

# **Paid Parental Leave Guidelines**

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## **Purpose**

In order to optimize the health and well-being of parents and children, support recruitment and retention of employees, and stabilize income for new parents, it shall be the order of the Office of the Governor directing state agencies within the Governor's oversight or other state entities whose agency head has elected to participate, to provide Paid Parental Leave to enable Eligible State Employees to care for and bond with a newborn or child under the age of eighteen (18) newly-placed for adoption, foster, or other legal placement. This guide will be in effect for births or adoptive, foster or other legal placements occurring on or after September 1, 2019.

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## **Guidelines**

The Guidelines provide an administrative framework for the use of Paid Parental Leave. Eight (8) weeks (320 hours) of Paid Parental Leave shall be provided to Eligible State Employees who have given birth for recuperation during the disability period and bonding with a newborn. Four (4) weeks (160 hours) of Paid Parental Leave shall be provided to other Eligible State Employees to care for and bond with a newborn or newly

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adopted, foster, or otherwise legally placed child.

Paid Parental Leave must be used within 12 months of the birth, adoption, foster, or other legal placement of a child (under age eighteen) with the state employee. Each week of Paid Parental Leave will be compensated at 100% of the employee's regular, straight-time weekly pay.

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### **Agency Participation**

Entities not subject to the Governor's oversight are encouraged but not required to comply with the Executive Order and guidelines.

Participating State Agencies shall provide Paid Parental Leave when requested by an Eligible State Employee unless doing so would create a Public Safety Concern as defined by the following considerations:

1. State Agency staffing levels below what is required by federal or state law to maintain operational safety or that impact the health of staff, patients, residents, offenders, or other individuals; and
2. The State Agency has been unable to secure supplemental staffing after requesting or diligently exploring alternative staffing options.

However, under no circumstances may Paid Parental Leave be denied, delayed, or provided intermittently to an Eligible State Employee who has given birth, unless the employee requests intermittent Paid Parental Leave.

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### **Coverage and Eligibility**

An employee's eligibility for Paid Parental Leave shall be made based on the employee's months of service and hours of work as of the date of the qualifying life event. Employees who become parents via birth, adoption, foster or another legal placement are eligible if:

- Employee is full time or part-time (half time or more) in a permanent or time limited position.

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- Employee has been continuously employed by the State of North Carolina for the immediate 12 preceding months.
- Employee must be eligible for Family and Medical Leave (FML) by being in pay status for at least 1,040 hours in the previous 12-month period.

Eligibility determinations are made as of the date that the child is born or placed via adoption, foster or other legal placement. Note: Other legal placement does not include parental custody cases or legal assignments as a Guardian ad Litem (GAL).

State Agencies shall provide Paid Parental Leave to employees in part-time (half time or more) positions who would otherwise qualify as Eligible State Employees. Leave for part-time State Agency Employees will be awarded on a pro-rated basis corresponding to the percentage of hours they normally are scheduled to work.

If both parents are Eligible State Employees, each may receive Paid Parental Leave. Both parents may take their leave simultaneously or at different times, pending no Public Safety concern.

An Eligible State Employee who has given birth may receive eight (8) weeks of Paid Parental Leave but will not receive an additional four (4) weeks of Paid Parental Leave for that birth.

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### **Leave Amount**

Eligible State Employees shall receive:

1. Eight (8) weeks (320 hours) of Paid Parental Leave to Eligible State Employees who have given birth; or
  2. Four (4) weeks (160 hours) of Paid Parental Leave to Eligible State Employees to care for and bond with a newborn or recently adopted, foster, or otherwise legally placed child.
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### **Leave Usage**

Paid Parental Leave may be utilized as follows:

