

U.S. DEPARTMENT OF EDUCATION PERSONNEL MANUAL INSTRUCTION	PMI <u>630-3</u> DATE: <u>March 6, 2002</u> APPROVED: <i><u>Veronica D. Trietsch</u></i> Director, Human Resources Group
--	--

SUBJECT: SICK LEAVE

I. AUTHORITY

Chapter 63, Title 5, United States Code (USC), provides the basic statute governing the federal leave system. Title 5, of the Code of Federal Regulations (CFR), Part 630, Subpart D provides guidelines governing sick leave administration. The Family Medical Leave Act (FMLA) of 1993 provides guidance for the additional use of leave for family purposes.

II. POLICY

A. It is the policy of the Department that sick leave will be granted under the following circumstances.

1. Sick leave for an individual employee will be granted for use when the employee:
 - a. Is incapacitated for the performance of duties by physical illness, mental condition, injury, pregnancy or childbirth,
 - b. Receives medical, dental, or optical examination or treatment,
 - c. Would, as determined by the health authorities having jurisdiction or by a health care provider, jeopardize the health of others by his or her presence on the job because of exposure to a communicable disease.
2. Subject to the limitations in Section B., below, sick leave for family care or funeral purposes will be granted when the employee:
 - a. Provides care for a family member who is incapacitated as the result of physical illness, mental condition, injury, pregnancy, or childbirth;
 - b. Makes arrangements necessitated by the death of a family

- member or attends the funeral of a family member; and/or
 - c. Provides care for a family member as a result of medical, dental, or optical examination or treatment.
 - d. Provides care for a family member with a serious health condition.
3. Sick leave may be used for purposes related to the adoption of a child. Employees may use sick leave when they must be absent for purposes relating to the adoption of a child, including appointments with adoption agencies, social workers and attorneys, court proceedings, required travel, and any other activities necessary to allow the adoption to proceed.
 4. Sick leave may be used by disabled veterans to receive medical treatment. If the veteran has no sick or annual leave, leave without pay (LWOP) or advance leave must be granted. (Executive Order 5396).
 5. For the use of leave to serve as a Bone Marrow or Organ Donor, please see Personnel Manual Instruction (PMI) 630-7, Excused Absence.
- B. Limitations: using sick leave to care for an ill family member.
1. A covered full-time employee may be granted an initial 40 hours of sick leave for family care purposes (either for general family care or for bereavement purposes or to care for a family member with a serious health condition). These 40 hours (or a proportional amount for employees on a part-time schedule or an uncommon tour of duty) may be advanced. An employee may be granted an additional 64 hours of sick leave (for a total of 104 hours) for general family care or for bereavement purposes provided that he or she maintains at least 80 hours of accrued sick leave in his or her account. Sick leave may not be advanced to establish the 80 hours of accrued sick leave.
-

2. In addition, federal employees may be granted up to 12 weeks of paid sick leave each leave year to care for a family member with a serious health condition as long as he or she maintains a balance of 80 hours of accrued sick leave in his or her account. Medical certification may be required prior to approval of the leave to substantiate the presence of a serious health condition.
3. The total amount of leave that can be taken for family leave purposes under B.1 and B.2 may not exceed 12 weeks in a given leave year. If an employee has previously used any portion of the 104 hours of sick leave for general family care or for bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement. Conversely, if an employee has already used 12 weeks of sick leave to care for a family member with a serious health condition, he or she cannot use an additional 13 days in the same leave year for general family care purposes.
4. In addition to the sick leave provisions of this PMI, information on the FMLA is also provided where appropriate and/or applicable. Federal employees may invoke the FMLA to use 12 weeks of LWOP in any 12 month period to care for a “spouse, son or daughter, or parent” including a new-born child. Paid sick or annual leave may be substituted for LWOP without pay granted under FMLA as long as the regulatory criteria for granting the paid leave are met.
5. Pregnant employees may be granted up to 12 weeks of sick leave for prenatal and postnatal medical appointments and any periods of incapacitation as a result of pregnancy and childbirth. In addition, within the 12 weeks maximum, a mother may be granted up to 13 days of sick leave to take the baby to the doctor and to care for a newborn child during minor illnesses.

A new mother is also entitled to use up to 12 weeks of LWOP under FMLA for childbirth and care of the newborn. Unpaid leave under FMLA must be used within one year following the date of birth.

6. A father may be granted sick leave to care for the mother for any period (up to a maximum of 12 weeks) during which she is incapacitated as a result of pregnancy and childbirth. This includes prenatal and postnatal doctor's examinations, hospitalization, and recovery from childbirth. The new father may be granted a total of up to 13 days of sick leave to take the baby to the doctor and to care for the newborn during minor illnesses. If the newborn develops a serious health condition, the father may be granted any remaining portion of the 12-week entitlement of sick leave to care for that child.

