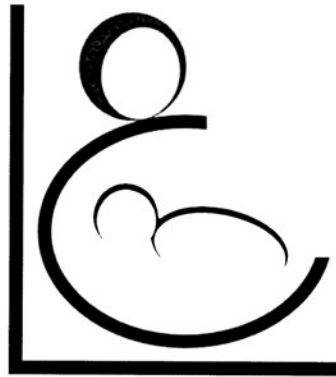


# **GUILD GUIDANCE FOR NEW PARENTS**

## **Making the Most of Available Leave Options**

Prepared for the Library of Congress Professional Guild, AFSCME Local 2910  
by Nan Thompson Ernst (Chief Steward 2007-2016)  
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Congratulations on becoming a new parent! It can be thrilling and terrifying to become a parent and you will have your hands full with new responsibilities at home. Here at work, it can also be difficult to manage the logistics of parental leave. Since the rules and regulations surrounding multiple categories of leave can seem confusing, it is the purpose of this guidance to offer information and advice to help new parents in the Guild bargaining unit plan out the best course for their unique situations and needs.

This guidance starts with an overview of parental leave policies in the federal service and at the Library of Congress. This is followed by more specific information on various types of leave that can be used for purposes of childbirth, adoption, and foster care, and includes the steps employees need to take to get a plan in place. The final section provides a list of other resources and considerations that may be helpful during pregnancy and as new parents transition back to work.

All cited rules and regulations have been copied into a file that also includes supplementary and supporting material on a host of related topics. Titled “Guild Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care,” it is available for viewing in the Guild office (LM-G41). The Guild Collective Bargaining Agreement and the Library of Congress Regulations (LCRs) are available online through the staff-only website maintained by the Office of the General Counsel at <http://www.loc.gov/staff/ogc/index.html>. The Guild Collective Bargaining Agreement is also available on the Guild’s public website at <http://www.guild2910.org>, which can be accessed from your home computer.

## OVERVIEW

Paid parental leave is not common in the American workplace and there is no provision for paid parental leave in the federal workforce at this time. We lag behind the rest of the world in this regard, as the United States is the only industrialized country with no paid parental leave. Studies have shown that job-protected paid leave helps women remain in the workforce, lowers infant mortality rates, improves infant health, and reduces postpartum mental health issues in women. Studies have also shown that men who receive paid time off upon the birth or adoption of a child are more likely to engage with their child, even after returning to work. While legislation has been proposed in the House and Senate as The Federal Employees Paid Parental Leave Act, these bills have failed to advance.

The Guild supports paid parental leave for federal workers. In 2009, Guild President Saul Schniderman spoke at a press event in the U.S. Capitol hosted by Representative Carolyn Maloney (D-NY) and Senator Jim Webb (D-VA) in support of proposed legislation for paid parental leave in the federal service. Those remarks are available on the Guild website at <http://www.guild2910.org/pre2018/FEPPLA/FEPPLA+remarks.pdf>. Until paid parental leave is enacted, however, new parents in the federal service, and at the Library of Congress, must patch together paid and unpaid leave options to cover their time away from work for childbirth, adoption, and foster care purposes.

Fortunately, employees of the Guild bargaining unit have had the benefit of good parental leave policies by virtue of our contract, the *Collective Bargaining Agreement between the Library of Congress Professional Guild, AFSCME Local 2910, and the Library of Congress* (2002)—a product of successful collective bargaining. New parents in our bargaining unit have been able to take appropriate amounts of job protected leave, usually a combination of annual leave, sick leave, and Family and Medical Leave Act (FMLA) leave without pay (LWOP), to support their needs. (Please note that new employees are not eligible for FMLA until they have worked at the Library for one year.) Credit hours and compensatory time can also be used in the same manner as annual leave by new parents. The Leave Transfer Program and Leave Bank Program have also enabled parents to receive donated leave to use as sick leave.

Practices throughout federal service can also have a bearing on parental leave policies at the Library of Congress, and until recently not all federal agencies provided many options for parental leave—while some were quite restrictive. To remedy disparities in the federal service, in 2015 President Barack Obama directed the Office of Personnel Management to implement his plan as outlined in a memorandum titled “Modernizing Federal Leave Policies for Childbirth, Adoption, and Foster Care to Recruit and Retain Talent and Improve Productivity.” In it, Obama expanded options for new parents in the federal service, with an emphasis on making advanced sick leave of 240 hours readily available to new parents, particularly new employees who are not eligible for FMLA benefits until they have completed one year of employment.

