**ARTICLE 11** - **FAMILY LEAVE**

**Section 1 - Family and Medical Leave Act**

1. Consistent with the Family and Medical Leave Act (FMLA), all employees who have completed twelve (12) months of service (not required to be twelve (12) recent or consecutive months) with a federal agency are entitled to a total of up to twelve (12) workweeks of unpaid family and medical leave during any twelve (12) month period for the following:
2. The birth of a son or daughter of the employee and the care of such son or daughter;
3. The placement of a son or daughter with the employee for adoption or foster care;
4. The care of spouse, son, daughter, or parent of the employee who has a serious health condition;
5. A serious health condition of the employee that makes the employee unable to perform the essential functions of his or her position; or
6. Any other reason recognized by applicable law or regulation.
7. In order to receive leave under FMLA, an employee must **notify the Office by written, oral or electronic means that they intend to take FMLA leave. Employees may** apply by submitting the form attached as Appendix 11-1**[NTEU proposes to update the FMLA form WH-380-E at** [WH-380E (dol.gov)](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-E.pdf) **and WH-38-F at** [WH-380F (dol.gov)](https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/WH-380-F.pdf) **to the 2020 versions.)** **If the need for the leave is foreseeable, notice must be provided**~~The form must be submitted to the employee's first line supervisor generally~~ not less than thirty (30) days before leave is to begin. If the need for leave is not foreseeable, and the employee cannot provide (thirty) 30 calendar days notice of his or her need for leave, the employee shall provide notice within a reasonable period of time appropriate to the circumstances involved.
8. An employee may substitute paid annual or sick leave (where appropriate under law and regulations) for any unpaid leave under the FMLA. See Appendix 10-1 for more information. Employees cannot substitute compensatory time or credit hours for approved FMLA leave. However, with managerial approval, employees may use earned compensatory time or credit hours prior or subsequent to FMLA leave.
9. This Article will be implemented according to the current law and Government-wide regulations including those outlined in 5 CFR §630.1201 *et seq.,* including any amendments thereto.
10. For the purpose of this Article, “spouse” means a husband or wife. 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 a 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:
11. Was entered into in a State that recognizes such marriages, or
12. If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

**Section 2 - ~~Maternity/Paternity Leave~~ Parental Leave**

1. In addition to entitlement under the FMLA **and Paid Parental Leave (PPL)**, there will be no specified time granted for **parental (**maternity and paternity**)** leave for the birth and care of an employee's child. The length of time for such leave will be determined by the employee, the employee's supervisor, and the relevant health care provider. However, the Office will not ordinarily require an employee to return to duty earlier than ~~six (6)~~ **nine (9)** months after the birth of a child absent the need for the specific skills or knowledge of a particular employee.
2. The employee may choose how and in what order an absence for ~~maternity or paternity~~ **parental** leave will be recorded – **e.g.,** sick leave (where appropriate under law and regulations), annual leave, leave without pay, compensatory time, ~~or~~ credit hours**, use of time off awards**.
3. The employee is responsible for notifying the supervisor of his or her intent to request leave for ~~maternity or paternity~~ **parental leave** reasons, including the type of leave, approximate dates, and anticipated duration.
4. In anticipation of the employee's return to work, the employee may request part-time employment. See Article 7 (Part-Time Employment).
5. If a pregnant employee requests modification of duties or a temporary assignment, and presents acceptable medical evidence to the Office of the necessity thereof, the Office will make a reasonable effort to accommodate **their** ~~her~~ request.

**Section 3 – Paid Parental Leave**

1. **Employees who meet qualifying criteria are entitled to twelve (12) administrative workweeks (up to 480 hours) of Paid Parental Leave (PPL) for the birth or adoption of a child or foster care placements that occur on October 1, 2020, or thereafter. PPL is a substitute for unpaid leave under the Family Medical Leave Act (FMLA).**
2. **A full-time employee is entitled to a maximum of twelve (12) administrative work weeks (480 hours) of PPL during the 12-month period beginning on the date of birth, adoption, or placement of a child in foster care (or children, in the instance of multiple children in a single birth, adoption, or foster care placement.**
3. **Eligibility.** **To be eligible for PPL an employee must:**

**(i) Have experienced the birth, adoption, or foster care placement of a child on or after October 1, 2020;**

**(ii) Have been employed by the federal government for at least twelve (12) months prior to using paid parental leave (does not require twelve (12) recent or consecutive months of federal employment);**

**(iii) Be engaged in activities directly connected to the care of the child; and**

**(iv) Be located inside the local geographic area where the child is located.**

1. **To invoke their right to PPL, employees must complete and submit to the Employer Form9611-A (Paid Parental Leave Request) and Form 9611-B (Agreement to Complete 12-Week Work Obligation). [NTEU proposing using the same forms as the IRS uses: Forms 9611-A and 9611-B.]**
2. **Employees who invoke their right to PPL must agree in writing before the PPL begins to remain at the Employer for a period of twelve (12) weeks after the day on which PPL concludes.**
3. **PPL benefits expire twelve (12) months from the date of birth, adoption, or foster care placement. For employees who experience multiple births or placements in a 12-month period, a new 12-month period and entitlement for PPL will begin with each birth or placement. However, the maximum PPL an employee can take during a 12-month period remains 480 hours (or appropriate prorated amount for part-time employees).**

**Section 4 – Substituting Paid Leave for FMLA**

1. **An employee who has been approved for FMLA may elect to substitute the following paid leave for any or all of the period of unpaid leave:**
2. **Accrued or accumulated annual or sick leave consistent with laws and Government-wide regulations governing the granting and use of annual and sick leave;**
3. **Advanced annual or sick leave granted under Articles 15 and 16;**
4. **Leave made available to employees under the leave bank and leave transfer provisions of Article 21; and**
5. **PPL pursuant to Section 3, above.**
6. **An employee must notify their supervisor of the intent to substitute paid leave for any period of unpaid leave prior to the date the paid leave commences. An employee normally may not retroactively substitute paid leave for unpaid leave already taken. Paid leave and/or donated leave, however, will be authorized for periods of unpaid leave where the employee and their representative could not provide advance notice due to incapacitation.**
7. **The Office will not deny an employee’s request to substitute paid leave described above for any or all of the period of leave without pay to which the employee is entitled under the FMLA. Additionally, the Employer will not require an employee to substitute paid leave for any or all of the period of leave without pay to which the employee is entitled under FMLA.**
8. **Although employees cannot substitute compensatory time or credit hours for approved FMLA leave, employees may use approved compensatory time or approved credit hours prior, or subsequent to, FMLA leave.**
9. **If an employee has been approved for FMLA and requests advanced sick leave for the same illness and for the same period of time covered by the FMLA leave, the employee will not be required to provide the medical documentation required by Article 34, subsection 6A4 to obtain approval for the advanced sick leave.**