

The guidance in this handbook has been edited to align with the President’s memorandum entitled, “[Return to In-Person Work](#).”

# Handbook on Work Scheduling Flexibilities and Work-Life Programs for Elder Care



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# **I. Introduction**

The Federal Government offers a wide array of work scheduling flexibilities and work-life programs that can be combined in many ways to achieve the type of flexibility that allows employees time off for elder caregiving needs. To build on our record of leadership through better education and training, the U.S. Office of Personnel Management (OPM) is providing the Handbook on Work Scheduling Flexibilities and Work-Life Programs for Elder Care (Handbook) to provide assistance and demonstrate how these flexibilities and programs work together to support employees who are providing elder care for a family member. In doing so, we can help ensure that the Federal workforce is engaged and empowered to deliver exceptional and efficient service to the American public while simultaneously meeting the needs of their families.

## **A. Roles and Responsibilities**

This Handbook provides various tools for employees to use in preparing and planning for time off for elder caregiving. It must be read in conjunction with agency and component-specific flexibilities and program policies and, to the extent they comport with applicable law, any applicable collective bargaining agreements. The division of roles and responsibilities are provided below.

- **OPM's Role.** OPM provides leadership on Federal policies and programs by developing and maintaining Governmentwide rules and regulations on annual leave, sick leave, the Family and Medical Leave Act, Federal leave sharing programs, alternative work schedules, part-time employment, and other work scheduling flexibilities and programs.
- **Agencies' Role.** Federal agencies are responsible for complying with the law and OPM's Governmentwide regulations and guidance. Agencies are also responsible for developing agency-specific policies dealing with the administration of leave and other work scheduling flexibilities and programs, including any discretionary benefits, in accordance with appropriate provisions of any applicable collective bargaining agreements.
- **Employees' Role.** Employees must review both OPM and agency-specific rules and regulations on leave and other work scheduling flexibilities and programs to understand the options available for taking time off for elder caregiving. It is equally important for employees to consult with their agency's servicing human resources office.

## **B. Employee Checklist for Planning for Time Off for Elder Caregiving**

The following checklist should be used as an organizational tool before meeting with your manager or servicing human resource office. (Note: Check with your servicing human resource office to confirm what flexibilities are available at your agency.)

### **Things to Do:**

- ☐ Read the Handbook
- ☐ Review relevant OPM fact sheets using the links in the Handbook
- ☐ Know your internal agency policies and guidelines for requesting and using leave and other work scheduling flexibilities
- ☐ For a need of fixed duration, determine the amount of time off you would like to take
  - Hours needed: \_\_\_\_\_
- ☐ Determine your projected leave/paid time off balances at the time leave will be needed
  - Available sick leave hours: \_\_\_\_\_
  - Available annual leave hours: \_\_\_\_\_
  - Other available paid time off (compensatory time, credit hours): \_\_\_\_\_
  - Amount of unpaid time off (LWOP) you wish to take: \_\_\_\_\_
- ☐ Determine the gap, if any, between the amount of time off you would like to take, versus the amount of leave/paid time off you will have available at the time leave will be needed
  - Hours of leave/paid time off hours wanted minus hours of leave/paid time off accrued: \_\_\_\_\_

### **Know Your Options:**

- ☐ Advanced Sick Leave and Advanced Annual Leave –
  - What options does my agency provide to repay advanced leave?
  - How will I repay the advanced leave?
  - Can I apply for donated annual leave to repay advanced leave?
  - How long will it take to repay my advanced leave?
- ☐ Voluntary Leave Transfer or Voluntary Leave Bank Programs –
  - Will I be eligible to become a leave recipient? If so, how/when should I

apply?

- If my agency has a leave bank, when is the open enrollment period?
- Will I use donated annual leave to repay any potential advanced leave indebtedness?

□ Family and Medical Leave Act (FMLA) –

- Am I eligible for FMLA?
- Will I be substituting paid leave for unpaid FMLA leave? If so, what type and how much?
- Do I need to use FMLA leave intermittently? If so, be sure to let your manager know.

□ Use of Leave on an Intermittent Basis –

- Will I need to use leave intermittently rather than in a block of time? If so, be sure to discuss with your manager.

□ Work Schedules –

- Is an alternative work schedule (AWS) an option?
- If my agency offers AWS, what type of schedule does it offer (flexible work schedules versus compressed work schedules)?
- Does my agency allow part-time employment or job sharing?

## II. Leave and Work Schedule Flexibilities for Elder Care

The Federal Government offers various leave and work scheduling flexibilities to assist employees in meeting their work and family obligations. This chapter explains the available leave options that can be used separately or in combination to help an employee balance his or her work and family life related to care of an elderly family member.

### A. Sick Leave

An employee is entitled to a total of 12 weeks (480 hours) of sick leave in a leave year for all family care purposes, including to be absent from work to care for an elderly family member with a serious health condition or for general family care or bereavement purposes.

**Tip:** Sick leave is an entitlement that may be used without invoking leave under the Family and Medical Leave Act (FMLA). See Section E. for information on FMLA.

#### ***Sick Leave to Care for a Family Member***

The individual for whom the employee is providing care must meet the definition of *family member* used for sick leave, Voluntary Leave Transfer Program (VLTP), and Voluntary Leave Bank Program (VLBP) purposes.

A *family member* is an individual with any of the following relationships to the employee:

- 1) Spouse, and parents thereof;
- 2) Sons and daughters, and spouses thereof;
- 3) Parents, and spouses thereof;
- 4) Brothers and sisters, and spouses thereof;
- 5) Grandparents and grandchildren, and spouses thereof;
- 6) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and
- 7) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

The agency determines whom it considers to be an “individual related by blood or affinity whose close association with the employee is the equivalent of a family

relationship.”

