


PARENTAL LEAVE POLICY AND PROCEDURES

DHR-STW-Policy #: DHR-STW-409.3	Revision Date: January 1, 2026
Effective Date: August 6, 2025	Signature: 

1. Policy Purpose Statement

This policy aims to promote and maintain the importance of a healthy workforce and provide economic stability for employees consistent with the provisions of 19 Del. C. §§ 3701-3704 and 29 Del. C. §§ 5120 and 5253.

2. Scope

This policy applies to eligible Executive Branch employees in a position that qualifies for leave, excluding all casual seasonal employees and board members, who are caring for a child during the first year following the child’s birth, lawful adoption placement, legal adoption, or initial placement through foster care.

This Statewide Executive Branch policy supersedes any Executive Branch agency policy, procedure or guideline pertaining or otherwise related to Paid Parental Leave. Elected Officials and Judiciary Members may elect to adopt and administer the policy at their offices and with their employees.

3. Definitions and Acronyms

- **Adoption** – Legal adoption confirmed by a decree or lawful adoption placement confirmed by an adoption agreement or other acceptable written verification of a child, here and after, adoption shall refer to legal adoption and lawful adoption placement.
- **Agency HR** – The designated Human Resources representative responsible for leave administration for the agency or the HR Business Partner assigned to the agency.
- **Calendar Week** – An employee’s regularly scheduled hours within the seven (7) day period that does not include overtime. Holidays or Severe Weather Conditions and Emergency declarations occurring during a week when Parental Leave is taken will not extend the Parental Leave time.
- **Child** – A “son” or “daughter” is a biological, adopted, or foster child, who is either under the age of 18, or is 18 or older and incapable of self-care because of a mental or physical disability.
- **DSCYF** – Department of Services for Children, Youth, and their Families.
- **Eligible Employee** – A full-time or part-time employee in a position that qualifies for leave who has been hired to work for at least 25 hours per week, is not a casual/seasonal employee, and who has worked for the State for 12 months or 52 weeks as of the date of the birth, adoption, or initial placement through foster care, and has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- **Family and Medical Leave Act (FMLA)** – A Federal law that entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.
- **Foster Care** – The temporary care of a child placed in an agency-approved foster home.

- **Foster Parent** – An individual or a couple who has been approved by DSCYF or a licensed agency to provide foster care in exchange for foster care payments provided by DSCYF or a licensed agency.¹
- **Lawful Adoption Placement** – The selection of an approved family for the child; the arrangement for the child’s move into an adoptive home; or the relocation of the child with an adoptive family performed only by the DSCYF or licensed agency or an authorized agency.²
- **Parent** – an employee who is the biological, adoptive, or foster parent. Parents-in-law are not included in the definition of “parent”.
- **Parental Leave** – Up to 12 calendar weeks of paid leave provided for the purpose of caring or bonding with a newborn child, a newly adopted child or a child placed through initial foster placement.
- **Short-Term Disability (STD)** – A State program that entitles employees enrolled in the Disability Insurance Program (DIP) with partial income replacement for up to 182 calendar days should the employee become disabled due to a covered accident, sickness or pregnancy.

4. Policy

- a. The State of Delaware provides up to 12 calendar weeks of paid Parental Leave to eligible employees upon the birth, lawful adoption placement, adoption or initial placement through foster care of a child, to care for the child during the first year after the birth, adoption, or initial foster placement of the child. Parental Leave under this policy runs concurrently with the Family and Medical Leave Act (FMLA) and Short-Term Disability (STD) benefit, as applicable³. The entitlement to Parental Leave shall expire at the end of the 12-month period beginning on the date of such birth, adoption, or initial placement through foster care. An eligible employee who terminates employment prior to the end of the 12-month period shall not be eligible for payment of any unused Parental Leave. An employee must meet eligibility criteria at the time of the birth, adoption, or initial foster placement to use Parental Leave.
- b. It is unlawful for an employer to interfere with, restrain, retaliate against or deny the exercise of any right provided for the use of Parental Leave.
- c. An agency may take disciplinary action, up to and including termination, against an employee who uses Parental Leave for purposes other than those set forth in this policy.
- d. Leave Eligibility Provisions
 - 1) Parental Leave shall be used for the following reasons by an eligible employee:
 - To care for or bond with a newborn child;

¹ 13 Del C. § 2302 (9) “Foster parent” means an individual or couple who has been approved by DSCYF or a licensed agency to provide foster care in exchange for foster care payments provided by DSCYF or a licensed agency.