- Paid Parental Leave may be used only once for a Qualifying Event within a twelve-month period. The fact that a multiple birth, adoption or other legal placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the total amount of Paid Parental Leave granted for that event.
  - Unused Paid Parental Leave is forfeited twelve (12) months from the date of the birth or legal placement, whichever comes first.
- Paid Parental Leave shall not accrue or be donated to another state employee.
- Eligible State Employees may charge Paid Parental Leave in one continuous period.
- Eligible State Employees may not use accrued sick leave, annual leave or other leave in lieu of Paid Parental Leave.
- Eligible State Employees may request intermittent use of Paid Parental Leave subject to the agency's approval.
- State Agencies must provide Paid Parental Leave as soon as practical following the Qualifying Event. If the State Agency determines that providing Paid Parental Leave will cause a Public Safety concern to the State Agency, the State Agency may delay providing Paid Parental Leave or provide Paid Parental Leave in intermittent periods.
- However, under no circumstances may Paid Parental Leave be denied, delayed, or provided intermittently to an Eligible State Employee who has given birth, unless the employee requests intermittent Paid Parental Leave.
- Each week of Paid Parental Leave is compensated at 100 percent of the employee's regular, straight-time weekly pay (to exclude shift differential, premium pay, or overtime).
- Paid Parental Leave shall not be counted against or deducted from the Eligible State Employee's accrued leave balances.
- Unused Paid Parental Leave is not compensable if an employee separates from employment with the State of North Carolina or moves to a non-covered position.
- Leave usage must be recorded in same required increments as all other time.

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- If the employee requires leave before the actual birth or adoption due to medical reasons or to fulfill legal adoption obligations, other available leave balances shall be utilized in accordance with the agency leave policy. Paid Parental leave shall not be used prior to the qualifying event.

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### **Family and Medical Leave**

Paid Parental Leave runs concurrently with Family and Medical Leave (FML), as applicable.

- Employees using Paid Parental Leave are afforded the remaining job protection under FML for an absence up to a total of twelve (12) weeks (480 hours). They may charge personal leave or take leave without pay to cover the additional absence.
- An employee shall be eligible for Paid Parental Leave even if the employee has exhausted her/his FML time consistent with the law covering FML.
- If an employee becomes eligible for FML while on Paid Parental Leave, the employee must apply for and use FML and the leave runs concurrently with FML.

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### **Employee Responsibility**

Eligible State Employees:

- Whenever possible, shall be required to submit a written request to notify their employing state agency ten (10) weeks in advance of their intention to use Paid Parental Leave so that the State Agency may secure backfill coverage.
- May withdraw their request for Paid Parental Leave at any time.
- Shall be required to comply with agency leave request procedures, absent unusual circumstances.
- Must submit the requested certification of eligibility documents in order to receive Paid Parental Leave within thirty (30) days of the birth or adoption or as soon as it becomes available.
- Shall be required to submit documentation providing that they will use Paid Parental Leave for a Qualifying Event. State Agencies may take appropriate action if there is evidence that the employee fraudulently requested, used, or otherwise abused Paid Parental Leave. This action may include revoking approval and disciplinary action up to

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and including dismissal.

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### **Certification of Eligibility for Paid Parental Leave**

Eligible State Employees shall be required to certify that they will use Paid Parental Leave to give birth to a child or will use Paid Parental Leave to care for or bond with a child.

If Paid Parental Leave will run concurrent with Family Medical Leave, employees may be required to submit documentation (if applicable).

Official documents may include but not limited to:

<b><u>Qualifying Event</u></b>	<b><u>Acceptable Documentation</u></b>
Adoption	<ul style="list-style-type: none"><li>• Adoption Order</li><li>• Proof of Placement</li></ul>
Birth	<ul style="list-style-type: none"><li>• Birth Certificate or Report of Birth</li><li>• Certified DNA Results</li><li>• Custody Order</li></ul> Proof of Placement
Foster Placement	<ul style="list-style-type: none"><li>• Foster Care Placement Agreement</li><li>• Custody Order</li><li>• Proof of Placement</li></ul>
Other Legal Placements	<ul style="list-style-type: none"><li>• Custody Order</li><li>• Proof of Placement</li></ul>

Documents provided must show the date of birth or date of placement, if placement was other than the date of birth. The name of the legal parent must appear on the birth certificate, a legal document establishing paternity or a legal document establishing adoption.

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### **Agency Responsibility**

State Agencies shall:

- Develop a written internal process which must include how the agency plans to address delays and denials of Paid Parental Leave requests due to Public Safety concerns.
- Upon receiving a request for Paid Parental Leave and documentation of the birth or placement, the agency must notify the employee of his or her eligibility status within

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five (5) business days.

