



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME: 38

ISSUE: 18

CHECK APPROPRIATE BOX:

- Notice with a scheduled hearing
- Notice without a scheduled hearing
- Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 14. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: [State Human Resources Commission](#)

2. Link to agency website pursuant to G.S. 150B-19.1(c): <https://oshr.nc.gov/about-oshr/state-hr-commission/proposed-rulemaking>

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

ADOPTION: 25 NCAC 01E .1901-.1910

AMENDMENT:

REPEAL:

READOPTION with substantive changes:

READOPTION without substantive changes:

REPEAL through READOPTION:

4. Proposed effective date: [07/01/2024](#)

5. Is a public hearing planned? **Yes**

If yes:

Date	Time	Location
04/01/2024	10:00-11:00a.m.	https://ncgov.webex.com/ncgov/j.php?MTID=mb24fc95744d68958e6f8220fbbb53b72 Meeting number (access code): 2423 144 9550 Meeting password: 9RduhXe7BX6

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s):

The proposed rules are required to comply with recent legislation that requires the State Human Resources Commission (SHRC) to adopt rules regarding paid parental leave (PPL) for state agency employees. The proposed rules implement the provisions of G.S. 126-8.6 and G.S. 126-5(c19), as well as provide additional interpretation and clarifications where needed. These statutes were enacted by Part V of Session Law 2023-14, then amended by Session Law 2023-65 (Part XII-A) and Session Law 2023-134 (Section 7.83).

The statute requires that the SHRC “shall adopt rules and policies to provide” that certain State employees may take PPL under certain conditions. G.S. 126-8.6(b)(c). The proposed rules meet these statutory requirements, which are of two types. The first type of statutory requirement specifies substance that must appear in the SHRC rules. For example, by law, the rules must “provide” that the PPL for full-time eligible State employees will be “[u]p to eight weeks of paid leave after giving birth to a child” and “[u]p to four weeks of paid leave after any other qualifying event.” G.S. 126-8.6(b). The second type of statutory requirement specifies that SHRC rules must address a topic, but gives the SHRC discretion about what the rules may say. For example, the statute states that the SHRC “shall adopt rules and policies providing for a period of minimum service before an employee becomes eligible for parental leave,” but the statute does not specify what the number must be for this period. G.S. 126-8.6(c1).

A copy of the fiscal note can be obtained from the Office of State Human Resources, which staffs the SHRC, or can be obtained from the OSHR website.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or email. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 984-236-1850.

Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Blake Thomas
Address: 333 Fayetteville Street
Raleigh, NC 27601
Phone (optional): 984 236-0822
Fax (optional):
EMail (optional) blake.thomas@nc.gov

10. Comment Period Ends: 05/14/2024

11. Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.

- State funds affected
- Local funds affected
- Substantial economic impact (>= \$1,000,000)
- Approved by OSBM

12. Rule-making Coordinator:

Name: Denise Mazza
984-236-0823
denise.mazza@nc.gov

Agency contact, if any:

Name: Blake Thomas
Phone: 984 236-0822
Email: blake.thomas@nc.gov

13. The Agency formally proposed the text of this rule(s) on

Date: 02/15/2024

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1901 is proposed for adoption under permanent procedures as follows:
2

3 **25 NCAC 01E .1901 DEFINITIONS**

4 For the purposes of this Section, the following definitions shall apply:

5 (1) "Agency" means any State agency, department, institution, office, board, or commission, including
6 institutions and offices of the University of North Carolina, but excluding the legislative branch, the
7 judicial branch, community college institutions, and public schools.

8 (2) "Child" means a child as defined at G.S. 126-8.6(a)(1).

9 (3) "Parent" means:

10 (a) the mother or father of a child through birth or legal adoption; or

11 (b) an individual who cares for a child through foster or other legal placement under the
12 direction of a government authority.

13 (4) "Qualifying event" means when an employee becomes a parent to a child.
14

15 History Note: Authority G.S. 126-5(c19); 126-8.6;

16 Temporary Adoption Eff. August 25, 2023;

17 Permanent Adoption _____, 2024.
18

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1902 is proposed for adoption under permanent procedures as follows:

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3 **25 NCAC 01E .1902 RELATIONSHIP TO OTHER RULES AND POLICIES**

4 (a) This Section states the terms and conditions only for paid parental leave that is provided under G.S. 126-8.6 by an
5 agency, as defined in Rule .1901 of this Section.

6 (b) The paid parental leave provided under this Section is in addition to any other leave authorized by state or federal
7 law.

8

9 *History Note:* Authority G.S. 126-8.6;

10 Temporary Adoption Eff. August 25, 2023;

11 Permanent Adoption _____, 2024.

Permanent Adoption for Publication in the NC Register

25 NCAC 01E .1903 is proposed for adoption under permanent procedures as follows:

25 NCAC 01E .1903 ELIGIBILITY FOR PAID PARENTAL LEAVE

(a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt from other sections of the State Human Resources Act.

