



Title: Frequently Asked Questions (FAQ) for the Judicial Branch Paid Parental Leave Policy

Related Policy Number: JB-HR-26-001

Effective Date: January 1, 2026

Definitions and Acronyms

- **Eligible Employee** means a Judicial Branch full-time or permanent part-time employee who (1) was hired to work at least 25 hours per week in a leave eligible position; (2) has worked for the State for 12 continuous months (or 52 weeks) as of the date of the birth, adoption, lawful adoption placement, or initial foster care placement; and (3) has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
 - Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are ineligible for PPL.
 - The Family and Medical Leave Act (FMLA) applies when determining whether an employee meets the 1,250 hours requirement. This means that the 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave.
- **Family and Medical Leave Act (FMLA)** is 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.
- **Healthy Delaware Families Act (the Act)** was signed into law on May 10, 2022. The Act created the Delaware Family and Medical Leave Insurance Program, which requires most employers in Delaware to provide eligible employees with Paid Family and Medical Leave (PFML). The Act provides eligible employees with income replacement benefits and job-protection during leave for qualifying family and medical reasons. [19 Del. C. Ch 37](#).
- **Paid Family and Medical Leave (PFML)** is the Act's statutorily created income replacement and job protection benefit for qualifying family and medical reasons.

The Act establishes four (4) PFML lines of coverage: Family Caregiving Leave, Qualifying Exigency Leave, Parental Leave, and Medical Leave.

General PPL Questions

1. What is the purpose of Paid Parental Leave (PPL)?

The purpose of paid parental leave (PPL) is to recognize the importance of maintaining a healthy workforce by providing economic stability for employees caring for and bonding with children newly born, adopted, or placed for adoption or foster care. PPL assists the Judicial Branch in retaining its current workforce and attracting new employees to public service.

The benefits provided in Paid Parental Leave Policy (the policy) comply with Sections 5120 and 5253 of Chapter 29 of the Delaware Code and the Healthy Delaware Families Act (the Act), [Chapter 37 of Title 19 of the Delaware Code](#). The PPL provided in the policy has been approved by Delaware's Department of Labor (DDOL) as a grandfathered plan for purposes of DDOL's Paid Family and Medical Leave coverage through December 31, 2029.

2. Who is eligible for PPL?

An eligible employees is one who is a full-time or permanent part-time employee who (1) was hired to work at least 25 hours per week in a leave eligible position; (2) has worked for the State for 12 continuous months (or 52 weeks) as of the date of the birth, adoption, lawful adoption placement, or initial foster care placement; and (3) has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave. Casual seasonal employees, employed under Section 5903(17)a of Title 29 of the Delaware Code, are ineligible for PPL.

Note: the Family and Medical Leave Act (FMLA) applies when determining whether an employee meets the 1,250 hours requirement. This means that the 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave.

3. Does PPL apply only to full-time employees or are part-time employees also eligible?

PPL applies both to full-time and permanent part-time employees so long as the employee was (1) hired to work at least 25 hours per week in a leave eligible position; (2) has worked for the State for 12 continuous months (or 52 weeks) as of the date of the birth, adoption, lawful adoption placement, or initial foster care placement; and (3) has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

4. Are casual seasonal employees eligible for PPL?

No, casual seasonal employees are not eligible for PPL.

5. When can an eligible employee take PPL?

Eligible employees may take up to twelve (12) calendar weeks of PPL during the first twelve (12) months following the birth, legal adoption, lawful adoption placement, or initial foster care placement of a child. Specifically, PPL can be used for the following reasons:

1. To care for or bond with a newborn child of an eligible employee.
2. To care for or bond with a child that is legally adopted by or lawfully placed for adoption with an eligible employee.
3. To care for or bond with a child who is initially placed in foster care with an eligible employee who is the foster parent.
4. To cover the elimination period in the State's STD program, if eligible, upon the birth of a child to an eligible employee.
5. To supplement the State's STD benefit, if eligible, not to exceed 100% of the employee's creditable compensation following the birth of a child to an eligible employee.

