North Carolina Community College System
Dr. Jeff A. Cox
President
200 W. Jones St., Raleigh NC 27603

NUMBERED MEMO CC23-019

TO: Members of the State Board of Community Colleges, Chairs of the Community College Boards of Trustees, Community College Presidents, Chief Academic Officers, Chief Admissions Officers, Basic Skills Directors, Business Officers, Continuing Education Officers, Customized Training Directors, Chief Financial Officers, Financial Aid Officers, Personnel Directors, Student Development Administrators, Public Information Officers, Registrars, & Other Interested Parties

FROM: Tawanda Foster Artis
NCCCS General Counsel

SUBJECT: Proposed Temporary Amendment of 1C SBCCC 200.100 – Paid Parental Leave

DATE: June 23, 2023

The State Board of Community Colleges initiated the temporary rulemaking process to amend the State Board Code, **1C SBCCC 200.100 – Paid Parental Leave**. This temporary rule grants eight (8) weeks of paid parental leave to eligible employees who give birth, and four (4) weeks of paid parental leave to other eligible parents with a qualifying event (adoption, foster care, or other legal placement).

Section 5 of Session Law 2023-14 requires the Office of State Human Resources (OSHR) to create rules and policies to implement paid parental leave for State employees and employees of educational institutions, including the University of North Carolina System, public school employees, and community college employees. Agency and institution policies must be "substantially equivalent" to those promulgated by OSHR. If adopted by the State Board this temporary rule will be effective until a permanent rule is adopted.

The proposed temporary amendment is published on the NC Community College System's website, www.nccommunitycolleges.edu/sbcccode. For your convenience, a copy of the proposed temporary rule, with the changes indicated, is attached to this memorandum. Strikethroughs indicate deletions of existing language and underlines indicate additions of language.

Any member of the public has the right to submit written comments on the proposed rule. Please note that any person who submits public comments on behalf of their community college should comply with their college's local process for submitting comments on a proposed rule. **Written comments on the rule must be received no later than 5:00 pm on June 28, 2023**. Written comments shall be directed to the following address: Tawanda Foster Artis, 5001 Mail Service Center, Raleigh, NC 27699-5001 or by email to publiccomments@nccommunitycolleges.edu. Thank you for your attention to this matter.

CC23-019

E-mail Copy
Attachments

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Title 1, Chapter C is proposed for temporary amendment as follows:

State Board of Community Colleges Code
TITLE 1. COMMUNITY COLLEGES

CHAPTER C. PERSONNEL

SUBCHAPTER 200. PERSONNEL POLICIES

1C SBCCC 200.100 Paid Parental Leave

(a) For the purpose of this Section, the following definitions shall apply.

(1) "Child" means a newborn biological Child or a newly-placed adopted, foster or otherwise legally placed Child under the age of 18, whose Parent is an eligible employee.

(2) "Parent" means:

(A) the mother or father of a Child through birth or legal adoption; or

(B) an individual who cares for a Child through foster or other legal placement under the direction of a government authority.

(3) "Public safety concern" means a significant impairment to the agency's ability to conduct its operations in a manner that protects the health and safety of North Carolinians.

(4) "Qualifying event" means when an employee becomes a Parent to a Child.

(b) Relationship to Other Sections and Policies.

(1) This Section states the terms and conditions only for paid parental leave that is provided under G.S. 126-8.6 and for colleges who are required to adopt Sections and policies that are "substantially equivalent" to those promulgated by the NC Office of State Human Resources.

(2) The paid parental leave provided under this Section is in addition to any other leave authorized by State or federal law. Nothing in this Section shall prohibit a college, if authorized, from providing paid parental leave in amounts greater than as required by this Section.

(c) Eligibility for Paid Parental Leave.

(1) Employees who become Parents via childbirth, adoption, foster care, or another legal placement are eligible for Paid Parental Leave if:

(A) Employee is in a permanent, time-limited, or probationary appointment. Temporary employees are not eligible for Paid Parental Leave under this Section.

(B) At the time of the qualifying event, the employee meets each of the following conditions:

(i) For the immediate 12 preceding months, the employee has been employed without a break in service, as defined by 25 NCAC 01D .0114, by the State of North Carolina in a permanent, time-limited, or probationary appointment.

a. Periods of worker's compensation or short-term disability months preceding the qualifying events do not make the employee ineligible for Paid Parental Leave.

b. Periods of leave without pay, as defined in 25 NCAC 01E .1100, shall not constitute a break in service.

