



Paid Parental Leave Toolkit

Developed by

The South Carolina Department of Administration's

Division of State Human Resources

UPDATED MAY 2024

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Note: Section 8-11-155 of the South Carolina Code of Laws provides Paid Parental Leave to FTE employees of South Carolina state agencies, departments, institutions of higher education, boards and commissions. Section 8-11-155 of the South Carolina Code of Laws does not provide Paid Parental Leave for employees who work for private employers.

Introduction

On May 13, 2022, Governor Henry McMaster signed into law S. 11, which adds Section 8-11-150 (A) and amends Section 8-11-155 of the South Carolina Code of Laws to provide six weeks or two weeks of paid parental leave (PPL) to employees who occupy all or part of a full-time equivalent position (FTE). State Human Resources Regulations will be updated to reflect the changes in the law.

This toolkit is designed to assist agencies in the implementation and administration of PPL. It includes general information about PPL, a model PPL policy, a PPL request form and form letters that can be used to respond to a request for PPL. In addition, various scenarios are provided to demonstrate how PPL may be used in various situations, including how PPL interacts with other types of leave and the Family and Medical Leave Act (FMLA).

In addition to this toolkit, please also review Sections 8-11-150 and 8-11-155 of the Code of Laws and the Paid Parental Leave and Adoption Leave sections of the State Human Resources Regulations. In all cases where there is a discrepancy between the guidance provided in this toolkit and the law or regulations, the law and regulations will govern.

For additional information, please contact the Division of State Human Resources (803-896-5300).

Definitions

Child: a newborn biological child or foster of a child in state custody and under the age of 18 or a child initially legally placed for adoption and under the age of 18. No child can have more than two parents eligible for paid parental leave.

Eligible State Employee: An employee occupying any percentage of a full-time equivalent (FTE) position. Employees in temporary, temporary grant, time-limited, research grant and all other non-FTE positions are not eligible for PPL.

Paid Parental Leave (PPL): six weeks of paid leave at one hundred percent of the eligible state employee's base pay or two weeks of paid leave at one hundred percent of the eligible state employee's base pay. Leave for part-time eligible state employees must be on a prorated basis corresponding to the percentage of hours they are normally scheduled to work.

Parent/Co-Parent: the person listed as a legal parent in the applicable required documentation (birth certificate, adoption order, etc.) or the foster parent of a child.

Qualifying Event: the birth of a newborn biological child to an eligible state employee or after a co-parent's birth of a newborn child or fostering a child in state custody or the initial legal placement of a child by adoption. **To qualify for PPL, the adoption, birth or foster care placement must occur on or after Oct. 1, 2022.**

Eligibility

To be eligible for PPL the employee must occupy all or part of an FTE position. Employees in temporary, temporary grant, time-limited, research grant and all other non-FTE positions are not eligible for PPL. There is no service requirement to be eligible for PPL. Employees occupying all or part of an FTE position are immediately eligible for PPL. Eligibility determinations are made as of the date of the qualifying event.

To qualify for PPL, the adoption, birth or foster care placement must occur on or after Oct. 1, 2022.

An eligible state employee shall receive no more than one occurrence of six or two weeks of PPL for any twelve-month period, even if more than one qualifying event occurs. Regardless of the qualifying event (adoption, birth or foster care placement), the entitlement to PPL expires at the end of the twelve-month period beginning on the date of the qualifying event. If the leave is not used by the eligible state employee before the end of the twelve-month period following the birth, adoption or foster placement, the leave cannot be carried forward for subsequent use. Any leave remaining at the end of the twelve-month period following the qualifying event or at separation of employment is forfeited and the employee is not paid out for the leave. PPL may not be donated.

Leave Amount

The amount of leave available depends on the qualifying event (adoption, birth or foster care placement) and the relationship of the state employee to the child. Employees occupying all or part of a full-time equivalent (FTE) position are eligible for PPL as described below:

- **Adoption:**
 - a. Employees occupying all or part of a full-time equivalent (FTE) position and who are primarily responsible for furnishing the care and nurture of their child initially placed for legal adoption and under the age of 18 on or after Oct. 1, 2022, are entitled to six weeks of PPL.
 - b. Employees occupying all or part of an FTE position and who are not primarily responsible for furnishing the care and nurture of their child initially placed for legal adoption under the age of 18 on or after Oct. 1, 2022, are entitled to two weeks of PPL.
 - c. Only one Eligible State Employee may be designated the parent primarily responsible for furnishing the care and nurture of their child.
- **Birth:**
 - a. Employees occupying all or part of an FTE position and who give birth to a biological newborn child on or after Oct. 1, 2022, are entitled to six weeks of PPL.
 - b. Employees occupying all or part of an FTE position and whose co-parent gives birth to a biological newborn child are entitled to receive two weeks of PPL.
- **Foster Care:**
 - a. Employees occupying all or part of an FTE position and who foster a child under the age of 18 in state custody are entitled to receive two weeks of PPL.

Paid Parental Leave Usage

Employees do not have to exhaust all other forms of leave, such as sick or annual leave, before being eligible to take PPL.

If both parents are eligible state employees, PPL may be taken concurrently, consecutively, or at a different time than the other eligible state employee. No child may have more than two parents eligible for PPL.

PPL shall not be used before the qualifying event. If an employee requires leave before the birth, adoption, or foster care placement due to medical reasons or to fulfill legal obligations, other available leave balances shall be utilized per the agency's leave policy.

