

Paid Parental Leave Pilot

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Purpose

The Office of State Human Resources has established this policy to allow State Agencies to offer a Paid Parental Leave pilot program. Paid Parental Leave is designed to promote families' physical and mental health, increase worker retention, and improve worker productivity and morale. In accordance with G.S. 126-1, the Office of State Human Resources has established the following policy to provide guidance to agencies in developing Paid Parental Leave pilot programs.

Covered Employees

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 childbirth, adoption, foster care or another legal placement are eligible if:

- Employee is full-time or part-time (half-time or more) in a permanent, probationary, or time-limited position. Leave for part-time employees will be awarded on a pro-rated basis corresponding to the percentage of hours they normally are scheduled to work.
- Employee has been continuously employed by the State of North Carolina for the immediate twelve (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 twelve-month period.

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Temporary and part-time (less than half-time) employees are not eligible to participate in this program.

The decision whether to allow a position or an employee to use Paid Parental Leave is wholly within management discretion and is not appealable to the Office of Administrative Hearings.

Definitions

For purposes of this policy, the terms below mean the following:

State Agency - Any North Carolina department, agency, board, commission, committee or University with employees subject to the State Human Resources Act, G.S. 126.
Eligible State Employee - A full-time, part-time (half-time or more) permanent, probationary, or time-limited employee who has been continuously employed by the State of North Carolina for the immediate twelve (12) preceding months and is eligible for Family and Medical Leave (FML) by being in pay status for at least 1,040 hours in the previous twelve-month period, as set forth in 25 N.C. Admin. Code 01 E .1402(a).
Parent - A parent by childbirth, adoption, foster care, or other legal placement.
Child - A newborn biological Child or a newly-placed adopted, foster or otherwise legally placed Child under the age of eighteen (18), whose Parent is an Eligible State Employee.
Paid Parental Leave – 100% paid leave to be provided to an Eligible State Employee upon the Eligible State Employee giving birth for both recuperation during the disability period and bonding with a newborn Child, or leave provided to other Eligible State Employees to care for and bond with a newborn Child or newly adopted, foster or otherwise legally placed Child. Note: Leave for a part-time (half-time or more) Eligible State Employee shall be on a prorated basis corresponding to the percentage of hours they are normally scheduled to work. Unless otherwise specified in this policy, Executive Order 95, <i>Providing Paid Parental Leave to Eligible State Employees</i> . or in OSHR

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guidelines, leave for part-time State Agency employees shall be the same in all respects as Paid Parental Leave for Eligible State Employees.

Note: Agencies granting parental leave must uphold the principle of equal treatment established in Rotondo v. J.P. Morgan, 1:19 cv 408 (S.D. Ohio 2019). For example, under Executive Order 95 the birth mother receives four (4) weeks for recuperation and recovery and four (4) weeks for parental bonding leave which is equal to the four (4) weeks the other parent receives for parental bonding leave. The non-birth parent did not give birth so they are not receiving unequal treatment by not receiving recuperation and recovery leave. Alternatively, equal treatment could be structured as both parents receiving eight (8) weeks of parental, bonding leave.

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 may impact the health or safety of staff, patients, residents, offenders, 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.

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

OSHR Responsibility

The Office of State Human Resources will provide guidance to State Agencies developing Paid Parental Leave pilot programs.

Agency Responsibilities

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- Submit to the Office of State Human Resources a written request, signed by the Agency Head (or designee), to develop a Paid Parental Leave pilot program to include a copy of the policies and procedures for review.
 - Develop a written internal policy and procedure that identifies the criteria for the pilot to include the eligibility requirements for employees. Disseminate information concerning the Paid Parental Leave pilot program to new and existing employees.
 - Agencies shall report Paid Parental Leave activities to the Office of State Human Resources by August 1st of each year.
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Designation of Terms or Paid Parental Leave Policy Arrangements

All Paid Parental Leave arrangements shall be written and include the responsibilities of both the agency and the employee. Each participant in the Paid Parental Leave arrangement must sign the document that contains the terms of the Paid Parental Leave arrangement. At a minimum, the document shall define the parameters of the Paid Parental Leave arrangement and shall comply with the policy provisions below:

1. Compensation and Benefits: Each week of Paid Parental Leave will be compensated at 100% of the employee's regular, straight-time weekly pay.
2. Parents shall certify that Paid Parental Leave past the recuperation and recovery stage of childbirth is being utilized for bonding with the Child.
3. Agencies shall provide eight (8) weeks (320 hours) of Paid Parental Leave to Eligible State Employees who have given birth for recuperation during the disability period and bonding with a newborn Child, and eight (8) weeks (320 hours) of Paid Parental Leave shall be provided to other Eligible State Employees to care for and bond with a newborn Child or newly adopted, foster or otherwise legally placed Child. The amount of Paid Parental Leave awarded through this pilot program shall not exceed eight (8) weeks to Eligible State Employees for birth, adoption, foster or otherwise legal placement of a Child.

Termination of Paid Parental Leave Arrangement

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The agency may terminate the Paid Parental Leave pilot agreement at its discretion. Termination of a Paid Parental Leave pilot arrangement by management is not grievable to the Office of Administrative Hearings under personnel policies. All other grievable rights shall be set forth in agency policy.

Agencies Operating Under the Governor's Oversight

A cabinet agency may offer a Paid Parental Leave pilot program that is more generous than required in Executive Order 95, *Providing Paid Parental Leave to Eligible State Employees*, and may determine to discontinue an offered pilot program. Nevertheless, all cabinet agencies must, at a minimum, comply with Executive Order 95 as long as the Executive Order is in effect.