Obama’s memorandum has changed perceptions across the federal service. While new parents in the Guild bargaining unit have had the ability to request advanced sick leave up

to 240 hours as new parents for more than a decade, this option was little utilized because the approval process seemed daunting. New employees may have been reluctant to make such a request, since they were on probation. Similarly, gaining approval for annual, sick, and leave without pay requests for maternity/paternity purposes could seem to be an uphill climb. The expansive attitude of the Obama administration toward parental leave for childbirth, adoption, and foster care has made it substantially easier to gain approval for all types of parental leave requests as the expectation grows throughout the federal service that requests will be approved and denials will become the exception. So, go forward with confidence and rest assured that you are covered by the Guild (AFSCME Local 2910) Collective Bargaining Agreement.

## **PLANNING FOR YOUR PARENTAL LEAVE**

Start with the regulations and rules that apply to you as a Guild bargaining unit employee and carefully read them to understand how they apply to your situation. Check your leave balances and determine how much leave of each type is or will be available to you. Know that you can create a patchwork of leave types to cover your absence for maternity/paternity reasons, in order to best utilize your paid and unpaid leave options. For instance, within a given week you might use sick leave, annual leave, and FMLA leave without pay to cover the days. Talk to other parents in your office, for the benefit of learning from their experience. Contact a Guild representative if you have any questions about these rules and regulations and how they apply to you. The following are included in the “Guild Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care,” available in the Guild office, for easy reference and to assist you in making a plan:

- ❖ Collective Bargaining Agreement Article 24, Leave, especially Section 10, Absence for Maternity Reasons; Section 11, Absence for Paternity Reasons; and Section 12, Absence for Adoption Reasons. Also study Section 5, Annual Leave; Section 6, Sick Leave; Section 7, Advanced Sick Leave; and Section 9, Leave Without Pay (LWOP): <http://staff.loc.gov/sites/rules-and-regulations/agreement/lcla-guild-24/>.
- ❖ Article 23, Credit Hours : <http://staff.loc.gov/sites/rules-and-regulations/agreement/lcla-guild-23/> and Article 22, Overtime (Compensatory Time): <http://staff.loc.gov/sites/rules-and-regulations/agreement/lcla-guild-22/>. You can use any accumulated credit hours or compensatory time for parental leave.
- ❖ LCR 9-1020 Family and Medical Leave (FMLA): <http://staff.loc.gov/sites/rules-and-regulations/regulation/lcr-09-1020/>. Please note that new employees are not eligible for FMLA leave until they have completed one year of service.
- ❖ LCR 9-1040 Leave Share Program (donated leave), administered by Health Services: <http://staff.loc.gov/sites/rules-and-regulations/regulation/lcr-09-1040/>. You must exhaust your leave to qualify. Please note that donated leave is provided

for medical emergencies, including medical needs during pregnancy and childbirth. It is administered as sick leave and cannot be used for “well-baby” care, or time to bond with a newborn, or for any daycare purposes.

- ❖ LCR 9-1050 Leave Bank Program. Administered by Health Services.  
<http://staff.loc.gov/sites/rules-and-regulations/regulation/lcr-09-1050/>  
You must join and be a member of the bank to receive leave from the bank. You must exhaust your leave to qualify. Please note that donated leave from the bank is provided for medical emergencies, including medical needs during pregnancy and childbirth. It is sick leave and cannot be used for “well-baby” care, or time to bond with a newborn, or for any daycare purposes.
- ❖ It may also be useful to read the OPM *Handbook on Leave and Workplace Flexibilities for Childbirth, Adoption, and Foster Care*. <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/fact-sheets/handbook-on-leave-and-workplace-flexibilities-for-childbirth-adoption-and-foster-care.pdf>  
Scenarios covered in the handbook may help you understand the possibilities and limits of each type of leave and how they can best be combined to cover your absence and maintain income. It is especially helpful for adoption and foster care, which have very specific rules for use of leave.

## **A. Types of Leave**

### **◆ Sick Leave**

It is important to understand that sick leave can only be used for medical needs. Sick leave can therefore be used for medical appointments and any period of incapacitation following childbirth, typically 240 hours (6 weeks) for birth without complications; 320 hours (8 weeks) for Cesarean deliveries. It can be used for medical appointments for birth mother and baby. It can be used for the care of a sick baby, or a baby with a serious medical condition, subject to some limitations. Sick leave cannot be used for well-baby care or for time to bond with a newborn, or for any daycare purposes. This restriction also applies to donated leave through the Leave Bank and Leave Transfer programs, since donated leave is provided for medical purposes only. Special rules apply to the use of sick leave for adoption purposes.