- **Adoption and Birth:**
 - a. An eligible employee's PPL taken for an adoption or birth must be taken consecutively. Therefore, once leave commences, the employee must continue leave until the leave is exhausted or they choose to return to work. Any leave remaining when the employee returns to work is forfeited.

- **Foster Care:**
 - a. An eligible employee's PPL for foster care placement may be taken consecutively or upon request and approval in two, one-week, increments. The employee is not permitted to take leave in increments smaller than one week.

An eligible state employee shall receive no more than one occurrence of six or two weeks of PPL for any twelve-month period, even if more than one qualifying event occurs. An eligible state employee may, however, be able to use PPL for two qualifying events that occur within the same twelve-month period so long as the start date of the second period of PPL is at least 12 months from the end date of the first period of PPL.

Paid Parental Leave and FMLA Leave

PPL must run concurrently with FMLA leave and any other unpaid leave to which the eligible state employee may be entitled because of the qualifying event.

However, an eligible state employee shall be eligible for PPL even if the employee has exhausted their FMLA leave, or is not eligible for FMLA coverage, at the time of the qualifying event.

If an employee becomes eligible for FMLA while on PPL, the employee must use FMLA leave, and the PPL runs concurrently with FMLA leave.

Payment While Using Paid Parental Leave and Accrual of Other Leave Types

The hours of PPL are calculated based on the employee's average workday. PPL for part-time employees occupying part of an FTE position is calculated in the same way other types of leave (sick leave, annual leave, etc.) are calculated.

PPL is paid at 100% of the eligible state employee's base pay. Therefore, PPL does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay, or market or geographic differential pay. All additional pay which the employee would receive during non-PPL paid leave (for example annual leave) should be ended for the period of PPL. For example, if an employee is receiving a temporary salary adjustment or special assignment pay, these additional pay types should be discontinued in SCEIS for the period of PPL. Additional pay tied to hours worked do not need to be discontinued in SCEIS. For example, shift differential pay, on-call pay or call back pay. Non-SCEIS employers should update the applicable systems accordingly.

Eligible state employees shall accrue annual and sick leave at the normal rate and receive holiday pay while on PPL, if applicable.

Requesting Paid Parental Leave

Employees shall be required to certify that they will use PPL following the birth of a biological newborn child or to provide care to a child by completing and signing a form requesting PPL and identifying the leave to which they are entitled.

Requests to use PPL should be submitted at least 30 days prior to the date PPL will start. If 30 days' notice is not possible, an employee is required to provide notice as soon as practicable.

An employee may withdraw their request for PPL at any time prior to the start of the PPL. However, an employee on FMLA leave may not use leave without pay if PPL is available. The request to withdraw the request must be submitted in writing.

Upon receiving a request for PPL and documentation of the birth or placement of a child, the agency must notify the employee of their eligibility status within five business days or as soon as is practical.

Required Documentation

Employees must submit the requested required documentation to receive PPL within 30 days of the start of PPL or as soon as is practical after the documentation becomes available. Employees may be permitted to begin PPL following the qualifying event and pending receipt of this documentation. However, if the required documentation is not provided within 30 days of the start of PPL, or as soon as is practical after the documentation becomes available, the employee will be required to substitute all other paid leave available and, if sufficient leave is not available, will be placed on Leave Without Pay for the period they were absent from work. Please note the documentation required related to FMLA leave is governed by the FMLA. While the request for PPL and the paperwork related to FMLA leave require some of the same information, the PPL request and FMLA paperwork are separate documents.

The documentation required for PPL is provided in the table below. The employee is required to supply only one form of documentation and may choose which documentation to provide based on the applicable qualifying event.

Qualifying Event	Required Documentation (Employee Selects One)
Adoption	<ul style="list-style-type: none">Adoption order and/or agreement confirming the initial date of placement.
Birth	<ul style="list-style-type: none">Birth Certificate or Proof of BirthCertified DNA ResultsCustody Order
Foster Placement	<ul style="list-style-type: none">Foster Care Placement AgreementCustody Order

All documents must include the date of the qualifying event and reflect that the employee is a parent of the child.

These documents should be treated as medical information and not included in the employee's personnel file.

SCEIS Leave Types

Leave Type	FMLA Workbench	Description	Leave Duration
Parent Lv/Birth-6/FMLA	BIRTH (Birth of a Child)	Leave for the Birth Parent – FMLA	6 weeks
Parent Lv/Birth-6	Not Applicable	Leave for the Birth Parent – no FMLA	6 weeks
Parent Lv/Birth-2/FMLA	BIRTH (Birth of a Child)	Leave for the “co-parent who does not give birth” to biological child – FMLA	2 weeks
Parent Lv/Birth-2	Not Applicable	Leave for the “co-parent who does not give birth” to biological child – no FMLA	2 weeks
Parent Lv/Adopt-6/FMLA	FOST (Foster Care/Adoption)	Leave for the “primarily responsible parent” of an adopted child – FMLA	6 weeks
Parent Lv/Adopt-6	Not Applicable	Leave for the “primarily responsible parent” of an adopted child – no FMLA	6 weeks
Parent Lv/Adopt-2/FMLA	FOST (Foster Care/Adoption)	Leave for the “non - primarily responsible parent” of an adopted child – FMLA	2 weeks
Parent Lv/Adopt-2	Not Applicable	Leave for the “non - primarily responsible parent” of an adopted child – no FMLA	2 weeks
Parent Lv/Fost-2/FMLA	FOST (Foster Care/Adoption)	Leave for Foster Care – both parents – FMLA	2 weeks (upon request and approval can be taken in one-week, non-consecutive increments)
Parent Lv/Fost-2	Not Applicable	Leave for Foster Care – both parents – no FMLA	2 weeks (upon request and approval can be taken in one-week, non-consecutive increments)

Adoption/Sick Leave

Prior to S. 11, Section 8-11-155 of the South Carolina Code of Laws permitted an adoptive parent who is employed by this State, its departments, agencies, or institutions to use up to six weeks of accrued sick leave to take time off for purposes of caring for the child after placement. S. 11 deleted this provision. Therefore, sick leave may only be used to take time off for purposes of caring for an adoptive child after placement if the adoption is finalized on or before Sept. 30, 2022.

