

Parental Leave

Application: All positions covered under the Virginia Personnel Act to include salaried full-time, quasi-full-time, and part-time classified and restricted employees. The policy also applies to salaried “at-will” employees.

Background

To recognize the benefits to employees and their families of meaningful bonding time upon the birth or placement of a child, Executive Order #12 (2018) establishes paid parental leave. This paid leave enhances the family-friendly practices already in place and provides an additional tool for talent acquisition and retention that supports a diverse, capable, and engaged state workforce.

Policy

It is the policy of the Commonwealth to provide paid parental leave to enable the employee to care for and bond with a newborn or child under the age of eighteen (18) newly-placed for adoption or for foster or custodial care. This paid leave may be used in combination with other benefits.

Purpose

The purpose of this policy is to provide eligible employees with up to eight (8) weeks (320 hours) of paid parental leave to be used within six (6) months of the birth of an infant or adoptive, foster, or custodial placement of a child under the age of eighteen (18).

Authority

The Director of the Department of Human Resource Management (DHRM) is responsible for the official interpretation of this policy pursuant to the authority provided § 2.2-1201 of the Code of Virginia. DHRM reserves the right to revise or eliminate this policy as necessary.

The Virginia Personnel Act, Code of Virginia § 2.2-2900 *et. seq.* specifies that agency heads shall be the appointing authorities of their respective agencies and shall establish methods of personnel administration within their agencies.

Agencies may supplement this policy to accommodate specific business needs. Supplemental policies must be consistent with the provisions of DHRM policy and must be communicated to all agency employees.

Related Policies

- Policy 2.20 – Types of Employment
- Policy 4.10 – Annual Leave
- Policy 4.20 – Family and Medical Leave
- Policy 4.30 – Leave Policies – General Provisions
- Policy 4.55 – Sick Leave
- Policy 4.57 – Virginia Sickness and Disability Program

Eligibility

Employees who become parents via birth, adoption, or foster or custodial care and meet the following criteria:

- Employee is in a full-time, quasi-full-time, or part-time salaried (classified or “at will”) position upon the birth or placement of the child.
- Employee must be eligible for Family and Medical Leave (FML):
 - Must have been employed by the Commonwealth for a minimum of twelve months in the past seven years AND
 - Must have worked for at least 1,250 hours in the previous 12-month period.

Eligibility determinations are made as of the date that the child is born or placed via adoption or foster or custodial care.

An employee who is not eligible for parental leave on the date of birth or placement may become eligible during the following six (6) months and access parental leave once he/she meets the eligibility requirements.

If both parents work for the Commonwealth and meet the eligibility criteria, each is entitled to up to 320 hours of parental leave.

Leave Amount

Eligible full-time employees are to receive up to eight (8) weeks (320 hours) of paid parental leave to be used within six (6) months of the birth/placement of a child for any one or more of the following reasons:

- To give birth to, care for, and bond with a newborn child.

- To care for and bond with a child placed with the employee through adoption or foster care or a legal custodial arrangement.
- To supplement reduced income replacement disability benefits following the birth of an infant.

Eligible quasi-full-time or part-time employees may take up to eight (8) weeks of parental leave for the reasons listed above. Hours taken will be counted on a pro-rated basis corresponding to the percentage of hours they normally are scheduled to work.

Leave Usage

- Parental leave must be used within six months of the birth of an infant or placement of a child.
 - Eligible employees may charge parental leave in one continuous period of time.
 - Employees may request intermittent use of parental leave subject to the agency's approval. Agencies are not required to approve the use of intermittent paid parental leave.
 - The 320 hours of parental leave may be used only once per child and only once within a 12 month period.
 - Unused parental leave is forfeited six (6) months from the date of the birth/placement.
 - Unused parental leave is not compensable if an employee separates from Commonwealth employment or moves to a non-covered position.
 - Parental leave terminates at the conclusion of the foster or custodial care placement or within six (6) months of the placement, whichever comes first.
- FMLA Job Protection: Employees using paid parental leave are afforded the remaining job protection under FMLA for an absence up to a total of twelve (12) weeks (480 hours). They may charge personal leave or take leave without pay to cover the additional absence.
- Virginia Sickness and Disability Program (VSDP) Participants: Parental leave may be used to supplement reduced income replacement disability benefits following the birth of a child and/or may be accessed after the VSDP benefits related to the birth cease.
- Traditional Sick Leave Program Participants: Parental leave may be used for FML events related to bonding by employees participating in the traditional sick leave program.

Employee Responsibility

Employees should submit a written request for parental leave at least thirty (30) calendar days prior to the anticipated leave begin date or as soon as practicable.

Note: An employee must comply with agency leave request procedures, absent unusual circumstances. Failure to do so may be grounds for delaying or denying an employee’s approval for parental leave.

Certification of Eligibility for Parental Leave

The agency may require documentation of the birth or placement in order to approve parental leave.

Official documents that will be considered, but may not be limited to, are: a report of birth, a birth certificate, an order of parentage, an adoption order, certified DNA test results, a custody order, and a foster care placement agreement. Documents provided should show date of birth and date of placement if placement was other than the date of birth.

Agency Actions

Upon receiving a request for parental leave and documentation of the birth or placement, the agency must notify the employee of his or her eligibility status within five (5) business days.

Paid parental leave is designated as Family and Medical Leave (FML) and runs concurrently with the FML period.

Glossary

Access to Parental Leave – An eligible employee who has provided the appropriate documentation may charge parental leave beginning on the date of birth of an infant or date of an adoptive, foster, or custodial care placement of a child. Parental leave expires six (6) months after the birth or placement.

Adoption - The act of legally and permanently assuming the responsibility of raising a child as one’s own.

At-Will – Governor’s appointees.

Child – a newborn biological child or a newly-placed adopted, foster, or custodial child under the age of eighteen.

Custodial Care – A placement authorized by a judgment, decree, or other order of a court providing for the legal and physical custody of a child.

Foster Care – The act of temporarily assuming the responsibility of daily care and supervision for a child removed from his or her birth family home due to issues

endangering their health and/or safety. Parental leave may be used for temporary arrangements made through local departments of social services with the intent of reuniting the child with his/her birth family if possible.

Parent – Legally recognized biological, adoptive, foster, or custodial parent.