### **◆ Well-Baby Care and Time to Bond with a Newborn**

Some parents wish to extend their time at home with a newborn beyond the period of incapacitation from childbirth. Annual leave can be used for well-baby care, as can credit hours and compensatory time. FMLA (LWOP) can be used for well-baby care. Yet another options is LWOP, independent of FMLA, if your supervisor approves it. This option is especially useful for new employees who are not eligible for FMLA until they have worked

one year. It may be difficult to gain approval for LWOP but if other options are not available it should be explored. OPM's support for parental leave requests, and specifically for approving requests for LWOP for new employees, should be helpful to LC employees seeking to use this option.

◆ **Family and Medical Leave (FMLA)**

Employees who have been on the job for at least one year are entitled to 12 weeks (480 hours) of leave without pay per annum under the Family and Medical Leave Act. This entitlement is prorated for part-time employees. Pregnancy and childbirth are qualifying conditions for FMLA leave. Note that FMLA leave without pay is available *in addition to* sick leave and annual leave. (FMLA entitles parents to 12 weeks of unpaid leave. The Guild contract provides that any earned annual leave and sick leave can also be used, in addition to the 12 week (480 hours) of unpaid leave provided through FMLA.) Under FMLA, employees may substitute paid sick and annual leave for leave without pay, *but you are not required to do so*. LCR 9-1020 Family and Medical Leave, Section 1 states: "An employee requesting FMLA leave has the choice of requesting unpaid leave, i.e., leave without pay (LWOP), or, substituting paid leave." You must apply for FMLA on the approved form provided by Health Services.

In order for new parents to extend the time away from work to the fullest extent possible, and to have a cushion for emergencies, it is advisable *not* to substitute annual or sick leave for leave without pay under FMLA. Your paid annual leave and sick leave will provide some income, and you may use earned annual and sick leave without designating it as FMLA, which increases your flexibility since management must approve requests for sick leave as long as you have earned or advanced sick leave available. Approval for annual leave is discretionary, but typically supervisors will approve annual leave requests to use for parental leave without requiring an employee to invoke FMLA. LCR 9-1020 Family and Medical Leave, Section 1 reads: "The employee may also choose to alternate between FMLA leave and non-FMLA leave."

If you approach your parental leave with these considerations in mind, you can reserve your 480 hours of FMLA entitlement for any unpaid absence you may need. In this manner, you can use sick leave for incapacitation and medical appointments, and annual leave and FMLA LWOP for well-baby care. If you do not use all of the 480 hours of FMLA leave without pay, you will have the balance as a cushion for emergencies during your baby's first year. The 480 hour entitlement to FMLA leave for childbirth or adoption begins the day it is first used and continues for one year from that date. (Note that this is an exception for the arrival of new children, as FMLA leave for serious illnesses of an employee or family member is otherwise administered by the calendar year.)

◆ **Leave Without Pay**

When an employee is in an unpaid status, either through FMLA or regular LWOP, there will be some consequences to leave accrual and potentially to payment of health insurance

premiums. When your LWOP reaches 80 hours, you will not accrue any leave for that pay period. This applies for each additional 80 hours of LWOP you accrue. Also, you must be in a paid status on the day before or after a holiday to be paid for that holiday. This is why it is advisable to make a patchwork of paid and unpaid leave if you have the option to do so. Further, if you are on LWOP for an extended period of time (you are eligible for 480 hours of LWOP under FMLA), the Library will have to pay your health insurance premiums during this absence as you will have no income from which to draw those payments and you will be required to repay the insurance premiums when you return to work. Speak directly to Human Resources to determine how to repay your insurance premiums. Another consideration, specific to new employees, is that your probation may be extended to cover your time away from the job on LWOP during your probationary period. Finally, extended LWOP could also become a factor in determining your length of service, which affects your retirement date. It is necessary to speak directly with Human Resources to understand how LWOP will affect your leave and benefits.

#### ◆ **Advanced Sick Leave**

Employees may also apply for advanced sick leave up to 240 hours. This option is one of the few available for new employees who have not yet accrued much sick and annual leave, and because new employees are not eligible for FMLA leave until they have worked for one year. Advanced sick leave must be approved through Health Services and your service unit and there is paperwork to contend with. Use the form provided by Health Services, and understand that approval is determined by the medical evidence provided by your health care provider to cover a specified period of time. To minimize additional paperwork, you may want to seek approval for maximum hours over the longest period of time that can be supported by medical evidence. Be mindful when you use the advanced sick leave hours, even if you have approval, because it is hard to earn them back—so only use the hours you really need. The concept is that you have the advanced sick leave available, but only if and when you need it.