Agency leave policies should be updated to reflect this change.

Frequently Asked Questions (FAQs)

- 1. If an employee is eligible for FMLA Leave as a temporary, time-limited, or temporary grant employee are they eligible for PPL?**

No. Only employees in FTE positions are eligible for PPL.

- 2. If an employee is working at a state agency in a temporary, temporary grant, time-limited, or other non-FTE position and gives birth, adopts a child, or becomes a foster parent and then later is hired into an FTE position, is the employee eligible for PPL?**

No. To be eligible for PPL, the employee must meet all eligibility requirements at the time of the qualifying event (birth, adoption or foster care placement).

- 3. If an employee is in an FTE position and is taking PPL leave and then moves to a non-FTE position prior to exhausting their two or six weeks of PPL, is the employee able to take the remaining PPL while occupying a non-FTE position?**

No. The employee's PPL would end when they move to the non-FTE position even if they have not exhausted their two or six weeks of leave.

- 4. If an employee is hired into an FTE position and gave birth, adopted a child, or becomes a foster parent prior to their hire date are they eligible for PPL?**

No. To be eligible for PPL, the employee must meet all eligibility requirements at the time of the qualifying event (birth, adoption or foster care placement).

- 5. Does an employee have to work for a period of time before being eligible to take PPL?**

No. There is no service requirement to take PPL.

- 6. If an employee leaves state government while using PPL, but prior to exhausting the PPL available, and then returns to an FTE position without experiencing a break in service, can they use the balance of PPL available?**

Yes. So long as the employee does not experience a break in service, they may continue PPL, but the period of PPL must be taken consecutively. Therefore, the employee will have to take PPL immediately upon return to an FTE position. If the employee does experience a break in service they forfeit any PPL remaining upon the time of the separation.

7. If an employee has exhausted their FMLA leave, are they eligible for PPL?

Yes. PPL will run concurrently with FMLA leave, however, if FMLA leave has been exhausted the employee is still eligible for PPL if all other criteria are met.

8. Is an adoptive or foster parent able to use PPL before the initial legal placement for adoption or foster care placement for reasons related to the adoption or foster placement such as traveling to a foreign country to meet the child before the actual adoption?

No. PPL is not available until the qualifying event occurs. The employee may, however, be eligible for FMLA leave.

9. Is PPL available for surrogacy?

While not specifically included in the Paid Parental Leave Bill, through its authority to promulgate guidance DSHR has determined the birth of a child through surrogacy to an eligible state employee will be considered a qualifying event. For assistance processing PPL in SCEIS for this qualifying event please contact your DSHR consultant.

10. Is PPL available for the birth of a non-biological child conceived through in vitro fertilization?

While not specifically included in the Paid Parental Leave Bill, through its authority to promulgate guidance DSHR has determined the birth of a non-biological child conceived through in vitro fertilization to an eligible state employee will be considered a qualifying event.

11. Does PPL have to be taken immediately following the birth, adoption or foster care placement?

No. PPL may be taken at any point in the 12 months following the qualifying event. However, if the employee is taking FMLA leave they would have to use PPL prior to taking LWOP for the time on FMLA leave.

12. If an employee has sick leave and annual leave and is eligible for FMLA, in what order should leave be taken?

Sick leave and PPL run concurrently with FMLA leave but the employee may decide which leave to use first. However, the employee may only use sick leave for the period they are medically unable to work or for family sick leave (up to 10 working days) if the leave qualifies. Also, once the PPL begins, the employee must continue with PPL until this leave is exhausted.

If the employee exhausts sick leave and PPL and has remaining FMLA leave available, they may use annual leave, other available leave or leave without pay.

13. If an employee is on paid military leave and gives birth, adopts, or fosters a child are they eligible for PPL?

If the employee is on paid Short Term Military Training Leave, they are eligible. However, if the employee is on a Long-Term Military Leave of Absence, the employee would not be eligible for PPL.

14. If an employee is on Leave Without Pay and experiences a qualifying event, are they eligible for PPL?

Yes, as long as the employee would otherwise be eligible to use other paid leave types if available (sick leave, annual leave, etc.). However, if an employee is suspended pending an investigation or for disciplinary reasons, they would not be able to substitute any type of paid leave, including PPL, for the time they are suspended.

15. If leave for the birth of a biological newborn child and adoption must be taken consecutively, does that mean the employee must take full days consecutively? Or can the employee take a few hours over consecutive days until they use up their allotment?

The employee must take all time consecutively. The employee could take a partial day at the start of the leave period but after that, they would have to take full days until their leave is exhausted. Depending on the shift worked by the employee, the PPL may be exhausted in the middle of a workday resulting in a partial day of PPL. Employees may use a different type of leave (sick, annual, leave without pay) or may work for the partial workday following the exhaustion of the PPL.

