sharon has recently adopted a baby. The baby has a well child visit scheduled at 2:30 pm on a Thursday. Sharon reports to the agency worksite on Thursday at 7:00 am and works until 12:00 noon. Since Thursday contains no core hours, Sharon departs the worksite at 12:00 noon without the need to take leave or other time off. Sharon will complete the remainder of the workday after the 2:30 pm well child visit.

For more information, see our [Handbook on Alternative Work Schedules](#).

### **Credit Hours**

Credit hours are hours that an employee with a flexible work schedule elects to work in excess of the employee's basic work requirement so that the employee can vary the length of a workweek or workday. Some agencies permit employees who work under a flexible work schedule to earn credit hours, which can assist employees in better managing family responsibilities, including childbirth. Based on agency policy and any applicable collective bargaining agreement, employees may request to work additional hours for use at a later time. A total of 24 credit hours may be carried over to be used in a later pay period.

For more information, see our fact sheet on [Credit Hours Under a Flexible Work Schedule](#).

## **L. Telework**

Telework is a work flexibility arrangement that can be used to help employees better manage their work, family, and personal responsibilities. Under an agency's telework policy, an employee may be permitted to work at an approved worksite other than the location from which the employee would otherwise work for predefined day(s) in an employee's workweek.

Telework must be approved by the employee's supervisor based on the agency telework policy, which takes into consideration overall organizational health, and the ability of the employee to accomplish the employee's work while teleworking. When determining an employee's telework eligibility following childbirth, the employee's work and the ability of the employee to perform official duties will be a primary focus of the supervisor's determination.

**Tip:** It is important to remember that an employee may not care for a child while engaged in the performance of official duties. However, it can free up valuable time since the employee will not spend time commuting. When determining an employee's telework eligibility following placement of a child with the employee, a supervisor should focus on the employee's work and the ability of the employee to perform official duties. Decisions should be made consistent with the agency telework policy.

### **Expectations to Consider in a Telework Agreement for Adoption or Foster Care**

Requests for telework related to an employee's transition back to work after having taken time off in connection with the placement of a child with the employee for adoption or foster care should be accompanied by a formal written telework agreement that details expectations. The written telework agreement should outline a work schedule that indicates the days, hours, and location where the employee will be working, list technology requirements, clarify any assumptions regarding the frequency and modes of communication (e.g., email vs. telephone, core hours for contact, or speed or expected timeframe for returning calls and emails) and establish terms under which the agreement can be modified or terminated.

**Scenario:** Soha adopted her baby son Arman several months ago from Kazakhstan. Soha used 6 weeks of sick leave (without invoking FMLA) to attend court proceedings and to travel to Kazakhstan, as required by the adoption decree. Soha discusses with her supervisor the fact that her mother, who lives nearby, has offered to care for Arman in her mother's home every Wednesday during Soha's workday. Her mother picks up Arman on Wednesdays before the start of Soha's workday and brings Arman home after Soha ends her work hours. In order to support the transition back to work, Soha's supervisor has approved her to telework on Wednesdays. As a sleep deprived young parent, Soha appreciates the extra sleep she can get on Tuesdays and also enjoys the extra time she has to decompress after work since she does not have a commute to and from the office that day.

### **Telework Facts Related to Adoption or Foster Care**

- Telework can provide employees with valuable additional time to spend with family members by reducing commuting time.
- Telework is not a substitute for dependent care and an employee may not care for a child while working from the home or an alternative worksite. To support work accomplishment, the employee cannot be expected to effectively accomplish work while actively caring for a newborn.
- Telework is a valuable tool that can be used when the employee transitions back to work following the placement of a child with the employee for adoption or foster care.

**Scenario:** Mark becomes a foster parent to Ricardo, who is in the 5th grade. The adjustment has been a little difficult. Ricardo has little league games in the afternoon on Wednesdays, so Mark has asked for and been approved to switch his telework days from Fridays to Wednesdays so he can take Ricardo to little league games after he comes home from school. Spending this weekly time together is significantly helping with the bonding process between foster father and foster son. For more information, please see [OPM's telework webpage](#).

## **M. Part-Time Employment and Job Sharing Arrangements**

Employees who have had a child placed with them for adoption or foster care may also be interested in part-time schedules or participating in job sharing programs if they are available at their agency. When job sharing programs are planned for organizations where employees are represented by a labor organization with exclusive recognition, agencies are legally required to notify the union and bargain in good faith on any negotiable proposals the union submits. Employees are encouraged to discuss their needs and interests with their supervisor and their human resource office.

### **Part-Time**

A part-time employee works between 16 and 32 hours each week (32 to 64 hours per biweekly pay period) on a prearranged schedule and is eligible for benefits. Part-time employees are eligible for the same benefits, on a prorated basis, as those benefits available to full-time employees: leave, retirement, and health and life insurance coverage.

### **Job Sharing**

Job sharing is a form of part-time employment in which the schedules of two or more part-time employees are arranged to cover the duties of a single full-time position. Generally, a job sharing team consists of two employees at the same grade level, but other arrangements are possible. Job sharing does not necessarily mean that each job sharer works half-time, or that the total number of hours worked by a job sharing team is 40 per week.

For more information, see OPM's [Part-Time & Job Sharing Handbook](#).

## IV: Additional Resources

### A. Leave for Family Care: Differences between Sick Leave/Leave Transfer and FMLA

The following chart highlights the key differences in the individual for whom an employee may provide care for purposes related to sick leave, leave transfer, and FMLA. The sick leave and leave transfer programs entitle an employee to care for anyone who meets the definition of [family member](#). The definition of family member is shown in the chart below. The term family member is not used in the FMLA regulations. Under FMLA, an employee can only care for the individuals mentioned in the FMLA statute, as shown in the chart below. It is important to consider the employee’s relationship to the individual for whom he or she will be providing care in order to properly advise the employee which program or programs he or she can use to care for that individual.

An employee may care for the following individuals using these leave programs:

Sick Leave/Leave Transfer	FMLA
<p>An individual with any of the following relationships to the employee:</p> <ul style="list-style-type: none"> <li>• Spouse, and parents thereof;</li> <li>• Sons and daughters, and spouses thereof;</li> <li>• Parents, and spouses thereof;</li> <li>• Brothers and sisters, and spouses thereof;</li> <li>• Grandparents and grandchildren, and spouses thereof;</li> <li>• Domestic partner and parents thereof, including domestic partners of any individual in the 2<sup>nd</sup> to 5<sup>th</sup> bullets of this definition; or</li> <li>• Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship</li> </ul>	<p>An individual with any of the following relationships to the employee:</p> <ul style="list-style-type: none"> <li>• Spouse (same-sex or opposite-sex);</li> <li>• Son or daughter (under the age of 18 or incapable of self-care because of a mental or physical disability); or</li> <li>• Parent</li> </ul>



## **B. Summary of Leave Programs Available for Childbirth**

The following lists provide a quick summary of the various leave programs available for birth of a child purposes, broken down both by purpose and by whether or not the employee is eligible for FMLA, which is a prerequisite for being able to use Paid Parental Leave. Note that some of these programs are entitlements, whereas others are not. See [Section II](#) for full descriptions of these programs, as well as details on available workplace flexibilities. We also include discussion of programs that can be used by employees who won't be the parent (for example, a grandparent) to care for or bond with the baby. An employee may be able to use some or all of these leave programs, depending on the employee's leave balances, relationship to the childbearing parent or newborn child, needs and interests of the individual employee, and agency leave policies.

