



DEPARTMENT OF THE NAVY
SPACE AND NAVAL WARFARE SYSTEMS COMMAND
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SPAWARINST 12630.5
SPAWAR 00A-HR
25 Jul 03

SPAWAR INSTRUCTION 12630.5

From: Commander, Space and Naval Warfare Systems Command

Subj: ABSENCE AND LEAVE

Ref: (a) 5 USC 630
(b) 5 CFR 630
(c) 5 CFR 890

Encl: (1) Family Medical Leave Act (FMLA)
(2) Sick Leave for Family Care Purposes - Family Friendly Leave Act (FFLA)

1. Purpose. To designate responsibilities and outline procedures for the administration of absence and leave for civil service employees according to references (a) through (c).

2. Coverage. Applies to all civilian employees at the Space and Naval Warfare Systems Command (SPAWAR), SPAWAR Divisions, and associated Program Executive Offices (PEO's). SPAWAR Divisions and PEO's may develop internal procedures to suit organizational requirements.

3. Cancellation. SPAWARINST 12630.1B of 29 January 2002 is cancelled.

4. Responsibility. Each supervisor is responsible for the administration of absence and leave for personnel under his/her supervision in accordance with procedures outlined as follows:

a. Annual Leave

(1) Administration

(a) Annual leave accrued to an employee's credit may be granted at any time during the leave year at the discretion of management. The granting of leave will not be restricted to the extent that earned leave is forfeited by an employee because of the limitation of leave accumulation.

(b) Advanced annual leave (leave in excess of that currently credited to the employee's leave account) may be granted in an amount not to exceed that which will accrue to the credit of the employee during the current leave year. In order

to repay the advanced leave, the supervisor must determine that there is not a pending separation or other action, which would preclude normal accrual during the remainder of the leave year.

(c) Supervisors must ensure annual leave is scheduled in advance to assure an adequate workforce at all times.

(d) Unless restricted because of the limited nature of appointment, employees earn and are credited with annual leave beginning with appointment. It is the current appointment under which the employee is serving that determines eligibility for annual leave.

(e) Normally, annual leave in excess of the maximum permissible carryover is automatically forfeited at the end of the leave year. An exception may be approved when the exigencies of the public business preclude the use of such annual leave. The key factors to bear in mind are that the exigency or operational demand is of such importance as to preclude the use of annual leave and the statutory requirement that the annual leave must have been scheduled in advance.

(f) Commander/Vice Commander/Deputy Commander/Directorate Head/Staff Office Head are the designated officials to determine whether an exigency of the public business is of major importance and, therefore, scheduled annual leave may not be used by employees. SPAWAR Divisions and PEO's may delegate different designated officials.

(2) Leave Accrual and Credit

(a) Earning Rates for Full-Time Employees

1 Full time employees with less than three years of service earn four hours of annual leave for each biweekly pay period.

2 Those with three, but less than 15 years of service, earn six hours of annual leave for each biweekly pay period except for the last full period of the calendar year when they earn ten hours of annual leave.

3 Those with 15 or more years of service earn eight hours of annual leave for each full biweekly pay period.

(b) Earning Rates for Part-Time Employees

1 To earn annual leave, part-time employees must have a regularly assigned tour of duty on at least one day of each week in the pay period.

2 Part-time employees with less than three years of service earn one hour of annual leave for each 20 hours in a pay status.

3 Those with three, but less than 15 years of service, earn one hour of annual leave for each 13 hours in a pay status.

4 Those with 15 or more years of service earn one hour of annual leave for each ten hours in a pay status.

(3) Request for Annual Leave. Requests will be made in advance, either orally or in writing as required by the supervisor. Written requests will be made on Standard Form 71, "Application for Leave," or by e-mail, which serves as the record of the employee's request.

(4) Approval. The immediate supervisor must approve annual leave in advance. In cases of emergency when leave cannot be approved in advance, the employee will contact his supervisor or other designated management official within two hours of the start of the work shift to inform the supervisor of the reason for the emergency absence. The determination whether to approve or disapprove requested leave, which was not approved in advance, rests with management. There is no automatic entitlement to leave on the sole basis that unforeseen circumstances, in the employee's opinion, require his/her absence from duty. In genuine emergencies, such as a serious accident or illness, or a death in the employee's immediate family, management will exercise due consideration in enforcing the reporting requirements. Mere unforeseen circumstances, such as minor accidents requiring repairs to automobiles or property, an ordinary illness of the employee or members of his/her immediate family, do not justify failure to notify the supervisor promptly of an absence. If the leave is approved, the employee must submit a Standard Form 71, "Application for Leave" upon return to work. If the leave is disapproved, time lost will be charged to absence without leave (AWOL).

(5) Advancing Annual Leave

(a) Annual leave, which will be earned during the leave year, is credited to an employee's leave account at the beginning of the leave year. When employees are serving under temporary appointments or under probationary or trial periods, advanced leave would not exceed an amount, which it is reasonably assured will be subsequently earned. When it is known, or reasonably assured, that an employee is to be separated or is retiring during the year, advanced leave may not exceed the amount that will accrue prior to the anticipated separation or retirement. At SPAWAR Headquarters, first line supervisors are delegated the authority to approve advanced annual leave. SPAWAR Divisions and PEO's may delegate the authority as appropriate.

(b) Requests for advanced annual leave will be initiated by the employee and will be forwarded to the immediate supervisor. The request will state the amount of advanced annual leave being requested and the reason for the request. Prior to approval of the request, the supervisor should be reasonably assured that the employee would not be separated or retiring during the year.

(6) Forfeiture and Restoration of Annual Leave:

(a) Failure to use earned annual leave within the leave year normally leads to forfeiture of leave in excess of statutory limits. It is the joint responsibility of the employee and management to plan and schedule the use of annual leave throughout the year.