16. Can an employee receive PPL while also working for the State if they are primarily responsible for furnishing the care and nurture of their child when not at work?

No. Employees may not use PPL while also working in an FTE position.

17. If an employee gives birth, adopts a child, or has a foster child placed before Oct. 1, 2022, is the employee eligible for PPL within 12 months of Oct. 1, 2022?

No. PPL is only available if the qualifying event occurs on or after Oct. 1, 2022.

18. If the mother is admitted to the hospital on one day but the birth does not occur until the following day, can PPL be used by either parent for the day prior to the birth?

No. PPL can only be used on or after the date the qualifying event occurs. The parents may, however, be permitted to use other types of leave.

19. If the employee begins parental leave but leaves state employment before their leave is exhausted and then becomes reemployed with state government within 12 months of the qualifying event, can they take the remaining PPL beginning the date they return to employment?

No. PPL must be taken consecutively and is forfeited at separation of employment.

20. If both parents work for state government, are both eligible for PPL?

Yes. PPL for both employees may be taken concurrently, consecutively or at a different time, subject to all other requirements. However, the number of weeks available to each employee may be different.

21. Can an employer deny an employee's request to take PPL at a certain time?

In general, the same considerations applied to requests for FMLA time off for bonding should be applied to requests for PPL. Therefore, requests for periods of leave should, generally, be granted for the time requested by the employee so long as the requested time is within 12 months of the qualifying event.

22. Are employees required to use PPL for legal holidays which occur during their period of leave?

No. Legal holidays are not counted against PPL.

23. If an employee works an alternate work schedule how is PPL calculated?

PPL is calculated based on the employee's average workday as defined in State Human Resources Regulations.

Workday (Average): the number of hours upon which leave, and holidays are based. To determine the number of hours in an average workday, divide the total number of hours an employee is regularly scheduled to work during a week by five (regardless of the number of days the employee actually reports to work).

Therefore, an employee who works an alternate work schedule will be eligible for the number of hours equal to the average workday multiplied by five days, multiplied by two or six weeks, regardless of the employee's actual work schedule. For example, an employee whose average workday is eight hours but works an alternate work schedule of 10 hours for four days and is off one day a week will be eligible to use 80 hours (two weeks) or 240 hours (six weeks) of PPL.

The employee would enter 10 hours of PPL for four days and no leave for the fifth day each week.

24. If an employee's average workday is eight hours at Agency A and they give birth to a child, uses three weeks of PPL, and then transfers to Agency B to a position with an average workday of 7.5 hours, how much PPL will be available after they transfer to Agency B?

The employee will initially be entitled to 240 hours of PPL and will use 120 hours while employed at Agency A. Upon transfer to Agency B the employee will have 112.5 hours of PPL available (3 weeks × 5 days × 7.5 hours) but must take PPL beginning their first day at Agency B. Because leave for the birth of a biological newborn child must be taken consecutively, the employee cannot begin work at Agency B and then, at some later date, take PPL.

25. If an employee's average workday is 7.5 hours at Agency A and they give birth to a child, uses three weeks of PPL, and then transfers to Agency B to a position with an average workday of eight hours, how much PPL will be available after they transfer to Agency B?

The employee will initially be entitled to 225 hours of PPL and will use 112.5 hours while employed at Agency A. Upon transfer to Agency B the employee will have 120 hours of PPL available (3 weeks × 5 days × 8 hours) but must take PPL beginning their first day at Agency B. Because leave for the birth of a biological newborn child must be taken consecutively, the employee cannot begin work at Agency B and then, at some later date, take PPL.

- 26. If an employee's average workday is eight hours at Agency A and they begin fostering a child, uses one week of PPL, and then transfers to Agency B to a position with an average workday of 7.5 hours, how much PPL will be available after they transfer to Agency B?**

The employee will initially be entitled to 80 hours of PPL and will use 40 hours while employed at Agency A. Upon transfer to Agency B the employee will have 37.5 hours of PPL available (1 week × 5 days × 7.5 hours) and may take the remaining one week of PPL while employed at Agency B.

- 27. If an employee's average workday is 7.5 hours at Agency A and they begin fostering a child, uses one week of PPL, and then transfers to Agency B to a position with an average workday of eight hours, how much PPL will be available after they transfer to Agency B?**

The employee will initially be entitled to 75 hours of PPL and will use 37.5 hours while employed at Agency A. Upon transfer to Agency B the employee will have 40 hours of PPL available (1 week × 5 days × 7.5 hours) and may take the remaining one week of PPL while employed at Agency B.

- 28. If a faculty member receives payment from a source other than the state institution would the payment for their leave include this compensation? What about any bonuses or other pay types?**

During the period of PPL the employee is paid their base pay which is defined as the rate of pay approved for an employee in their position exclusive of any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay, or market or geographic differential pay.

- 29. Are nine-month faculty employees eligible for PPL if they experience a qualifying event during the period of the year they are not working?**

Yes, so long as the employee remains in an FTE position. They may not begin PPL, however, until they are scheduled to work. They may not use PPL for time they would otherwise not be working.

Example Scenarios

- 1. Employee adopts a child in another country. Employee takes leave from work beginning Sept. 17 to begin the adoption process and prepare for the placement. The initial legal placement occurs Oct. 3, 2022. Is the employee eligible for PPL?**

Yes, but PPL does not start until Oct. 3, 2022, and may not be retroactively applied to any period before Oct. 3, 2022.