As a reminder, FMLA and Paid Parental Leave are in addition to other leave types available to an employee. This means that the employee may invoke sick leave first—for example, for the period of recovery following childbirth, then may invoke FMLA leave with substitution of PPL in order to bond with and care for the baby.

## Leave Options for **Employees Who are Ineligible for FMLA**

Leave options available to a pregnant employee for the employee's own medical care, such as: prenatal care, incapacity during pregnancy, and/or recovery after childbirth:

- Sick Leave
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only if experiencing a [medical emergency](#))
- Leave Without Pay

Leave options for an employee caring for a [family member](#) (including a spouse or domestic partner) who is pregnant for prenatal appointments, incapacity during pregnancy, and/or recovery from childbirth:

- Sick Leave - an employee may use up to 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#) (which includes any incapacity related to pregnancy or for prenatal care) and a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Leave Without Pay

Leave options available to the employee to bond with or care for a healthy baby following birth, (including for an employee who is not the parent, such as a grandparent to care for the baby):

- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options for an employee caring for a baby for well baby visits or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for general family care purposes (including well-baby visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Leave Without Pay

## Leave Options for Employees Who are **Eligible for FMLA**

Leave options available to a pregnant employee for the employee's own medical care, such as: prenatal care, incapacity during pregnancy, and/or recovery after childbirth:

- Sick Leave
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only if experiencing a [medical emergency](#))
- Family and Medical Leave (FMLA) - for the employee's own [serious health condition](#) prior to childbirth, which includes any incapacity related to pregnancy or for prenatal care (use of FMLA prior to childbirth will affect the amount and/or timing of paid parental leave following the child's birth)
- Paid Parental Leave (PPL) under FMLA - may be used for recovery from childbirth. May only be used after the birth of the baby. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

Leave options for an employee caring for a qualifying family member who is pregnant for prenatal appointments, incapacity during pregnancy, and/or during recovery from childbirth:

- Sick Leave - an employee may use up to 12 weeks of sick leave per leave year to care for a [family member](#) with a [serious health condition](#) (which includes any incapacity related to pregnancy or childbirth or for prenatal care) and a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program to care for a family member (and only if there is a [medical emergency](#))
- FMLA - an employee may invoke FMLA to care for a spouse, mother, or daughter under 18 or over 18 but incapable of self-care because of a mental or physical disability with a [serious health condition](#) (which includes any incapacity related to pregnancy or childbirth or for prenatal care).
- Paid Parental Leave (PPL) under FMLA - may only be used after the [birth](#) of the employee's baby. May be used to care for the partner (includes a spouse or an unmarried partner) who has given birth to the employee's baby. An employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

Leave options available to an employee to bond with and care for a healthy baby following the baby's birth:

- Family and Medical Leave (FMLA) - may only be used by an employee who is the parent of the baby; used in conjunction with PPL
- Paid Parental Leave (PPL) under FMLA - employee must first invoke FMLA and may then substitute PPL for unpaid FMLA (only available to the [parent](#) of the baby and while acting in a parental role)
- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options for an employee caring for a baby for well baby visits or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for general family care purposes (including well-baby visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Paid Parental Leave (PPL) under FMLA - employee must first invoke FMLA and may then substitute PPL for unpaid FMLA (only available to the [parent](#) of the baby)
- Leave Without Pay

### **C. Sample Leave Calendars for Childbirth Purposes**

Employees planning to be absent from the workplace for childbirth purposes may find it helpful to prepare a calendar planning out the amount of time they wish to be absent from the workplace. The calendar should reflect the type of leave and work scheduling flexibilities the employee wishes to use each day. Having a well thought out calendar will facilitate a meaningful discussion with the employee's manager. We encourage employees to review the following calendars, which provide various examples of how leave and workplace flexibilities may be used in combination to meet employees' specific needs.

#### **Scenario 1: Childbirth – Self, New Employee, not FMLA Eligible on Due Date, Limited Leave**

Jordan is a new Federal employee who is pregnant with a due date of March 21. On that date, she will have had 6 months of Federal service, and therefore will not be eligible to use PPL under FMLA until she has worked for the Federal government for one year, which will occur on September 15.

Jordan's doctor places her on medically prescribed bed rest for two weeks prior to the birth of her child, at which point she has 40 hours of sick leave and 40 hours of annual

leave. She uses her 40 hours of accrued sick leave for bed rest and prenatal appointments from March 7 through March 11. Jordan requests and is granted approval to use her 40 hours of accrued annual leave from March 14 through March 18. She is ineligible to use FMLA at this time.

On March 21, Jordan gives birth to her baby boy. Her doctor certifies a recovery period of 6 weeks. Jordan requests and is granted 240 hours of advanced sick leave to cover her period of recovery from childbirth from March 21 through April 29.

**Tip:** As soon as Jordan can demonstrate that she will exhaust her [available paid leave](#) (sick leave and annual leave), she may apply to receive donated annual leave through the VLTP or VLBP for her period of recovery from childbirth. She can use the donated annual leave to repay the advanced sick leave taken during her recovery from childbirth.

Jordan applies to be a leave recipient under the VLTP and plans to use any donated annual leave she receives to repay the advanced sick leave used for her recovery from childbirth.

Next, Jordan requests and is granted 40 hours of advanced annual leave for bonding with her son from May 2 through May 6. She cannot use donated annual leave under the VLTP or request advanced sick leave for this purpose because neither type of leave may be used for bonding with a healthy newborn.

On September 15, Jordan meets the 12-months of qualifying Federal service for FMLA eligibility purposes. An employee's entitlement to FMLA leave for birth of a son or daughter expires at the end of the 12-month period beginning on the date of the birth. Since Jordan's baby was born on March 21, she has until March 20, of the subsequent year to use her FMLA with substitution of PPL. Jordan therefore chooses to invoke FMLA with substitution of PPL for a continuous 12-week period from September 19 through December 14. The end date of Jordan's 12 weeks of FMLA/PPL is extended by 3 days because there are 3 Federal holidays that occur while she is on FMLA/PPL, and these do not count toward her FMLA/PPL. FMLA leave is not used on any holiday. While her FMLA/PPL would have ended on December 9, the 3 holidays extend her FMLA/PPL until December 14.

