

1209: Paid Leave for Birth or Adoption of a Child

I. Purpose:

- a. 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 or adoption of a child pursuant to Section 1333 of Title 14 of the Delaware (“Section 1333”) and the Healthy Delaware Families Act.

II. Definitions:

- a. **Eligible Employee:** A full-time employee or a part-time employee in a leave eligible position, who is not a casual/seasonal employee, employed by a reorganized school district, charter school, or vocational school district for at least 12 months or 52 weeks and have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- b. **Full-time employee:** A full-time State pension eligible employee employed by a reorganized school district, charter school, or vocational school district for at least one (1) year who works 30 or more hours per week for the school.
- c. **12 weeks of paid leave:** 12 work weeks. The fact that a holiday may occur within a week of paid leave has no effect in that the week counts as a week of paid leave. If, however, an employee is not expected to work for an entire week (e.g. school closing for Winter Holiday, Spring Break, or Summer Break), the week does not count against the employee’s paid leave entitlement.
- d. **Intermittent leave:** Intermittent leave means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time.
- e. **Reduced leave schedule:** A leave schedule that reduces an employee’s usual number of working hours per workweek, or per workday.
- f. **Parental leave:** The paid leave taken for the birth or adoption order, or other legal documentation codified as part of the state’s regulations.
- g. **Parent:** The legal parent as evidenced by birth certificate, adoption documents, court order, or other legal documents.
- h. **Multiple births/adoptions:** More than one child is born from the same pregnancy, or more than 1 child who is under 18 old adopted through the same adoption process, more than 1 child who is under 18 placed under through the same foster care placement, or on the same date.
- i. **FMLA:** Family Medical Leave Act.

- j. **STD: Short Term Disability.**
- k. **Written Notice:** Written notice provided to the School's Human Resources Department officer or other designated School official.

III. Policy Statement:

a. Paid Leave Entitlement:

- i. Effective April 1, 2019, an eligible employee (as defined above) shall be entitled to 12 weeks of parental leave upon the birth of a child of the employee, upon adoption by the employee of a child who is under 18 years old or upon the foster care placement of a child who is under 18 years old by the employee. Multiple births, adoptions, or foster care placements do not increase the length of parental leave. An employee's entitlement to parental leave is determined on the date of the birth of a child, or adoption/foster care placement of a child.
- ii. Parental 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 and the employee must consult with the appropriate School official to determine whether another form of leave is applicable and available. If, for whatever reason, the child is no longer in the care of the employee, the paid leave shall terminate. As stated in the definition of "parent" under letter G, a person caring for the child should provide a copy of the birth certificate, adoption document, court or other legal documents to the HR Department.
- iii. The entitlement to Parental leave shall expire at the end of the 12-month period immediately following the date of the birth, adoption, or foster care placement creating the entitlement to paid leave. If an employee entitled to parental leave takes 6 weeks of parental leave during the 12-month period, there will be no entitlement to take the remaining 6 weeks of parental leave subsequent to the expiration of the 12-month period following the birth, adoption, or foster care placement creating the entitlement to parental leave. 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.
- iv. Parental leave cannot be taken on an intermittent basis, or be used to create a reduced leave schedule. Paid Parental leave must be taken for a continuous block of time up to a maximum of 12 weeks. Prior to the start of the leave period, employees will provide plans or notes to ensure operational continuity. These would include such things as classroom lesson plans, identification of likely temporary functional replacements, etc.
- v. If two School employees are eligible for paid leave for the same birth, adoption, or foster care placement then each of the employees is eligible

for 12 weeks of paid leave. Parental leave for the employees ends at the expiration of the 12-month period beginning on the date of the birth or adoption.

- vi. The Providence Creek Academy Board of Directors may grant exceptions to this policy when the position of a 12 month employee does not allow for a substitute to have access to State systems or trainings in an appropriate timeframe. The employee may propose a written plan for their leave at this time, including calendar and nature of work during these weeks ultimately extending their leave by the days they worked. This plan must then be approved by the Board of Directors.

b. Right to Use Accumulated Sick Leave:

- i. Employees who are not eligible for paid leave may use accumulated sick leave upon the birth or adoption of a child pursuant to Section 1333(c).
- ii. Employees eligible for paid leave cannot use accumulated sick leave to extend paid leave upon the birth or adoption of a child beyond the 12 weeks of paid leave provided by Section 1333(a), unless otherwise approved by the School's Governing Board.
- iii. The right to use accumulated sick leave pursuant to Section 1333(c) is without regard to length of employment.

c. Effect of Parental Leave on Other Benefits:

- i. 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, an eligible employee who is also eligible for FMLA uses 12 weeks of parental leave, the use of the 12 weeks of parental leave will also result in the use of 12 weeks of FMLA leave. When the use of paid leave runs concurrently with STD, STD shall pay 75% of the employee's salary, and Parental leave shall pay 25% of the employee's salary. In the event that the employee requires leave before the birth or adoption due to medical reasons, or to fulfill legal adoption requirements, other available leaves shall be used in accordance with other School policies.
- ii. While on approved parental leave, the School will continue to pay the employer portion of the employee's elected benefits and deduct the employees share from the employee's paycheck, as normal.
- iii. Employees on parental leave will continue to earn leave in accordance with the applicable Sick and Vacation Leave policies.

d. Notice and Certification:

- i. If an employee intends to take paid leave upon the birth of the employee's child, the employee shall provide the School 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 or

foster care placement of a child, the employee must provide written notice of intent to take parental leave at least 30 days' in advance of the adoption or foster care placement if the date is foreseeable. If the date of the adoption or foster care placement is not foreseeable, or the child is born earlier than expected, the employee shall provide the School written notice of the date of adoption or birth as soon as practicable.

- ii. If an employee requests paid leave based upon the birth ~~or~~ adoption, or foster care placement of a child, the employee shall provide documentation of the birth or adoption within 30 days of the birth ~~or~~ adoption, or foster care placement, or as soon as documentation is available. The name of a legal parent must appear on the birth certificate, a legal document establishing paternity, or a legal document establishing adoption or foster care placement. Situations where a legal document cannot be provided at the time of birth or adoption, 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, and an adoption/foster care placement order. The documents provided shall show the date of the birth or adoption age of the adopted child or age of the child in foster care placement, and name of the parent(s). An employee's stepchild is not the child of the employee, unless the employee adopts the stepchild.

e. Amendment or Repeal of Section 1333:

- i. The School 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 amended, the policy will be revised to align this policy with the amendment. If Section 1333 is repealed, this policy is null and void.

f. Termination:

- i. No employee, officer, member or other representative of the School may alter or terminate the benefits of or terminate the employment of any eligible employee as a result of taking leave pursuant to this section.

IV. Responsibility:

- a. It is the responsibility of the Head of School and the Business Office to ensure the proper implementation of the policy.
- b. Eligible employees must follow the guidelines outlined in this policy.

V. Related Policies:

VI. Related Procedures and Documents:

- a. Delaware Code Title 14 Section 1333:
<https://delcode.delaware.gov/title14/c013/index.shtml>

Effective Date: This policy takes effect on April 1, 2019.

APPROVED BY THE BOARD OF DIRECTORS APRIL 30, 2019

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