1 Employees are advised of their annual leave balances each pay period by means of their individual leave and earnings statement. It is the employee's responsibility to plan for the use of and to request annual leave sufficiently in advance of the end of the leave year that, in the event of denial of the specific period of leave, an alternate period of leave can be scheduled to avoid loss of leave at year-end.

2 Supervisors are responsible for reviewing and approving or denying leave and for reminding employees of the need for scheduling leave, particularly significant blocks of leave, (e.g. one, two or three weeks) well in advance and for ensuring that leave does not disrupt the accomplishment of essential work. The advance scheduling of annual leave is particularly critical during peak summer leave periods and at year-end.

3 In the event an employee does not use annual leave in excess of permissible carryover, such leave is automatically forfeited at the end of the leave year. There is,

however, a provision for the rare circumstances where the loss of excess leave was clearly beyond the control of the employee and excess annual leave may be restored. Since such restoration of annual leave constitutes a situation comparable to retroactive payment of funds, the law provides for only three exceptions. The situations where unused excess annual leave may be restored are:

a Administrative error due to inaccuracy of official leave records or correction of pay, allowances, and benefits as a result of an unjustified or unwarranted personnel action when the error or correction is found (or made) after the close of the leave year or too late in the leave year to permit use of the excess leave.

b Exigencies of the public business when annual leave was scheduled in advance and denied because of urgency or operation need exists.

b. Sick Leave

(1) Sick leave may be granted to employees:

(a) When they are incapacitated for the performance of their duties by physical or mental illness, injury, pregnancy, or childbirth.

(b) When they receive medical, dental, or optical examination or treatment.

(c) When, as determined by the health authorities, they jeopardize the health of others by his/her presence on the job because of exposure to a communicable disease.

(d) When they make arrangements necessitated by the death of a family member or attend the funeral of a family member.

(e) Under provisions of the Family Medical leave Act (FMLA), enclosure (1).

(f) Under provisions of the Family Friendly Leave Act (FFLA) enclosure (2).

(g) For adoption related purposes.

1 When an employee attends appointments, meetings, visits, inspections, etc., as required by public or private adoption agencies, attorneys, social workers, and counselors. Such leave will end when the adoption is finalized (e.g., when the child is permanently placed in the employee's home).

2 When they travel in connection with the adoption process.

3 If required by the court or adoption agency to care for the newly adopted child. There is no limit to the amount of sick leave that may be taken for adoption related activities. Such leave is not limited to 13 days as described in enclosure (2).

(2) In approving applications for sick leave, supervisors have the primary responsibility for ascertaining that the circumstances of the absence justify approval. The approval of sick leave requests is at the discretion of the supervisor when the following circumstances exist:

(a) The employee fails to follow leave procedures.

(b) The employee fails to provide documentation acceptable to the supervisor.

(c) Abuse or fraud is suspected.

(d) The request is for non-emergency medical, dental, or optical examination or treatment.

(e) The employee does not have sick leave accrued.

(3) There are certain circumstances when the approval of sick leave requests is mandatory. If the employee requesting sick leave has followed leave procedures, provided documentation acceptable to the activity, and has accrued sick leave, the request for sick leave will be approved when the employee:

(a) Is required to receive treatment as a disabled veteran.

(b) Is incapacitated by physical or mental illness, injury, pregnancy, or childbirth

(c) Is receiving emergency medical, dental, or optical examination or treatment.

(d) Presence on the job would jeopardize the health of others because of exposure to a contagious disease.

(e) Is required to take a physical examination on behalf of the Military Reserve or National Guard.

(f) Is providing care for a family member who is incapacitated as the result of physical or mental illness, injury, pregnancy, or childbirth or who receives medical, dental, or optical examination or treatment.

(g) Is making arrangements necessitated by the death of a family member or to attend the funeral of a family member.

(h) Must be absent from duty for the purposes relating to the adoption of a child, including appointments with adoption agencies, social workers, and any other activities necessary to allow the adoption to proceed.

(4) Earning Rates

(a) Full time employees earn sick leave at the rate of four hours for each full biweekly pay period. Sick leave is earned from the first pay period of employment and its earning is not affected by the type of appointment or length of service. There is no qualifying period for the earning of sick leave.

(b) Part-time employees with an established tour of duty earn sick leave at the rate of one hour for each 20 hours of duty. Credit may not exceed four hours of sick leave for 80 hours of duty in any pay period. To earn sick leave, part-time employees must have a regular weekly tour of duty. If they have regular weekly tours, they earn leave for every hour in a pay status.

(5) Notification of sick leave. When an employee notifies his/her supervisor that he/she is ill and unable to report for work, the notification must be made within two hours after the beginning of the employees' work shift.

(6) Submission of Medical Certificates

(a) Sick Leave of Three Workdays or Less. A medical certificate is not normally required to support an application for sick leave of three workdays or less. Such a certificate may be required in individual cases, if there is reason to believe the employee is abusing sick leave privileges or if fraud is suspected. If abuse is suspected, the employee will first be advised that, because of the sick leave record/pattern, a medical certificate may be required for each subsequent absence on sick leave. If the employee's record does not improve, he/she will be advised in writing that a medical certificate that is acceptable to the supervisor must support all future absences for sick leave. Failure to comply with this requirement may be considered a basis for denying sick leave and carrying the employee in an absence without leave (AWOL) status. An employee who is under a requirement to support all requests for sick leave by a medical certificate will be carried in a pending AWOL status until the certificate has been submitted and a determination made. The employee has 15 calendar days to submit the medical certificate. Disciplinary action may be taken based on AWOL resulting from denial of leave. At SPAWAR Headquarters, contact Code 00A-HR for advice regarding the letter requiring medical certification.