² 13 Del. C. § 901. Definitions. (14) “To place” includes any of the following activities, each of which may be performed only by the Department, a licensed agency or an authorized agency: The selection of an approved family for the child; the arrangement for the child’s move into an adoptive home; or the relocation of the child with an adoptive family.

³ STD Claim Filing Requirements 5.1 Employees enrolled in the DIP are required to file an STD claim with the DIP insurance carrier and/or Administrator if the employee expects to be out of work for at least 30 calendar days even if the employee applied for and/or is receiving lost wage benefits (i.e., Workers’ Compensation) and/or parental leave, upon the birth of a child(ren). Once an employee exhausts their elimination period, the employee will be deemed to have applied for benefits under this section and shall not be eligible to utilize paid sick and/or annual leave in lieu of application for STD. Employees not meeting the requirements noted in Section 9.0, will be deemed to have applied for benefits under this section and shall not be eligible to utilize paid sick and/or annual leave in lieu of application for an extension of STD benefits.

- To care for or bond with a child that is legally adopted or lawfully placed for adoption;
 - To care for or bond with a child who is initially placed in foster care,
 - To cover the elimination period in the State's STD program, if eligible, upon the birth of a child(ren); or
 - To supplement the State's STD benefit, if eligible, not to exceed 100% of an employee's creditable compensation⁴ following the birth of a child.
- 2) For eligible employees who are employed part-time, the maximum number of Parental Leave the employee is eligible to receive will be determined on a pro-rata basis.
 - 3) Parental Leave may be requested in one continuous period of time (up to 12 calendar weeks) or may be requested in two (2) weeks of continuous time (2-week time periods). Parental Leave may be approved in two (2) consecutive calendar-week time periods. One or more 2-week time periods may be requested and approved (e.g., four (4) weeks, six (6) weeks, eight (8) weeks, etc., of Parental Leave). The 2-week time period may be consecutive or nonconsecutive. Parental Leave shall be charged as a full day regardless of the daily number of hours used, worked or necessary to supplement STD benefits.
 - 4) An employee shall be eligible for Parental Leave even if the employee has exhausted their FMLA time. If an employee becomes eligible for FMLA while on Parental Leave, the employee must apply for and use FMLA.
 - 5) In the event that two (2) employees of the State of Delaware are eligible for Parental Leave for the same birth, or adoption, or initial foster placement, each eligible employee is entitled to up to 12 calendar weeks of Parental Leave.
 - 6) The birth, adoption, or initial foster care placement of multiple children on the same day do not increase the amount of Parental Leave. This is considered one single event.
 - 7) An eligible employee may not use accrued sick leave, annual leave or other leave in lieu of Parental Leave for the birth, adoption or foster placement of a child or to extend their parental leave upon its exhaustion.
 - 8) In the event that the employee requires leave before the actual birth, adoption or placement in foster care, due to medical reasons or to fulfill legal adoption or placement obligations, other available leaves shall be utilized in accordance with the Merit Rules or non-Merit agency leave policy.
 - 9) Parental Leave shall not accrue or be donated to the Donated Leave Bank or be donated to another state employee.
 - 10) Holidays or Severe Weather Conditions and Emergency declarations occurring during a week when Parental Leave is taken will not extend the Parental Leave time.
 - 11) Parental Leave expires 12 months from the date of the birth, adoption, or foster placement.
 - 12) Parental leave is not payable for less than one workday of covered leave.
- e. At the conclusion of Parental Leave, the State shall restore the eligible employee to the same or equivalent position, barring any unforeseen circumstances unrelated to the employee's taking leave (i.e., workforce reduction).

⁴ "Creditable Compensation," as defined in Title 29, § 5251(c), shall mean the base rate of compensation that the employee received on the last day of employment before the employee developed a disability.