In Summary:

- March 7 – March 11: Sick Leave for bed rest and prenatal appointments (5 days)
- March 14 – March 18: Annual Leave for bed rest and prenatal appointments (5 days)
- March 21: Baby Born
- March 21 – April 29: Advanced Sick Leave for recovery from childbirth (30 days) with retroactive substitution of Donated Annual Leave under the VLTP for the advanced sick leave
- May 2 – May 6: Advanced Annual Leave for bonding with baby (5 days)
- September 19 – December 14: FMLA with substitution of Paid Parental Leave for bonding with baby (12 weeks)



**Sick Leave (SL)**

**Advanced Sick Leave (AS)**

**Annual Leave (AL)**

**Advanced Annual Leave (AD)**

**FMLA - Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

March						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2	3	4	5
6	7 SL	8 SL	9 SL	10 SL	11 SL	12
13	14 AL	15 AL	16 AL	17 AL	18 AL	19
20	21 AS	22 AS	23 AS	24 AS	25 AS	26
27	28 AS	29 AS	30 AS	31 AS		

April						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 AS	2
3	4 AS	5 AS	6 AS	7 AS	8 AS	9
10	11 AS	12 AS	13 AS	14 AS	15 AS	16
17	18 AS	19 AS	20 AS	21 AS	22 AS	23
24	25 AS	26 AS	27 AS	28 AS	29 AS	30

May						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 AD	3 AD	4 AD	5 AD	6 AD	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30 H	31				

October						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
						1
2	3 PPL	4 PPL	5 PPL	6 PPL	7 PPL	8
9	10 H	11 PPL	12 PPL	13 PPL	14 PPL	15
16	17 PPL	18 PPL	19 PPL	20 PPL	21 PPL	22
23	24 PPL	25 PPL	26 PPL	27 PPL	28 PPL	29
30	31 PPL					

November						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1 PPL	2 PPL	3 PPL	4 PPL	5
6	7 PPL	8 PPL	9 PPL	10 PPL	11 H	12
13	14 PPL	15 PPL	16 PPL	17 PPL	18 PPL	19
20	21 PPL	22 PPL	23 PPL	24 H	25 PPL	26
27	28 PPL	29 PPL	30 PPL			

December						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
				1 PPL	2 PPL	3
4	5 PPL	6 PPL	7 PPL	8 PPL	9 PPL	10
11	12 PPL	13 PPL	14 PPL	15	16	17
18	19	20	21	22	23	24
25	26 H	27	28	29	30	31

## **Scenario 2: Childbirth – Self, Sufficient Leave, FMLA Eligible**

Kazu is pregnant and, after her baby is born, would like to stay home with her baby for over 3 months before returning to work. She has been a Federal employee for 1.5 years, so she qualifies for PPL under FMLA. She has 160 hours of sick leave, 40 hours of annual leave, and is due to give birth on March 21.

Kazu's doctor places her on medically prescribed bed rest for two weeks prior to her child's birth. She uses 80 hours of sick leave for bed rest and prenatal appointments from March 7 through March 18. She does not invoke FMLA in order to use her accrued sick leave during this period of bed rest, thus preserving her FMLA entitlement and the use of PPL.

On March 21, Kazu gives birth to a baby boy and her healthcare provider certifies she will need 6 weeks to recover from childbirth. Kazu uses 80 hours of sick leave toward her recovery from March 21 through April 1. Then, since she has no more available sick leave, she uses 40 hours of annual leave for the week of April 4 through April 8. Again, she does not invoke FMLA during her recovery period to preserve her FMLA entitlement and use of PPL. While PPL may only be used after the birth of a son or daughter, the leave does not have to be used immediately following the birth. An employee may use other paid or unpaid leave immediately following birth and during the recovery period.

Next, Kazu invokes FMLA with substitution of PPL for a continuous 12-week period from April 11 to July 7 in order to take time off to bond with her baby. The end date of Kazu's FMLA/PPL is extended by 3 days because there are 3 Federal holidays that occur while she is on leave, and these do not count toward her FMLA/PPL entitlement. FMLA/PPL is not used on any holiday. While her FMLA/PPL would have ended on July 1, the 3 holidays extend her FMLA/PPL until July 7.

In Summary:

- March 7 – March 18: Sick Leave for bed rest (10 days)
- March 21: Baby Born
- March 21 – April 1: Sick Leave for recovery from childbirth (10 days)
- April 4 – April 8: Annual Leave for recovery from childbirth (5 days)
- April 11 – July 7: FMLA with substitution of Paid Parental Leave for bonding with baby (12 weeks)

**Sick Leave (SL)**

**Annual Leave (AL)**

**FMLA – Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

March						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2	3	4	5
6	7 SL	8 SL	9 SL	10 SL	11 SL	12
13	14 SL	15 SL	16 SL	17 SL	18 SL	19
20	21 SL	22 SL	23 SL	24 SL	25 SL	26
27	28 SL	29 SL	30 SL	31 SL		

April						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 SL	2
3	4 AL	5 AL	6 AL	7 AL	8 AL	9
10	11 PPL	12 PPL	13 PPL	14 PPL	15 PPL	16
17	18 PPL	19 PPL	20 PPL	21 PPL	22 PPL	23
24	25 PPL	26 PPL	27 PPL	28 PPL	29 PPL	30

May						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 PPL	3 PPL	4 PPL	5 PPL	6 PPL	7
8	9 PPL	10 PPL	11 PPL	12 PPL	13 PPL	14
15	16 PPL	17 PPL	18 PPL	19 PPL	20 PPL	21
22	23 PPL	24 PPL	25 PPL	26 PPL	27 PPL	28
29	30 H	31 PPL				

June						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1 PPL	2 PPL	3 PPL	4
5	6 PPL	7 PPL	8 PPL	9 PPL	10 PPL	11
12	13 PPL	14 PPL	15 PPL	16 PPL	17 PPL	18
19	20 H	21 PPL	22 PPL	23 PPL	24 PPL	25
26	27 PPL	28 PPL	29 PPL	30 PPL		

July						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 PPL	2
3	4 H	5 PPL	6 PPL	7 PPL	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

### **Scenario 3: Childbirth – Family Member, Using Intermittent FMLA and Annual Leave to Extend Bonding Time**

Eduardo is in a senior-leader position at his agency and has a 720-hour annual leave carryover ceiling. He and his wife are having a baby boy. He would like time off to care for his wife during her recovery from childbirth and to care for and bond with his baby for a continuous period, followed by a period of intermittent leave. He has been a Federal employee for seven years and so qualifies for FMLA. Eduardo currently has 700 hours of sick leave and 720 hours of annual leave.

On March 23, Eduardo's wife gives birth. Eduardo takes sick leave from March 23 through May 18 to care for his wife, whose healthcare provider has certified that she will need 8 weeks to recover from her cesarean section.

On May 19, Eduardo invokes his entitlement to FMLA with substitution of PPL and takes FMLA/PPL for 4 continuous weeks, from May 19 through June 17. The end date of Eduardo's FMLA/PPL is extended by 1 day because there is a Federal holiday that occurs while he is on FMLA/PPL, and this day does not count towards his FMLA/PPL entitlement. FMLA/PPL is not used on any holiday. While his 4 weeks of FMLA/PPL would have ended on June 1, the holiday extends his FMLA/PPL until June 1.

He requests and receives approval to take his remaining 8 weeks of FMLA/PPL intermittently on Tuesdays and Thursdays, which he does from June 21 through November 10. His supervisor finds that Eduardo's intermittent FMLA/PPL leave works well for the office, since Eduardo is working 3 days a week and is able to keep his project-related work moving forward.

**Tip:** Eduardo has exhausted his FMLA/PPL entitlement but, if approved, can take off more time from work by requesting annual leave.

Upon the conclusion of his FMLA entitlement (and substitution of PPL), Eduardo requests approval to continue to take annual leave on an intermittent basis on Tuesdays and Thursdays. His supervisor is happy to approve the request, since this schedule has worked so well and Eduardo has use or lose annual leave that he needs to schedule before the end of the leave year. Eduardo takes annual leave on Tuesdays and Thursdays from November 15 through the end of December.