(b) Sick Leave in Excess of Three Workdays. Periods of absence on sick leave in excess of three workdays must ordinarily be supported by a medical certificate, to be filed within 15 days after return to duty. Instead of a medical certificate, the employee's signed statement explaining the nature of his illness may be accepted when it is unreasonable to require a medical certificate because of shortage of physicians, remoteness of locality, or because the illness does not require the service of a physician.

(7) Application for Sick Leave

(a) Will be submitted on Standard Form 71 "Application for Leave," by the employee immediately after returning to duty. For periods of illness of more than two weeks duration, the employee will submit applications every two weeks covering each pay period.

(b) For medical, dental, or optical treatment or examination will include the name and address of the physician, dentist, or practitioner and the date and hour of the appointment. They should be submitted for approval in advance of the appointment.

(8) Advancing Sick Leave. Under certain conditions, sick leave may be advanced for cases of serious disability when the situation requires it. The authority to approve/disapprove-advanced sick leave is delegated to the immediate supervisor. Requests for advance sick leave must be submitted on an SF-71, be supported by proper medical certification, and must provide the approximate date on which the employee will return to work. The SF-71 must be approved and forwarded to the Payroll Liaison Office prior to using advance sick leave. Before advanced sick leave is approved, the following should be considered:

(a) All available accumulated sick leaves to the employee's credit must be exhausted. Consideration should also be given to requiring the employee to use any annual leave he might otherwise forfeit.

(b) The amount of advanced sick leave to an employee's account may never exceed 30 days at any time. The amount of sick leave advanced to an employee serving under a temporary limited appointment will be limited to the amount, which would be earned subsequently during the course of an appointment.

(c) Sick leave will not be advanced to an employee where it is known that the employee is contemplating retirement or resignation or where it is anticipated that the employee will be separated. There must be a reasonable expectation that the employee will return to duty.

(d) Where advanced sick leave has been approved, payment for such leave will cease if circumstances warrant termination of the original grant of advanced sick leave.

c. Excused Absences. An excused absence is an absence from duty without loss of pay or without charge to leave. While excused absence is ordinarily authorized on an individual basis, groups of employees may also be excused. Group dismissal authority is not to be used before a holiday, for example Christmas Eve or New Year's Eve. The President of the United States authorizes such excusals.

(1) At SPAWAR Headquarters, immediate supervisors are delegated the authority to excuse absences on an individual basis. SPAWAR Divisions and PEO's may delegate the authority to excuse absences to different supervisory levels. Examples of reasons to excuse employees are:

(a) Blood donations.

(b) Tardiness and brief absences or less than one hour.

(c) Taking an examination for the employee's present position.

(d) Representing employee organizations.

(e) Voting in any election. Generally an employee is excused from duty so as to permit him to report for work three hours after the polls open or to leave work three hours before the polls close, whichever results in the lesser amount of time. For example, if polls are open from 0630 to 1830, an employee with duty hours from 0900 to 1730 may report to work at 0930. The 30 minutes of excused absence would permit the employee to report to work three hours after the polls open.

(2) The activity head may excuse an employee from duty without charge to leave or loss of pay during the notice period of that employee's removal or indefinite suspension, when the circumstances are such that retention of the employee in a duty status during the notice period may be injurious to the employee, fellow workers, or the general public, may result in damage to government property, impede the efficiency of the activity operations, or because the nature of the employee's offense reflects unfavorably on the public perception of the Department of the Navy. Excused absences for these purposes should be used only after all other options have been explored and found not feasible.

(3) The activity head has the authority to excuse absences on a group basis. Examples of reasons for group dismissals are when:

(a) Normal operations of the activity are interrupted by events beyond the control of management or employees (e.g., severe weather conditions).

(b) For managerial reasons the closing of the activity or portions thereof is required for short periods of time.

(c) It is in the public interest to allow employees to participate in civil activities that the government is interested in encouraging.

(d) The activity is closed by reason of the occurrence of a local holiday when Federal work may not properly be performed.

d. Military Leave

(1) Employees eligible for military leave. Permanent, temporary-indefinite employees, temporary pending establishment of a register employees, and term employees who are members of the National Guard or reserve components of the Armed Forces must be granted military leave upon presentation of competent orders. Temporary employees are not eligible for military leave. Employees should request military leave in advance to allow supervisors to accommodate their absence.

(2) Military Leave Computation. Military leave accrues at the rate of 15 days per fiscal year. A total of 15 days of unused military leave may be carried over into the new fiscal year for a potential total of 30 days of military leave. A maximum of 30 days of military leave may be used during one or more periods of military leave during a fiscal year.

e. Court Leave. Court leave is the authorized absence, without charge to leave or loss of compensation, of an employee from official duty for jury duty, or for attending court in a non-official capacity as a witness of behalf of the United States or the government of the District of Columbia, or on behalf of a private party in connection with any judicial proceedings to which the United States, District of Columbia, or a state or local government is a party. For court leave purposes, municipal courts are considered State courts.

(1) Jury Service. Court leave for jury duty will be granted to permanent and temporary employees but not to substitute, intermittent, or While Actually Employed (WAE) employees.

(a) To be granted court leave, an employee must submit a true copy of the summons for jury duty prior to the beginning date of such service.

(b) An employee who is under proper jury summons will be granted court leave with pay for the entire period regardless of the number of hours per day or days per week he/she actually serves on the jury during the period.

(c) If an employee serving as a juror is excused or released by the court, he/she is expected to return to duty unless this would be impractical. In determining whether the employee will be required to return to duty, the supervisor should consider the amount of time remaining in the workday, any special need for the employee's services, the distance involved, and the type of transportation available. If an employee fails to return to work as directed, the employee may be charged annual leave, leave-without-pay (at the employee's request) or AWOL.

(2) Witnesses. Full-time regular, temporary employees are granted court leave during periods of necessary absences while service as witnesses for the United States.