- 2. Employee's due date is Oct. 15, 2022. The employee experiences complications and an emergency delivery is performed Sept. 10, 2022. The baby is in the NICU until Oct. 2, 2022. Is the employee eligible for parental leave once the baby comes home?**

No. The qualifying event, the birth, occurred before the Oct. 1, 2022 implementation date. However, the agency is encouraged to work with the employee to determine other leave options.

- 3. The initial legal placement of a child for adoption occurs Oct. 5, 2022, and the same employee gives birth to a biological newborn child Oct. 30, 2022. Both the employee and spouse work for state agencies. What leaves are they eligible for?**

Both employees are eligible for PPL (provided they meet all eligibility criteria), but they will need to pick which event to apply for the leave. They do not have to select the same event for PPL. For example, the mother could take six weeks of PPL for the birth and the father could take six weeks of leave for the adoption if the father certifies that they are the person primarily responsible for furnishing the care and nurture of their child.

If the parents choose to use PPL for the same event (adoption or birth), only one parent would be eligible for six weeks of leave and the other would be eligible for two weeks of leave. For example, if the mother uses PPL for the birth event, the mother is eligible for six weeks of PPL and the father may take two weeks of PPL for the birth.

- 4. An employee, who works third shift, adopts a child and is not primarily responsible for furnishing the care and nurture of their child. The employee continues working third shift after the adoption. Can the employee receive payment for her FTE position and also receive payment for the PPL benefit?**

No. Employees may not use PPL while also working in an FTE position. However, the employee is not ineligible from using PPL in the future. PPL does not have to be immediately taken following the qualifying event. The employee could apply for two weeks of PPL at any time within the twelve-month period following the qualifying event. The employee would, however, have to cease working for the two week period for which they want to receive PPL.

- 5. Employee adopts a child Oct. 24, 2022, and then gives birth May 15, 2023. Both parents work for the State. How might they use PPL?**

The parents may choose to use the PPL for the same or different events. In addition, both parents would be able to use PPL for both qualifying events provided the period of PPL for the second qualifying event begins at least 12 months from the end of the period of PPL for the first qualifying event.

Example: Employee adopts a child Oct. 24, 2022, and immediately takes two weeks of PPL returning to work Nov. 7, 2022. The employee then gives birth to a child May 15, 2023. The employee can take six weeks of paid parental leave for the birth beginning Nov. 8, 2023 (12 months from the PPL taken for the adoption) but the leave must be taken prior to May 14, 2024 (12 months from the birth).

October 24, 2022	<ul style="list-style-type: none"> •Employee adopts child. •Begins two weeks of PPL for adoption.
November 7, 2022	<ul style="list-style-type: none"> •PPL ends for adoption.
May 15, 2023	<ul style="list-style-type: none"> •Employee gives birth to child. •Employee cannot start PPL for birth immediately because the last day of previously taken PPL is less than 12 months prior.
November 8, 2023	<ul style="list-style-type: none"> •12 months from end of PPL taken for adoption. •First day employee can begin PPL for birth.
May 14, 2024	<ul style="list-style-type: none"> •12 months from date of birth (May 15, 2023). •End of the period in which employee can take PPL for the birth.

6. An employee has multiple foster care placements in a single twelve-month period. Can PPL be used for each foster placement?

An eligible state employee shall receive no more than one occurrence of six or two weeks of PPL for any twelve-month period, even if more than one qualifying event occurs. However, the employee may be able to use PPL for two qualifying events which occur in the same twelve-month period provided the period of PPL for the second qualifying event begins at least 12 months from the end of the period of PPL for the first qualifying event.

7. Employee works 12.5-hour day shift and adopts a child. The co-parent cares for the child during the early day hours (eight hours) when the employee normally works. The employee wants to continue working during the early day hours and take 4.5 hours of PPL in the afternoons.

This would not be permitted. PPL must be taken consecutively so the employee would not be permitted to take partial days.

FMLA/Parental Leave

1. Employee’s spouse gives birth May 30, 2023, but there are complications from the birth. The employee is eligible for FMLA.

The employee may take two weeks of PPL which will run concurrent with FMLA leave for the baby’s birth. The co-parent may also be entitled to take family sick leave to care for their spouse if needed. In addition, the spouse’s serious health condition may qualify the employee for FMLA separate from the birth event. In this case, the employee is still limited to 12 weeks total of FMLA leave.

2. Employee exhausts FMLA before using all their PPL.

The employee can still use PPL. While PPL must run concurrently with FMLA leave, if FMLA leave is available, the employee may take PPL if the employee exhausted their FMLA leave prior to the PPL qualifying event.

3. Agency advances an employee who is ineligible for FMLA leave 10 days of their own sick leave before the employee gives birth. The employee returns to work and begins paying back the advanced sick leave shortly before giving birth. The employee gives birth before paying back all the advanced leave.

The use of advanced sick leave has no impact on the use of PPL. The employee will accrue sick leave while on PPL and this time should be used to “pay back” the advanced leave.

4. An employee gives birth Jan. 2, 2023, and qualifies for FMLA leave. The employee has 15 days of sick leave and 10 days of annual leave. The employee’s doctor releases them to work six weeks following the birth. Below are two scenarios demonstrating how this employee may choose to use their leave.

