

# **NASA Interim Directive**

**Subject: Federal Employee Paid Leave Act (FEPLA)**

**Responsible Office: Office of Human Capital Management**

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## **Preface**

### **P.1 Purpose**

a. December 20, 2019, President Donald J. Trump signed into law a major improvement in the compensation and benefits package for Federal civilian employees as part of the National Defense Authorization Act (NDAA) for Fiscal Year 2020. The Federal Employee Paid Leave Act provides up to 12 weeks of paid parental leave in connection with the birth, adoption, or foster care placement of a child for employees covered by Family and Medical Leave Act (FMLA) provisions applicable to Federal civilian employees. The new law applies to leave taken in connection with a birth or placement of a child occurring on or after October 1, 2020.

b. The Office of Personnel Management's (OPM's) Interim Final Rule governing Paid Parental Leave will go into effect on October 1, 2020. This NASA Interim Directive (NID) supplements the OPM regulations and implementation guidance referenced below and communicates how Paid Parental Leave will be implemented at NASA.

### **P.2 Applicability**

This NID is applicable to eligible employees assigned to NASA Headquarters and NASA Centers, including Component Facilities, and Technical and Service Support Centers.

### **P.3 Authority**

Federal Employee Paid Leave Act (FEPLA) subtitle A of title LXXVI of division F of the National Defense Authorization Act for Fiscal Year 2020, Pub. L. 116-92, December 20, 2019

Family Medical and Leave Act, 5 U.S.C. Chapter 6381 et seq.

5 C.F.R. Part 630

### **P.4 Applicable Documents and Forms**

Paid Parental Leave Service Agreement

NASA Shared Services Center (NSSC) Service Delivery Guide (SDG)

### **P.5 Measurement/Verification**

The NSSC shall monitor the implementation and use of paid parental leave.

## **Chapter 1. Introduction**

### **1.1 Overview**

1.1.1 The provisions of paid parental leave allow management officials to authorize certain employees, who are otherwise eligible, the option to substitute up to 12 weeks of unpaid leave under FMLA with paid leave in conjunction with the birth, adoption, or foster placement of a child.

### **1.2 General Provisions**

1.2.1 Paid parental leave is applicable to births or placements occurring on or after October 1, 2020.

1.2.2 An employee is eligible for paid parental leave only if he or she is a covered “employee” under the definition in 5 U.S.C. 6381(1)(A) and has completed at least 12 months of service as such an employee, as required by 5 U.S.C. 6381(1)(B). Employees on temporary appointments or intermittent work schedules do not meet this definition; therefore, they are ineligible.

1.2.3 Employees are required to invoke FMLA to be eligible for paid parental leave and may elect to substitute paid parental leave for unpaid FMLA.

1.2.4 Employees are not required to exhaust their sick or annual leave balances prior to being eligible for paid parental leave.

1.2.5 Before the commencement of paid parental leave, the employee is required to agree in writing to work for NASA for not less than a period of 12 work weeks beginning on the date such leave concludes regardless of the actual amount of leave used. If an employee fails to complete the service agreement, NASA will recover from the employee the total amount of government contributions paid to maintain the employee’s Federal Employees Health Benefits (FEHB) coverage during the period of leave. This provision does not apply to employees who fail to return to complete the service agreement due to the continuation, recurrence, or onset of a serious health condition of the employee or the child, or due to any other circumstances beyond the control of the employee. Circumstances that constitute a matter of employee preference or convenience, such as an employee choosing to stay home to care for a healthy newborn will not suffice.

1.2.6 Paid parental leave can only be used within 12-months of the date of the birth or placement of the child. It does not accumulate for any subsequent use. If the parental role ends during the 12-month period, the eligibility to substitute paid parental leave under FMLA also concludes at the same time the parental role ceases.

1.2.7 Since paid parental leave is substituting for FMLA unpaid leave, use of paid parental leave is constrained by the use of FMLA unpaid leave.

