

President's Announcement on Paid Leave for Federal Employees

On January 15, 2015, the White House unveiled new proposals to “strengthen the middle class by giving working families the flexibility to balance their families and jobs and giving all Americans the opportunity to earn sick days.” Among those proposals is greater availability of paid family leave for federal employees.

What the President Did

The President issued a Presidential Memorandum directing agencies to advance up to six weeks of paid sick leave for parents with a new child and workers who must care for a seriously ill family member.

How It Works

- ▶ Currently, federal employees with one year of job tenure are entitled to a total of 12 workweeks of *unpaid* leave during any 12-month period for the birth or adoption of a child. Federal employees must use accrued annual or sick leave, if available, if they want to receive pay for any of the time that they are out on parental leave. Agencies may, but are not required to, allow employees to use sick leave in advance of accruing that leave when the employee does not have a sufficient amount of accrued sick leave available.
- ▶ The President's Memorandum directs agencies to advance a federal employee up to 240 hours (six weeks) of sick leave, if they request it, for the birth or adoption of a child or other sick leave eligible uses.
- ▶ Other “sick leave eligible uses” as defined by the Office of Personal Management (OPM) includes care of a family member with a serious health condition, including parents and grandparents.
- ▶ Sick leave must be advanced even if the employee has not accrued it. The employee is not required to use up existing annual or sick leave before dipping into the advanced sick leave.
- ▶ Foster placement is treated a little differently. Agencies are required to advance the maximum amount of annual leave permitted by law for foster care placement. Agencies are also directed to advance annual leave for bonding with a newborn or newly adopted child if an employee requests it.
- ▶ The Department of Defense, parts of the Department of State and congressional staff have different rules and this new directive may not apply.
- ▶ This builds on the 2010 directive allowing, but not requiring, federal agencies to advance paid leave to employees who have not yet accrued it.

Why They Did It This Way

- ▶ The administration cannot unilaterally institute paid family and medical leave for federal employees because of a provision in the Family and Medical Leave Act which specifies that FMLA leave for federal employees is without pay (5 U.S.C. § 6382(c)). However, the administration can take unilateral action to expand access to unpaid leave.
- ▶ For example, President Clinton issued a directive for executive agencies to grant employees 24 hours of unpaid leave to fulfill certain family obligations, including attending meetings at a child's school or taking children or older relatives to medical appointments. However, because of 5 U.S.C. § 6382(c), any additional leave with pay would require budgetary authorization from Congress and therefore legislation.

What Happens Next

- ▶ The Office of Personal Management (OPM) will issue guidance with more detail.
- ▶ The President has called on Congress to pass a bill that would specifically create paid parental leave for federal employees.
- ▶ Rep. Carolyn Maloney (D-N.Y.) will introduce the Federal Employees Paid Parental Leave Act (FEPPLA) which calls for six weeks of parental leave for federal employees. Employees can use leave for a birth or adoption, or foster care of a child. A version of FEPPLA has been introduced by Rep. Maloney since 1999 and passed the House twice, in 2008 and 2009.

More information

- ▶ White House [FACT SHEET: White House Unveils New Steps to Strengthen Working Families Across America](#)
- ▶ 2015 Presidential Memorandum: [Modernizing Federal Leave Policies for Childbirth, Adoption, and Foster Care to Recruit and Retain Talent and Improve Productivity](#)
- ▶ White House [Fact Sheet: Leave And Work Scheduling Flexibilities Available For Childbirth](#)
- ▶ [2010 Absence and Leave; Sick Leave Rule](#)
- ▶ [1997 Clinton Presidential Memorandum on Expanded Family and Medical Leave Policies](#)
- ▶ [Federal Employees Paid Parental Leave Act](#) fact sheet