- Provide required documentation to employees for completion of the certification process.
- Disseminate information concerning the Paid Parental Leave program to new and existing employees.
- Collect and report to OSHR information regarding the usage of Paid Parental Leave by Eligible State Employees for the previous fiscal year by August 1, 2020, and every year thereafter.

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### **Office of State Human Resources (OSHR) Responsibility:**

OSHR shall:

- Develop and disseminate guidelines on the administration of Paid Parental Leave to include how this leave interacts with FML and other leave as applicable.
- Collaborate with State Agencies to ensure State Agency employees, management and staff receive information about and understand the obligations and rights contained in Paid Parental Leave guidelines.
- Report to the Office of the Governor on implementation and usage of Paid Parental Leave by September 1, 2020 and each year thereafter.
- Initiate any additional steps necessary to provide guidance in administering Paid Parental Leave.

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### **Definitions:**

<p><b>Access to Paid Parental Leave</b> – An Eligible State Employee who has provided the appropriate documentation may charge Paid Parental Leave beginning on the date of birth of an infant or date of an adoptive, foster, or other legal placement of a child. Parental leave expires when utilized, but not later than twelve (12) months after the birth or placement.</p>
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<p><b>Adoption-</b> The act of legally and permanently assuming the responsibility of raising a child as one's own.</p>
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**Child** - A newborn biological child or a newly placed adopted, foster, or otherwise legally placed child under the age of eighteen, whose Parent is an Eligible State Employee.

**Eligible State Employee** - A full-time permanent, part-time (half time or more) or time-limited employee who has been continuously employed by the State of North for the immediate twelve (12) preceding months and is eligible for Family and Medical Leave (“FML”) by working for at least 1,040 hours in the previous twelve-month period as set forth in 25 N.C. Admin. Code 1E.1402(a) and is employed in an agency under the Governor’s oversight or a participating agency.

**Foster Care** - The act of temporarily assuming the responsibility of daily care and supervision for a child removed from his or her birth family home due to issues endangering their health and/or safety. Paid Parental Leave may be used for temporary arrangements made through local departments of social services with the intent of reuniting the child with his/her birth family if possible.

**Paid Parental Leave** – Eight weeks (320 hours) of 100% paid leave to be provided to an Eligible State Employee upon the Eligible State Employee giving birth or four weeks (160 hours) of 100% paid leave to be provided to an Eligible State Employee upon all Qualifying Events.

**Parent - Parent** - A parent by childbirth, adoption, foster care, other legal placement, or an individual who stood in loco parentis (a person who is in the position or place of a parent).

Note: 1. Other legal placement does not include parental custody cases or legal assignments as a Guardian ad Litem (GAL). 2. In loco parentis refers to a relationship in which a person puts himself or herself in the situation of a parent by assuming and discharging the obligations of a parent to a child. The in loco parentis relationship exists when an individual intends to take on the role of a parent to a child who is under 18. Although no legal or biological relationship is necessary, grandparents or other relatives, such as siblings, may stand in loco parentis to a child as long as the relative satisfies the in loco parentis requirements.



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**Public Safety Concern** - A significant impairment to the State Agency's ability to conduct its operations in a manner that protects the health and safety of North Carolinians. The extension of Paid Parental Leave to an Eligible State Employee may constitute a Public Safety Concern if: (1) the provision of Paid Parental Leave results in State Agency staffing levels below what is required by federal or state law to maintain operational safety or that impact the health of staff, patients, residents, inmates, or other individuals the State Agency is required by law to protect, and (2) the State Agency has been unable to secure supplemental staffing after requesting or diligently exploring alternative staffing options.

**State Agency** – Any North Carolina department, agency, board, commission, or committee for which the Governor has oversight responsibility or other state entities whose agency head has elected to participate in Paid Parental Leave.

**Qualifying Event** – The birth of a Child to an Eligible State Employee, or the adoption, foster care, or other legal placement of a Child with an Eligible State Employee.

Note: Other legal placement does not include parental custody cases or legal assignments as a Guardian ad Litem (GAL).