A new father may be granted up to 12 weeks of LWOP under the FMLA to care for his healthy newborn and may substitute annual leave for FMLA LWOP.

7. Either parent may be granted up to 12 weeks of sick leave to care for a newborn child with a serious health condition.

Either parent may be granted up to 12 weeks of LWOP under the FMLA to care for a newborn child with a serious health condition and may substitute sick or annual leave for FMLA LWOP.

8. Either parent may be granted annual leave or leave without pay to care for a healthy newborn.

- C. Sick leave shall be earned, charged and granted in accordance with Title 5, USC Chapter 63 and 5 CFR, Part 630.

III. APPLICABILITY

- A. This Instruction applies to all Department of Education (ED) employees (except as noted below in paragraph III. B.) at headquarters and in regional and field locations who are on full-time or part-time tours of duty.
- B. The following employees listed below are specifically excluded from the provisions of this Instruction:
 - 1. Part-time and intermittent employees who do not have a regular tour of duty prescribed in advance on one or more workdays during each administrative workweek.
 - 2. Presidential appointees whose rate of basic pay is higher than the maximum rate under the General Schedule except Presidential Senate appointees who are eligible and elect to retain Senior Executive Service benefits, including coverage under the leave system.

IV. DEFINITIONS

- A. Accrued Leave: Leave earned by an employee during the current leave year that is unused at any given time in that leave year.
 - B. Accumulated Leave: Unused leave remaining to the employee's credit at the beginning of the leave year.
 - C. 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.
 - D. Family Member: For purposes of sick leave, family member is defined as: spouse, and parents thereof; children, including adopted children and spouses thereof, parents; brothers and sisters, and spouses thereof, and any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.
-

- E. Serious Health Condition: This term includes such conditions as cancer, heart attacks, heart conditions requiring bypass operations, strokes, severe injuries, kidney dialysis, appendicitis and Alzheimer's disease. It also includes ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy, the need for prenatal care, childbirth, and recovery from childbirth. It is not intended to cover short-term conditions for which treatment and recovery are very brief. The common cold, the flu, earaches, upset stomach, headaches (other than migraines) and routine dental problems are not serious health conditions unless complications arise. (See attachment for the full range of examples of serious health conditions).

V. RESPONSIBILITIES

- A. Specific responsibilities for all concerned parties are defined in PMI 630-1, Absence and Leave Administration -- General Provisions, paragraph V.
- B. To assure that there is a proper use of sick leave, supervisors are responsible for monitoring leave patterns, reviewing circumstances surrounding the seemingly excessive use of sick leave, and correcting or resolving the situation causing the problems.

Supervisors must not inadvertently grant sick leave when there is no balance. This situation may occur if the leave approving supervisor does not check the employee's running balance before approving the leave.

- C. Employees are responsible for requesting and utilizing sick leave in accordance with the policies and procedures set forth in paragraphs II and VII.

VI. DELEGATIONS OF AUTHORITY

- A. Specific delegations of authority are described in PMI 630-1, paragraph VI.
- B. Employees to whom this Instruction applies may not approve their own sick leave requests or excused absences.

VII. PROCEDURES AND REQUIREMENTS

A. Granting Sick Leave

1. It is appropriate to grant the use of sick leave for the purposes identified under Part II.
2. A Request for Leave or Approved Absence; i.e., SF-71 or OPM-71, will be completed and signed by the employee prior to the leave period, when possible, or immediately upon the employee's return from unscheduled sick leave. For absences in excess of four workdays, a medical certificate and other supporting medical documentation as determined appropriate under law, Office of Personnel Management (OPM) regulations, Department policy (and the Collective Bargaining Agreement for bargaining unit employees) is required. Any documentation regarding an employee's medical condition must be kept confidential and may only be released on a need-to-know basis in conjunction with official business or as otherwise permitted by law.

B. Accrual of Sick Leave

1. Full-time employees accrue sick leave at the rate of four hours for each full bi-weekly pay period while in pay status or a combination of pay and non-pay status.
2. Part-time employees who have a prearranged regular tour of duty accrue sick leave at the rate of one hour of sick leave for each 20 hours in a pay status. Part-time employees do not earn leave for any hours in pay status in excess of 40 hours per administrative workweek.
3. An employee who is absent in a non-pay status or whose absence is charged to the continuation of pay provision because of injury received in the line of duty does not accrue sick leave during the period for which disability compensation is being paid by the Office of Worker's Compensation Programs.