A *parent* is defined as:

- 1) A biological, adoptive, step, or foster parent of the employee, or a person who was a foster parent of the employee when the employee was a minor;
- 2) A person who is the legal guardian of the employee or was the legal guardian of the employee when the employee was a minor or required a legal guardian;
- 3) A person who stands in loco parentis to the employee or stood in loco parentis to the employee when the employee was a minor or required someone to stand in loco parentis; or
- 4) A parent (as described in the above subparagraphs) of an employee's spouse or domestic partner.

For important associated definitions, please see our fact sheet entitled [Definitions Related to Family Member and Immediate Relative](#).

**Tip:** Based on the definition of *family member*, sick leave may be used to care for aunts and uncles, other relatives and close friends if the agency determines the close association with the employee is the equivalent of a family relationship.

When an employee requests sick leave to care for a family member, the agency may require the employee to document his or her relationship with that family member. Agencies should establish consistent rules and follow the same documentation requirements for all relationships, but agencies have authority to request additional information in order to ensure appropriate use.

### ***Sick Leave for Caregiving***

***General Family Care.*** An employee is entitled to use a total of 13 days (104 hours) of sick leave per leave year for general family care or bereavement—including taking care of an elderly family member with a minor illness or taking him or her to medical, dental, or optical appointments, or making arrangements necessitated by the death of a family member or attending the funeral of a family member.

***Care of a Family Member with a Serious Health Condition.*** An employee is entitled to use up to 12 weeks (480 hours) of sick leave each leave year to provide care for a family member with a serious health condition. For more information on the definition of *serious health condition*, which is the same definition as used in OPM’s regulations for administering the Family and Medical Leave Act (FMLA) of 1993, please see our fact



sheet entitled [Sick Leave to Care for a Family Member with a Serious Health Condition](#).

Examples of authorized sick leave uses for a serious health condition include conditions requiring hospitalization, inpatient care, or continuing treatment by a health care provider (e.g., Alzheimer's, severe stroke, or terminal states of a disease, chemotherapy/radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease). Providing care for a family member with a serious health condition may involve not only providing physical care (e.g., bathing, dressing, helping with toileting, feeding, managing medications) and appointments with healthcare professionals, but also providing psychological comfort.

**Scenario:** Greg's mother is hospitalized for pneumonia. Greg has 600 hours of accumulated sick leave and wants to use sick leave for the days his mother is in the hospital. His supervisor denies his request for sick leave for the period of hospitalization, stating that since Greg's mother will be in the hospital, Greg will not be "caring for her" and is not entitled to sick leave for that period. Can Greg's supervisor deny Greg's invocation of his sick leave entitlement?

OPM's sick leave regulations allow sick leave to be used if the family member of the employee requires psychological comfort and the family member would benefit from the employee's care or presence; therefore, Greg's sick leave request cannot be denied. However, the agency could request certification from the health care provider concerning the family member's need for psychological comfort and that the family member would benefit from the employee's care or presence.

If the employee previously has used any portion of the 13 days of sick leave for general family care or bereavement purposes in a leave year, that amount must be subtracted from the 12-week entitlement for use of sick leave for care of a family member with a serious health condition. An employee is entitled to no more than a combined total of 12 weeks of sick leave each leave year for **all** family care purposes.

**Tip:** An employee who is incapacitated due to his or her own illness, including clinical depression resulting from the stress of long-term care for a family member with a serious health condition or the death of a family member, is entitled to use sick leave for his or her own sickness or illness. The employee's absence will not count against the 13 days of sick leave for general family care or the 12 weeks of sick leave to care for a family member with a serious health condition.

**Tip:** An elderly family member may live far away from the employee. An employee is entitled to use sick leave to travel to and from that family member with a serious health condition to provide care. If, while the employee is visiting the family member, he or she takes time away from caring for the family member for activities like sightseeing or taking trips to visit friends and family, time off from work for those activities should be charged to another form of paid time off (i.e., annual leave, credit hours under flexible work schedules, or compensatory time off) or leave without pay.

For more information, see our fact sheets on [Sick Leave \(General Information\)](#), [Sick Leave for Family Care and Bereavement](#), and [Sick Leave to Care for a Family Member with a Serious Health Condition](#).

## **B. Advanced Sick Leave**

At its discretion, an agency may grant advanced sick leave to an employee, when required by the exigencies of the situation, for the same reason it grants sick leave to an employee. Employees are eligible for a maximum of 240 hours (30 days) of advanced sick leave to care for an elderly family member with a *serious health condition* and a maximum of 104 hours (13 days) for general family care purposes (see previous discussion of what types of activities are covered).

**Tip:** Advanced sick leave may be especially beneficial to employees who have little or no accumulated sick leave because of previous personal or family care needs.

### ***Repayment of Advanced Sick Leave***

An employee is required to repay advanced sick leave, except in very limited circumstances— e.g., disability retirement or death. Therefore, an employee requesting advanced sick leave should think carefully about whether he or she wants to incur this debt and how the debt will be repaid. Note that generally advanced sick leave is repaid by subsequently earned sick leave— although there are other options for repayment—so if an employee were to use 13 days of advanced sick leave, it would take him or her a full year without using another hour of sick leave to repay the sick leave debt. Because advanced sick leave must be repaid, an agency should not advance sick leave when it is known (or reasonably expected) that the employee will not return to duty.

**Tip:** Donated annual leave under the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP) may be used to liquidate an indebtedness incurred by the leave recipient for advanced sick leave used because of a *medical emergency*, such as an elderly family member's medical emergency. See Section F. on Leave Sharing Programs.

For more information, including information on repayment options, see our fact sheet on [Advanced Sick Leave](#).

### **C. Annual Leave**

Annual leave may be used for any purpose, subject to the right of the supervisor to approve a time when the annual leave may be taken. Annual leave may be used for any elder caregiving need, such as taking the elderly individual or family member shopping, to the bank, to the hairdresser, being present for house repairs, or also for any activity for which an employee would otherwise use sick leave, such as taking an elderly family member to medical, dental, or optical appointments, or any other purpose. Employees may request annual leave, subject to the right of the supervisor to approve the time when the employee takes the annual leave.