Type of Leave	Period
Sick Leave/FMLA	Jan. 3-24, 2023
Paid Parental Leave/FMLA	Jan. 25-March 8, 2023
Annual Leave/FMLA	March 9-22, 2023
LWOP/FMLA	March 23-24, 2023

Type of Leave	Period
Paid Parental Leave/FMLA	Jan. 3-Feb. 14, 2023
Annual Leave/FMLA	Feb. 15-March 1, 2023
LWOP/FMLA	March 2, 2023-March 24, 2023
Note: This employee could not use their sick leave after Feb. 14, 2023, because at that point they had been medically released to work. They could, however, continue FMLA which allows 12 weeks of leave following the birth of the child.	

Note: Legal holidays should not be included in the application of PPL. In the above example, legal holidays are Jan. 2 and 16, as well as Feb. 20.

Supporting Materials and Documents

Model Paid Parental Leave Policy

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

Purpose

Section 8-11-150 (A) and Section 8-11-155 of the South Carolina Code of Laws provide six weeks or two weeks of paid parental leave upon the occurrence of a qualifying event to employees who occupy all or part of a full-time equivalent position. Employees in temporary, temporary grant, time-limited, research grant and all other non-FTE positions are not eligible for PPL.

The purpose of this policy is to guide the administration of paid parental leave (PPL).

Definitions

Child: A newborn biological child or foster of a child in state custody and under the age of 18 or a child initially legally placed for adoption and under the age of 18. No child can have more than two parents eligible for paid parental leave.

Eligible State Employee: An employee occupying any percentage of a full-time equivalent (FTE) position as of the date of the qualifying event. Employees in temporary, temporary grant, time-limited, research grant and all other non-FTE positions are not eligible for PPL.

Paid Parental Leave (PPL): Six weeks of paid leave at 100% of the eligible state employee's base pay or two weeks of paid leave at one hundred percent of the eligible state employee's base pay. Leave for part-time eligible state employees must be on a prorated basis corresponding to the percentage of hours they are normally scheduled to work.

Parent/Co-Parent: the person listed as a legal parent in the applicable required documentation (birth certificate, adoption order, etc.) or the foster parent of a child.

Qualifying Event: the birth of a newborn biological child to an eligible state employee or after a co-parent's birth of a newborn child or fostering a child in state custody or the initial legal placement of a child by adoption. **To qualify for PPL, the adoption, birth or foster care placement must occur on or after Oct. 1, 2022.**

Eligibility

To be eligible for PPL the employee must occupy all or part of an FTE position. Employees in temporary, temporary grant, time-limited, research grant and all other non-FTE positions are not eligible for PPL. There is no service requirement to be eligible for PPL. Employees occupying all or part of an FTE position are immediately eligible for PPL.

Eligibility determinations are made as of the date of the qualifying event. If an employee does not meet all eligibility requirements as of the date of the birth, adoption, or foster care they are not eligible for PPL even if they later meet the eligibility requirements.

To qualify for PPL, the adoption, birth, or foster care placement must occur on or after Oct. 1, 2022.

An eligible state employee shall receive no more than one occurrence of six or two weeks of PPL for any twelve-month period, even if more than one qualifying event occurs.

Regardless of the qualifying event (adoption, birth or foster care placement), the entitlement to PPL expires at the end of the twelve-month period beginning on the date of the qualifying event. If the leave is not used by the eligible state employee before the end of the twelve-month period after the birth, adoption or foster placement, the leave does not accumulate for subsequent use.

Any leave remaining at the end of the twelve-month period or at separation of employment is forfeited and the employee is not paid out for the leave. PPL may not be donated.

Leave Amount

The amount of PPL available depends on the qualifying event (adoption, birth or foster care placement) and the relationship of the state employee to the child. Employees occupying all or part of a full-time equivalent (FTE) position are eligible for PPL as described below:

- **Adoption:**
 - a. Employees occupying all or part of a full-time equivalent (FTE) position and who are primarily responsible for furnishing the care and nurture of their child initially placed for legal adoption under the age of 18 on or after Oct. 1, 2022, are entitled to six weeks of PPL.
 - b. Employees occupying all or part of an FTE position and who are not primarily responsible for furnishing the care and nurture of their child initially placed for legal adoption under the age of 18 legally on or after Oct. 1, 2022, are entitled to two weeks of PPL.
 - c. Only one Eligible State Employee may be designated the parent primarily responsible for furnishing the care and nurture of their child.
- **Birth:**
 - a. Employees occupying all or part of an FTE position and who give birth to a child on or after Oct. 1, 2022, are entitled to six weeks of PPL.
 - b. Employees occupying all or part of an FTE position and whose co-parent gives birth to a child are entitled to receive two weeks of PPL.
- **Foster Care:**
 - a. Employees occupying all or part of an FTE position and who foster a child under the age of 18 in state custody are entitled to receive two weeks of PPL.

Paid Parental Leave Usage

Employees do not have to exhaust all other forms of leave before being eligible to take PPL.

If both parents are eligible state employees, PPL may be taken concurrently, consecutively, or at a different time than the other eligible state employee. No child may have more than two parents eligible for PPL.

If an employee requires leave before the birth, adoption or foster care placement due to medical reasons or to fulfill legal obligations, other available leave balances shall be utilized per the agency's leave policy. PPL may not be used before the qualifying event.

Legal holidays are not counted against PPL.