In Summary:

- March 23: Baby Born
- March 23 – May 18: Sick Leave for recovery from childbirth (8 weeks)
- May 19 – June 17: Continuous FMLA w/ substitution of PPL (4 weeks--no FMLA/PPL on Memorial Day)
- June 21 – November 10: Intermittent FMLA w/substitution of PPL on Tuesdays and Thursdays to bond with baby. (8 weeks, or 40 days). Employee works on Mondays, Wednesdays and Fridays.
- November 15 – December 29: Intermittent annual leave on Tuesdays and Thursdays to continue to bond with baby (13 days). Employee works on Mondays, Wednesdays, and Fridays. While 4 holidays occur during his intermittent use of FMLA/PPL, none occur on the days he chooses to use FMLA/PPL intermittently. The holidays occur on Mondays and he is using FMLA/PPL intermittently on Tuesdays and Thursdays, therefore the holidays do not extend the end date of his FMLA/PPL usage.

**Sick Leave (SL)**

**FMLA - Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

**Annual Leave (AL)**

March						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23 SL	24 SL	25 SL	26
27	28 SL	29 SL	30 SL	31 SL		

April						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 SL	2
3	4 SL	5 SL	6 SL	7 SL	8 SL	9
10	11 SL	12 SL	13 SL	14 SL	15 SL	16
17	18 SL	19 SL	20 SL	21 SL	22 SL	23
24	25 SL	26 SL	27 SL	28 SL	29 SL	30

May						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 SL	3 SL	4 SL	5 SL	6 SL	7
8	9 SL	10 SL	11 SL	12 SL	13 SL	14
15	16 SL	17 SL	18 SL	19 PPL	20 PPL	21
22	23 PPL	24 PPL	25 PPL	26 PPL	27 PPL	28
29	30 H	31 PPL				

June						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1 PPL	2 PPL	3 PPL	4
5	6 PPL	7 PPL	8 PPL	9 PPL	10 PPL	11
12	13 PPL	14 PPL	15 PPL	16 PPL	17 PPL	18
19	20 H	21 PPL	22	23 PPL	24	25
26	27	28 PPL	29	30 PPL		

July						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1	2
3	4 H	5 PPL	6	7 PPL	8	9
10	11	12 PPL	13	14 PPL	15	16
17	18	19 PPL	20	21 PPL	22	23
24	25	26 PPL	27	28 PPL	29	30
31						

August						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
	1	2	3	4	5	6
7	8	9 PPL	10	11 PPL	12	13
13	14	15 PPL	16	17 PPL	18	19
20	21	22 PPL	23	24 PPL	25	26
27	28	29 PPL	30	31 PPL		

September						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
				1	2	3
4	5 H	6 PPL	7	8 PPL	9	10
11	12	13 PPL	14	15 PPL	16	17
18	19	20 PPL	21	22 PPL	23	24
25	26	27 PPL	28	29 PPL	30	

October						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
						1
2	3	4 PPL	5	6 PPL	7	8
9	10 H	11 PPL	12	13 PPL	14	15
16	17	18 PPL	19	20 PPL	21	22
23	24	25 PPL	26	27 PPL	28	29
30	31					

November						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1 PPL	2	3 PPL	4	5
6	7	8 PPL	9	10 PPL	11 H	12
13	14	15 AL	16	17 AL	18	19
20	21	22 AL	23	24 H	25	26
27	28	29 AL	30			

December						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
				1 AL	2	3
4	5	6 AL	7	8 AL	9	10
11	12	13 AL	14	15 AL	16	17
18	19	20 AL	21	22 AL	23	24
25	26 H	27 AL	28	29 AL	30	31

## **D. Summary of Leave Programs Available for Adoption or Foster Care**

The following lists provide a quick summary of the various leave programs available for placement of a child for adoption or foster care, broken down by purpose and by whether or not the employee is eligible for FMLA, which is a prerequisite for being able to use Paid Parental Leave. Note that some of these programs are entitlements, whereas others are not. See Section II for full descriptions of these programs, as well as details on available workplace flexibilities. We also include discussion of programs that can be used by employees who won't be the adoptive or foster parent (for example, a grandparent) to care for or bond with the child. An employee may be able to use some or all of these leave programs, depending on the employee's leave balances, needs and interests of the individual employee, and agency leave policies.

As a reminder, FMLA and Paid Parental Leave are in addition to other leave types available to an employee. For an employee who is adopting a child, this means that the employee may invoke sick leave first—for example, for all pre-placement activities necessary for the adoption to proceed, then may invoke FMLA leave with substitution of PPL after the placement in order to bond with and care for the child.



## Leave Options for **Placement for Adoption** for Employees Who are **Ineligible for FMLA**

Leave options available to prepare for the adoption:

- Sick Leave - may only be used by employee who is adopting, and may be used for any activities necessary for the adoption to proceed, such as appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; or any other required activity
- Advanced Sick Leave - same as for sick leave
- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options available to an employee to bond with or care for a healthy adoptive child) following placement for adoption:

- Sick Leave - only by employee who is adopting the child and if bonding period is ordered by court or adoption agency
- Advanced Sick Leave - only by employee who is adopting the child and if bonding period is ordered by court or adoption agency
- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options for an employee caring for an adoptive child for medical appointments or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for family care purposes (including medical visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave - see sick leave above
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Leave Without Pay

## Leave Options for **Placement for Adoption** for Employees **Eligible for FMLA**

Leave options available to prepare for adoption:

- Sick Leave - may only be used by employee who is adopting, and may be used for any activities necessary for the adoption to proceed adoption, such as appointments with adoption agencies, social workers, and attorneys; court proceedings; required travel; or any other required activity
- Advanced Sick Leave—same as for sick leave
- Annual Leave
- Advanced Annual Leave
- Family and Medical Leave (FMLA) - may only be used by the employee who is adopting. (Since PPL is substituted for unpaid FMLA leave, use of FMLA prior to placement of the child with the employee will affect the amount and/or timing of use of PPL following placement)
- Paid Parental Leave (PPL) under FMLA - may only be used by an employee who is adopting and only after the [placement](#) of the child. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

Leave options available to bond with a healthy child following placement for adoption:

- Sick Leave - may only be used by an employee who is adopting and only if bonding period is ordered by court or adoption agency
- Advanced Sick Leave - may only be used by an employee who is adopting and only if bonding period is ordered by court or adoption agency
- Annual Leave
- Advanced Annual Leave
- Family and Medical Leave (FMLA) - may only be used by employee who is adopting; used in conjunction with PPL
- Paid Parental Leave (PPL) under FMLA - may only be used by an employee who is adopting and only after the placement of the child. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

Leave options for an employee caring for an adopted child for medical appointments or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for general family care purposes (including medical visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave - see sick leave above
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Family and Medical Leave (FMLA) - may only be used by employee who is adopting; used in conjunction with PPL
- Paid Parental Leave (PPL) under FMLA - may only be used by an employee who is adopting and only after the placement of the child. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

### Leave Options for **Placement for Foster Care** for Employees Who are **Ineligible for FMLA**

Leave options available to prepare for the placement of the foster child with the employee:

- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options available to bond with or care for a healthy child following placement for foster care:

- Annual Leave
- Advanced Annual Leave
- Leave Without Pay

Leave options for an employee caring for a foster child for medical appointments or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for general family care purposes (including medical visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a family member with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave - see sick leave above
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Leave Without Pay

### Leave Options for **Placement for Foster Care** for Employees Who are **Eligible for FMLA**

Leave options available to prepare for placement of the foster child:

- Annual Leave
- Advanced Annual Leave
- Family and Medical Leave (FMLA) - may only be used by the employee who is fostering (Since PPL is substituted for unpaid FMLA leave, use of FMLA prior to placement of the child with the employee will affect the amount and/or timing of use of Paid Parental Leave following placement)
- Leave Without Pay

