

ARTICLE 18
FAMILY LEAVE

SECTION 1

Family Medical Leave Act.

- A. Employees who have completed at least twelve (12) months of service and are not employed on an intermittent basis or a temporary appointment with a time limitation of one (1) year or less have the right, as established by the Family and Medical Leave Act (FMLA) and implementing regulations (5 CFR Part 630, Subpart L), to twelve (12) work-weeks of leave without pay during any twelve (12) month period for one or more of the following:
1. Because of the birth of a child of the employee and in order to care for such child;
 2. Because of the placement of a child with the employee for adoption or foster care;
 3. In order to care for the spouse, a child, or parent of the employee, if such spouse, child, or parent has a serious health condition;
 4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

Employees may obtain information about their entitlements under the FMLA on the Office of Personnel Management website:

<http://www.opm.gov/oca/leave/HTML/factindx.sap>, and from the servicing Human Resources Center, <http://intranet.hhs.gov.rockvillehrcenter/>.

- B. An employee may elect to substitute accrued or accumulated annual and/or sick leave for any part of the 12 week period of leave without pay described in Paragraph A above. However, this does not require the Employer to provide paid sick leave in any situation in which it would not normally provide such paid sick leave.
- C. An employee seeking leave under this section shall provide the Employer with not fewer than thirty (30) calendar days' notice before the date the leave is to begin of the employee's intention to take such leave, unless the date of such leave is not reasonably foreseeable, in which case the employee shall provide such notice as is practicable.
- D. Under 5 CFR section 630.1207, the Employer may require that a request for leave under subsections A.3. or A.4. above be supported by written medical certification written by a health care provider. The following procedure will be followed:
1. The employee will provide the written documentation as provided in 5 CFR section 630.1207(b). The information on the medical certification shall relate only to the serious health condition for which the current need

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- for family and medical leave exists. The Employer may not require any personal or confidential information in the written medical certification other than that required by regulations.
2. An employee must provide the written medical certification no later than fifteen (15) calendar days after the Employer requests such medical certification. The Employer's request may be in writing. If it is not practicable under the particular circumstances to provide the requested medical certification no later than fifteen (15) calendar days after the date requested by the agency despite the employee's diligent, good faith efforts, the employee must provide the medical certification within a reasonable period of time under the circumstances involved, but not later than thirty (30) days after the date the agency requested the medical certification.
 3. If an employee submits a completed medical certification signed by a health care provider, the Employer may not request new information. However, the Employer's medical consultant may, with the employee's permission, contact the health care provider who completed the medical certification for the purposes of clarifying the medical certification.
 4. If the employee presents the medical certification in a sealed envelope marked "MEDICAL CONFIDENTIAL" and addresses it to the consulting physician in care of the Human Resources Specialist assisting the supervisor or employee, it will be reviewed only by the Employer's consulting physician, not the manager or supervisor.
 5. If the Employer doubts the validity of the medical certification, the Employer may require at the Employer's expense that the employee obtain the opinion of a second health care provider designated or approved by the Employer concerning information certified in the medical certification. Any health care provider approved by the Employer shall not be employed by the Employer or be under the administrative oversight of the Employer on a regular basis.
 6. If the opinion of the second health care provider differs from the original certification provided under subsection D.2. above, the Employer may require, at the Employer's expense, that the employee obtain the opinion of a third health care provider designated or approved jointly by the Employer and the employee concerning the information certified in subsection D.2. above. The opinion of the third health care provider shall be binding on the Employer and the employee.
- E. All other conditions/requirements in 5 CFR section 630.1207 are applicable to leave used under the FMLA.
 - F. The employee is responsible for notifying the supervisor of his/her intention to use FMLA leave.
 - G. The use of FMLA leave cannot be invoked retroactively.
 - H. If the employee is unable to provide the requested medical certification before leave begins, or if the agency questions the validity of the original certification provided by the employee and the medical treatment requires the leave to begin,

the agency shall grant provisional leave pending final written medical certification.

- I. If after the leave has commenced and the employee fails to provide the requested medical certification within the specified timeframe, the Employer may charge the employee as absent without leave (AWOL) or allow the employee to request that the provisional leave be charged as leave without pay or charged to the employee's annual and/or sick leave account, as appropriate.

SECTION 2 – FMLA FOR MATERNITY OR PATERNITY PURPOSES

- A. Employees are entitled to twelve (12) weeks of FMLA leave for maternity or paternity purposes due to the birth of a child or placement of a child with the employee for adoption or foster care or for maternity sick leave purposes. Employees are also entitled to FMLA leave to engage in activities related to the placement of a child with the employee for adoption or foster care. Approval of leave for these reasons will be consistent with the provisions of this Agreement and applicable statutes and regulations.
- B. Periods of incapacity due to pregnancy are considered a “serious health condition” under FMLA. Charges to sick leave are appropriate for the period of incapacitation due to pregnancy and confinement, consistent with medical requirements and applicable laws and regulations. The employee also may request and be granted annual leave, LWOP, earned credit hours and/or compensatory time instead of sick leave for the period of incapacitation. A female employee may also substitute sick leave, annual leave, earned compensatory time, credit hours, donated leave, or any combination thereof, for any remaining time of the twelve-week FMLA LWOP entitlement, as appropriate.
- C. Pregnant employees' requests for modification of work duties or a temporary assignment will be considered in accordance with Article 38, Employees with Temporary Disabling Conditions.
- D. A parent shall be permitted to be absent on partial or full days of annual leave, sick leave, LWOP, earned compensatory time, credit hours, or any combination thereof, to aid or assist in the care of minor children or the mother of the children due to her confinement for maternity reasons. Approval of leave for these reasons will be consistent with the provisions of this Agreement and applicable law and regulation.

SECTION 3

For purposes associated with adoption of a child, an employee may request annual leave, sick leave, LWOP, and/or earned compensatory time and/or credit hours. (See Article 16 for information about use of sick leave for adoptions.) The Parties recognize that it is in the interests of both the employee and the Employer that such requests shall be made as early as possible. The employee should submit the leave request for adoption purposes as early as possible, no less than thirty (30) calendar days, in advance of the prospective starting date; if the date of leave is not foreseeable (e.g., foreign adoptions), the employee shall provide such notice as is practicable. The individual circumstances must be considered in each instance by the leave approving official; reasonable requests shall be

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granted unless a workload or staffing problem prevents approval. Approval will be consistent with the provisions of the Agreement and applicable statutes and regulations.

SECTION 4

Whenever a leave request under this Article is denied, upon request the Employer shall state the specific reasons in writing.

SECTION 5

The provisions of this Article apply to married and unmarried employees alike, except to the extent such application would conflict with law or government-wide regulations.

SECTION 6

No medical documentation required under this article shall be shared with a management official. All medical documentation shall be sent directly to the physician identified by the Employer.