The twelve weeks can be taken continuously or in 2-week time periods, subject to your employer's approval.

6. Can I take PPL prior to the birth, legal adoption, lawful adoption placement, or initial foster care placement of my child?

No; however, if you require leave before the actual birth, legal adoption, lawful adoption placement, or initial foster placement due to medical reasons or to fulfill legal adoption or foster care obligations, other available leave may be utilized in accordance with Judicial Branch Personnel Rules and the Delaware Code. Other applicable leaves may include:

1. Sick leave used pursuant to Section 8.3.5 of the Judicial Branch Personnel Rules and STD as appropriate.
2. Annual leave used pursuant to Section 8.2 of the Judicial Branch Personnel Rules.
3. Foreign Adoptions - pursuant to Section 5116(b) of Title 29 of the Delaware Code, any employee of the State who has been continuously employed on a full-time basis for at least 1 year at the time of application is entitled to utilize accumulated sick leave to travel out of the United States for the purpose of adopting a child from a foreign country. Employees must provide

documentation that they have applied for the adoption and that the travel is required for the adoption to be approved. Once the adoption has been approved, leave will then be eligible for FMLA and PPL. For more information, please refer to Section 8.3.5.6 of the Judicial Branch Personnel Rules.

4. Bereavement Leave is available when an employee has suffered a miscarriage, stillbirth, or other pregnancy-related loss. Please refer to the Judicial Branch Bereavement Leave Policy and Section 5125 of Title 29 of the Delaware Code for more details

7. What is the definition of a child for purposes of PPL?

For purposes of PPL, the definition of a child is a biological, adopted, or foster person, who is either under the age of 18 or is 18 or older and incapable of self-care because of a mental or physical disability.

8. Will my benefits be affected if I take PPL?

For an eligible employee on approved PPL, the Judicial Branch will continue to pay eligible employees and the employer portion of the employee's elected benefits. Your share for benefits will be deducted from your paycheck, as normal. Eligible employees will continue to earn service credit and retirement contributions, as normal. Annual and sick leave accruals also will continue for eligible employees.

9. Will my employment status be affected if I take PPL?

No, at the conclusion of approved PPL, you will be restored to the same or equivalent position, barring any unforeseen circumstances unrelated to your taking leave (for example, workforce reduction).

10. If I am approved for PPL for a birth, legal adoption, lawful adoption, or initial foster placement, will my child be covered on the State's health care plans?

Not automatically, a child born to, adopted by, or placed with an eligible employee is not automatically covered by the State's health care plans. For your child to be covered under the State's health care plans, the child must be eligible and enrolled, with all the State's requirements having been met. It is important to speak with your Human Resources representative to ensure that the necessary paperwork is completed and filed.

11. In the case of two Judicial Branch employees who become parents together, can they stagger their leave?

Yes, in the event that two employees of the Judicial Branch are eligible for PPL for the same birth, legal adoption, lawful adoption placement, or initial foster placement, each eligible employee is entitled to up to twelve (12) calendar weeks of PPL.

12. My spouse or partner also works for the State. Can I donate my PPL so that they can have additional PPL?

No, PPL cannot be donated to another State employee. Additionally, PPL cannot be donated to the Donated Leave Bank.

13. What is required to prove I am a parent eligible to take PPL?

If you are an eligible employee, you are required to provide your HR office legal documentation of a child's birth, adoption, lawful adoption placement, or initial foster care placement within thirty (30) days of the event or as soon as it becomes available.

The name of a legal parent must appear on the birth certificate, a legal document establishing paternity, a legal document establishing adoption or foster placement of the child. Examples of legal documents include a birth certificate, report of birth, adoption order, adoption agreement, foster care placement agreement, or other official documentation verifying a qualifying event. The legal documents provided must show the date of birth or date of adoption/placement, and the name of the parent(s).