Employees should request annual leave in a timely manner, and supervisors should provide timely responses to employees' requests.

For more information, see our fact sheet on [Annual Leave \(General Information\)](#).

**Tip:** An employee has an entitlement to substitute annual leave for any unpaid FMLA leave during any period approved under FMLA. See section E. on Family and Medical Leave.

### **D. Advanced Annual Leave**

At its discretion, an agency may grant advanced annual leave to an employee in the amount not to exceed the amount the employee would accrue during the remainder of the leave year. Note- this means that the later in the leave year the employee requests advanced annual leave, the smaller the amount that may be advanced. An agency may grant advanced annual leave for the same reasons it grants annual leave as specified in law and regulation. New employees are eligible to receive advanced annual leave.

**Tip:** Advanced annual leave may be especially beneficial to employees who have little or no accumulated annual leave because of previous personal or family care needs.

### ***Repayment of Advanced Annual Leave***

An employee is required to repay advanced annual leave, except in very limited circumstances— e.g., disability retirement or death. Therefore, an employee requesting advanced annual leave should think carefully about whether he or she wants to incur this debt and how the debt will be repaid. Note that generally advanced annual leave is repaid by subsequently earned annual leave, although there are other options for repayment. Because advanced annual leave must be repaid, an agency should not advance annual leave when it is known (or reasonably expected) that the employee will not return to duty.

**Tip:** Donated annual leave under the Voluntary Leave Transfer Program (VLTP) or Voluntary Leave Bank Program (VLBP) may be used to liquidate an indebtedness incurred by the leave recipient for advanced annual leave used because of a *medical emergency*, such as an elderly family member’s medical emergency. See Section F. on Leave Sharing Programs.

For more information, including information on repayment options, see our fact sheet on [Advanced Annual Leave](#).

## **E. Family and Medical Leave**

Under the Family and Medical Leave Act (FMLA), Federal employees are entitled to a total of up to 12 workweeks of **unpaid** leave during any 12-month period for several purposes including the care of the employee’s elderly spouse or parent who has a *serious health condition*. Note: the definition of *family member* for sick leave, VLTP, and VLBP purposes does **not** apply to the FMLA. Therefore, an employee can use FMLA leave only to provide care for the individuals specified in law—in other words, a son or daughter, spouse, or parent. Since the focus of this Handbook is elder care, we are discussing only the use of FMLA for an elderly spouse or parent.

**Tip:** Under current law and regulation, an employee must have completed at least 12 months of service (not required to be consecutive and not required to be at the same agency) as a covered Federal employee (generally, an employee at an executive agency) in order to be entitled to FMLA leave.

### ***FMLA to Care for Spouse or Parent***

An employee is entitled to use FMLA leave to care for an elderly spouse or parent with a *serious health condition*.

**Spouse.** As defined in the statute, spouse means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under State law for purposes of marriage in the State where the marriage was entered into or, in the case of a marriage entered into outside of any State, if the marriage is valid in the place where entered into and could have been entered into in at least one State. This definition includes an individual in a same-sex or common law marriage that either:

1. Was entered into in a State that recognizes such marriages, or
2. If entered into outside of any State, is valid in the place where entered into and could have been entered into in at least one State.

State means any State of the United States or the District of Columbia or any Territory or possession of the United States.

**Parent.** For FMLA purposes, a *parent* means a biological parent or an individual who stands *in loco parentis* or who stood *in loco parentis* to an employee when the employee was a child. This term does not include parents-in-law. *In loco parentis* refers to 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.

**Tip:** Since sick leave and FMLA leave are two separate entitlements, an employee does not need to invoke FMLA to use sick leave to care for his or her elderly spouse or parent who has a serious health condition. The employee can invoke his or her sick leave entitlement and take up to 12 weeks of sick leave for that purpose, then later invoke FMLA and take up to 12 weeks of FMLA for the same (or other) purpose.

### ***Intermittent Use of FMLA Leave or Use on a Reduced Leave Schedule***

An employee is entitled to take FMLA leave on an intermittent basis or on a reduced leave schedule for absences in connection with a serious health condition. A reduced leave schedule is a special kind of intermittent leave that amounts to a change in an employee's usual number of working hours in a workweek or workday, in many cases reducing an employee's full-time schedule to a part-time schedule for the period of FMLA leave. Eligibility and medical certification for the serious health condition are established only at the time the employee first invokes FMLA—a medical note is not required for each absence related to the serious health condition.

**Scenario:** Tommy takes his father to weekly chemotherapy treatments and often needs to care for his father in the days following treatment when his father is weak and cannot care for himself. While Tommy has approval to use intermittent FMLA leave for the scheduled treatments, can he invoke FMLA on the days he must unexpectedly care for his father during recovery from treatment?

Yes, an employee is entitled to intermittent FMLA leave to care for an elderly spouse or parent for planned medical events and unexpected medical needs related to the qualifying serious health condition.

#### **FMLA Facts Related to Elder Care**

- An employee must invoke his or her entitlement to FMLA leave—an agency may not place an employee on FMLA leave. Generally, an employee may not retroactively invoke FMLA.
- The 12-month period begins on the date an employee first takes FMLA leave for any purpose and continues for 12 months.
- An employee taking FMLA leave based on planned medical treatment of an elderly spouse or parent must provide not less than 30 calendar days' notice to the agency of his or her intention to take FMLA leave—or as much notice as is practicable if the leave is to begin sooner—and must consult with the agency and make a reasonable effort to schedule medical treatment so as not to disrupt unduly agency operations, subject to the approval of the medical care provider.
- If the need for leave is not foreseeable—for example, if a parent needs surgery unexpectedly and the employee is unable to provide advanced notice of his or her need for leave—the leave may not be delayed or denied.