How is advanced sick leave repaid? The four hours of sick leave you earn each pay period is applied to your negative sick leave balance until the balance is paid. You can also apply any donated leave you receive through the Leave Transfer Program and Leave Bank to your advanced sick leave balance. It can take years to work off a debt of 240 hours of sick leave, so approach this option with caution and serious deliberation.

Another consequence of a negative sick leave balance is that you will have no available sick leave for other needs, such as doctor's appointments or the minor illnesses that are common for children during the early years of life and are often passed on to the parents, who also get sick. If your sick leave balance is negative, you will have to use your annual leave, credit hours or compensatory time to cover your absences due to illness. You can also make new applications for advanced sick leave as long as you are under the cap of 240 hours. If you also use all your available annual leave to cover the minor illnesses and medical appointments during the first year of your child's life, then you have no available leave for vacation or extra time at holidays. It is easy to see how this can become a difficult cycle.

Advanced sick leave is an option to consider very carefully for all these reasons. If you decide that you need to request advanced sick leave for maternity/paternity purposes, and experience difficulty with the approval process, contact the Guild to determine if your rights have been denied.

◆ **Join the Leave Bank**

If you are considering having a baby, join the Leave Bank in advance. Open season for the Leave Bank is every December. Employees can only join during open season; new employees are eligible to join upon their initial appointment. The Guild advises all bargaining unit employees to join the Leave Bank since it is good insurance and if you don't need it, you are helping a coworker maintain income during a medical emergency. For more information and forms go to: <http://www.loc.gov/staff/leavebank/>.

Leave Bank members donate one pay period's worth of annual leave to the bank: 4, 6, or 8 hours according to the employee's leave category. The donation is automatically deducted by Human Resources early in the leave year. Leave Bank members are then eligible to receive donated leave for medical emergencies, such as medically-prescribed bed rest during pregnancy and recovery after childbirth, but only when they have used up other "available paid leave" options—which include annual leave as well as sick leave. Each year, based on participation, the Leave Bank establishes a maximum amount that members can receive, typically around 80-100 hours per calendar year. Since the leave is used for medical needs, it is administered like sick leave and subject to the restrictions of sick leave.

***B. Steps for Planning Your Leave***

◆ **Meet with Health Services**

Health Services (LM G40) is responsible for administering applications for FMLA, Advanced Sick Leave, and leave donated through the Leave Bank and Leave Transfer Programs. Health Services also manages the Lactation Centers and the Wellness Center. They process the forms and receive medical documentation from your health care provider. Make an appointment to meet with Health Services staff to go over the required paperwork for these programs. They have a wealth of experience in guiding expectant mothers.

◆ **Contact Your Service Unit's Administrative Officer**

You may want to meet with the administrative officer in your service unit who is responsible for time and attendance reporting. They are expert in all things WebTA and have a good understanding of leave options. If you will be using FMLA leave without pay on an intermittent basis, it is a good idea to go over how that request is coded in WebTA. Don't check the box for "annual leave (FMLA)" or the box for "sick leave (FMLA)" unless you are willing to limit your entitlement to FMLA for the year.

◆ **Meet with Your Supervisor**

Once you have outlined a plan to cover your absence for maternity/paternity reasons, meet with your supervisor to finalize that plan in advance of your parental leave. Good communication and an agreed-upon leave plan are essential to a hassle-free parental leave experience. If your supervisor is uncertain about the rules and regulations, you can suggest that the supervisor speak with the service unit administrative officer, Health Services, or even a Guild representative.

◆ **Changes to Employee Benefits Following Birth or Adoption**

Federal regulations administered by the Office of Personnel Management provide that employees may make changes to certain benefits (such as health insurance, life insurance, Flexible Spending Account and/or Dependent Care Account) usually within 60 days of a qualifying lifetime event and outside of the open season period. The birth or adoption of a child is considered a qualifying lifetime event which would permit an employee to enroll, increase enrollment, or change from one health insurance plan or option to another. An employee may also change beneficiary designations on his or her Thrift Savings Plan and/or Federal Employees' Group Life Insurance account. These changes can be made any time are not subject to the 60-day window. For questions or help processing benefits paperwork, contact Human Resources.