Leave options available to bond with or care for a healthy child following placement for foster care:

- Annual Leave
- Advanced Annual Leave
- Family and Medical Leave (FMLA) - may only be used by the employee who is fostering; used in conjunction with PPL under FMLA - may only be used by the employee who is fostering and only after the placement of the child. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

Leave options for an employee caring for a foster child for medical appointments or illnesses:

- Sick Leave - an employee may use up to 13 days of sick leave per leave year for general family care purposes (including medical visits or minor illnesses) and 12 weeks of sick leave per leave year to care for a [family member](#) with a [serious health condition](#), with a total of 12 weeks per leave year for all family care purposes
- Advanced Sick Leave - see sick leave above
- Annual Leave
- Advanced Annual Leave
- Voluntary Leave Transfer Program/Voluntary Leave Bank Program (only in the case of a [medical emergency](#))
- Family and Medical Leave - may only be used by employee who is fostering; used in conjunction with PPL
- Paid Parental Leave (PPL) under FMLA - may only be used by an employee who is fostering and only after the placement of the child. Employee must first invoke FMLA and may then substitute PPL for unpaid FMLA leave
- Leave Without Pay

## **E. Sample Leave Calendars for Adoption and Foster Care**

Employees planning to be absent from the workplace for adoption or foster care purposes may find it helpful to prepare a calendar indicating the amount of time they wish to be absent from the workplace. The calendar should reflect the type of leave and work scheduling flexibilities the employee wishes to use each day. Having a well thought out calendar will facilitate a meaningful discussion with the employee's manager. We encourage employees to review all of the following calendars, which provide various examples of how leave and workplace flexibilities may be used in combination to meet employees' specific needs in connection with adoption and foster care.

### **Scenario 1: Adoption – Limited Leave, FMLA Eligible**

Tammy is a Federal employee who is in the process of adopting a one-year-old girl from China. Her future adoptive daughter has various health conditions. Tammy has been a Federal employee for more than one year and qualifies for FMLA. She has 80 hours of sick leave and 200 hours of annual leave. Tammy uses 8 hours of sick leave on

March 9 to meet with an attorney for adoption-related purposes. Tammy uses 24 hours of sick leave from March 15 through March 17 to travel to China and meet with the adoption agency. Tammy requests and is approved to use 8 hours of annual leave for personal time in China on March 18. She does not invoke FMLA in order to use sick leave for adoption related activities thus preserving her entitlement to FMLA with the substitution of paid parental leave.

**Tip:** Employees are entitled to use sick leave for adoption-related purposes including, but not limited to:

- Appointments with adoption agencies, social workers, and attorneys;
- Court proceedings;
- Required travel;
- Any periods of time the employee is ordered or required by the court or adoption agency to take time off from work to care for the adopted child; and
- Any other activities necessary to allow the adoption to proceed.

On March 21, Tammy officially adopts her daughter. Because the adoption agency is concerned about attachment disorder, they are requiring that Tammy have a 30-day bonding period with her daughter before returning to work. The 30-day period required by the adoption agency runs through April 19. Tammy uses the remaining balance of her sick leave to travel home with her daughter and begin the required 30-day bonding period. She uses her sick leave for these purposes from March 21 through March 28. Again, she does not invoke FMLA in order to use sick leave for the adoption agency's required bonding period thus preserving her entitlement to FMLA with the substitution of PPL.

**Note:** Tammy cannot receive donated annual leave under the VLTP/VLBP because adoption-related purposes do not involve a [medical emergency](#).

On March 29, because she has used the entirety of her sick leave, Tammy invokes her FMLA entitlement to continue to bond with her daughter. She substitutes paid parental leave for unpaid FMLA, and she and her agency agree she will use the 12 weeks of paid parental leave continuously. Tammy uses 12 continuous weeks of FMLA/PPL from March 29 through June 23. During this time, Tammy's adopted daughter has an

operation for one of her health conditions with a recovery time of 2 weeks. Tammy does not need to take an additional type of leave because she is still on FMLA/PPL. Tammy is not eligible to receive donated annual leave under the VLTP/VLBP for her daughter's operation and recovery because she has 200 hours of accrued annual leave to her credit. To qualify for donated annual leave, she would need to demonstrate that she will be experiencing a [medical emergency](#), which requires her to demonstrate that she would be absent from duty without available paid leave for at least 24 work hours. The end date of Tammy's FMLA/PPL is extended by 2 days because there are 2 Federal holidays that occur while she is on FMLA/PPL, and these do not count toward her FMLA/PPL entitlement. FMLA/PPL is not used on any holiday. While her 12 weeks of FMLA/PPL would have ended on June 21, the 2 holidays extend her FMLA/PPL until June 23.

**In Summary:**

- March 9: Sick Leave for adoption-related purposes to meet with attorney (1 day)
- March 15-17: Sick Leave to travel to China for adoption of child and to meet with adoption agency (3 days)
- March 18: Annual Leave for personal time in China (1 day)
- March 21: Adoption of child
- March 21 – March 28: Sick Leave for adoption-related purposes to travel from China and begin required 30-day bonding (6 days)
- March 29 – June 23: FMLA with substitution of Paid Parental Leave to bond with the child (12 weeks)

**Sick Leave (SL)**

**Annual Leave (AL)**

**FMLA – Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

March						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2	3	4	5
6	7	8	9 SL	10	11	12
13	14	15 SL	16 SL	17 SL	18 AL	19
20	21 SL	22 SL	23 SL	24 SL	25 SL	26
27	28 SL	29 PPL	30 PPL	31 PPL		

April						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 PPL	2
3	4 PPL	5 PPL	6 PPL	7 PPL	8 PPL	9
10	11 PPL	12 PPL	13 PPL	14 PPL	15 PPL	16
17	18 PPL	19 PPL	20 PPL	21 PPL	22 PPL	23
24	25 PPL	26 PPL	27 PPL	28 PPL	29 PPL	30

May						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 PPL	3 PPL	4 PPL	5 PPL	6 PPL	7
8	9 PPL	10 PPL	11 PPL	12 PPL	13 PPL	14
15	16 PPL	17 PPL	18 PPL	19 PPL	20 PPL	21
22	23 PPL	24 PPL	25 PPL	26 PPL	27 PPL	28
29	30 H	31 PPL				

June						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1 PPL	2 PPL	3 PPL	4
5	6 PPL	7 PPL	8 PPL	9 PPL	10 PPL	11
12	13 PPL	14 PPL	15 PPL	16 PPL	17 PPL	18
19	20 H	21 PPL	22 PPL	23 PPL	24	25
26	27	28	29	30		



## **Scenario 2: Foster Care – Limited Leave Balances; FMLA Eligible**

Jane is a Federal employee who plans to become a foster parent of a young boy and would like to take as much time off from work as she can to bond with her foster son. She has been a Federal employee for three years and qualifies for FMLA. She has 80 hours of sick leave and 24 hours of annual leave.

Jane requests and is approved to use 8 hours of annual leave on March 2, 11, and 18 for foster care meetings and home visits.

**Note:** While an employee is entitled to use sick leave for all activities necessary for an adoption to proceed, an employee may not use sick leave for activities related to foster care.

