

PAID LEAVE FOR BIRTH, ADOPTION OR INITIAL FOSTER CARE PLACEMENT OF A CHILD

I. Purpose

The purpose of this policy is to provide guidelines under which full-time employees may exercise their right to take paid leave upon the birth, adoption, or initial foster care placement, of a child pursuant to Section 1333 of Title 14 of the Delaware ("Section 1333").

II. Definitions

The following words and terms shall have the following meaning:

- A. **"Full-time employee"** means a full-time State pension eligible employee employed by a reorganized school district, charter school, or vocational school district for at least 12 months in a 9-month, 10-month, 11-month, or 12-month position requiring 1,250 hours in the most recent 12 months.
- B. **"Foster Care"** means the temporary care of a child placed in an agency-approved foster home.
- C. **"12 weeks of paid leave"** means 60 contractual work-days if birth/adoption on or after January 1, 2020. Leave is calculated on contractual work-days for births/adoptions.
- D. **"The District"** refers to the Indian River School District.
- E. **"Intermittent leave"** is leave taken in separate blocks of time due to a single qualifying reason. If an employee works less than 12 months in a year, paid leave taken for a period ending at the end of a school year, and resuming at the beginning of the following school year, is leave taken consecutively rather than intermittently.
- F. **"Reduced leave schedule"** is a leave schedule that reduces an employee's usual number of working hours per workweek, or per workday.
- G. **"Paid leave"** refers to the paid leave taken pursuant to Section 1333(a).
- H. **"Parent"** means legal parent as evidenced by birth certificate, adoption documents, court order, or other legal documents.
- I. **"Multiple births/adoptions"** means more than one child is born from the same pregnancy, or more than one (1) child who is adopted through the same adoption process, or on the same date.
- J. **"FMLA"** refers to the Family Medical Leave Act.
- K. **"STD"** refers to Short Term Disability.
- L. **"Written notice"** means written notice to the District's Human Resources Department.

III. Paid Leave Entitlement

A. A full-time employee employed by a reorganized school district, charter school, or vocational school district for at least 12 months immediately prior to the date of the birth, adoption, or initial foster placement of the child. (See definition of “full-time employee” in Section II.A.) shall be entitled to 60 contractual work-days of paid leave upon the birth of a child of the employee, or upon adoption by the employee of a child. The birth, adoption or initial foster care placement of a child, must occur on or after April 1, 2019. Multiple births/adoptions do not increase the length of paid leave. An employee’s entitlement to paid leave is determined on the date of the birth, adoption or initial foster care placement, of a child.

B. Paid leave is for the purpose of caring for and bonding with the child. If the employee is not caring for and bonding with the child, the employee is not eligible for paid leave. If, for whatever reason, the child is no longer in the care of the employee, the paid leave shall terminate.

C. The entitlement to paid leave shall expire at the end of the 12-month period beginning on the date of the birth, adoption, or initial foster placement of the child creating the entitlement to paid leave. If, for example, an employee entitled to paid leave takes 30 contractual work-days of paid leave during this 12-month period, there will be no entitlement to take the remaining 30 days of paid leave subsequent to the expiration of the 12-month period following the birth, adoption, or initial foster placement of the child creating the entitlement to paid leave. If an employee receiving paid leave terminates employment prior to the end of the 12-month period, there shall be no payment for unused paid leave.

D. Paid leave cannot be taken on an intermittent basis, or be used to create a reduced leave schedule. Paid leave must be taken for a continuous block of time up to a maximum of 60 continuous work-days.

E. If two District employees are eligible for paid leave for the same birth, adoption, or initial foster placement of the child each of the employees is eligible for 60 contractual work-days. Paid leave for the employees ends at the expiration of the 12-month period beginning on the date of the birth, adoption, or initial foster placement of the child.

F. If an employee is out on paid parental leave on a day that schools are closed for any unexpected reason including but not limited to: inclement weather, a special election, etc., the paid parental leave shall be extended by one (1) work-day.

IV. Right to Use Accumulated Sick Leave

A. Employees who are not eligible for paid leave may use accumulated sick leave upon the birth, adoption, or initial foster placement of the child pursuant to Section 1333(c). Effective January 1, 2024, employees eligible for paid leave may use up to ten (10) sick days immediately following the 60 continuous work-days of paid leave provided by Section 1333(a).

B. The right to use accumulated sick leave pursuant to Section 1333(c) is without regard to length of employment.

V. Impact on FMLA Leave Entitlement and STD

The use of paid leave, or the use of accumulated sick leave under § 1333(c), shall run concurrently with FMLA leave, and STD. If, for example, a full-time employee uses 60 contractual work-days, the use of the 60 contractual work-days paid leave will also result in the use of 60 contractual work-days of FMLA leave. When the use of paid leave runs concurrently with STD, STD shall pay 75% of the employee's salary, and paid leave shall pay 25% of the employee's salary.

VI. Notice and Certification

A. If an employee intends to take paid leave upon the birth of the employee's child, the employee shall provide the District written notice of intent to take paid leave at least 30 days' in advance of the expected date of birth. If an employee intends to take paid leave based upon the adoption of a child, the employee must provide written notice of intent to take paid leave at least 30 days' in advance of the adoption if the date of the adoption is foreseeable. If the date of the adoption is not foreseeable, the employee shall provide the District written notice of the date of adoption as soon as practicable. If an employee intends to take paid leave based upon the initial foster placement of the child, the employee must provide written notice of intent to take paid leave at least 30 days' in advance of the placement if the date of the placement is foreseeable. If the date of the initial foster placement is not foreseeable, the employee shall provide the District written notice of the date of initial placement as soon as practicable.

B. If an employee requests paid leave based upon the birth, adoption, or initial foster placement of the child, the employee shall provide documentation of the birth, adoption, or initial foster placement of the child, within 30 days of the birth, adoption, or initial foster placement of the child, or as soon as documentation is available. The name of a legal parent must appear on the birth certificate, a legal document establishing paternity, a legal document establishing adoption, or a legal document establishing foster placement. Situations where a legal document cannot be provided at the time of birth, adoption, or initial foster placement, or within a reasonable time thereafter, will be considered on a case-by-case basis. Legal documents considered include a report of birth, a birth certificate, an adoption order, or a foster care placement agreement. The documents provided shall show the date of the birth, or adoption age of the adopted child, and name of the parent(s). An employee's stepchild is not the child of the employee, unless the employee adopts the stepchild.

VII. Amendment or Repeal of Section 1333

The Board reserves the right to revise or rescind this policy. If Section 1333 is amended, the policy will be revised to conform the policy to the amendment. If Section 1333 is repealed, this policy is null and void.

VIII. Effective Date

This policy takes effect on April 1, 2019.

Adopted 3/25/19

Revised 6/24/19, 11/25/19, 12/16/19, 1/30/24, 8/25/25, 10/28/25