5. Procedures

- a. To apply for Parental Leave, an eligible employee shall:
- 1) Notify and discuss with the employee's immediate supervisor and Agency HR verbally or in writing their request for Parental Leave at least thirty (30) days in advance of the birth, adoption or initial foster placement of a child. When thirty (30) days' notice is not possible, the employee must provide this notice as soon as practicable.
 - 2) Complete the Parental Leave Request Form, the FMLA Forms, and initiate the STD claims process, as applicable. If a two (2) week time period leave is requested, a planned schedule is to accompany the request and supervisor approval is required on the Parental Leave Request Form. Submit completed forms to the employee's Agency HR.
 - 3) Notify the employee's supervisor and Agency HR verbally or in writing upon the birth, adoption or initial foster placement of a child. If notified verbally, a written request must follow. This obligation is for both parents if both are eligible employees under this policy.
 - 4) Request absence from work in accordance with agency procedure.
 - 5) Provide legal documentation of a child's birth, adoption, or initial foster placement within thirty (30) days of the event, or as soon as it becomes available, to the employee's Agency HR. Acceptable legal documents must show the date of birth, adoption, or initial foster placement; the child's age at the time; and the name of the legal, adoptive, or foster parent(s). Examples include a birth certificate, report of birth, adoption order or agreement, foster care placement agreement, or other official documentation verifying lawful adoption or initial foster placement. If documentation cannot be provided at the time of the event or within the required timeframe, leave approval will be considered on a case-by-case basis.
 - 6) Provide further notification to the employee's Agency HR of any changes to their approved schedule or intended return to work date.
- b. Failure to comply with procedures listed in this section may result in delay or denial of Parental Leave.
- c. The Agency HR shall:
- 1) Communicate available leave options with the employee within seven (7) business days of receiving notice or a request for Parental Leave.
 - 2) Provide the requesting employee acknowledgment of the Parental Leave request and initial approval, if applicable, within seven (7) business days of receipt.
 - 3) Keep the employee's supervisor apprised of any revisions to the Parental Leave request.

6. Exclusions or Exceptions

- Employees are not eligible for the up to 12 weeks of paid Parental Leave for each lawful adoption or each foster placement or for each legal adoption of the same child(ren).
- Surrogate mothers and sperm donors are excluded from coverage under this policy.
- An employee may not use Parental Leave to cover an absence resulting from an administered disciplinary suspension.
- Casual Seasonal employees hired under Del.C. § 5903(17)a. are excluded from this policy.

- The Department of Education (DOE) is responsible for the development of policies in compliance with the Federal Code, applicable State Code, and Title 14 of the Delaware Code and applicable regulations.
- Delaware State Housing Authority (DSHA) is responsible for the development of policies in compliance with Federal Code, applicable State Code, and 29 Del. C. Chapter 86 and authority in 31 Del. C. § 4013.

7. Dissemination and Training

- Agency HR shall provide current employees a review of this policy and procedure and shall provide employees who are new to their respective agencies a review of this policy and procedure as part of their orientation.
- Employees must read and acknowledge receipt of this policy in the Delaware Learning Center, or if not applicable by other means, within 30 days of notification.

8. Data Reporting

- The Agency HR shall use the PPL Data entry requirements found [here](#) to:
 - Record into PHRST:
 - the effective date of birth, adoption or foster placement, regardless of whether the child is enrolled under the State of Delaware Group Health Insurance Plan;
 - the effective date of the birth, adoption or foster placement;
 - the effective date of the paid leave of absence when the employee begins taking Paid Parental Leave, including intermittent periods;
 - the effective date of the Return from Leave including intermittent periods.
- The Department of Human Resources shall submit an annual report to the General Assembly and the Governor on the Parental Leave program.

9. Associated Policy/Regulations/Information

- [Family and Medical Leave Act \(FMLA\) Policy and Procedures](#)
- [Disability Insurance Program Rules & Regulations](#) (Short-Term Disability)
- [GHIP Eligibility and Enrollment Rules](#) (Group Health Insurance Plan)
- [Paid Parental Leave Data Entry](#)
- [Pregnant Workers Fairness Act Policy and Procedures](#)

10. Appendices and Forms Associated with this Policy

- [Parental Leave Request Form](#)
- [Parental Leave Frequently Asked Questions](#) (FAQs)

11. Policy Owner

- Division Name: Division of Talent Management
- Policy Owner: Employee Engagement Administrator
- Website: [DHR - Employee Engagement \(delaware.gov\)](http://DHR - Employee Engagement (delaware.gov))

This policy is not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with, i.e., the law or regulation and this policy, the law and/or regulation govern.