On March 21, the young boy is placed into foster care with Jane. Since she no longer has any annual leave, Jane invokes her FMLA entitlement and substitutes PPL so she can bond with her foster son for 12 continuous weeks, from March 21 through June 13. The end date of Jane's FMLA/PPL is extended by 1 day because there is 1 Federal holiday that occurs while she is on FMLA/PPL, and this does not count toward her FMLA/PPL entitlement. FMLA leave is not used on any holiday. While her FMLA/PPL would have ended on June 10, the holiday extends her FMLA/PPL until June 13.

In Summary:

- March 2, March 11, March 18: Annual Leave for foster care meetings and home visits
- March 21: Placement of foster child
- March 21 – June 13: FMLA with substitution of Paid Parental Leave to bond with the child (12 weeks)

**Annual Leave (AL)**

**FMLA – Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

March						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2 AL	3	4	5
6	7	8	9	10	11 AL	12
13	14	15	16	17	18 AL	19
20	21 PPL	22 PPL	23 PPL	24 PPL	25 PPL	26
27	28 PPL	29 PPL	30 PPL	31 PPL		

April						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 PPL	2
3	4 PPL	5 PPL	6 PPL	7 PPL	8 PPL	9
10	11 PPL	12 PPL	13 PPL	14 PPL	15 PPL	16
17	18 PPL	19 PPL	20 PPL	21 PPL	22 PPL	23
24	25 PPL	26 PPL	27 PPL	28 PPL	29 PPL	30

May						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 PPL	3 PPL	4 PPL	5 PPL	6 PPL	7
8	9 PPL	10 PPL	11 PPL	12 PPL	13 PPL	14
15	16 PPL	17 PPL	18 PPL	19 PPL	20 PPL	21
22	23 PPL	24 PPL	25 PPL	26 PPL	27 PPL	28
29	30 H	31 PPL				

June						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1 PPL	2 PPL	3 PPL	4
5	6 PPL	7 PPL	8 PPL	9 PPL	10 PPL	11
12	13 PPL	14	15	16	17	18
19	20 H	21	22	23	24	25
26	27	28	29	30		

### **Scenario 3: Foster Care – Multiple placements within 1 year period; Adoption of foster children; FMLA eligible**

Theo is a Federal employee who has previously served as a foster parent for multiple children, though none in the past year. On March 14, 2022, Theo receives a phone call from a case worker, who asks him if he would be available to care for an expected long-term foster child, a 3-year-old boy named Roosevelt, starting March 21, 2022. Theo has worked for the Federal government for seven years and qualifies for FMLA. He has 305 hours of sick leave and 144 hours of annual leave.

As soon as Theo is informed of this upcoming foster care placement, he submits paperwork to his agency HR office indicating his intent to invoke FMLA and substitute PPL starting on the date Roosevelt is placed with him for foster care. On March 21, 2022, Roosevelt is placed into foster care with Theo. Theo uses FMLA and substitutes 12 weeks of PPL for unpaid FMLA leave from March 21, 2022, through June 13, 2022. The duration of Theo's FMLA/PPL is extended by 1 day because there is 1 Federal holiday that occurs while he is on leave, and it does not count toward his FMLA/PPL entitlement. FMLA/PPL leave is not used on any holiday. While his 12 weeks of FMLA/PPL would have ended on June 10, the holiday extends his FMLA/PPL until June 13.

On July 1, 2022, Theo receives an unexpected phone call from Roosevelt's case worker, who informs Theo that Roosevelt's mother recently gave birth to a baby boy, Kermit, but surrendered the baby to child services. Theo agrees to take in Kermit as a foster child so the sibling pair can stay together, and Kermit is placed with Theo July 4, 2022 (a holiday).

Theo speaks with his local HR office and requests to use PPL to take time off to bond with Kermit. The HR office correctly informs Theo that he needs to have an available period of FMLA leave in order to use PPL and that he already used his entitlement to 12 weeks of FMLA in a 12 month period when Roosevelt was placed with him for foster care. Therefore, he is not eligible to invoke FMLA until March 21, 2023, one year from when he began use of FMLA for Roosevelt' placement with him. Theo will be eligible to invoke FMLA and substitute paid parental leave as of March 21, 2023, since his entitlement to take FMLA leave with substitution of PPL expires on July 3, 2023, 12 months from the date of Kermit's placement with him.

Since he is not able to use FMLA and PPL at the time of Kermit's placement, Theo requests to use 3 weeks (120 hours) of annual leave to bond with Kermit. Due to ongoing time-sensitive projects, Theo's supervisor approves him for 2 weeks (80 hours) of annual leave from July 5, 2022, through July 18, 2022. Additionally, Theo schedules sick leave on July 20, 2022, and August 25, 2022, to take Kermit to well-baby checkups with her pediatrician. Once his project is completed, his supervisor approves another week of annual leave for Theo from August 8-12, 2022.

Theo requests and is approved to telework Mondays, Tuesdays, and Fridays, which helps him manage his new responsibilities as a single parent to two young foster children. His new telework schedule begins on August 15, 2022.

When Theo is entitled to begin a new 12-month FMLA period on March 21, 2023, he invokes FMLA and substitutes paid parental from March 21, 2023, through June 14, 2023, in connection with Kermit's placement with him as a foster child and in order to further bond with him.

On July 5, 2023, Theo receives a call from child services, informing him that the parental rights of Roosevelt and Kermit's parents have been officially terminated and that the two children may be adopted. Theo uses sick leave on July 11, 2023, July 17, 2023, and July 28, 2023, to attend meetings and court proceedings required as part of the adoption process. Theo's adoption of Roosevelt and Kermit is finalized on July 28, 2023.

Now that Roosevelt and Kermit are his adoptive children, Theo inquires with his agency HR if he is entitled to use PPL in connection with his adoption of the children. HR correctly informs Theo that FMLA with substitution of PPL is only available for a **new** placement with an employee for adoption or foster care. Since Theo already used FMLA with substitution of PPL in connection with the placement of both children as foster children, he may not receive additional PPL now that he has adopted the children.

In Summary:

- March 21, 2022: Placement of foster child 1 (Roosevelt) with employee
- March 21, 2022 – June 13, 2022: FMLA with substitution of Paid Parental Leave for bonding with foster child 1 (12 weeks)
- July 4, 2022: Placement of foster child 2 (Kermit) with employee

- July 5, 2022 – July 18, 2022: Annual Leave to bond with foster child 2 (10 days)
- July 20, 2022 and August 25, 2022: Sick Leave for well-baby visits (2 days)
- August 8 – August 12, 2022: Annual Leave to continue bonding with foster child 2 (5 days)
- August 15, 2022 forward: Telework every Monday, Tuesday, and Friday
- March 21, 2023 – June 14, 2023: FMLA with substitution of PPL for bonding with foster child 2 (12 weeks)
- July 11, 2023, July 17, 2023, and July 28, 2023: Sick Leave for adoption-related purposes (3 days)
- July 28, 2023: Adoption of Roosevelt and Kermit is finalized

**Sick Leave (SL)**

**Annual Leave (AL)**

**FMLA – Substitution of Paid Parental Leave (PPL)**

**Holiday (H)**

**Telework (TW)**

March 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21 PPL	22 PPL	23 PPL	24 PPL	25 PPL	26
27	28 PPL	29 PPL	30 PPL	31 PPL		