(3) Fees. Employees are not entitled to retain fees received while on court leave. They may retain reimbursements for expenses that they received from the court, authority or party, which caused them to be summoned.

f. Leave Without Pay (LWOP)

(1) General. LWOP is a temporary nonpay and absence from duty status that is requested by the employee. The permissive nature of LWOP distinguishes it from AWOL which is a nonpay status resulting from a determination that leave of any kind will not be granted, including LWOP. AWOL instead of LWOP is applicable for periods of absence for which prior authorization was not obtained, or for which a request for leave on the basis of alleged sickness has been denied.

(2) Administrative Discretion. The authorization of LWOP is a matter of administrative discretion. Employees cannot demand they be granted LWOP as a matter of right, except as prescribed in paragraph (6) below.

(3) Matters to be considered in acting on requests for LWOP. Each request for LWOP shall be scrutinized to determine whether the value to the activity or the serious needs of the employee are sufficient to offset the costs and administrative inconvenience to the activity which results from the retention of an employee in a LWOP status. Among these costs and inconveniences are:

- (a) Encumbrance of a position;
- (b) Loss of needed services;

(c) Obligation to provide active employment at the end of the approved period;

(d) Credit of six months of each year toward retirement; and

(e) Eligibility for continued coverage (without costs to the employee for up to one year on nonpay status) under the Group Life Insurance Program.

(4) Reasons where LWOP may be granted. LWOP shall be granted only if there is a reasonable expectation that the employee will return to duty at the end of the approval period and when it is apparent that at least one of the following benefits would result:

(a) Increased job ability.

(b) Protection or improvement of the employee's health.

(c) Retention of a desirable employee.

(d) Furtherance of a program of interest to the government.

(5) Examples of proper cases for extended LWOP. Cases where extended LWOP may be approved:

(a) Educational purposes when the course of study or research is related to the work of the activity and its completion would be in the activities best interest e.g., student trainee, co-op student employees, etc.

(b) Service with non-federal public or private enterprise, when the job is temporary and the service to be performed will contribute to the public welfare, and/or the experience to be gained by the employee will serve the Navy's interests.

(c) Purpose of recovery from illness or disability not of a permanent or disqualifying nature.

(d) To protect the employee's status and benefits during any period pending final action by the Office of Personnel Management on a claim for disability retirement, after all sick and annual leave have been exhausted.

(e) During any period pending action by the Department of Labor on a claim resulting from a work-related illness or injury.

(f) Up to 90 days LWOP will be granted to employed family members of transferring military personnel and to employees who are family members of Federal employees who are required to move on rotational assignments or in a transfer of function or relocation of an activity or who accept another federal job outside the commuting area. LWOP will only be granted when the family member expresses intent to seek Federal employment at the new location and their work performance has been satisfactory so as to warrant continued Federal employment.

(g) For maternity or paternity reasons to enable parents to care for newborn children without incurring a break in service.

(h) For the purpose of serving on a temporary basis as an officer or representative of labor organizations representing Federal employees.

(6) Mandatory approval of LWOP

(a) Disabled veterans are entitled to LWOP, if necessary for medical treatment. Upon presentation of an official statement from medical authority that medical treatment is required, annual leave, sick leave or LWOP as necessary shall be granted. The granting of such leave is contingent upon the employing giving prior notice of the definite days and hours of absence required.

(b) Reservists and National Guardsmen are entitled to LWOP if necessary to perform military training duties. Requests for LWOP for the period required to perform active duty for training or inactive training in the Armed Forces of the United States should be made in writing.

(c) LWOP will be granted for the period required for employees reporting for induction or induction examinations given to determine the employee's physical fitness to enter the Armed Forces.

(d) LWOP will be granted to an injured employee for at least one year providing the employee is receiving compensation from the Department of Labor.

(e) Under provisions of the FMLA, enclosure (1).

(7) Delegation of authority

(a) Up to and including 240 hours may be approved by the immediate supervisor.

(b) More than 240 hours may be approved by the Directorate Head/Major Staff Office Head.

(c) SPAWAR Divisions and PEO's may delegation approval authority to different levels, which meet their needs.

g. Tardiness

(1) Tardiness of up to and including 59 minutes may be excused at the discretion of the employee's supervisor. However, when tardiness within the basic workweek is not excused, the time may be charged to compensatory time, annual leave or leave without pay (with the employee's consent) or AWOL.

(2) Tardiness, which has been excused or charged to an appropriate leave status, may not be a basis for disciplinary action. The proper course of action to take when tardiness is considered un-excusable is not to excuse the tardiness, charge the actual amount of tardiness to AWOL, and, if warranted, consider taking a disciplinary action.

h. Absence Without Leave. When an employee is absent from duty without prior approval and fails to notify the supervisor within two hours of the beginning of the shift, the employee will be carried in an AWOL status until the cause of absence is determined. Such absence will be investigated and, if appropriate and requested by the employee, the time may be converted to annual leave, sick leave, or LWOP. If leave is disapproved, the time remains charged to AWOL. In the latter case, appropriate disciplinary action (either informal or formal) may be taken.

i. Absence due to traumatic injury. An employee who sustains disability job-related traumatic injury is entitled upon election to a continuation of regular pay for a period of 45 days when a licensed physician declares he is unfit for his regular duty and no light duty is available.

j. Other Paid Leave

(1) An employee who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an

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organization of those veterans, may be excused from duty without loss of pay or deduction from annual leave for the time necessary, not to exceed four hours in any one day, to enable him/her to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States.

(2) An employee is entitled to not more than three days of leave without loss of leave which he is otherwise entitled, to make arrangements for or attend the funeral of, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred while service as a member of the Armed Forces in a combat zone.

(3) An employee is entitled to use no more than seven days of paid leave each calendar year, without loss of leave which he is otherwise entitled, for the time necessary to permit such employee to serve as a bone-marrow donor. An employee is entitled to use 30 days each calendar year to service as an organ donor.