PPL is paid at 100% of the eligible state employee's base pay. This does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay or market or geographic differential pay. Therefore, all additional pay which the employee would receive during non-PPL paid leave (for example annual leave) should be discontinued in SCEIS for the period of PPL. For example, if an employee is receiving a temporary salary adjustment or special assignment pay, these additional pay types should be discontinued in SCEIS for the period of PPL. Additional pay tied to hours worked does not need to be discontinued in SCEIS. For example, shift differential pay, on-call pay or call back pay. Non-SCEIS employers should update the applicable systems accordingly.

- **Adoption and Birth:**
 - a. Leave taken for an adoption or birth must be taken consecutively. Therefore, once leave commences, the employee must continue leave until the leave is exhausted or they choose to return to work. Any leave remaining when the employee returns to work is forfeited.
- **Foster Care:**
 - a. Leave for foster care placement may be taken consecutively or upon request and approval in two, one-week, increments. The employee is not permitted to take leave in increments smaller than one week.

An eligible state employee shall receive no more than one occurrence of six or two weeks of PPL for any twelve-month period, even if more than one qualifying event occurs. An eligible state employee may, however, be able to use PPL for two qualifying events that occur within the same twelve-month period so long as the start date of the second period of PPL is at least 12 months from the end date of the first period of PPL.

Paid Parental Leave and FMLA Leave

PPL must run concurrently with leave taken pursuant to the Family Medical and Leave Act (FMLA) and any other unpaid leave to which the eligible state employee may be entitled as a result of the qualifying event.

However, an eligible state employee shall be eligible for PPL even if the employee has exhausted their FMLA leave, or is not eligible for FMLA coverage, at the time of the qualifying event.

If an employee becomes eligible for FMLA leave while on PPL, the employee must use FMLA leave, and the PPL runs concurrently with FMLA leave.

Payment While Using Paid Parental Leave and Accrual of Other Leave Types

The hours of PPL are calculated based on the employee's average workday.

Eligible state employees shall accrue annual and sick leave at the normal rate and receive holiday pay while on PPL, if applicable.

Requesting Paid Parental Leave

Employees must complete and sign the PPL Request Form.

Request to use PPL should be submitted at least 30 days prior to start of PPL. If 30 days' notice is not possible, an employee is required to provide notice as soon as practicable.

An employee may withdraw their request for PPL at any time prior to the start of the PPL. However, an employee on FMLA leave may not use leave without pay if PPL is available. The request to withdraw the request must be submitted in writing.

Upon receiving a request for PPL and documentation following the birth or placement of a child, the agency will notify the employee of their eligibility status within five business days or as soon as is practical.

Required Documentation

The documentation required for PPL is provided in the table below. The employee is required to supply only one form of documentation and may choose which documentation to provide based on the applicable qualifying event.

Qualifying Event	Required Documentation (Employee Selects One)
Adoption	<ul style="list-style-type: none">• Adoption order and/or agreement confirming the initial date of placement.
Birth	<ul style="list-style-type: none">• Birth Certificate or Proof of Birth• Certified DNA Results• Custody Order
Foster Placement	<ul style="list-style-type: none">• Foster Care Placement Agreement• Custody Order

Employees must submit the requested required documentation to receive PPL within 30 days of the start of PPL or as soon as is practical after the documentation becomes available. Employees may be permitted to begin PPL following the qualifying event and pending receipt of this documentation. However, if the required documentation is not provided within 30 days of the start of PPL, or as soon as is practical after the documentation becomes available, the employee will be required to substitute all other paid leave available and, if sufficient leave is not available, will be placed on Leave Without Pay for the period they were absent from work. Please note the documentation required related to FMLA leave is governed by the FMLA. While the request for PPL and the paperwork related to FMLA leave require some of the same information, the PPL request and FMLA paperwork are separate documents.

All documents must include the date of the qualifying event and reflect that the employee is a parent of the child.

Sample Paid Parental Leave Request Form

Employee Name:	
Work Phone Number:	
Work Email Address:	
SCEIS Number:	
Manager's Name:	
Date of Request:	
Date of Qualifying Event:	
Parental Leave Start Date:	

Reason Parental Leave Requested (Check One):

- I am primarily responsible for furnishing the care and nurture of a child initially legally placed with me for adoption. (Six weeks of consecutive parental leave.) Only one Eligible State Employee may be designated the parent primarily responsible for furnishing the care and nurture of their child.
- I am not primarily responsible for furnishing the care and nurture of a child initially legally placed with me for adoption. (Two weeks of consecutive parental leave.)

- I have given birth. (Six consecutive weeks of parental leave.)
- I am the co-parent of a biological child. (Two weeks of consecutive parental leave.)

- I am fostering a child in state custody. Choose option one or two. (Two weeks of parental leave.)
 - Option One: I will take the two weeks of paid parental leave at one time.
 - Option Two: I will take paid parental leave in two, one week, non-consecutive, increments.

Required Documentation:

Qualifying Event	Required Documentation (choose one)
Adoption	<ul style="list-style-type: none"> • Adoption order and/or agreement confirming the initial date of placement.
Birth	<ul style="list-style-type: none"> • Birth Certificate or Proof of Birth • Certified DNA Results • Custody Order
Foster Placement	<ul style="list-style-type: none"> • Foster Care Placement Agreement • Custody Order

Check one:

- I **have not** used any paid parental leave in the 12 months preceding this request or for the qualifying event indicated on this request form.
- I **have** used paid parental leave in the 12 months preceding this request or for the qualifying event indicated on this request form. (If yes, please provide the information below.)
 - Date leave commenced _____.
 - Date leave ended (if applicable) _____.
 - Agency/Institution where parental leave was used _____.

