



RED CLAY CONSOLIDATED SCHOOL DISTRICT ADMINISTRATIVE MEMORANDUM

DELAWARE PAID LEAVE, FAMILY MEDICAL LEAVE (PFML) INSURANCE PROGRAM 4007.8

PURPOSE

1. The purpose of this policy is to provide temporary guidelines under which eligible employees may exercise their right to take Paid Family and Medical Leave (PFML) pursuant to the Healthy Delaware Families Act, 19 Del. C. Ch. 37. This Act created the Family and Medical Leave Insurance Program (Delaware Paid Leave), administered by the Delaware Department of Labor (DDOL).
2. This policy applies to eligible full-time and part-time employees, excluding all casual seasonal employees and substitutes.
3. This policy specifically governs the Family Caregiving and Qualifying Exigency (FCG and QE) income replacement benefit for eligible State employees.

ELIGIBILITY

1. Full/Part time Employees must have:
Been employed for at least 12 months (52 weeks); and
Worked at least 1,250 hours during the 12 months immediately preceding the start of leave.
2. The following individuals are not eligible for PFML benefits under this policy:
Substitute employees
Casual employees
Seasonal/Vendor staff members
3. Employees may not take FCG or QE Leave concurrently with Paid Parental Leave, Paid Medical Leave, or Workers' Compensation benefits. However, PFML may be taken immediately following other paid leaves, as applicable.

ENTITLEMENT

1. Eligible employees may receive a maximum of six (6) weeks of paid leave in a 24-month period for each of the following qualifying reasons:
Family Caregiving (FCG) Leave: To care for a family member with a serious health condition.
Qualifying Exigency (QE) Leave: For qualifying reasons related to a family member who is a covered military service member on covered active duty or who has been called to active duty in a foreign country.
2. An employee may be eligible for:
Up to six (6) weeks of FCG Leave in a 24-month period; and
Up to six (6) weeks of QE Leave in a 24-month period.
3. This means an employee may qualify for a maximum total of twelve (12) weeks of PFML (6 weeks FCG and 6 weeks QE) within a 24-month period, if eligibility requirements are met for each leave type.



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DDOL PFML BENEFIT PAYMENTS

1. Eligible employees approved for FCG or QE Leave will receive 80% of their average weekly wage, up to a maximum benefit of \$900 per week, during the approved leave period.
2. Average weekly wage is calculated based on FICA wages, defined as gross wages minus pre-tax deductions (such as medical, dental, vision, flexible spending contributions, etc.).
Average weekly wages:
Include overtime, EPER, bonuses; and are calculated on a quarterly basis.
3. Payments are issued directly by the DDOL on a weekly basis, on Thursdays or Fridays.
4. Employees may elect to have applicable taxes withheld from their benefit payments during the DDOL claim process. A 1099 will be issued by DDOL.
5. PFML benefit payments are not pension-creditable and may not be used for DEFER contributions.

Payroll and Leave Supplement

1. Employees may choose to supplement PFML benefits with 20% of accrued sick or vacation leave. In no case may front loaded leave be used to supplement.
2. If an employee does not have accrued leave available, the employee will be placed in an unpaid status, and pension-creditable service will not accrue during that time. Employees will be responsible for benefit premiums.
3. Employees may choose to utilize 20%* of accrued leave while their FCG or QE Leave claim is pending approval by the DDOL Division of Paid Leave. If an employee elects to use 20% of their sick or vacation leave while a PFML claim is pending and the claim is later approved retroactively by the DDOL, an overpayment may occur.

* Employees may be able to utilize more than 20% of accrued leave upon hardship request, with the understanding that this will increase the overpayment and the overpayment will be recouped upon return upon return from leave. Please reach out to payroll supervisor, valerie.shinn@redclay.k12.de.us to discuss options.
5. In all cases, the employee will be responsible for repaying any overpaid wages

BENEFIT PREMIUMS

1. Employees are responsible for maintaining payment of benefit premiums while on PFML.
2. If an employee elects to use 20% accrued sick or vacation leave and the wages received are sufficient to cover benefit deductions, premiums will continue to be deducted from the employee's biweekly paycheck in accordance with the State's benefit schedule.
3. If an employee is receiving payment solely from the DDOL, and is not supplementing, the employee must submit payment directly to Red Clay to cover required benefit premiums.
4. Failure to pay benefit premiums within 30 days may result in removal from current benefit plans.