## ***Substitution of Paid Leave under FMLA***

**Tip:** When one hears the word “leave,” generally people think that means a type of paid leave. But did you know that FMLA leave is actually a type of leave without pay? The main purpose of FMLA leave is to provide a period of job-protected time away from the agency for employees for certain purposes. FMLA leave ensures that an employee’s job is protected even if he or she does not have enough paid leave to cover his or her absence.

FMLA leave is unpaid leave. However, in order to remain in a pay status during FMLA leave, an employee may elect to substitute accrued, accumulated, or advanced annual or sick leave or annual leave donated under the VLTP or VLBP, for any period of unpaid leave under FMLA, consistent with current laws and OPM’s regulations for using such leave.

### ***Effect of Unpaid FMLA Leave on Leave Accrual and other Benefits***

Being in a leave without pay (or unpaid FMLA leave) status affects various employee entitlements, including the accrual of annual and sick leave. For example, when a full-time employee with an 80-hour biweekly tour of duty accumulates a total of 80 hours of nonpay status (either in one pay period, or over the course of several pay periods), the employee will not earn annual and sick leave in the pay period. If the employee again accumulates 80 hours of nonpay status, he or she will again not earn leave in the pay period in which that new 80-hour total is reached. Employees who will be on FMLA LWOP or other LWOP should consult our [Effect of Extended Leave Without Pay \(LWOP\) \(or Other Nonpay Status\)](#) fact sheet for important information.

For more information, please see our [Family and Medical Leave](#) fact sheet.

## **F. Leave Sharing Programs**

An employee may be eligible to apply for and receive donated **annual leave** under an agency’s leave sharing programs if the employee is experiencing a personal or family *medical emergency* and if the employee will exhaust his or her own available paid leave. There are two leave sharing programs that can be used during a medical emergency—the Voluntary Leave Transfer Program (VLTP) and Voluntary Leave Bank Program (VLBP).

### ***Medical Emergency***

The term *medical emergency* means a medical condition of either the employee or an

employee's family member that is likely to require an employee to be absent or expected to be absent from duty for a prolonged period and to result in a substantial loss of income (expected absence without available paid leave of at least 24 work hours for a full-time employee) because of the employee's lack of available paid leave.

### ***Available Paid Leave***

Available paid leave includes an employee's accrued, accumulated, recredited, and restored annual or sick leave. It does not include advanced annual or sick leave, any annual or sick leave in an employee's set aside leave accounts which has not yet been transferred to the employee's regular annual or sick leave account, or other forms of paid time off (i.e., credit hours under flexible work schedules, compensatory time off, or religious compensatory time off).

**Note:** If the employee is applying to be a leave recipient because of a medical emergency affecting a family member and the employee has already exhausted his or her entitlement to 12 weeks of sick leave for family care in that leave year, any remaining sick leave is not considered available paid leave and he or she would not be required to exhaust his or her sick leave balance before being eligible for donated leave.

### ***Family Member and Parent***

The definitions of *family member*, *parent*, and related definitions are the same for the leave sharing programs as they are for sick leave. See Section A. on Sick Leave.

### ***Voluntary Leave Transfer Program***

The VLTP allows an employee to donate annual leave directly to another employee who has a personal or family medical emergency. Generally, employees receive donated annual leave under the VLTP from other employees in their agency. However, family members are entitled to donate annual leave to an approved leave recipient who works at another Federal agency. The agency may allow donations from Federal employees at other agencies if it believes that the employee may not otherwise receive enough donated annual leave to meet his or her needs.



**Scenario:** Amina is a Federal employee. Her mother had a catastrophic stroke, and Amina will be using donated annual leave to care for her. Amina's husband is also a Federal employee who works at a different agency and wants to donate annual leave to her. A coworker has volunteered to donate sick leave to her. Her brother, who is a colonel in the United States Army, wants to donate annual leave to her. In addition, two other carpool members have volunteered to donate annual leave to her, one of whom works for the U.S. Postal Service (USPS) and the other for a different agency. Can Amina receive donated annual leave from which of these individuals?

Generally, leave recipients may receive donations of annual leave only from employees of the same agency. However, any *family member* employed by another agency covered by the leave sharing programs in chapter 63 of title 5, of the United States Code is entitled to donate annual leave to a leave recipient. Amina may receive donated annual leave from her husband. Sick leave may not be donated under the VLTP or VLBP, therefore, her coworker cannot donate sick leave to her. Since active duty military members and USPS employees are not covered by the title 5 leave system, Amina may not receive donated annual leave from her brother or the carpool member who is an employee of the USPS. If Amina's agency believes she may not receive enough donations from coworkers in her agency, it may decide to allow donations from employees at other agencies covered by the leave sharing programs. In this case, Amina may receive donated leave from the carpool member who is a Federal employee at a different agency.

### ***Voluntary Leave Bank Program***

Each agency may establish a VLBP under which an employee may contribute unused annual leave for use by a leave bank member who is experiencing a personal or family medical emergency. To ensure employees are eligible for the maximum benefits possible, agencies are strongly encouraged to establish a leave bank program. The agency's leave bank board operates the leave bank and determines how much donated annual leave an employee may receive from the leave bank. Any unused donated annual leave is returned to the leave bank.

### ***Retroactive Substitution of Donated Annual Leave***

Donated annual leave under the VLTP or VLBP may be—

- Substituted retroactively by the employee for any period of leave without pay used because of a medical emergency; or

- Used by the employee to liquidate an indebtedness incurred by the leave recipient for advanced annual or sick leave used because of a medical emergency.