(ii) The employee has been in pay status with the State of North Carolina for at least 1,040 hours during the previous 12-month period becoming eligible for Family and Medical Leave.

a. Exhaustion of Family and Medical Leave does not affect eligibility for Paid Parental Leave.

(d) Leave Available to Full-Time Employees.

(1) Full-time employees eligible for Paid Parental Leave under this Section may take, in their discretion, up to the following amounts of leave:

(A) Eight weeks of paid leave after a parent gives birth to a child.

(B) Four weeks of paid leave after any other qualifying event.

(2) Each week of paid parental leave under this Section shall result in compensation at 100% of the eligible employee's regular, straight-time weekly pay excluding shift differential, premium pay, or overtime.

(e) Leave Available to Part-Time Employees.

(1) Part-time employees (regardless whether they work half-time or more) shall receive Paid Parental Leave under this Section if the employee meets all other requirements for eligibility.

(2) Part-time employees eligible for Paid Parental Leave under this Section may take, in their discretion, a prorated leave amount of:

(A) Four weeks of paid leave after a Parent gives birth to a Child.

(B) Two weeks of paid leave after any other qualifying event.

(3) Each week of Paid Parental Leave under this Section shall result in compensation at 100% of the eligible employee's regular, straight-time weekly pay excluding shift differential, premium pay, or overtime.

(f) Use of Other Leave.

(1) The Paid Parental Leave provided under this Section shall not be counted against or deducted from the employee's sick, vacation, or other accrued leave. The Paid Parental Leave provided under this Section is in addition to any other leave authorized by law, Section, or policy. Whether an employee has exhausted Family and Medical Leave does not affect eligibility for Paid Parental Leave under this Section.

(g) Requesting Use of Paid Parental Leave.

(1) Eligible employees may take Paid Parental Leave in one continuous period or may take intermittent use of Paid Parental Leave. Requests for intermittent use of Paid Parental Leave are subject to the agency's approval as stated in Paragraph (4) of this Section.

(2) Whenever possible, eligible employees shall notify their agency at least 10 weeks in advance of their intention to use Paid Parental Leave. Employees may withdraw their request for Paid Parental Leave at any time.

(3) Absent unusual circumstances, the employee shall be required to comply with agency leave request procedures.

(4) The agency shall not deny, delay, or require intermittent use of Paid Parental Leave to employees who gave birth and seek to use Paid Parental Leave in one continuous period.

(5) For all other employees, the agency may delay providing Paid Parental Leave or may provide Paid Parental Leave intermittently if it determines that providing the leave will cause a public safety concern. For example, the extension of Paid Parental Leave to an eligible employee who did not give birth may constitute a Public Safety Concern if:

(A) Providing the Paid Parental Leave would result in agency staffing levels below what is required by federal or state law to maintain operational safety; or

(B) Providing the Paid Parental Leave may impact the health or safety of staff, patients, residents, offenders, or other individuals the agency is required by law to protect; and

(C) The agency has been unable to secure supplemental staffing after requesting or diligently exploring alternative staffing options.

(6) If the agency determines that it must delay Paid Parental Leave, or make Paid Parental Leave intermittent, because of a public safety concern under Paragraph of this Section, the agency shall provide Paid Parental Leave as soon as practical following the Qualifying Event.

(7) If both Parents are eligible employees, each may receive Paid Parental Leave. Both Parents may take their leave simultaneously or at different times, pending no Public Safety Concern.

(h) Leave Usage.

(1) Paid Parental Leave may be used only once for a Qualifying Event within a 12 month period. The fact that a multiple birth, adoption, or other legal placement occurs (e.g., the birth of twins or adoption of siblings) does not increase the total amount of Paid Parental Leave granted for that event.

(2) Unused Paid Parental Leave is forfeited 12 months from the fate of the Qualifying Event.

(3) Paid Parental Leave shall not accrue or be donated to another employee.

(4) Employees shall not be paid for the leave provided by this Section upon separation from the employer. The leave provided by this Section shall not be used for

calculating an employee's retirement benefits and shall not accrue or be donated as voluntary shared leave.

(5) Leave usage must be recorded in the same required increments as all other time.

(6) If the employee requires leave before the actual birth or adoption due to medical reasons or to fulfill legal adoption obligations, other available leave balances shall be utilized in accordance with the agency's leave policies. Paid Parental Leave shall not be used prior to the Qualifying Event.

(i) Expiration.

(1) This temporary rule expires on the effective date of the permanent rule adopted to replace this temporary rule.

History Note: Authority G.S. 115D-D;
Temporary Amendment Eff.