***C. Additional Resources and Considerations for Pregnancy and for New Parents***

There are a number of additional resources available for pregnant women while still working and for women who are breastfeeding, as well as resources and topics of considerations for all new parents. They include:

- ❖ **Resting rooms.** Resting rooms are available to employees in Health Services (LM G-40) for occasional or regular use (up to 60 minutes per day). Medical documentation is typically required for regular use.
- ❖ **Medical accommodations.** You are eligible under the Americans with Disabilities Amendment Act (ADAAA) of 2008 for reasonable accommodations if you are ill during your pregnancy. Also, the Collective Bargaining Agreement provides for medical accommodations for temporary illnesses in Article 30, Health Services, Section 6. For instance, telework can be requested as a reasonable accommodation if your physician orders bed rest or advises restrictions on your activities. For more information on such accommodations, see Article 30 Health Services, and LCR 9-121 Americans with Disabilities Act (ADA) Policy. The procedure for requesting accommodation is covered in the LCR; forms are attached at the bottom of the regulation. The Job Accommodation Network (JAN) publishes useful information on "Pregnancy" on their website <http://askjan.org>. JAN is the leading source of free,



expert, and confidential guidance on workplace accommodations and disability employment issues.

- ❖ **Temporary Parking Pass.** If medically indicated, employees may request a temporary parking pass as a medical accommodation especially during the later stages of pregnancy. For more information see <http://staff.loc.gov/sites/iss/disabled-parking/>.
- ❖ **Temporary part-time and reduced schedules.** If you wish to extend your time at home with your baby after you have used available leave, you can request a temporary reduced schedule, such as 20 hours a week or 32 hours a week. You will be eligible to work credit hours on any work day, which is useful in rebuilding your leave balances. Initiate the request with your supervisor. You may also request a permanent reduced schedule but be aware that your subsequent request to return to a full-time schedule is budget-driven and is not automatically granted. Discuss this with your managers in advance, to know what to expect if you seek to convert to a permanent part-time schedule.
- ❖ **Telework.** You can request a temporary period of telework part time or full time for medical reasons related to pregnancy and childbirth. You can also request part-time telework to better balance work demands and family needs, usually within one year following the birth or adoption of a child. Telework requests for medical reasons can be made outside of any application process for regular telework. Please note that your work must be suitable for telework.
- ❖ **Wellness Center.** Most women will not experience medical complications during pregnancy and seek to stay active. The Wellness Center is available for cardiovascular and strength training before, during and after pregnancy. Health Services manages the operations. Facilities are located in the Adams Building, LA B35, B36, and B38. The center is open Monday through Friday, 6:30 a.m. to 9:00 p.m. Showers and dressing rooms are available.
- ❖ **Lactation Center.** If you breastfeed your baby after your return to work, Health Services has Lactation Centers in the Madison and Adams buildings. A room is also available in Culpeper. The center in the Madison building has four small rooms with locking doors where you can pump in privacy. All rooms have hospital grade Medella breast pumps that you can use with your own parts. A common area provides two sinks where you can wash pump parts. The centers are administered by Health Services and you must register with them to gain access. For more information go to <http://staff.loc.gov/sites/iss/files/2014/02/HSOLactationCenterBrochure.pdf> or contact Health Services at 7-8035 for a tour and to complete the form for key card access to the center. It is best to start the application process prior to your maternity leave.

- ❖ **Little Scholars Child Development Center.** This child care center serves children ages 3 months to 5 years and is operated by a non-profit affiliate of the Library of Congress, the Library of Congress Child Care Association. The Center's hours are Monday through Friday, 7:15 a.m. to 6:15 p.m. LC employees get a small discount on tuition, priority on the enrollment waiting list, and their application fee is waived. If you are considering using Little Scholars for child care when you return to work, submit an application to get on the waiting list as early in your pregnancy as possible. If your name comes up on the waiting list before you are ready to enroll your child, you can ask to remain at the top of the list until another enrollment opportunity arises. Spaces typically become available in September when children graduate and move up to the next class age group. For more information go to <http://staff.loc.gov/sites/littlescholars/> or call them directly at 202-547-5222.

#### ***D. Discrimination and Denial of Rights***

Finally, if you believe you have been subject to Pregnancy Discrimination or denial of any rights under the Collective Bargaining Agreement or Library regulation, contact the Guild immediately. Our office is located at LM-G41, phone numbers are 202-707-6493 and 202-707-1304. Email is [guild@loc.gov](mailto:guild@loc.gov). There are time limits on filing grievances or complaints to remedy these problems so do not delay.

#### **CONTACT US:**

Library of Congress  
Madison Building, Room LM-G41  
Mailstop 9994  
101 Independence Ave., S.E.  
Washington, DC 20540-9994  
Phone: 202-707-6493/1304  
Fax: 202-707-1873  
Email: [guild@loc.gov](mailto:guild@loc.gov)