### ***Set-Aside Accounts***

While using donated annual leave, a leave recipient accrues annual and sick leave into what are called “set-aside accounts” so that the employee has some available leave when the medical emergency is over. An employee may accrue no more than 40 hours of annual leave and 40 hours of sick leave in the set-aside accounts. The leave in these accounts will be transferred to the employee’s regular leave accounts either when the medical emergency ends or if the employee exhausts all donated annual leave but the employee’s elderly family member is still experiencing the medical emergency. Leave in set-aside accounts is not available for use by the employee until transferred to the employee’s regular leave accounts.

### ***Leave Sharing Facts Related to Elder Care***

- Donated annual leave may be used only for a *medical emergency*—e.g., a medical condition of the employee’s elderly family member that is likely to require the employee to be absent (or expected to be absent) from duty at least 24 work hours without available paid leave—and may not be used to provide general family care for a healthy elderly family member.
- An agency may allow a leave recipient to use donated annual leave to arrange or attend the funeral of a family member for whom the leave recipient had been caring (activities solely related to the medical emergency and resultant death of the family member) because the employee is still “affected” by the emergency. This is not an entitlement, but it may be granted at the discretion of the agency.
- An employee who returns to work part-time and who uses donated annual leave part-time to care for an elderly family member with a medical emergency accrues leave in his or her regular annual and sick leave accounts for the time spent in work status and in his or her set-aside annual and sick leave accounts when using donated leave.
- Any unused donated annual leave must be returned to the leave donor(s)/bank when the *medical emergency* ends.

**Tip:** An employee is not required to use advanced annual leave or advanced sick leave before receiving donated annual leave under the leave transfer or leave bank programs.

For more information, see our fact sheets on the [Voluntary Leave Transfer Program](#) and the [Voluntary Leave Bank Program](#).

## **G. Leave Without Pay**

An employee may request leave without pay (LWOP) to be absent from work for purposes related to care of an elderly individual or family member. An employee may request LWOP without invoking FMLA, even if he or she has available paid leave. Supervisors should refer to agency internal policy and any applicable collective bargaining agreements and consult with human resources staff prior to granting approval.

LWOP can be used in addition to the flexibilities that are already available, subject to agency policy and any applicable collective bargaining agreement.

**Tip:** For new employees who are not yet eligible for FMLA, an agency can provide the employee with a LWOP benefit that would mirror a FMLA benefit.

See Section E. on FMLA for a discussion of the effect of LWOP on leave accrual and other benefits.

For more information on leave without pay and the impact it has on Federal benefits, see our fact sheets on [Leave Without Pay](#) and the [Effect of Extended Leave Without Pay \(LWOP\) \(or Other Nonpay Status\) on Federal Benefits and Programs](#).

## **H. Compensatory Time Off**

Three types of compensatory time off may be earned and used: compensatory time off in lieu of overtime pay; compensatory time off for travel; and religious compensatory time off.

### ***Compensatory time off in lieu of overtime pay***

This is time off with pay for (1) irregular or occasional overtime work; or (2) regularly scheduled or irregular or occasional overtime work, when permitted under agency flexible work schedule programs. It is subject to agency policy and the premium pay limitation, and there are separate Fair Labor Standards Act (FLSA) rules for employees who are covered (i.e., FLSA non-exempt) or not covered (i.e., FLSA exempt).

Accrued compensatory time off must generally be used by the end of the 26<sup>th</sup> pay period after the pay period during which it was earned. One hour of compensatory time off is granted for each hour of overtime work.

**Scenario:** Vivek's father is going to have a double knee replacement in October. Vivek works as a FLSA-exempt Budget Analyst, and it is near the end of the fiscal year. His office is short-handed and his supervisor asks if he could work extra time to ensure the office closes out all fiscal year end tasks on time. They agree that Vivek will work this time as compensatory time that he can take off in October to care for his father following his knee replacement surgery.

### ***Compensatory time off for travel***

This type of compensatory time may be earned by an employee for time spent in a travel status away from the employee's official duty station when such time is not otherwise compensable, and may be used as paid time off during an expected future absence. There is no limitation on the amount of compensatory time off for travel an employee may earn, but it is generally forfeited if not used by the end of the 26<sup>th</sup> pay period after the pay period during which it is earned.

**Scenario:** Noor is a Federal employee and her position requires her to travel frequently. As such she is earning a lot of compensatory time off for travel. Her mother is undergoing chemotherapy and radiation for cancer, and Noor and her sisters are taking turns caring for her. Noor and her supervisor have discussed Noor using her compensatory time to care for her mother.

### ***Religious compensatory time off***

To the extent that modifications in work schedules do not interfere with the efficient accomplishment of an agency's mission, an employee whose personal religious beliefs require that he or she abstain from work at certain times of the workday or workweek must be permitted to work alternative work hours so that the employee can meet the religious obligation. Employees interested in earning religious compensatory time off should speak with their supervisors.

**Scenario:** Aaron's father died from complications related to Alzheimer's disease. Aaron will be sitting shiva (the mourning period in Judaism for first-degree relatives) for a week, and has gotten approval to take religious compensatory time, and to work the religious compensatory time after he returns to work following the week of mourning.

For more information, see our fact sheets on [compensatory time off in lieu of overtime pay](#), [compensatory time off for travel](#), and [religious compensatory time off](#).

## **I. Alternative Work Schedules**

Alternative Work Schedules (AWS) permit an employee to complete an 80-hour biweekly pay period in less than 10 days. Employees may request to work an AWS in accordance with agency policy and any applicable collective bargaining agreements. These schedules enable managers and supervisors to meet their program goals while, at the same time, helping employees to better balance work, personal, and family responsibilities. There are two categories of AWS—compressed work schedules and flexible work schedules.

### ***Compressed Work Schedules***

These are fixed work schedules that enable full-time employees to complete the basic 80-hour biweekly work requirement in less than 10 workdays. These schedules must be negotiated through collective bargaining or, when not applying to a bargaining unit, voted on by a majority of the employees to be covered by the schedule.