14. What if I cannot provide the legal documentation by the required deadline?

If you cannot provide the legal documentation within thirty (30) days of the event, PPL will be considered on a case-by-case basis

15. Is there a limit on the number of PPL periods an employee can get per year?

Yes, multiple births, adoptions, or placements resulting from a single pregnancy, adoption, or placement event qualify for one PPL of up to twelve (12) calendar weeks. However, if a second child is later born, adopted, or placed during the 12-month period of the first PPL, you may be eligible for a second PPL if you meet the eligibility criteria. This includes the requirement that you have worked 1,250 hours in the preceding twelve (12) months. The 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave, including FMLA time off.

Note: If an employee has exhausted their PPL based on the placement of a child and later adopts that child, the employee is not eligible for an additional twelve (12) weeks of PPL based on that adoption. To clarify, PPL for a particular child (or multiple children if involved in the same placement or adoption) is limited to one qualifying event.

16. If I give birth to, adopt, or foster more than one child, would I be eligible for more than 12 weeks of PPL?

Multiple births, adoptions, or placements from a single pregnancy, adoption, or placement event (including the adoption or placement of sibling groups) do not increase the length of PPL. PPL applies to the initial placement of a foster child, not to a later placement of the same child within the same household. Additionally, if an employee has exhausted their PPL based on the placement of a child and later adopts that child, the employee is not eligible for an additional twelve (12) weeks of PPL based on that adoption. To clarify, PPL for a particular child (or multiple children if involved in the same placement or adoption) is limited to one qualifying event.

17. If I take twelve (12) weeks of PPL for the lawful adoption placement or initial foster care placement of child and later adopt the child, would I be eligible for a second PPL period?

No, if you used all twelve (12) weeks of your PPL based on the placement of a child and you later adopt the child, you are not eligible for an additional twelve (12) weeks of PPL based on that adoption. To clarify, PPL for a particular child is limited to one qualifying event.

18. If I experience two births and an adoption (or a placement) in a calendar year, am I entitled to 36 weeks of PPL (12 weeks for each event)?

No, multiple births, adoptions, or placements resulting from a single pregnancy, adoption, or placement event qualify for one PPL of up to twelve (12) calendar weeks. However, if a second child is later born, adopted, or placed during the 12-month period of the first PPL, you may be eligible for a second PPL if you meet the eligibility criteria. This includes the requirement that you have worked 1,250 hours in the preceding twelve (12) months. The 1,250 hours of service must be hours actually worked and does not include paid time off for vacation, illness, holidays, or any other type of paid or unpaid leave, including FMLA time off. If an employee had two full PPL periods (900 hours of PPL) within a twelve-month period, the employee could not have then worked 1,250 hours in the preceding twelve-month period and would not be eligible for a third PPL period. Note: if shorter PPL periods were taken, the outcome could be different. The important point is that each PPL request must be analyzed using the eligibility criteria.

19. The Family and Medical Leave Act (FMLA) allows me 12 weeks of unpaid leave for the birth, adoption, legal adoption placement, or initial foster placement of a child. The State allows me to apply sick time during FMLA. Can I use PPL to extend my FMLA time?

No, in accordance with the Delaware Code, PPL runs concurrently with FMLA and Short-Term Disability (STD), as applicable. 29 *Del. C.* § 5120(d); 19 *Del. C.* § 3709(a). The Paid Parental Leave Policy provides that an employee may not use accrued sick leave, annual leave, or other leave in place of PPL for the birth, legal adoption, lawful adoption placement, or initial foster care placement of a child.

20. If I am not eligible for FMLA, can I request and use PPL?

Yes, if you are not eligible for FMLA, you may still request and, if found eligible, use PPL. However, if while on PPL you become eligible for FMLA you must apply for and use FMLA along with your PPL. If your eligibility for FMLA occurs after your PPL has begun, FMLA may extend your leave on an unpaid basis; however, your PPL benefits would not be extended.