(4) For workers with less than two weeks of accrued sick leave, agencies will provide up to four hours of absence each year, without loss of pay or charge to leave time, for preventive health screenings.

5. Action. Addressees shall comply with the provisions of this instruction.

/s/
K. D. SLAGHT

Distribution:
SPAWAR List 6

Copy to:
SNDL Part II:
FKQ 10 (SPAWAR Activities)

FAMILY AND MEDICAL LEAVE ACT (FMLA)

1. Purpose. This enclosure designates responsibilities and outline procedures for the administration of the Family and Medical Leave Act (FMLA) for civil service employees in accordance with references (a), (b) and (c).

2. Definitions:

a. Accrued leave. The leave earned by an employee during the current leave year that is unused at any given time in that year.

b. Accumulated leave. The unused leave remaining to the credit of an employee at the beginning of the leave year.

c. Adoption. 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 leave under the FMLA.

d. Employee. For FMLA purposes, employee is a permanent full or part-time person who has completed at least 12 months of service. Individuals employed on a temporary or intermittent basis are excluded from FMLA.

e. Essential functions. The fundamental job duties of the employment position the individual with a disability hold or desires. The term essential functions do not include the marginal functions of the position.

f. Family and medical leave. An employee's entitlement to 12 administrative workweeks of unpaid leave for certain family and medical needs described in this instruction.

g. Foster care. 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.

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h. Health Care Provider. Under the FMLA, health care provider includes a Doctor of Medicine; a Doctor of Osteopathy; a physician serving on active duty in the uniformed services and is designated to conduct examinations; a Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders and who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with the Native American Religious Freedom Act; health care providers who are recognized by the Federal Employees Health Benefits (FEHB) Program or who are licensed or certified under Federal or State law to provide the service in question; and health care providers who are authorized to practice in a country other than the United States and in accordance with the laws of that country.

i. Incapacity. The inability to work, attend school, or perform other regular daily activities because of a serious health condition or treatment for or recovery from a serious health condition

j. In loco parentis. The situation of an individual who has day-to-day responsibility for the care and financial support of a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

k. Intermittent leave. Leave taken in separate blocks of time, rather than for one continuous period of time, and may include leave periods of less than one hour to several hours.

l. Leave without pay. An absence from duty in a nonpay status. Leave without pay may be taken only for those hours of duty comprising an employee's basic workweek.

m. Parent. A biological parent or an individual who stands or stood in loco parentis to an employee when the employee was a son or daughter. This term does not include parents "in law."

n. Reduced leave schedule. A work schedule under which the usual number of hours of regularly scheduled work per workday or workweek of an employee is reduced. The number of hours by which the daily or weekly tour of duty is reduced is counted as leave for the purpose the FMLA.

o. Serious health condition. An illness, injury, impairment, or physical or mental condition that involves 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, 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:

(1) A period of incapacity of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition that also involves

(a) 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

(b) 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).

(2) Any period of incapacity due to pregnancy, 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 three consecutive calendar days.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that 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; continues over an extended period of time (including recurring episodes of a single underlying condition; and 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 three consecutive calendar days.

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(4) A period of incapacity that 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 states of a disease.)

(5) 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 of more than three 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.)

(a) 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.

(b) Ordinarily, unless complications arise, the common cold, 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.

p. Son or daughter. A biological, adopted, or foster child; a step child; a legal ward; or a child of a person standing in loco parentis who is under the age of 18 or is 18 years of age or older and incapable of self-care because of a mental or physical disability.

q. Spouse. An individual who is a husband or wife pursuant to a marriage that is a legal union between one man and one woman, including common law marriage between one man and one woman in States where it is recognized.

3. Leave Entitlement:

a. During any 12-month period, an employee is entitled up to a total of 12 administrative workweeks of unpaid leave for one or more of the reasons cited below:

(1) The birth of a son or daughter of the employee and the care of such a son or daughter;

(2) The placement of a son or daughter with the employee for adoption or foster care;

(3) The care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or

(4) A serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position.

b. An employee must invoke his or her entitlement to family or medical leave subject to the notification and medical certification requirements explained in paragraphs 7. and 8. An employee may not retroactively invoke his/her entitlement to FMLA leave. However, if an employee and his or her personal representative are physically or mentally incapable of invoking the employee's entitlement to FMLA leave during the entire period in which the employee is absent from work for an FMLA-qualifying purpose under paragraph 4., the employee may retroactively invoke his or her entitlement to FMLA leave within two workdays after returning to work. In such cases, the incapacity of the employee must be documented by written medical certification from a health care provider. In addition, the employee must provide documentation acceptable to the agency explaining the inability of his or her personal representative to contact the agency and invoke the employee's entitlement to FMLA leave during the entire period in which the employee was absent from work for a FMLA-qualifying purpose. An employee shall take only the amount of family and medical leave that is necessary to manage the circumstances that prompted the need for the leave.

c. An agency may not put an employee on family and medical leave and may not subtract leave from an employee's entitlement to leave under paragraph 3. unless the agency has obtained confirmation from the employee of his or her intent to invoke entitlement to leave under paragraph 3. An employee's notice of his or her intent to take leave under paragraph 7. may suffice as the employee's confirmation.

d. The 12-month period referred to in paragraph 3.a.(3) and (4) begins on the date an employee first takes leave for family or medical need and continues for 12 months. An employee is not entitled to 12 additional workweeks of leave until the previous 12 month period has expired and an event or situation occurs that entitles the employee to another period of family or medical leave. (This may include a continuation of a previous situation or circumstance.) An exception to this is the leave taken under paragraphs 3.a. (1) and (2) based on the birth or placement of a son or daughter. In such situations, leave may begin prior to or on the actual date of birth or placement for adoption or foster care, and shall expire 12 months after the birth or placement.

e. Any holidays authorized under 5 USC 6103 or by Executive Order and non-workdays established by Federal statute, Executive Order, or administrative order that occurs during the period in which the employee is on FMLA leave may not be counted toward the 12-week entitlement to FMLA leave.

f. FMLA is available to full-time and part-time employees.