**Example:** An employee is required to work 4 days a week, 10 hours each day. This is a fixed schedule that cannot be changed without taking leave. Although the work schedule is fixed, the employee may use the AWS day off for elder care responsibilities.

### ***Flexible Work Schedules***

These are flexible work schedules that enable employees to select and alter their work schedules to better fit their personal needs and help balance work, personal, and family responsibilities. There are various types of flexible work schedules that provide different degrees of flexibility within the 80-hour biweekly work requirement:

- **Flexitour** – employees elect start/stop times, which then become fixed.
- **Gliding** – employees may vary start/stop times daily.
- **Variable Day** – employees may vary the length of the workday.
- **Variable Week** – employees may vary the number of hours worked each week.
- **Maxiflex** – employees may work fewer than 10 workdays biweekly.

For more information, see OPM's [Handbook on Alternative Work Schedules](#).

### ***Credit Hours***

Some agencies permit employees who work under a flexible work schedule to earn

credit hours, which can assist employees in better managing family responsibilities, including care of an elderly family member. With supervisory approval, employees may be able to request to work credit hours to use at a later time. A total of 24 credit hours may be carried over to be used in a later pay period. For more information, see our fact sheet on [Credit Hours Under a Flexible Work Schedule](#).

#### ***Alternative Work Schedule Facts Related to Elder Care***

- AWS may permit employees to work fewer than 10 days in a pay period, freeing up a day or more for elder care responsibilities.
- Employees who work under flexible work schedules may be permitted to adjust working hours to accommodate medical appointments or responsibilities, saving earned leave for other times when needed.
- Flexible work schedules can help employees arrange work hours in line with other elder care/in-home care providers.

### **J. Telework (Situational)**

Under an agency's telework policy, an employee may be permitted to work at an approved worksite other than the location from which the employee would otherwise work for predefined day(s) in an employee's workweek.

Supervisors should only authorize situational telework where it meets a compelling agency need. Situational telework should be intermittent and not authorized as a substitute for routine or recurring telework. Each agency should ensure that all situational telework requests are appropriately reviewed by managers; that judicious discretion is exercised in authorizing situational telework; and that all situational telework approvals are consistent with Administration policy and OPM guidance.

For additional guidance, please review OPM [FAQs on Return to In-Person Work Implementation](#).

**Tip:** It is important to remember that an employee may not care for a family member while engaged in the performance of official duties. Decisions regarding situational telework should be made consistent with the agency telework policy.

### **K. Part-time Employment and Job Sharing Arrangements**

Agencies may offer part-time schedules to employees who are caring for an elderly family member. Agencies are also encouraged to develop job sharing programs in

consultation with their human resources offices. Prior to implementing new or revised job sharing programs for bargaining unit employees, agencies may be required to satisfy any applicable collective bargaining obligations in accordance with law.

### ***Part-time***

A part-time employee works between 16 and 32 hours each week (or between 32 and 64 hours a pay period) on a prearranged schedule and is eligible for benefits. Part-time employees are eligible, on a prorated basis, for the same benefits as full-time employees: leave, retirement, and health and life insurance coverage.

**Scenario:** Anna and her husband are caring for Anna's mother, who has dementia, in their home. They have some in-home care but cannot afford to pay for full-time care for her mother. Anna discusses her situation with her supervisor, and he approves her to work a part-time schedule of 20 hours a week. The extra hours are just what Anna needs to be able to care for her mother.

### ***Job Sharing***

Job sharing is a form of part-time employment in which the schedules of two or more part-time employees are arranged to cover the duties of a single full-time position. Generally, a job sharing team means two employees at the same grade level. Job sharers are subject to the same personnel policies as other part-time employees. Job sharing does not necessarily mean that each job sharer works half-time or that the total number of hours is 40 per week.

**Tip:** Employees should carefully consider all the personal issues involved in switching to a part-time or job-sharing schedule, such as a reduction in pay, increased share of health insurance premiums, and the change in leave accrual. Although procedures for requesting such schedules vary from agency to agency, the first step is usually to begin discussions with the immediate supervisor.

For more information, see our [Part-time and Job Sharing](#) fact sheet.

### **III. Work-Life Programs for Elder Care**

#### **A. Health-Related Benefits**

Federal employees enjoy a broad selection of health plans and health related benefits to meet their family care needs. Long term care insurance and flexible spending accounts are two of the health-related benefits that Federal employees can use in managing an elder care situation.

##### ***Flexible Spending Account (FSA)***

Flexible spending accounts allow an employee to put aside a portion of his or her salary before taxes to pay for many common out-of-pocket expenses related to health care and dependent care. For more information on OPM's Federal Flexible Spending Account Program (FSAFEDS) and how to utilize FSAs to assist with elder care needs, please see [www.fsafeds.com](http://www.fsafeds.com).

#### **B. Employee Assistance Programs**

All Federal agencies are required by law to provide Employee Assistance Programs (EAPs). An EAP is a voluntary, work-based program to help employees work through various life challenges, such as caring for an elderly parent or loved one. Your agency's EAP can direct employees to a wide range of resources available to assist with the care of an elderly family member, such as short-term counseling; confidential assessments; referrals for assisted living and long-term care facilities; financial resources; estate planning; legal planning and resources; and even assistance with Medicaid, Medicare, and Social Security. Employees should contact their EAP coordinator to learn more about the specific services offered at their agency.

For more information, please see OPM's resources on [Employee Assistance Programs](#) and [Elder Care](#).

#### **C. Dependent Care Programs**

Many agencies offer dependent care programs that provide support for elder caregivers. Examples of such programs include:

- Seminars and brown-bags to provide information related to elder care;
- Support groups for elder caregivers; and
- Emergency back-up care, which provides care services when existing care arrangements have fallen through unexpectedly.