(b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.

(c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the qualifying event, the employee meets each of the following conditions.

(1) For the immediate 12 preceding months, the employee has been employed without a break in service as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment by:

(A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;

(B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or

(C) community college institutions of the State of North Carolina, aggregating employment at any of these employers.

(2) The employee has been in pay status with:

(A) the State of North Carolina agencies, departments, and institutions, including without limitation the University of North Carolina;

(B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or

(C) community college institutions of the State of North Carolina, for at least 1,040 hours, aggregating employment at any of these employers, during the previous 12-month period.

(d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1, 2023.

History Note: Authority G.S. 126-8.6;

Temporary Adoption Eff. August 25, 2023;

Temporary Adoption Eff. December 22, 2023;

Permanent Adoption _____, 20__.

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1904 is proposed for adoption under permanent procedures as follows:
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3 **25 NCAC 01E .1904 LEAVE AVAILABLE TO FULL-TIME EMPLOYEES**

4 (a) Full-time employees eligible for paid parental leave under this Section may take, in their discretion, up to the
5 following amounts of leave:

6 (1) For a parent who gives birth to a child, eight total weeks of paid parental leave, made up of:

7 (A) Four weeks for physical and mental recuperation, and

8 (B) Four additional weeks for bonding with the child.

9 (2) For any other qualifying event, four weeks of paid parental leave for bonding with the child.

10 (b) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible
11 employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's
12 regular weekly schedule).

13

14 History Note: Authority G.S. 126-8.6;

15 Temporary Adoption Eff. August 25, 2023;

16 Permanent Adoption _____, 2024.

17

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1905 is proposed for adoption under permanent procedures as follows:
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3 **25 NCAC 01E .1905 LEAVE AVAILABLE TO PART-TIME EMPLOYEES**

4 (a) Part-time employees (regardless whether they work half-time or more) shall receive paid parental leave under this
5 Section if they meet all other requirements for eligibility.

6 (b) Part-time employees eligible for paid parental leave under this Section may take, in their discretion, a prorated
7 amount of leave based on the hours worked in the employee's regular, weekly schedule compared to the hours worked
8 by a full-time employee in a similar position at that agency.

9 (c) Each week of paid parental leave under this Section shall result in compensation at 100 percent of the eligible
10 employee's regular pay on a straight-time basis (without including overtime pay or paid time off, on the employee's
11 regular weekly schedule).

12
13 *History Note: Authority G.S. 126-8.6;*

14 *Temporary Adoption Eff. August 25, 2023;*

15 *Permanent Adoption _____, 2024.*
16

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1906 is proposed for adoption under permanent procedures as follows:
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3 **25 NCAC 01E .1906 USE OF OTHER LEAVE**

4 The paid parental leave provided under this Section shall not be counted against or deducted from the employee's sick,
5 vacation, bonus, or other accrued leave. For agency employees, the paid parental leave provided under this Section is
6 in addition to any other leave authorized by law, rule, or policy, including but not limited to leave without pay provided
7 under 25 NCAC 01E .1110, voluntary shared leave under G.S. 126-8.3 and 25 NCAC 01E .1300, or family and
8 medical leave. However, when an employee becomes eligible, as described in 25 NCAC 01E .1400, for family and
9 medical leave, the paid parental leave under this Section shall run concurrently with the family and medical leave.

10

11 *History Note: Authority G.S. 126-8.6;*

12 *Temporary Adoption Eff. August 25, 2023;*

13 *Permanent Adoption _____, 2024*

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1907 is proposed for adoption under permanent procedures as follows:
2

3 **25 NCAC 01E .1907 REQUESTING USE OF PAID PARENTAL LEAVE**

4 (a) Eligible employees may take paid parental leave in one continuous period or may take intermittent use of paid
5 parental leave. Requests for intermittent use of paid parental leave are subject to the agency's approval as stated in
6 Paragraph (d) of this Rule.

7 (b) Whenever possible, eligible employees shall notify their employing agencies at least 10 weeks in advance of their
8 intention to use paid parental leave. This requirement is so that agencies can secure backfill coverage.

9 (c) The agency shall not deny, delay, or require intermittent use of paid parental leave to employees who gave birth
10 and seek to use paid parental leave in one continuous period.

11 (d) For all other employees, the agency may delay providing paid parental leave or may provide paid parental leave
12 intermittently if it determines that providing the leave will cause a public safety concern, meaning a significant
13 impairment to the agency's ability to conduct its operations in a manner that protects the health and safety of North
14 Carolinians. For example, the extension of paid parental leave to an eligible employee who did not give birth may
15 constitute a public safety concern if:

16 (1) Providing the paid parental leave would result in agency staffing levels below what is required by
17 federal or state law to maintain operational safety; or

18 (2) Providing the paid parental leave may impact the health or safety of staff, patients, residents,
19 offenders, or other individuals the agency is required by law to protect; and

20 (3) The agency has been unable to secure supplemental staffing after requesting or diligently exploring
21 alternative staffing options.