I understand that paid parental leave is paid at 100% of the eligible state employee's base pay. Therefore, paid parental leave does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay or market or geographic differential pay.

I certify that the information provided in this form is accurate and I understand that any falsification of information may lead to disciplinary action up to and including termination.

Employee Signature: _____

Date: _____

Human Resources Use Only:

- Parental Leave Approved
- Parental Leave Denied Reason: _____

Checklist:

- Required documentation reviewed: _____
- Is employee eligible for FMLA leave? _____
 - If employee is not FMLA eligible at the time of the event, date employee will become eligible: _____
- Update FMLA Workbench (if applicable).
- (SCEIS) Activate appropriate leave type flag on IT2012 (Choose One)
 - Parent Lv/Birth-6/FMLA
 - Parent Lv/Birth-6
 - Parent Lv/Birth-2/FMLA
 - Parent Lv/Birth-2

- Parent Lv/Adopt-6/FMLA
- Parent Lv/Adopt-6
- Parent Lv/Adopt-2/FMLA
- Parent Lv/Adopt-2
- Parent Lv/Fost-2/FMLA
- Parent Lv/Fost-2

- Determine dates of leave eligibility based on event.
 - Start Date: _____
 - End Date: _____

- Verify paid parental leave not taken in the previous 12 months.

Important Reminders:

- PPL is only available if the qualifying event occurs on or after Oct. 1, 2022.
- Only employees who occupy all or part of an FTE position are eligible for PPL.
- PPL for birth and adoption must be taken consecutively and in one continuous block of time.
- PPL for foster care placement may be taken in two consecutive weeks or upon request and approval in two, one-week increments.
- PPL must run concurrent with FMLA, if available.
- Employees are eligible for PPL on their first date of hire.
- Employees are not required to use other leave before using PPL but may do so if they choose.
- PPL must be taken within 12 months of the qualifying event. Any leave available to the employee after 12 months is forfeited.
- PPL is paid at 100% of the eligible state employee's base pay. Therefore, PPL does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay or market or geographic differential pay. All additional pay which the employee would receive during non-PPL paid leave (for example annual leave) should be discontinued in SCEIS for the period of PPL. For example, if an employee is receiving a temporary salary adjustment or special assignment pay, these additional pay types should be discontinued for the period of PPL. Additional pay tied to hours worked does not need to be discontinued in SCEIS. For example, shift differential pay, on-call pay or call back pay. Non-SCEIS employers should updates the applicable systems accordingly.
- This form does not replace the agency's obligation to provide timely written notifications to the employee required under the Family and Medical Leave Act (FMLA), the Pregnancy Discrimination Act (PDA), or the Americans with Disabilities Act (ADA). Refer to the Acts and the agency's policies and procedures for more information.

Sample Paid Parental Leave Request Approval – Birth or Adoption

Dear Employee:

This letter is in response to your request to use paid parental leave for the [birth of your child/placement of an adoptive child].

Your request has been reviewed and you are eligible for [six/two] weeks of paid parental leave. This leave must be taken consecutively and is available for 12 months following the [birth of your child/placement of an adoptive child.]

Please be advised that paid parental leave pays only your base pay and does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay or market or geographic differential pay which you may be receiving.

Per your request, your paid parental leave will begin on XX/XX/XXXX and will end on XX/XX/XXXX. This leave will run concurrently with your available Family Medical Leave Act (FMLA) Leave.

Your paid parental leave should be entered through SCEIS Central using the following leave type: [Parent Lv/XXXXX-X].

Sincerely,

Human Resources Department

cc: Employee Medical File

Sample Paid Parental Leave Request Approval – Foster Care

Dear Employee:

This letter is in response to your request to use paid parental leave for the placement of a foster child.

Your request has been reviewed and you are eligible for two weeks of paid parental leave. You may take this leave in one, two-week increment or in two, one-week increments. This leave is available for 12 months following the foster care placement.

Per your request, your paid parental leave will begin on XX/XX/XXXX and will end on XX/XX/XXXX. This leave will run concurrently with your available Family Medical Leave Act (FMLA) Leave.

Please be advised that paid parental leave pays only your base pay and does not include any additional pay, such as overtime, supplements, bonuses, longevity pay, temporary salary adjustments, shift differential pay, on-call pay, call back pay, special assignment pay or market or geographic differential pay which you may be receiving.

Your paid parental leave should be entered through SCEIS Central using the following leave type: [Parent Lv/Fost-2/XXXX].

Sincerely,

Human Resources Department

cc: Personnel File

Sample Paid Parental Leave Request Denial

Dear Employee:

This letter is in response to your request to use paid parental leave.

Your request has been reviewed it has been determined that you are ineligible for paid parental leave because (check one):

- You were not in an FTE position at the time of the birth, adoption or foster care placement.
- The birth, initial legal placement for adoption, or foster care placement occurred prior to Oct. 1, 2022.
- The birth, initial legal placement for adoption, or foster care placement occurred more than 12 months prior to the date of the request.
- You have exhausted your paid parental leave benefit.
- You have not experienced a qualifying event.
- You do not meet the qualifying definition of “parent” or “co-parent.”
- Other: _____

Please review the enclosed paid parental leave policy for additional information.

Sincerely,

Human Resources Department

Enclosure (Paid Parental Leave Policy)

cc: Personnel File