## IV. Overview of Work Scheduling Flexibilities and Work-Life Programs

Sections II and III of this Handbook provide information regarding the leave programs, work scheduling flexibilities, and work-life programs available for elder caregiving. This section provides a brief summary of benefits and is designed to demonstrate interactions among the various leave programs, work scheduling flexibilities, and work-life programs to help employees understand how these options can be used together.

### A. Summary of Leave Programs Available for Elder Care

The following provides a quick summary of the various leave programs available for elder care purposes, broken out by program. An employee may be able to use some or all of these leave programs, depending on his or her leave balances, family association, and interests and needs of the individual employee.

A new employee who is *not eligible* for FMLA may:

Consider the following types of leave to accompany an elderly family member to medical appointments and care for an elderly family member with a minor injury or illness or a serious health condition (Note: incapacity lasting at least 24 work hours meets the requirements for use of donated annual leave under VLTP and VLBP):

- Use **sick leave** entitlement—limited to 12 weeks per leave year to care for a family member with a serious health condition and a total of 12 weeks per leave year for all family care purposes
- Request annual leave
- Request advanced sick leave
- Request advanced annual leave
- Request **donated annual leave** under VLTP/VLBP—may only be used if employee has exhausted his or her available paid leave. Donated annual leave may be used to repay advanced sick or advanced annual leave taken during a medical emergency once the employee is approved for a leave sharing program
- Request **leave without pay** outside of FMLA

An employee who is *eligible* for FMLA may:

Consider the following types of leave to accompany an elderly family member to medical appointments and care for an elderly family member with a minor injury or illness or a serious health condition (Note: incapacity lasting at least 24 work hours meets the requirements for use of donated annual leave under VLTP and VLBP):

- Use **sick leave** entitlement—limited to 12 weeks per leave year to care for a family member with a serious health condition and a total of 12 weeks per leave year for all family care purposes
- Request **advanced sick leave** (agency may require invocation of FMLA if employee is caring for an elderly spouse or parent with a serious health condition)
- Request **annual leave** (agency may require invocation of FMLA if employee is caring for an elderly spouse or parent with a serious health condition)
- Request **advanced annual leave** (agency may require invocation of FMLA if employee is caring for an elderly spouse or parent with a serious health condition)
- Request **donated annual leave** under VLTP/VLBP—may only be used if employee has exhausted his or her available paid leave (agency may require invocation of FMLA if the employee is caring for an elderly spouse or parent with a serious health condition). Donated annual leave may be used to repay advanced sick or advanced annual leave taken during the medical emergency once the employee is approved for the leave sharing program
- Invoke **FMLA** for up to 12 weeks if employee is caring for an elderly spouse or parent with a serious health condition—unpaid leave
  - May substitute sick leave for unpaid FMLA leave
  - May substitute advanced sick leave for unpaid FMLA leave
  - May substitute annual leave for unpaid FMLA leave
  - May substitute advanced annual leave for unpaid FMLA leave
  - May substitute donated annual leave for unpaid FMLA leave
  - May take on an intermittent basis
- Request **leave without pay** outside of FMLA

## B. Differences between Sick Leave, Leave Sharing and FMLA

The following chart highlights the key differences in the individual for whom an employee may provide care for purposes related to sick leave, leave sharing, and FMLA. Since an employee may need to take leave to care for a variety of elderly family members—not just parents—including a parent-in-law, a parent’s same or opposite-sex domestic partner, a grandparent, or an aunt or uncle, an employee will need to pay close attention to the definitions associated with the different programs. The sick leave and leave sharing programs entitle an employee to care for anyone who meets the definition of *family member*. The definition of *family member* is shown in the chart below. The term *family member* is not used in the FMLA regulations. Under FMLA, an employee can care only for the individuals mentioned in the FMLA statute, as shown in the chart below, when that person has a serious health condition. It is important to consider the employee’s relationship to the individual for whom he or she will be providing care in order to properly advise the employee which program(s) he or she can use to care for that individual.

An employee may care for the following individuals using these leave programs	
Sick Leave/Leave Sharing	FMLA
<p>An individual with any of the following relationships to the employee:</p> <ul style="list-style-type: none"><li>• Spouse, and parents thereof;</li><li>• Sons and daughters, and spouses thereof;</li><li>• Parents, and spouses thereof;</li><li>• Brothers and sisters, and spouses thereof;</li><li>• Grandparents and grandchildren, and spouses thereof;</li><li>• Domestic partner and parents thereof, including domestic partners of any individual in the 2nd to 5th bullets of this definition; or</li><li>• Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship</li></ul>	<p>An individual with any of the following relationships to the employee:</p> <ul style="list-style-type: none"><li>• Spouse (same-sex or opposite-sex);</li><li>• Son or daughter (under the age of 18 or incapable of self-care because of a mental or physical disability); or</li><li>• Parent</li></ul>

### C. Summary of Work Schedule Flexibilities Available for Elder Care

The following provides a quick summary of the various work schedule flexibilities available for elder care purposes. An employee may be able to use some or a combination of these flexibilities depending on agency policy, applicable collective bargaining agreements, supervisory approval, and the needs of the individual employee.

An employee who will care for an elderly individual or family member

May request the following flexibilities to adjust his or her work schedule to allow more time to handle elder care matters:

- Request an **alternative work schedule**—compressed or flexible schedules to complete an 80-hour biweekly pay period
- Request **part-time employment**—certain benefits will be prorated
- Request **job sharing**—generally two employees at same grade level share a job and are considered part-time employees

### D. Interaction of Various Work Scheduling Flexibilities and Work-Life Programs for Elder Care Illustrations

An employee facing elder caregiving responsibilities may find it helpful to review the following to provide an understanding of what leave programs, work scheduling flexibilities, and work-life programs may be used in combination to meet employees' specific needs. Please note that the examples do not exhaust all of the various work scheduling flexibilities or work-life programs available to the employee but serve as illustrations of how the various flexibilities and programs can be used together to help the employee meet work and family needs. We encourage each employee to use the checklist and summaries provided in this Handbook to decide which flexibilities would work best for his or her situation and discuss those options with his or her manager/supervisor.

