



# PAID PARENTAL LEAVE

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# PAID PARENTAL LEAVE STATUTE



# Paid Parental Leave Statute

- Session Law 2023-14 was enacted by the General Assembly in May 2023, adding G.S. 126-8.6.
- G.S. 126-8.6 provides for paid parental leave for “employees of State agencies, department and institutions, including the University of North Carolina; to public school employees, and to community college employees.” G.S. 126-8.6(e).
- **SL 2023-65, signed into law on June 29, 2023, provided technical corrections to the bill.**



# Paid Parental Leave Statute

- A board of directors of a charter school may (but is not required to) provide paid parental leave. If the charter school provides parental leave, it is eligible to receive funds allocated for schools that provide this benefit.
- G.S. 115C-218.90(a).



# Paid Parental Leave Statute

- The leave entitlement extends to the **parent** of a
  - **Newborn** biological child;
  - A newly-placed **adopted** child;
  - A newly-place **foster** child; or
  - A child under the age of 18 **otherwise legally-placed with the parent**, such as through guardianship.
  - See G.S. 126-8.6 (a).



# Paid Parental Leave Statute

- The State Human Resources Commission is required to adopt rules and policies that provide that permanent, **probationary, and time-limited** full-time State employees may take the following paid parental leave:
  - Up to **eight weeks after giving birth** to a child;
  - Up to **four weeks** after other qualifying events (e.g., **paternity leave, adoption, fostering a child, becoming a legal guardian**).
  - G.S. 126-8.6(b).



# Paid Parental Leave Statute

- **Part-time** permanent, **probationary**, or **time-limited** State employees also may take a **prorated** amount of paid leave
  - up to **four eight** weeks after giving birth, or
  - up to **two four** weeks for another qualifying event.
  - G.S. 126-98.6(c).



# Paid Parental Leave Statute

- As the Board that makes Rules and Policies governing the State's public schools, the **State Board of Education** is also **required to adopt rules and policies** on paid parental leave for **public school employees** that are “substantially similar” to those adopted by the State Human Resources Commission for State employees. G. S. 126-8.6(e).



# Paid Parental Leave Statute

- The State Human Resources is required to adopt rules and policies providing for a period of minimum services before a parent becomes eligible for parental leave, the maximum number of uses of paid parental leave within a 12-month period, and how much leave is to be provided in the event of miscarriage or the death of a child during birth.
- SL 2023-65., Part XIII-A.



# Paid Parental Leave Statute

- The parental leave is available to “public school employees” **without exhaustion of the employee’s sick and vacation leave and is in addition to other leave authorized by State or federal law.**
- G.S. 126-8.6(d).
- **The State Human Resources Commission has interpreted this to mean that the use of paid parental leave will run concurrently with use of leave provided under the federal Family and Medical Leave Act, provided the PSU gives the required notice.**



# Paid Parental Leave Statute

- G.S. 115C-302.1(j) and -336.1 also have been amended to provide that **“in addition to”** the new **paid parental leave entitlement**, school employees **may use annual leave, personal leave, or leave without pay** to care for a newborn child or for a child placed for adoption or foster care.



# Paid Parental Leave Statute

- A school employee may also use up to **30 days of sick leave** to care for a child placed with the employee **for adoption**.
- G.S. 115C-302.1(j) and -336.1.



# Paid Parental Leave Statute

- The use of sick leave for childcare must **consecutive workdays during the first 12 months after the birth or placement of the child unless the school employee and the local board of education agree otherwise.**
- G.S.115C-302.1(j) and -336.1.



# Paid Parental Leave Statute

- The General Assembly appropriated the sum of \$10,000,000 in recurring funds to the Department of Public Instruction to fund paid parental leave in the public schools.
  - Session Law 2023-14, Section 5.1(e).
- This allocation shall be used to fund substitute teachers.
  - Session Law 2023-65, Part XIII-A.



# Paid Parental Leave Statute

- Finally, the entitlement to paid parental leave became **effective July 1, 2023**, and applies to request for paid parental leave related to **births occurring on or after July 1, 2023**.
  - Session Law 2023-14, Section 5.1(f).



# STATE BOARD OF EDUCATION PROPOSED RULE



# Proposed SBE Rule Regarding Paid Parental Leave

The proposed rule restates the law to some extent but clarifies/interprets the new parental leave statute in the following ways:

1. Defines an eligible employee as one who has been employed to fill a permanent, **probationary, or time-limited** position. This does not include temporary employees or independent contractors.



# Proposed SBE Rule Regarding Paid Parental Leave

2. In accordance with the statute, the proposed rule includes employees of all PSUs, ~~including charter schools,~~ lab schools, regional schools, etc.
3. Charter schools may opt-in to providing the benefits, and those that do will receive their share of the state funds allocated for substitute teachers.



# Proposed SBE Rule Regarding Paid Parental Leave

3. The proposed rule defines the length of service required to become eligible, which requires employment by the PSU without a break in service and having been in “pay status” for at least 1,040 hours within the previous 12-month period. (This tracks the State Human Resources Commission proposed rule.)



# Proposed SBE Rule Regarding Paid Parental Leave

4. A break in service would not include:
- Time on workers' compensation leave,
  - Time on approved leave without pay, or
  - The months of summer break for 10- or 11-month employees whose employment will continue the following academic year.



# Proposed SBE Rule Regarding Paid Parental Leave

5. “Prorated leave” for part-time employees will be based upon the number of hours in the employee’s regular weekly schedule as compared to the hours worked by a full-time employee in a similar position within the PSU.



# Proposed SBE Rule Regarding Paid Parental Leave

6. The proposed rule makes it clear that the calculation for payment of parental leave is paid at 100% of the employee's regular "straight-time" pay. In other words, it does not include additional pay for any overtime that an employee may regularly work.



# Proposed SBE Rule Regarding Paid Parental Leave

7. The rule also makes it clear that, while the paid parental leave may not be deducted from an employee's sick, vacation, or other accrued leave, it can run concurrent with leave to which the employee may be entitled under the Family Medical Leave Act, provided that the employer provides the notice required by FMLA.



# Proposed SBE Rule Regarding Paid Parental Leave

8. The proposed rule also requires that the employee give the employer notice in advance of the intent to take paid parental leave, when possible.



# Proposed SBE Rule Regarding Paid Parental Leave

9. The leave would be available only one time during the same 12-month period for an individual employee.
  
10. Both parents must be allowed to take the leave at the same time even if they work for the same employer.



# Proposed SBE Rule Regarding Paid Parental Leave

- The State Personnel Commission is interpreting the statute to provide that it applies to all qualifying events, not just births, occurring after July 1, 2023.
- This interpretation is reflected in proposed changes to the State Board of Education rule.



# Questions & Comments

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