4. Intermittent leave. Family medical leave shall not be taken intermittently or on a reduced leave schedule unless the employee and the supervisor agree otherwise. If an employee takes leave under paragraphs 3.a. (3) and (4) intermittently or on a reduced leave schedule that is foreseeable based on planned medical treatment or recovery from a serious health condition, the employee may be temporarily placed in an available alternative position for which the employee is qualified and that can better accommodate recurring periods of leave. Upon returning from leave, the employee shall be entitled to be returned to his or her permanent position of an equivalent position.

5. Substitution of paid leave:

a. An employee may elect to substitute the following paid leave for any or all of the period of leave without pay to be taken under paragraph 3.(a).

(1) Accrued or accumulated annual or sick leave consistent with current law and regulations governing the granting and use of annual or sick leave.

(2) Advanced annual or sick leave approved under the same terms and conditions that apply to any other employee who requests advanced annual or sick leave.

(3) Leave made available to an employee under the Voluntary Leave Transfer Program.

b. An employee's right to elect to substitute paid leave for any or all of the period of leave without pay may not be denied. The activity may not require an employee to substitute paid leave for the period of leave without pay.

c. The employee must notify the activity of his or her intent to substitute paid leave for the period of leave without pay.

d. Compensatory time off is not a form of accrued paid leave mentioned in the FMLA. Rather, it is an alternative form of payment for overtime hours worked. Compensatory time off cannot be substituted for a period of leave without pay.

6. Notice of leave

a. If leave taken is foreseeable based on an expected birth, placement for adoption or foster care, or planned medical treatment, the employee shall provide notice of his or her intention to take leave no less than 30 calendar days before the date the leave is to begin. If the date of birth or placement or planned medical treatment requires leave to begin within 30 calendar days, the employee shall provide notice as soon as practicable.

b. If leave taken under paragraphs 3.a.(3) and (4) is foreseeable based on planned medical treatment, the employee shall consult with the activity and make a reasonable effort to schedule medical treatment so as not to unduly disrupt the operations of the activity, subject to the approval of the health care provider. The activity may, for justifiable cause, request that an employee reschedule medical treatment, subject to the approval of the health care provider.

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c. If the need for leave is not foreseeable, e.g., a medical emergency or the unexpected availability of a child for adoption or foster care, and the employee cannot provide 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. If necessary, notice may be given by an employee's personal representative (e.g., a family member or other responsible party.) If the need for leave is not foreseeable and the employee is unable, due to circumstances beyond his or her control to provide notice of his or her need for the leave, the leave may not be delayed or denied.

d. If the need for leave is foreseeable, and the employee fails to give 30 calendar days' notice with no reasonable excuse for the delay of notification, the activity may delay the taking of leave until at least 30 calendar days after the date the employee provides notice of his or her need for family medical leave.

e. The activity may waive the notice requirements and instead impose the activity's usual procedures for providing notification of leave. If the employee fails to follow such procedures, the activity may not deny an employee's entitlement to leave under the FMLA.

f. The employee must provide administratively acceptable evidence to support his or her request for leave under the FMLA.

7. Medical Certification. Requests for leave under paragraphs 3.a. (3) and (4) must be supported by written medical certification. Employees may have their health care provider use the Department of Labor FMLA Certification of Health Care Provider form obtained at <http://www.dol.gov/dol/esa/public/regs/compliance/whd/fmla/wh380.pdf> or have the health care provider provide the following certification:

a. For leave to care for a family member, medical documentation shall include:

(1) The date the serious health condition commenced.

(2) The probable duration of the serious health condition or specify that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3) The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a general statement as to the incapacitation, examination or treatment that may be required by the health care provider.

(4) A statement from the health care provider that the family member requires assistance and would benefit from the employee's care or presence.

(5) A statement from the employee on the care he or she will provide and an estimate of the amount of time needed to care for the family member.

b. For leave requested because of the employee's serious health condition; medical documentation shall include:

(1) The date the serious health condition commenced.

(2) The probable duration of the serious health condition or specify that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

(3) The appropriate medical facts within the knowledge of the health care provider regarding the serious health condition, including a general statement as to the incapacitation or treatment that may be required by the health care provider.

(4) A statement from the medical provider that the employee is unable to perform one or more of the essential functions of his or her position.

c. In the case of certification for intermittent leave under paragraphs 3.a.(3) and (4) for planned medical treatment, certification must include the dates (actual or estimates) on which such treatment is expected to be given, the duration of such treatment, and the period of recovery, if any, or specify that the serious health condition is a chronic or continuing condition with an unknown duration and whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity.

d. If an employee is unable to provide the requested medical certification after leave has commenced, or if the supervisor questions the validity of the original certification provided by the employee and the medical treatment require the leave to

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begin, the agency shall grant provisional leave pending final written medical certification. If, after the leave has commenced, the employee fails to provide the requests medical certification, the supervisor may charge the employee as absent without leave (AWOL).

e. If a supervisor doubts the validity of the medical certification, the supervisor may request a second and a third opinion. To prevent a stalemate from happening, the opinion of the third health care provider is deemed binding. To assist supervisors and employees, a health care provider representing management may contact the health care provider of the employee, with the employee's permission, to clarify medical information pertaining to the condition. The information on the medical certification must relate only to the serious health condition for which the current need for family and medical leave exists. No additional personal or confidential information may be requested.