#### *Illustration 1: Parent Losing Vision*

Felicia works in Baltimore, Maryland. Her father lives by himself in New Brunswick, New Jersey. Her father's health is relatively good, but he has macular degeneration that has caused him to give up driving. Felicia's father is dealing with feelings of depression related to losing his independence and Felicia wants to help. What options

does Felicia use to help her father?

- **Alternative Work Schedule (AWS).** Felicia has been approved to work a 5- 4/9 schedule with an AWS day off every other Friday. This provides Felicia with the opportunity to drive to New Jersey on Thursday evening in order to give Felicia her full AWS day off to assist her father with medical and other appointments, such as a vision rehabilitation program where he learns to use various assistive devices. She is able to spend weekends taking care of her father's other needs, e.g., grocery shopping. Felicia appreciates being able to use her AWS day off to care for her father so she can save her sick leave for any future longer-term care needs he may have or any sick leave needs of her own.
- **Sick Leave.** Felicia is entitled to use sick leave to take her father to medical or optical appointments that occur during her scheduled workdays.
- **Agency-Sponsored Elder Care Support Group and Employee Assistance Programs (EAP).** Felicia recently joined an elder care support group at work. She also received several referrals from her agency's EAP for organizations that work with people with limited vision to help her father cope with his declining independence. The EAP also provided referrals for counseling for her father because of his depression.

### ***Illustration 2: Parent Moves into Continuing Care Retirement Community***

Karen's mother is relatively healthy, but she is recovering from a nasty fall that has led to her decision to move into a continuing care retirement community. As a result, Karen and her sister need to help her mother clean out her large house and prepare it for sale. However, Karen's office is short-staffed, making it a bad time for her to take leave. What options does Karen use?

- **EAP.** Karen receives referrals for moving companies and realtors through her EAP.
- **Sick Leave/Annual Leave.** Karen is entitled to use sick leave to take her mother to medical appointments or to care for her mother if she gets sick. She requests annual leave for activities that require her to be absent from work for which sick leave would not be appropriate, such as helping her mother pack and move and taking her mother to social outings and gatherings.

### ***Illustration 3: Caring for an Ill Parent***

Benjamin has a low sick leave balance as a result of caring for his wife during her

recovery from breast cancer. Benjamin's father is now seriously ill after having a heart attack. After being hospitalized and placed in a rehabilitation center, his condition does not improve. It becomes clear that Benjamin's father will have to move into a continuing care facility. What options does Benjamin use?

- **Sick Leave.** Benjamin uses his sick leave to provide psychological comfort to his father while he is in the hospital and in the rehabilitation center.
- **FMLA.** Although Benjamin has a positive sick leave balance, between his wife's cancer and his father's care, he has exhausted his 12 weeks of sick leave to care for a family member with a serious health condition. He invokes his FMLA entitlement as his father's time in the rehabilitation center continues. He substitutes annual leave for FMLA leave without pay in order to remain in a pay status.
- **EAP.** From a list provided by his agency EAP, Benjamin investigates several nursing facilities where his father could move once he leaves the rehabilitation center. Benjamin's EAP also provides referrals for attorneys specializing in elder law who can provide legal counseling.
- **Annual Leave.** Benjamin requests annual leave to clean out his father's apartment and to meet with attorneys regarding legal responsibility for his father's affairs.
- **Voluntary Leave Transfer Program (VLTP).** After he exhausts his annual leave, Benjamin applies to receive donated annual leave under the VLTP to care for his father. Benjamin is eligible to receive donated annual leave even though he has a sick leave balance since he has exhausted his annual leave and the 12 weeks of sick leave per leave year for family care purposes.

#### ***Illustration 4: Employee Balancing Child and Elder Care Responsibilities***

Anna and Fred have two sons and care for Anna's mother who has Alzheimer's disease and is living with them. Fred cares for his mother-in-law during the day and works at night, and Anna works during the day and cares for her mother in the evenings. Recently one of their sons, who has learning disabilities, has been having problems with one of his teachers and is getting in fights. Anna's mother, who has a history of wandering from home, was just discharged from the hospital where she was treated for kidney problems because she refuses to drink enough liquids. Anna feels like she has not slept in years. She is having problems concentrating at work, and her performance is suffering. She feels as if she does not have a break, her marriage is falling apart, she does not know how to handle her son's bad attitude at school and at home, and she is

scared that something tragic will happen to her mother. What resources does Anna use to help with her situation?

- **EAP.** A co-worker suggests Anna contact her EAP. Her EAP counselor provides short-term counselling to help Anna cope with family stressors and refers her to an Alzheimer's support group.
- **Part-time Work Schedule.** Anna's EAP suggests that she consider requesting a part-time work schedule which might help her better deal with the stress of her multiple responsibilities.

### ***Illustration 5: Serious Illness and Death of a Parent***

Chloe lives with her mother, who has contracted a severe case of the flu and ends up in the hospital. While in the hospital, Chloe's mother was diagnosed with pneumonia. Unfortunately, her condition rapidly deteriorates, and Chloe's mother dies. What flexibilities are there to assist Chloe?

- **Sick Leave.** Chloe uses sick leave for 3 days while her mother is sick in bed with the flu and to provide psychological comfort to her mother as her condition worsens.
- **Annual Leave and VLTP.** After exhausting her annual leave, Chloe applies for the VLTP and uses donated annual leave to continue round-the-clock care for her mother. After her mother's death, Chloe's agency approves her to remain on the VLTP to make arrangements for her mother's funeral and attend the funeral.
- **EAP.** Upon her return to work, Chloe contacts her EAP to find support with grief counseling.



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