

## POPA HELP GUIDE FOR MATERNITY/PATERNITY ISSUES NON-PROBATIONARY EMPLOYEES

1. **USPTO maternity/paternity policy** allows a parent for 6 months after birth or placement (adoption or foster care) to use any combination of sick leave (as appropriate), annual leave, compensatory time, credit hours, and leave without pay (LWOP). This can be used continuously or intermittently.
  
2. **Paid Parental Leave (PPL)** is available for employees who have a parental role, are eligible for FMLA, and have a qualifying birth or new placement (adoption or foster care) on or after October 1, 2020.
  - PPL is a substitution for FMLA unpaid leave and is limited to 12 weeks (480 hours) or the amount of FMLA unpaid leave remaining if the parent has already used some of the leave as unpaid leave.
  - PPL is available during the 12-month period beginning on the date of birth or placement.
  - Use of this leave requires the parent to sign a written agreement to work for the USPTO for 12 weeks beginning on the parent's first scheduled workday after which PPL concludes. There is a 12 week work obligation no matter how much PPL is taken (i.e., if one hour of PPL is taken there is still a 12 week work obligation).
  
1. Interaction of PPL and USPTO mat/pat policy: PPL and USPTO mat/pat policy are independent, but can be used in combination. Note that PPL is available for 1 year after birth or placement and leave under the USPTO mat/pat policy is available for 6 months after birth or placement. For a continuous 9 months absence after birth or placement, use 6 months leave under the USPTO mat/pat policy and then PPL.
  
3. Use of PPL when in a part-time status: PPL is pro-rated as is FMLA for part time employees. This includes being part time when PPL is requested. If an employee intends to be in a full time status after the baby is born or placed, the employee should convert to full time status before requesting or using PPL.
  
4. **Sick leave** may be used by the mother for the time after birth needed for recovery - usually 6 weeks for a normal vaginal delivery and 8 weeks for a C-section. If there are any complications, you can get a doctor's note and take as much accrued sick leave as necessary. By law up to 240 hours of sick leave (total) may be advanced to an employee. The advancement of sick leave is discretionary and you should not assume you will get sick leave advanced. Sick leave can also be used before the baby is born for doctors' appointments, tests, hospitalization and required bed rest. Sick leave can be used for some steps in the adoption process. Sick leave can be used as normally permitted such as for doctor's appointments and if the baby becomes ill. If you are using PPL, it is likely that the recovery time will be covered by that leave and that the advancement of sick leave will not be necessary. Sick leave can then be used as usual for doctor's appointments and other covered reasons.

5. **Family Medical Leave Act (FMLA)** is in addition to the USPTO maternity/paternity policy and sick leave. An employee with at least one year of Federal Government service is entitled to 12 weeks of LWOP for use up until the baby is one year old or 12 months after placement for adoption or 12 weeks of PPL. If FMLA is to be used as unpaid leave, **DO NOT INVOKE FMLA** until after the first 6 months after the birth or placement of your child (use the USPTO maternity/paternity policy in the first 6 months). You can put in a written request for FMLA before the 6 months is over, but make sure the effective date is 6 months after the birth or placement of your child. Note that if you use PPL, that is a substitute for unpaid FMLA.
6. Both PPL and LWOP under FMLA can be used at once or intermittently.
  
7. An employee may earn 160 hours of **compensatory time** under the USPTO maternity/paternity policy before the baby is born or placed that may be used after the baby is born or placed. Up to 160 hours may be carried over from biweek to biweek for maternity/paternity purposes. An employee may continue to earn and use additional hours of maternity/paternity compensatory time after the baby is born or placed for the first 6 months after the birth or placement. An employee may use this compensatory time instead of taking LWOP to create a more flexible work schedule. For example, you could earn compensatory time on the weekend while your baby is cared for by someone else, then take a day or two off during the work week using that compensatory time. Compensatory time may only be earned on the weekend if you have been in a pay status for over 40 hours for the week. Thus you may not earn compensatory time on the weekends if you have taken LWOP during the work week. However, you may earn compensatory time for work in excess of 8-10 hours a day (i.e., if you are working 8 hour days, you could earn compensatory time on that day for hours worked in excess of 8). Compensatory time, by law, is an alternative form of payment for overtime which is why these restrictions apply. Be aware that compensatory time expires 26 pay periods after the pay period in which it is earned.
  
8. **Use of Sick Leave for Family Care and Bereavement** allows you to use sick leave to care for a family member. You may use up to 13 days (104 hours) for general family care and bereavement. This can be used when the baby is sick or needs to go to doctors' appointments. You may use up to 12 weeks (480 hours) to care for a family member with a serious health condition. If you use any of the 13 days, it must be subtracted from the 12 weeks. This is in addition to unpaid leave under FMLA. Fathers may use sick leave for this purpose to care for mom as she recovers or to care for the baby. The 2022 National Defense Authorization Act allows federal employees who experience the death of a child to get two weeks of paid leave.
  
9. **Rest periods** during pregnancy may be taken when prescribed by a medical authority. Your healthcare provider must require the rest period (not recommend or advise) and must state that there are medical (or pregnancy) complications. These periods can be recurring, brief absences of up to one hour per day for rest for reasons related to pregnancy (or other medical condition) and are charged to administrative leave. You may not work overtime or compensatory time on any day in which you use administrative leave for this purpose. The rest may be taken in the employee's office or at the Health Center or, if a hotelier, at the alternate work site.

10. Put your request for maternity/paternity leave in writing to your supervisor 30 days in advance, if possible. Obviously the dates will not be set but get your plan to your supervisor.