f. An employee must provide the required written medical certification, signed by the health care provider, no later than 15 calendar days after the date the agency requests such medical certification. If it is not practicable under the particular circumstances to provide the requested medical certification no later than 15 calendar days after the date requested by the supervisor, despite the employee's diligent, good faith efforts, the employee must provide medical certification within a reasonable period of time under the circumstances involved, but no later than 30 calendar days after the date the supervisor requests the medical certification.

g. At its own expense, an agency may require subsequent medical re-certification on a periodic basis, but not more than once every 30 calendar days, for leave taken for purposes relating to pregnancy, chronic conditions, or long term conditions, as these terms are used in the definition of serious health condition contained in paragraph 20. For leave taken for all other serious health conditions and including leave taken on an intermittent or reduced leave schedule, if the health care provider has specified on the medical certification a minimum duration of the period of incapacity, the agency may not request re-certification until that period has passed. An agency may require subsequent medical re-certification more frequently than every 30 calendar days, or more frequently than the minimum duration of the period of incapacity specified on the medical certification, if the employee requests that the original leave period be extended, the circumstances described in the original

medical certification have significantly changed, or the agency receives information that casts doubt upon the continuing validity of the medical certification.

h. Health care providers may specify that the serious health condition is a chronic or continuing condition with an unknown duration. The supervisor may waive the requirement for an initial medical certification in a subsequent 12-month period if leave for a serious health condition is for the same chronic or continuing condition. For most serious health conditions (excluding pregnancy, chronic conditions, or permanent or long-term conditions under the continuing supervision of a health care provider), if the health care provider has specified on the medical certification a minimum duration of the period of incapacity, the supervisor may not request re-certification until that minimum duration has passed. However, supervisors can require more frequent medical re-certification if an employee requests that the original leave period be extended, the circumstances described in the original medical certification have changed significantly, or the supervisor receives information that casts doubt upon the continuing validity of the medical certification.

8. Protection of Employment and Benefits

a. An employee who does not comply with the notification requirements and does not provide the required medical certification signed by the health care provider is not entitled to FMLA leave.

b. An employee who takes FMLA leave is entitled, upon return from the leave, to be returned to the same position or to an equivalent position with equivalent benefits, pay, status, and other terms and conditions of employment. In accordance with reference (c), employees who are in a Leave-Without-Pay (LWOP) status as a result of entitlement to leave under the FMLA may continue his or her health benefits enrollment while in the LWOP status and arrange to pay the appropriate employee contributions.

9. Requesting (LWOP) under the FMLA

a. Requests for LWOP will be made on SF-71, enclosure (2), and include the required medical documentation. Requests will be sent via the chain of command to the appropriate delegated authority identified in paragraph 13. After the SF-71 is approved, it will be sent to Payroll for retention.

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b. If an employee is in a LWOP status during the probationary period, the probationary period will be extended by the amount of LWOP in excess of 22 calendar days. Depending upon the duration of the LWOP, the length of an employee's probationary period could be extended by the FMLA. If so, the employee would still be in a probationary status upon his or her return to work. An employee who invokes his or her entitlement to leave under the FMLA is not protected from termination during probation if the supervisor decides to terminate the individual's employment during probation. For example, if a supervisor notified a probationary employee with 10 months of service that he or she was to be removed due to misconduct, and the employee invoked his or her FMLA entitlement, the supervisor would not need to wait until the FMLA was exhausted, and the employee completed probation before taking action.

10. Adverse Actions or Performance Based Actions. Pending adverse actions or performance-based actions may be taken and made effective even if the employee is taking FMLA leave. For example, if an employee was unsuccessful in improving his or her performance during an opportunity period to improve and invoked his or her FMLA entitlement immediately following the opportunity period, the supervisor may issue the proposal and decision notices for removal based on unacceptable performance and effect the action just as it normally would. There is no obligation to wait until the employee has returned from FMLA leave in order to proceed with an otherwise valid adverse or performance-based action. Of course, supervisors cannot remove or otherwise discipline an employee based on his or her use of leave under the FMLA. An employee's request for and/or use of leave under the FMLA does not prevent a supervisor from taking appropriate action under 5 CFR part 432 or 5 part CFR 752. Also, it remains the case that an employee who invokes his or her entitlement to FMLA is not immune from the impact of a reduction in force before, during, or after the period of FMLA leave.

11. Substance Abuse. The treatment of substance abuse may be included as a condition covered by the FMLA, but absence because of the employee's use of the substance, without treatment, does not qualify for leave under the FMLA. The exercise of an employee's right to take leave under the FMLA for treatment of substance abuse does not prevent a supervisor from taking action against the employee, provided the supervisor complies with the Rehabilitation Act of 1973, where appropriate.

12. Medical Certification to Return to Work

a. Employees who use FMLA leave defined in paragraph 3.a.(4) must provide medical certification from the health care provider that states the employee is able to perform the essential functions of his or her position before returning to work. The information on the medical certification to return to work must relate only to the serious health condition for which FMLA leave was taken.

b. If an employee returns to work without the required documentation, a supervisor may delay the return of an employee until acceptable medical certification is provided. During this period of delay, the supervisor may grant the employee's request for appropriate leave. If the employee refuses to request leave until the medical certification is provided, or does not provide the required medical certification, the supervisor may use the procedures provided under 5 CFR part 752 to place the employee on enforced leave, suspend the employee, or remove the employee, as appropriate.

13. Delegation of Authority. Immediate supervisors have the authority to approve FMLA requests up to and including 12 administrative workweeks.

14. Reporting Requirements. Regulations require agencies to maintain records on the employee's use of FMLA leave and to provide the records and reports to OPM upon request. At a minimum, the following information is required:

- a. Employee's rate of basic pay.
- b. Occupational series of the employee's position.
- c. Number of hours of FMLA leave taken (including any paid leave substituted for LWOP).
- d. Whether the leave was taken for: the birth of a son or daughter of the employee and the care of such a son or daughter; the placement of a son or daughter with the employee for adoption or foster care; the care of a spouse, son, daughter, or parent of the employee, if such spouse, son, daughter, or parent has a serious health condition; or a serious health condition of the employee that makes the employee unable to perform any one or more of the essential functions of his or her position.

