

## **3 FAM 3350 LEAVE AND REASSIGNMENT OF DUTIES FOR MATERNITY AND PATERNITY REASONS**

*(TL:PER-554; 06-29-2005)  
(Office of Origin: HR/ER/EP)*

### **3 FAM 3351 GENERAL**

*(TL:PER-554; 06-29-2005)  
(Uniform State/Agriculture/BBG/Commerce/USAID)  
(Applies to Foreign Service & Civil Service Employees)*

- a. A female employee may request annual leave, sick leave and/or leave without pay (LWOP) for pregnancy and childbirth incapacitation and care of a newborn.
- b. A male employee may request annual leave, sick leave, and/or LWOP consistent with current regulations for purposes of care of a newborn child or the mother of his newborn child while she is incapacitated for maternity reasons.
- c. Refer to 3 FAM 3530, Family Medical Leave Act (FMLA); 3 FAM 3410, Annual Leave; 3 FAM 3420, Sick Leave; 3 FAM 3130, Premium Compensation; and 3 FAM 3510, *Leave without Pay (LWOP)*.

### **3 FAM 3352 AUTHORITY**

*(TL:PER-554; 06-29-2005)  
(Uniform State/Agriculture/BBG/Commerce/USAID)  
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The authorities for this policy are as follows:

- (1) 5 U.S.C. Chapter 63 (Annual and Sick Leave);
- (2) *5 U.S.C.* 5541 - 5550;
- (3) 5 CFR 630.301 *et seq.*, Subpart C (Annual Leave);

- (4) 5 CFR 630.401 *et seq.*, Subpart D (Sick Leave);
- (5) 5 CFR 630.1201 *et seq.*, Subpart L (*Family and Medical Leave*); and
- (6) 5 CFR, Part 550 and 551.

### **3 FAM 3353 EMPLOYEE RESPONSIBILITY**

*(TL:PER-554; 06-29-2005)*

*(Uniform State/Agriculture/BBG/Commerce/USAID)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. As with all leave requests, prior to taking leave, an employee should request leave in writing and complete a Form OPM-71, Request for Leave or Approved Absence, to request sick leave, annual leave and/or leave without pay for maternity and paternity reasons. The Form OPM-71 must be submitted to the employee's supervisor, or the person acting on supervisor's behalf, for approval. The employee must include the type of leave, approximate dates and anticipated duration of leave to allow for any staffing adjustments that may be necessary.
- b. For unpaid leave under the Family and Medical Leave Act of 1993 an employee *must* complete and submit a Form DS-1923, "*Family and Medical Leave Act (FMLA)*", to the employee's bureau executive director for approval

### **3 FAM 3354 RESPONSIBILITY OF APPROVING OFFICER**

#### **3 FAM 3354.1 Medical Documentation**

*(TL:PER-554; 06-29-2005)*

*(Uniform State/Agriculture/BBG/Commerce/USAID)*

*(Applies to Foreign Service & Civil Service Employees)*

If there are questions as to the physical ability of a pregnant employee to perform her job without hazard to her health, the approval officer should request that the employee furnish medical documentation. The approval officer may, after consultation with *and consent of* the employee, find it desirable to discuss the employee's general state of health with her physician or practitioner, and/or a health practitioner in the Office of Medical Services.

### **3 FAM 3354.2 Determining Working Conditions**

*(TL:PER-554; 06-29-2005)*

*(Uniform State/Agriculture/BBG/Commerce/USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. The supervisor should make an effort to be aware of any particular working condition or strenuous requirements which may be part of the work environment and which could have an adverse affect upon employees with various physical conditions, including pregnancy. The Department's Office of Medical Services (*M/MED*) is responsible, as necessary, on a case-by-case basis for determining whether any of the physical requirements of the job could have a harmful effect upon a pregnant employee or an unborn child. The employee should consult with her physician (and if abroad, with the post Foreign Service Health Practitioner, e.g., the regional medical officer or the post medical advisor) on this matter. If, after those discussions, it is found that the duties of the employee require activity or exposure which may be injurious to the employee's health or the health of her baby, every reasonable effort should be made by the supervisor to make reasonable adjustments to the current job or otherwise detail or temporarily reassign the employee to other available work for which she is qualified. If work assignments permit, an employee may be eligible to *telework*. Guidelines for the use of *telework* can be found at [3 FAM 2360](#).
- b. The objective should be to provide the employee with gainful employment and to make use of her skills for as long as she is able to perform the duties of her regular position. If the employee has medical documentation of her incapacitation for the duties of her regular position and no other work assignments are available or she is unable to perform them, she should be granted sick leave, annual leave, and/or leave without pay.

### **3 FAM 3354.2-1 DETERMINING WORKING CONDITIONS - DS EMPLOYEES ONLY**

*(TL:PER-554; 06-29-2005)*

*(Uniform State/Agriculture/BBG/Commerce/USDA)*

*(Applies to Foreign Service & Civil Service Employees)*

- a. *Although available evidence is inconclusive, a pregnant employee's exposure to lead and noise on a firing range may be unsafe to the health of her fetus. Since carrying a firearm requires regular qualification training on a firing range, pregnant employees who carry firearms as a requirement of their job are strongly encouraged to request temporary reassignment to duties that do not involve protective, investigative or*

*other activities that require carrying a firearm. Before their next scheduled date for firearms re-qualification training, employees choosing reassignment must submit a written request and physician's confirmation of pregnancy to their immediate supervisor with a copy to the Executive Director. The supervisor, in consultation with the employee and Executive Director, will determine the temporary reassignment.*

- b. A pregnant employee may opt to continue firearms training. However, before deciding, a pregnant employee must discuss the potential health risks with both her personal physician and the Office of Medical Services (DGP/MED) liaison. If she chooses to continue, she should submit a written statement attesting to these medical discussions to the Office Director responsible for the range. The director must ensure the range accommodates the employee with procedures designed to reduce her exposure to lead and noise.*

## **3 FAM 3355 CONTINUED EMPLOYMENT**

### **3 FAM 3355.1 Employee Planning To Return To Duty**

*(TL:PER-554; 06-29-2005)  
(Uniform State/Agriculture/BBG/Commerce/USAID)  
(Applies to Foreign Service & Civil Service Employees)*

- a. An employee is entitled to continued employment in her original position or a position of like seniority and status and pay, if she wishes to return to work following delivery and incapacitation, unless termination is otherwise required by expiration of appointment, reduction in force, for cause or for other reasons unrelated to the maternity absence. See [3 FAM 3530](#) for employment and benefits, *pursuant to the Family and Medical Leave Act.*
- b. Diplomatic Security employees who were temporarily reassigned to light duty not requiring firearms training at their request during pregnancy must successfully complete firearms re-qualification training prior to returning to their original position and carrying a firearm.*

## **3 FAM 3356 THROUGH 3359 UNASSIGNED**