April 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1 PPL	2
3	4 PPL	5 PPL	6 PPL	7 PPL	8 PPL	9
10	11 PPL	12 PPL	13 PPL	14 PPL	15 PPL	16
17	18 PPL	19 PPL	20 PPL	21 PPL	22 PPL	23
24	25 PPL	26 PPL	27 PPL	28 PPL	29 PPL	30

May 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
1	2 PPL	3 PPL	4 PPL	5 PPL	6 PPL	7
8	9 PPL	10 PPL	11 PPL	12 PPL	13 PPL	14
15	16 PPL	17 PPL	18 PPL	19 PPL	20 PPL	21
22	23 PPL	24 PPL	25 PPL	26 PPL	27 PPL	28
29	30 H	31 PPL				

June 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1 PPL	2 PPL	3 PPL	4
5	6 PPL	7 PPL	8 PPL	9 PPL	10 PPL	11
12	13 PPL	14	15	16	17	18
19	20 H	21	22	23	24	25
26	27	28	29	30		

July 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
					1	2
3	4 H	5 AL	6 AL	7 AL	8 AL	9
10	11 AL	12 AL	13 AL	14 AL	15 AL	16
17	18 AL	19	20 SL	21	22	23
24	25	26	27	28	29	30
31						

August 2022						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15 TW	16 TW	17	18	19 TW	20
21	22 TW	23 TW	24	25 SL	26 TW	27
28	29 TW	30 TW	31			

March 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
			1	2	3 TW	4
5	6 TW	7 TW	8	9	10 TW	11
12	13 TW	14 TW	15	16	17 TW	18
19	20 TW	21 PPL	22 PPL	23 PPL	24 PPL	25
26	27 PPL	28 PPL	29 PPL	30 PPL	31 PPL	

April 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
						1
2	3 PPL	4 PPL	5 PPL	6 PPL	7 PPL	8
9	10 PPL	11 PPL	12 PPL	13 PPL	14 PPL	15
16	17 PPL	18 PPL	19 PPL	20 PPL	21 PPL	22
23	24 PPL	25 PPL	26 PPL	27 PPL	28 PPL	29
30						

May 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
	1 PPL	2 PPL	3 PPL	4 PPL	5 PPL	6
7	8 PPL	9 PPL	10 PPL	11 PPL	12 PPL	13
14	15 PPL	16 PPL	17 PPL	18 PPL	19 PPL	20
21	22 PPL	23 PPL	24 PPL	25 PPL	26 PPL	27
28	29 H	30 PPL	31 PPL			

June 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
				1 PPL	2 PPL	3
4	5 PPL	6 PPL	7 PPL	8 PPL	9 PPL	10
11	12 PPL	13 PPL	14 PPL	15	16 TW	17
18	19 H	20 TW	21	22	23 TW	24
25	26 TW	27 TW	28	29	30 TW	

July 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
						1
2	3 TW	4 H	5	6	7 TW	8
9	10 TW	11 SL	12	13	14 TW	15
16	17 SL	18 TW	19	20	21 TW	22
23	24 TW	25 TW	26	27	28 SL	29
30	31 TW					

August 2023						
Sun	Mon	Tue	Wed	Thr	Fri	Sat
		1 TW	2	3	4 TW	5
6	7 TW	8 TW	9	10	11 TW	12
13	14 TW	15 TW	16	17	18 TW	19
20	21 TW	22 TW	23	24	25 TW	26
27	28 TW	29 TW	30	31		

## **F. Definitions**

Some definitions have been rewritten slightly to make them more readable, for example, by replacing the regulatory references with plain language descriptions of what the regulatory text refers to. The programs to which the regulations apply are identified in parentheses. You can read the full regulatory definitions at the hotlinks provided.

### **Regulatory Definitions Applicable to Sick Leave (SL), Voluntary Leave Transfer Program (VLTP), and Voluntary Leave Bank (VLBP) Program**

The definitions sections for these programs can be found at [5 CFR 630.201](#), [5 CFR 630.902](#), and [5 CFR 630.1002](#), respectively.

#### ***Available Paid Leave (VLTP, VLBP)***

An employee's accrued, accumulated, recredited, and restored annual or sick leave. Available paid leave does not include advanced annual or sick leave, any annual or sick leave in an employee's set aside leave accounts under the Voluntary Leave Transfer or Voluntary Leave Bank programs which has not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (i.e., credit hours under flexible work schedules, compensatory time off, or religious compensatory time off).

#### ***Family Member (SL, VLTP, VLBP)***

An individual with any of the following relationships to the employee:

1. Spouse, and parents thereof;
2. Sons and daughters, and spouses thereof;
3. Parents, and spouses thereof;
4. Brothers and sisters, and spouses thereof;
5. Grandparents and grandchildren, and spouses thereof;
6. Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
7. Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Note that the agency determines whom they will consider to be an "individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship."



***Medical Emergency (VLTP, VLBP)***

A medical condition of an employee or a family member of such employee that is likely to require an employee's absence from duty for a prolonged period of time and to result in a substantial loss of income to the employee because of the unavailability of paid leave.

***Parent (SL, VLTP, VLBP)***

1. A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;
2. A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
3. A person who stands in loco parentis or stood in loco parentis to the employee when the employee was a minor and required someone to stand in loco parentis; or
4. A parent (as described in the above subparagraphs) of an employee's spouse or domestic partner.

***Serious Health Condition (SL)***

An illness, injury, impairment, or physical or mental condition that involves –

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following -
  - a. A period of incapacity of more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves-
    - i. Treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or
    - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the

health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition).

- b. Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days.
- c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that
  - i. Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider;
  - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days.
- d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease).
- e. Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

(Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless

complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontia problems, and periodontal disease are not serious health conditions. Allergies, restorative dental or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.)

***Son or Daughter (SL, VLTP, VLBP)***

1. A biological, adopted, step, or foster son or daughter of the employee;
2. A person who is a legal ward or was a legal ward of the employee when that individual was a minor or required a legal guardian;
3. A person for whom the employee stands [in loco parentis](#) or stood in loco parentis when that individual was a minor or required someone to stand in loco parentis; or
4. A son or daughter, as described in paragraphs (1) through (3) of this definition, of an employee's spouse or domestic partner.

**Regulatory Definitions Applicable to Family and Medical Leave (FMLA) and Paid Parental Leave (PPL)**

The definitions sections for these programs can be found at [5 CFR 630.1202](#) and [5 CFR 630.1702](#), respectively.

***Adoption (FMLA)***

The legal process in which an individual becomes the legal parent of another's child. The source of an adopted child – e.g., whether from a licensed placement agency or otherwise – is not a factor in determining eligibility for FMLA leave.

***Birth (FMLA)***

Birth means the delivery of a living child. When the term “birth” is used in connection with the use of FMLA leave before birth, it refers to an anticipated birth.

***Birth or Placement (PPL)***

The birth of a son or daughter of a covered employee, or a new placement of a son or daughter (child) with a covered employee for adoption or foster care, that is the basis

for unpaid FMLA leave granted under the title 5 FMLA authority for birth or placement purposes. For the purpose of interpreting this definition, the terms **birth** and **placement** have the meanings given those terms in the title 5 regulations, except that PPL may not be granted based on an anticipated birth or placement.

Please also see the definition of “placement” below. Note that only a new placement of a son or daughter with an employee entitles an employee to use FMLA/PPL under the definitions of “placement” and “birth or placement”.