**SICK LEAVE FOR FAMILY CARE PURPOSES -
FAMILY FRIENDLY LEAVE ACT (FFLA)**

1. Purpose. To designate responsibilities and outline procedures for the administration of the Family Friendly Leave Act (FFLA) for civil service employees to use sick leave for family care purposes in accordance with reference (a).

2. Definitions

a. Accrued leave. The leave earned by an employee during the current leave year that is unused at any given time in that year.

b. Accumulated leave. The unused leave remaining to the credit of an employee at the beginning of the leave year.

c. Employee. An employee to whom Title 5, United States Code, Chapter 63, Subchapter I applies.

d. Family member. The following relatives of the employee:

(1) Spouse, and parents thereof;

(2) Children, including adopted children and spouses thereof;

(3) Parents;

(4) Brothers and sisters, and spouses thereof; and,

(5) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

e. Health care provider. Health care provider includes a Doctor of Medicine; a Doctor of Osteopathy; a physician serving on active duty in the uniformed services and is designated to conduct examinations; a Christian Science practitioner listed with the First Church of Christ, Scientist, in Boston, Massachusetts; a Native American, including an Eskimo, Aleut, and Native Hawaiian, who is recognized as a traditional healing practitioner by native traditional religious leaders and who practices traditional healing methods as believed, expressed, and exercised in Indian religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, consistent with the Native American Religious Freedom Act; health care providers who are recognized by the Federal Employees Benefits (FEHB) Program or who are

licensed or certified under Federal or State law to provide the service in question; and health care providers who are authorized to practice in a country other than the United States and in accordance with the laws of that country.

f. Leave year. The period beginning with the first day of the first complete pay period in a calendar year and ending with the day immediately before the first day of the first complete pay period in the following calendar year.

g. Medical certificate. A written statement signed by a registered practicing physician or other practitioner certifying to the incapacitation, examination, or treatment, or to the period of disability while the patient was receiving professional treatment.

h. Serious health condition. An illness, injury, impairment, or physical or mental condition that involves 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, 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:

(1) A period of incapacity of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition that also involves:

(a) 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

(b) 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).

(2) Any period of incapacity due to pregnancy, 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 three consecutive calendar days.

(3) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition that 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; continues over an extended period of time (including recurring episodes of a single underlying condition; and 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 three consecutive calendar days.

(4) 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 states of a disease.)

(5) 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 of more than three 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.)

(a) 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

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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.

(b) Ordinarily, unless complications arise, the common cold, 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.

3. Sick leave entitlement. An agency must grant sick leave to an employee when the employee provides care for a family member who is incapacitated by a medical or mental condition or attends to a family member receiving medical, dental, or optical examination or treatment; or provides care for a family member with a serious health condition; or makes arrangements necessitated by the death of a family member or attends the funeral of a family member.

a. The amount of sick leave granted to an employee during any leave year for the purposes explained in paragraph 3. above, may not exceed a total of 104 hours (or in the case of a part-time employee or an employee with a uncommon tour of duty, the number of hours of sick leave normally accrued by that employee during a leave year). A covered full-time employee may use 40 hours of sick leave each leave year for these purposes. An additional 64 hours of sick leave may be used each year if the employee maintains a balance of at least 80 hours of sick leave in his or her account.

(1) An employee must maintain this balance during any period of time during which the employee is using more than his or her basic entitlement to sick leave under paragraph 3a. Part-time employees and employees with uncommon tours of duty are also covered, and the amount of sick leave permitted for family care and bereavement is pro-rated in proportion to the average number of hours of work in the employee's scheduled tour of duty each week.

(2) An agency may advance only the initial 40 hours of sick leave under paragraph 3a., or a proportional amount for an employee with a part-time schedule or uncommon tour of duty. An agency may not advance sick leave for the purpose of meeting the requirement to retain a minimum sick leave balance under

paragraph 3a. or, if the employee has the required minimum sick leave balance, for using additional sick leave as provided in paragraphs 3a. and 3b.

b. An employee who is caring for a family member with a serious health condition, as defined in paragraph 2h., may not use more than a total of up to 480 hours of sick leave (or, in the case of a part-time employee or an employee with an uncommon tour of duty, an amount of sick leave equal to 12 times the average number of hours in his or her scheduled tour of duty each week) during a leave year, subject to the limitation described in paragraph 3b(1).

(1) If, at the time an employee uses sick leave to care for a family member with a serious health condition under paragraph 3.b., above, he or she has used any portion of the sick leave authorized under paragraph 3.a. during the leave year, the agency must subtract that amount from the maximum number of hours authorized under paragraph 4b. to determine the total amount of sick leave that may be used during the remainder of the year to care for a family member with a serious health condition.

(2) If the employee previously has used the maximum amount of sick leave permitted under paragraph 3b., in a leave year, he or she is not entitled to use additional sick leave under paragraph 3a.

5. Medical certification. An agency may require an employee requesting sick leave to care for a family member with a serious health condition to provide a written statement from the health care provider concerning the family member's need for psychological comfort and/or physical care. The statement must certify that:

a. The family member requires psychological comfort and/or physical care;

b. The family member would benefit from the employee's care or presence; and

c. The employee is needed to care for the family member for a specified period of time.

6. Donated Leave. In the case of an employee already in a shared leave status (i.e. using donated annual leave) on 20 June 2000 under the Voluntary Leave Transfer Program, SPAWARINST 12630.1A, any sick leave available to care for a family member must be used before continuing to use transferred annual leave.

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7. Delegation of authority. Immediate supervisors are delegated the authority to approve sick leave for the purposes of the Family Friendly Leave Act.