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CLAIMS AND DETERMINATION

1. Employees must notify the Red Clay Leave Office of their need to apply for FCG or QE Leave. When the need for leave is foreseeable, employees are strongly encouraged to provide at least 30 days' notice. Notification: Delaware Paid Leave Request Form
 - 1a. Employees applying for FCG or QE benefits must also apply for FMLA by contacting the leave@redclay.k12.de.us office.
 - 1b. FCG and QE Leaves will run concurrently with FMLA when FMLA eligibility exists. An employee may be eligible for FCG or QE Leave even if their FMLA entitlement has been exhausted. If an employee becomes eligible for FMLA while on FCG or QE Leave, the leave will be designated as FMLA.
2. Eligible employees may apply for FCG or QE paid leave benefits through the Delaware Department of Labor (DDOL) Division, LaborFirst system. The LaborFirst system will provide instructions regarding required certification, including medical certification for a family member's serious health condition. This information will be kept in the portal.
 - a. Employees Initiate and submit their FCG or QE paid leave claim through the DDOL Delaware LaborFirst system by logging into my.delaware.gov and selecting the "Delaware LaborFirst" tile
3. The DDOL is responsible for reviewing, determining, and approving or denying all claims. <https://labor.delaware.gov/delaware-paid-leave/employees/>.
 - a. Red Clay has NO authority to approve claims and any examples that Red Clay may provide do NOT override the DE Department of Labor's final ruling.
4. If a claim is denied, the employee may appeal by following the instructions included in the DDOL determination notice. Appeals must be requested within 60 days of the date of the determination. Additional levels of appeal are available if the employee is dissatisfied with the DDOL's review.
5. Any employee found to have knowingly made a false or fraudulent claim may be subject to a three-year disqualification from PFML benefits.

DEFINITIONS:

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 30 or more hours of work during a standard workweek.

Part Time employee means a part-time, benefit eligible, employee employed for at least 12 months in a 9-month, 10-month, 11-month, or 12-month position requiring an average of 25 or more hours of work during a standard workweek.

Application Year – The 12-month period of leave measured forward from the first date an employee utilizes FMLA leave. The next 12-month period would begin the first time FMLA leave is taken after completion of the prior 12-month period. For example, the employee's FMLA leave



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begins on November 6, 2025, so the 12-month FMLA period is November 6, 2025, through November 5, 2026.

Average Weekly Wage – Means the employee's average gross earnings, as determined under the Federal Insurance Contribution Act, 26 U.S.C. Chapter 21 ("FICA"), prior to any payroll deductions or withholdings, which consists of all income received from an employer including base salary, commissions, tips, and bonuses.

Continuous Leave – Consecutive span of absence, from the date the employee begins leave through the date returning to work.

DDOL Delaware LaborFirst System – A unified enterprise system developed by the Delaware Department of Labor to modernize and streamline the Division of Paid Leave. The platform aims to simplify key processes and improve system integration.

Eligible Employee – Any full/part time employee who has worked for the Red Clay School District, or any other State of Delaware District or agency, for 12 months (or 52 weeks) and at least 1,250 hours in the 12 months prior to the start of the leave.

Family Caregiving (FCG) Leave – Under the Act, this is a paid and job-protected leave an eligible employee may apply for in the event of a serious health condition of a child, spouse, or parent.

Family 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, if applicable, under the same terms and conditions as if the employee had not taken leave.

Family Member – Means a parent, child, or spouse, as defined under the FMLA.

Intermittent Leave – Leave taken in separate blocks of time (sporadically) due to a single qualifying reason.

Medical Leave – Leave authorized under the Act for eligible employees in the event of a serious health condition that renders the employee unable to perform the functions of their position. For the Medical Leave line of coverage under the PFML, the State is grandfathered under the existing comparable Disability Insurance Program (DIP) - Short Term Disability (STD) Plan.

Parental Leave – Leave authorized under the Act for eligible employees to take up to 12 calendar weeks of paid leave for the purposes of caring for or bonding with a newborn child or caring for or bonding with a newly adopted child or a child placed through initial foster placement. For the Parental Leave line of coverage under the PFML, the State is grandfathered under the existing comparable Paid Parental Leave Policy.

Qualifying Exigency (QE) – Under the Act, an eligible employee may apply for paid job protected leave, for certain reasons related to a spouse, child, or parent who is a covered military family member on active duty, called to covered active duty status, or has been notified of an impending call or order to covered active duty. Covered active duty for members of the Regular Armed Forces is duty during deployment to a foreign country. Covered active duty for the National Guard and Reserves is duty during deployment to a foreign country under a call or order to active duty in a contingency operation. Deployment to a foreign country means deployment to areas outside of the United States, the District of Columbia, or any Territory or possession of the United States. It also includes deployment to international waters.



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Reduced Leave Schedule – Means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

Serious Health Condition – An illness, injury, impairment, or physical or mental condition where at least one (1) of the following shall be satisfied: inpatient hospital care; absence from work or school for more than three (3) consecutive calendar days that involves continuing treatment by a health care provider; continuing treatment for a chronic serious health condition; continuing treatment for a serious health condition that, if not treated, would result in incapacity for more than three (3) consecutive calendar days; and any period of incapacity due to prenatal care. The three (3) day requirement does not apply to pregnancy, chronic serious health conditions, or for multiple treatments.

Short Term Disability (STD) – A State plan that provides 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, illness, or pregnancy.

The below links are to the DDOL regulations, and the DHR policy. These links are provided for information purposes only, and are not intended to supersede the Red Clay Administrative memo. The Notice of Employee Rights is also provided.

Delaware Department of Labor (DDOL) Regulations:

https://laborfiles.delaware.gov/main/pfl/Unofficial_Copy_of_Regulations.pdf

State of Delaware, Delaware Department of Human Resources (DHR) Paid Family and Medical leave:

<https://dhr.delaware.gov/policies/pfml-fc-qe.shtml>

Healthy Delaware Families Act – Notice of Employee Rights

<https://dhr.delaware.gov/policies/documents/pfml-employee-notice.pdf>

Questions about the information contained in this administrative memorandum should be directed to the Manager of Payroll.