#### ***Foster Care (FMLA)***

The 24-hour care for children in substitution for, and away from, their parents or guardian. Such placement is made by or with the agreement of the State as a result of a voluntary agreement by the parent or guardian that the child be removed from the home, or pursuant to a judicial determination of the necessity for foster care and involves agreement between the State and foster family to take the child. Although foster care may be with relatives of the child, State action is involved in the removal of the child from parental custody.

#### ***In loco parentis (FMLA)***

In loco parentis refers to a situation of an individual who has day-to-day responsibility for the care or financial support of a child. In applying FMLA leave provisions—

- A child with respect to whom an employee has **in loco parentis** status is considered a child ([son or daughter](#)) of the employee; and
- A person who had **in loco parentis** status with respect to an employee when that an employee was a child is considered the employee’s “parent.”

A biological or legal relationship is not necessary. (For more information on the interpretation of “in loco parentis,” please see [CPM 2010-15, Interpretation of “Son or Daughter” Under the Family and Medical Leave Act.](#))

#### ***Intermittent Leave or leave taken intermittently (FMLA)***

Leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of 1 hour to several weeks. Leave may be taken for a period of less than 1 hour if agency policy provides for a minimum charge for less than 1 hour.

#### ***Paid Parental Leave (PPL)***

Paid time off from an employee's scheduled tour of duty that is granted to cover periods of time within the 12-month period commencing on the date of birth or placement to an employee who has a current parental role in connection with the child

whose birth or placement was the basis for granting FMLA unpaid leave under 5 CFR 630.1203(a)(1) or (2). This leave is not available to an employee who does not have a current parental role.

***Parent (FMLA)***

A biological, adoptive, step, or foster father or mother, or any individual who stands or stood “in loco parentis” to an employee meeting the definition of [son or daughter](#). This term does not include parents “in law.”

***Placement (FMLA)***

A new placement of a son or daughter with an employee for adoption or foster care. For example, this excludes the adoption of a stepchild or a foster child who has already been a member of the employee's household and has an existing parent-child relationship with an adopting parent. When the term placement is used in connection with the use of leave under the FMLA regulations before placement has occurred, it refers to a planned or anticipated placement.

Note that only a new placement of a son or daughter with an employee entitles an employee to use FMLA/PPL under the definitions of **placement** and **birth or placement**. Thus, the terms **placement** and **birth or placement** exclude the adoption of a stepchild or a foster child who has already been a member of the employee's household and has an existing parent-child relationship with an adopting parent. If an employee later adopts a child who was placed with the employee for foster care, the placement had already occurred; there is no new placement with the employee that would entitle the employee to use of FMLA/PPL when the employee adopts the child. If an employee is pursuing adoption of a child the employee is fostering, the employee may invoke and use FMLA/PPL in the 12-month period following the new placement of the child with the employee for foster care purposes, before the entitlement expires.

***Reduced Leave Schedule (FMLA)***

A work schedule under which the usual number of hours of regularly scheduled work per workday or workweek for an employee are reduced as a result of the increased use of leave.

***Serious Health Condition (FMLA)***

An illness, injury, impairment, or physical or mental condition that involves –

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

2. Continuing treatment by a health care provider that includes (but is not limited to) examinations to determine if there is a serious health condition and evaluations of such conditions if the examinations or evaluations determine that a serious health condition exists. Continuing treatment by a health care provider may include one or more of the following -
  - a. A period of incapacity of more than 3 consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves-
    - i. Treatment two or more times by a health care provider, by a health care provider under the direct supervision of the affected individual's health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or
    - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider (e.g., a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition).
  - b. Any period of incapacity due to pregnancy or childbirth, or for prenatal care, even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days.
  - c. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that -
    - i. Requires periodic visits for treatment by a health care provider or by a health care provider under the direct supervision of the affected individual's health care provider,
    - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). The condition is covered even if the affected individual does not receive active treatment from a health care provider during the period of incapacity or the period of incapacity does not last more than 3 consecutive calendar days.
  - d. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The affected individual must be under the continuing supervision of, but need not be receiving active

treatment by, a health care provider (e.g., Alzheimer's, severe stroke, or terminal stages of a disease).

- e. Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury or for a condition that would likely result in a period of incapacity or more than 3 consecutive calendar days in the absence of medical intervention or treatment (e.g., chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease).

(Serious health condition does not include routine physical, eye, or dental examinations; a regimen of continuing treatment that includes the taking of over-the-counter medications, bed-rest, exercise, and other similar activities that can be initiated without a visit to the health care provider; a condition for which cosmetic treatments are administered, unless inpatient hospital care is required or unless complications develop; or an absence because of an employee's use of an illegal substance, unless the employee is receiving treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. Ordinarily, unless complications arise, the common cold, the flu, earaches, upset stomach, minor ulcers, headaches (other than migraines), routine dental or orthodontic problems, and periodontal disease are not serious health conditions. Allergies, restorative dental or plastic surgery after an injury, removal of cancerous growth, or mental illness resulting from stress may be serious health conditions only if such conditions require inpatient care or continuing treatment by a health care provider.)

#### ***Son or Daughter (FMLA)***

A biological, adopted, or foster child; a step child, a legal ward; or a child of a person standing [in loco parentis](#) who is –

1. Under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability. A son or daughter incapable of self-care requires active assistance or supervision to provide daily self-care in three or more of the “activities of daily living” (ADL's) or “instrumental activities of daily living” (IADL's). Activities of daily living include adaptive activities such as caring appropriately for one's grooming and hygiene, bathing, dressing, and eating. Instrumental activities of daily living include cooking, cleaning, shopping,

taking public transportation, paying bills, maintaining a residence, using the telephones and directories, using a post office, etc. A “physical or mental disability” refers to a physical or mental impairment that substantially limits one or more of the major life activities of an individual as defined in [29 CFR 1630.2 \(h\), \(i\) and \(j\)](#).

***Spouse (FMLA)***

Spouse, as defined in the statute, means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

1. Was entered into in a State that recognizes such marriages, or
2. If entered into outside any State, is valid in the place where entered into and could have been entered into in at least one State.

***State (FMLA)***

Any State of the United States or the District of Columbia or any Territory or possession of the United States.



## **G. Fact Sheets**

### **Leave Fact Sheets**

[Advanced Annual Leave](#)

[Advanced Sick Leave](#)

[Annual Leave \(General Information\)](#)

[Definitions Related to Family Member and Immediate Relative for Purposes of Sick Leave, Voluntary Leave Transfer, and Voluntary Leave Bank](#)

[Family and Medical Leave Act \(FMLA\) 12-Week Entitlement](#)

[Leave Without Pay](#)

[Paid Parental Leave](#)

[Parental Bereavement Leave](#)

[Sick Leave \(General Information\)](#)

[Sick Leave for Adoption](#)

[Sick Leave for Family Care or Bereavement Purposes](#)

[Sick Leave to Care for a Family Member with a Serious Health Condition](#)

[Sick Leave for Personal Medical Needs](#)

[Voluntary Leave Bank Program](#)

[Voluntary Leave Transfer Program](#)

### **Work Schedules Fact Sheets**

[Adjustment of Work Schedules for Religious Observances](#)

[Compensatory Time Off for Travel](#)

[Compressed Work Schedules Fact Sheet](#)

[Credit Hours Under Flexible Work Schedules](#)

[Federal Holidays - Work Schedules and Pay](#)

[Flexible Work Schedules Fact Sheet](#)

[Handbook on Alternative Work Schedules](#)



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