22 (e) If the agency determines that it must delay paid parental leave, or make paid parental leave intermittent, because
23 of a public safety concern under Paragraph (d) of this Rule, the agency shall provide paid parental leave as soon as
24 practical following the qualifying event.

25
26 *History Note: Authority G.S. 126-8.6;*

27 *Temporary Adoption Eff. August 25, 2023;*

28 *Permanent Adoption _____, 2024.*

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1908 is proposed for adoption under permanent procedures as follows:
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3 **25 NCAC 01E .1908 LEAVE ADMINISTRATION**

4 (a) Paid parental leave under this Section may be used only once by an eligible employee within a rolling 12-month
5 period.

6 (b) The birth or other qualifying event of twins, triplets, or other multiple children shall produce only one award of
7 paid parental leave under this Section.

8 (c) Both parents may receive paid parental leave under this Section if they are both eligible agency employees. Both
9 parents may take their leave simultaneously or at different times, subject to Rule .1907 of this Section.

10 (d) Employees shall submit documentation that they will use paid parental leave for a qualifying event under this
11 Section. An agency may take appropriate action if an employee fraudulently requested or used paid parental leave.
12 This action may include revoking approval and disciplinary action up to and including dismissal, pursuant to 25 NCAC
13 01J .0600.

14 (e) Employees shall not be paid for the leave provided by this Section upon separation from the employer. The leave
15 provided by this Section shall not be used for calculating an employee's retirement benefits and shall not accrue or be
16 donated as voluntary shared leave.

17 (f) Paid parental leave provided under this Section shall be reported separately from all other paid leave. Employees
18 and supervisors are responsible for accurate reporting of the use of this leave on the employee's time record.

19

20 *History Note: Authority G.S. 126-4(6); 126-8.6; 126-35(a);*

21 *Temporary Adoption Eff. August 25, 2023;*

22 *Permanent Adoption _____, 2024.*

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1909 is proposed for adoption under permanent procedures as follows:

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3 **25 NCAC 01E .1909 LEAVE ADMINISTRATION FOR ADOPTIONS OR FOSTER CARE**
4 **PLACEMENTS**

5 (a) When a child is given up for adoption or placed in foster care, from that point forward:

6 (1) The birth parent shall continue to be eligible for the paid parental leave listed in Rule .1904(a)(1)(A)
7 of this Section for physical and mental recuperation; and

8 (2) Each parent shall not be eligible for further use of the paid parental leave listed in Rule
9 .1904(a)(1)(B) of this Section for bonding with the child.

10 (b) When a prospective adoptive parent or foster parent expects an adoption or placement, but it does not occur, it
11 does not produce paid parental leave under this Section. However, agencies are encouraged to be flexible and allow
12 adequate time for bereavement to the persons who would have become parents, using sick leave, vacation leave, bonus
13 leave, compensatory time, and any other leave options that may be available to the employee.

14
15 History Note: Authority G.S. 126-8.6;

16 Permanent Adoption _____, 2024.

Permanent Adoption for Publication in the NC Register

1 25 NCAC 01E .1910 is proposed for adoption under permanent procedures as follows:
2

3 **25 NCAC 01E .1910 MISCARRIAGE OR STILLBIRTH**

4 (a) When a fetus dies before 12 weeks of the pregnancy were complete, it is not a qualifying event for paid parental
5 leave under this Section.

6 (b) When a fetus dies after the 12th completed week of pregnancy, but before childbirth is complete:

7 (1) If the birth parent meets the eligibility requirements in Rule .1903 of this Section, the birth parent
8 may receive the paid parental leave listed in Rule .1904(a)(1)(A) of this Section. This leave is four
9 weeks for a full-time eligible state employee.

10 (2) The parents shall not receive the paid parental leave for bonding with the child that is listed in Rule
11 .1904(a)(1)(B) and Rule .1904(a)(2) of this Section.

12 (c) When a child dies after childbirth is complete, each parent of the child who meets the eligibility requirements in
13 Rule .1903 of this Section shall receive the full paid parental leave listed in Rule .1904(a)(1) and (a)(2). The paid
14 parental leave will not be ended at the time of the child's death.

15 (d) In any of the situations above, agencies are encouraged to be flexible and allow adequate time to the parents for
16 bereavement and recovery, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave
17 options that may be available to the employee.

18
19 History Note: Authority G.S. 126-8.6;

20 Permanent Adoption _____, 2024.