

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

1. **USPTO maternity/paternity policy** allows a mother and/or father for 6 months after a baby is born or placed with you for adoption to use any combination of sick leave (as appropriate), annual leave, compensatory time and leave without pay (LWOP). This can be used continuously or intermittently.
2. **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.
3. **Family Medical Leave Act (FMLA)** is in addition to the USPTO maternity/paternity policy and sick leave use discussed above. 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. **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.
4. Thus one could take a continuous **9 month leave of absence** after the birth or adoption of a child (6 months under the USPTO maternity/paternity policy and 12 weeks under FMLA).
5. Alternately, one can take LWOP (or annual leave or comp time) intermittently, as much or as little as one wants, for the first year to create a very flexible schedule. It is the employee's option whether to use paid leave or LWOP, you can not be required to use up your paid leave before using LWOP under the USPTO maternity/paternity policy or FMLA. It is also the employee's option to use LWOP intermittently or to go on the part-time program. Generally, the use of intermittent LWOP is more flexible and allows you to remain a full-time employee and thus is preferable over the part-time program. You need to be aware that going on the part-time program will delay your promotion while generally the use of LWOP will not.
6. One may earn 160 hours of **compensatory time** under the USPTO maternity/paternity policy before the baby is born or placed for adoption that may be used after the baby is born or placed for adoption. Up to 160 hours may be carried over from biweek to biweek for maternity/paternity purposes. This compensatory time is in addition to regular compensatory time. One may continue to earn and use additional hours of

maternity/paternity compensatory time after the baby is born or placed for adoption for the first 6 months after the birth or placement. You 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 spouse takes care of the baby, 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.

7. **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.
8. **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.
9. 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.