1.2.8 Use of paid parental leave is appropriate when taken in order to care for a newly born or placed son or daughter. This generally refers to leave covering periods when the employee is in the home with the child or is otherwise involved in spending time with the child i.e., bonding. It may include short periods away from the child’s physical presence to purchase supplies needed to care for the child (e.g., buying baby food, diapers, or other supplies). It is not appropriate for

employees to request paid parental leave if they will not be engaged in activities directly connected to care of the child during the period of leave.

## **Chapter 2. Responsibilities**

### **2.1 Office of the Chief Human Capital Officer (OCHCO) shall:**

2.1.1 Establish Agency policies and procedures that support the implementation of paid parental leave consistent with applicable laws, regulations and Agency human capital strategic goals.

### **2.2 NASA Shared Services Center (NSSC) shall:**

2.2.2 Monitor paid parental leave to ensure compliance and program effectiveness.

2.2.3 Review requests for paid parental leave and determine if program requirements are met for use.

2.2.4 Approve or deny waiver requests for FEHB premium debts for less than \$5,000 incurred by an employee not completing the service requirement. For debt waiver requests over \$5,000, provide recommendation on approval or denial and coordinate with the appropriate delegated official to make a final determination on the debt waiver request.

2.2.5 Provide advice and guidance to employees, supervisors and managers.

2.2.6 Maintain documentation for all parental leave requests, including initial request, supporting documentation, and agreements.

### **2.3 Supervisors shall:**

2.3.1 Notify employees of established local policies and procedures for requesting paid parental leave.

2.3.2 Approve requests for paid parental leave in the same manner as they approve leave under the FMLA when it is known or reasonably expected that the employee will return to work. Approvals will be made in accordance with regulatory requirements.

### **2.4 Employees shall:**

2.4.1 Submit requests for paid parental leave, to include all requested documentation.

2.4.2 Sign a service agreement prior to utilizing paid parental leave and submit in accordance with current processes.

### **Chapter 3. Criteria for Approving or Denying Requests for Paid Parental Leave**

Approving officials shall use the following basic criteria for approving or denying requests for paid parental leave:

1. Employees are required to meet basic eligibility requirements, outlined in 5 CFR 630.
2. Before the commencement of paid parental leave, the employee will be required to agree in writing to work for NASA for not less than a period of 12 weeks beginning on the date such leave concludes.

#### **Chapter 4. Written Service Agreement**

A written service agreement shall be executed before an employee can use paid parental leave. If the employee is incapacitated and unable to enter into agreement prior to using the leave, as long as all eligibility requirements are met, the employee may sign the service agreement after commencement of such leave. The written service agreement will be the same for all employees using the template provided by OPM.

## **Chapter 5. Reconsideration and Grievance Rights**

If an employee believes that the decision to deny a leave request under FEPLA did not fully comply with the rights and requirements provided by title II of the FMLA and OPM's implementing regulations at 5 CFR 630, the employee may file a grievance under applicable agency administrative procedures or negotiated grievance procedures.



## **Appendix A. Definitions**

**Work Weeks.** The term “work” means a period during which the employee is in duty status (i.e., actually working), excluding any periods (paid or unpaid) of leave, time off, or other nonduty status. Periods of paid time off include paid holidays on which an employee does not work. Periods of other nonduty status include such periods as a furlough or an absence without leave (AWOL). Any periods of leave, time off, or other periods of nonduty status will extend how long it will take the employee to fulfill the 12-week work obligation. To satisfy the work obligation, the employee must complete 12 weeks of work regardless of how much leave he or she takes before satisfying the obligation.

## **Appendix B. Acronyms**

CFR	Code of Federal Regulations
FEHB	Federal Employee Health Benefits
FEPLA	Federal Employees Paid Leave Act
FMLA	Family Medical Leave Act
NASA	National Aeronautics and Space Administration
NDAA	National Defense Authorization Act
NID	NASA Interim Directive
NSSC	NASA Shared Services Center
OCHCO	Office of the Chief Human Capital Officer
OPM	Office of Personnel Management
USC	United States Code