C. Accumulation of Sick Leave

1. Sick leave may be accumulated without limitation; therefore, sick leave accrued in a leave year may be used in succeeding years.
2. Additionally, an employee's total accrual of sick leave is creditable toward length of service for retirement payment under Civil Service Retirement System (CSRS) and CSRS-offset only. This service credit may not be used to establish length of service eligibility for retirement. However, when an individual meets the length of service requirement, their sick leave is added to the total number of years and months of service used in computing the amount of annuity or survivor annuity.
3. Unused sick leave is not used in figuring the high average pay and cannot be counted toward the minimum length of service necessary to retire.
4. No lump-sum payment for accrued sick leave is made when an employee leaves the federal service. Accrued sick leave will be re-credited if an employee reenters the federal service.

D. Substitution of Sick Leave for Annual Leave

1. Sick leave may be substituted for annual leave when sickness occurs while an employee is in annual leave status. In such cases the leave should be charged against accrued sick leave and the charge against annual leave adjusted accordingly, provided the employee submits a doctor's certificate or administratively acceptable evidence immediately upon return to duty. (See paragraph VII.B.)
2. When ill, annual leave may be substituted for sick leave when the employee has sick leave to his or her credit, and the employee requests it at the time the leave occurs. Annual leave may not be substituted retroactively for regular sick leave except to liquidate an employee's indebtedness for advance sick leave.

3. When annual leave has not been properly scheduled in advance and will, therefore, be forfeited without possibility of restoration, employees on sick leave near the end of the leave year should consider substituting their “use or lose” annual leave for sick leave. However, retroactive substitution of annual leave for sick leave is not permitted except in order to liquidate advanced sick leave.
4. Exceptions to the scheduling requirement for annual leave restoration may be allowed for a very prolonged illness before the end of the leave year.

E. Disabled Veterans

Upon presentation of an official statement from a duly constituted medical authority, disabled veterans shall be permitted such annual leave, sick leave or LWOP as is required so that the veteran may receive medical treatment or examination. (Executive Order 5396).

F. Advanced Sick Leave

1. Since advanced sick leave creates a repayment liability for the employee, advanced sick leave should only be approved when an employee or an employee’s family member has a serious health condition and is in need of care, when there is a death in the employee’s family, or when the employee needs leave for adoption purposes. It cannot be approved for routine visits to the doctor.
2. In cases of serious disability or ailment (or for the purposes of adopting a child) approving officials may approve requests for advanced sick leave in amounts up to but not-to-exceed 240 hours. Advances of sick leave to care for a family member or for bereavement purposes are limited to 40 hours.
3. Advanced sick leave must be requested in writing. A medical certificate may be required for such leave when it is for the incapacitation of an employee or to care for a family member. (See paragraph VII.B.) Leave approving officials may also request documentation to support advanced sick leave to make arrangements necessitated by the death of a family member or to attend a funeral. Acceptable documentation may include,

but is not limited to, the published obituary or a copy of the death certificate, etc.

4. Sick leave indebtedness as a result of a grant of advanced sick leave will be reduced by the employee's subsequent sick leave accruals. Any additional sick leave granted while an outstanding sick leave indebtedness exists must be considered as a further advance and not as a grant of "earned" sick leave toward current accrual.
5. Sick leave cannot be advanced when it is likely the employee will retire, be separated, or resign before the advanced leave will be earned. There must be a reasonable expectation that the employee will return to duty. An employee separated while indebted for advanced sick leave must refund the amount due and unearned, except when the employee's health prevents him/her from continuing to work and this fact is supported by a medical certificate.
6. Employees serving on a limited appointment may only be advanced sick leave in amounts which do not exceed the total sick leave they would otherwise earn upon completion of their appointment.

VIII. MISUSE OF SICK LEAVE

Supervisors who suspect misuse of sick leave should counsel the employee as to the proper use of sick leave. When there is excessive, indiscriminate and/or unjustified use of sick leave, the leave approving official may require the employee to provide a medical certificate for all sick leave absences. Notice of this requirement should be given to the employee in writing. The notice must contain as a minimum the following:

1. The specific reason(s) for requesting the medical certificates;
2. The duration of this requirement (usually not more than six months);
3. A statement that requests for approval of sick leave not supported by a medical certificate will not be approved, and will, therefore, be charged to absence without leave (AWOL) or annual leave, whichever is appropriate; and
4. A statement that AWOL may lead to a disciplinary action.

IX. GENERAL REQUIREMENT

All actions taken under this and related instructions on absence and leave shall be exercised in accordance with applicable statutory, regulatory, policy, procedural and program requirements, including applicable collective bargaining agreements.

ATTACHMENT

DEFINING A SERIOUS HEALTH CONDITION

1. A serious health condition means an illness, injury, impairment, or physical or mental condition that involves-
 - a. 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
 - b. 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-
- (a) 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,
 - (b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - (c) 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 stages 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 or 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).
2. 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. Ordinarily, unless
-

complications arise, the common cold, the 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.