21. What if I am unable to provide 30 days' notice of the qualifying event?

This depends on the reason why you were unable to provide the notice. For example, if the birth of your child occurred prematurely and you meet the eligibility criteria, there should be no penalty for being unable to adhere to the procedures in the policy. Although the policy requires at least thirty (30) days in advance of the event, you are encouraged to provide notice to your HR representative as soon as possible.

22. What if I do not give 30 days' notice prior to the qualifying event? May I use other available leave?

If you do not provide notice at least thirty (30) days in advance, your employer will consider the situation on a case-by-case basis. You may not use accrued sick leave, annual leave, or other leave in place of PPL for the birth, adoption, or placement of the child. Please note that failure to provide 30 days' notice does not extend PPL time.

23. Can I take FMLA my first week and save my PPL to take after my spouse takes 12 weeks? It would still be within 12 months of the qualifying event?

PPL must run concurrently with available FMLA. This means that you may request to take a block of two weeks of PPL upon the birth, adoption, or placement of the child and request to utilize the remaining 10 weeks' balance of your PPL and FMLA later within the 12-month period. Please note that the smallest increment that PPL can be taken is a 2-week block of time.

24. If I am not eligible for FMLA, can I take annual leave the first week and then wait to start my continuous PPL?

No, even if you are not eligible for FMLA, you may not use accrued sick leave, annual leave, or other leave in lieu of PPL for the birth, adoption, or placement of a child. You would be able to use two weeks of continuous PPL time for the first two weeks while saving the remaining 10 weeks of PPL to use as a block within 12 months of the qualifying event.

25. If I go out on PPL and then qualify for FMLA six (6) weeks later, can I continuously stay out for the remaining six (6) weeks of FMLA?

Yes, in the scenario described, the first six weeks would be designated as (non-FMLA) PPL, the next six weeks would be PPL and FMLA, and then the following six weeks could be taken as FMLA (unpaid). This is because eligible employees are entitled to 12 weeks of PPL, even if they are not eligible for FMLA at the start of PPL. If an employee on PPL becomes eligible for FMLA, that employee must apply for and use FMLA concurrently with the remainder of their PPL. If the FMLA entitlement extends beyond the PPL, the employee remains entitled to their full FMLA.

An example using a continuous period of PPL: An employee has exhausted their 12 weeks of FMLA, and a new FMLA year does not start until December 1st. The birth, adoption, or placement occurs on October 22nd. The employee would use PPL starting October 22nd. Six weeks later on December 1st, if the employee is eligible for FMLA, FMLA would start and would run concurrently with the remaining PPL. The employee's PPL would exhaust on January 14th, but FMLA would not exhaust until five weeks later on February 23rd. During the last five weeks of FMLA, standard FMLA rules would apply.

26. Does paid PPL count toward hours worked for FMLA?

PPL does not count toward hours worked for FMLA calculations.

27. If I have worked for the State several times but have a break in service, am I still eligible for PPL?

It depends. In order for you to be eligible for PPL, you must be a full-time or permanent part-time employee who (1) was hired to work at least 25 hours per week in a leave eligible position; (2) has worked for the State for 12 continuous months (or 52 weeks) as of the date of the birth, adoption, lawful adoption placement, or initial foster care placement; and (3) has worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

Note: Eligibility for PPL does differ from eligibility for FMLA in that for FMLA eligibility the 12 months or 52 weeks need not have been consecutive. Separate periods of State employment will be counted for FMLA eligibility, provided that the break in service does not exceed seven (7) years. Separate periods of employment will be counted if the break in service exceeds seven (7) years due to National Guard or Reserve military service obligations or when there is a written agreement, including a collective bargaining agreement, stating the State's intention to rehire the employee after the service break.

28. Some employees are approved to work two jobs for the State. What is the impact if an employee returns to the second job while out on approved PPL?

Judicial Branch Personnel Rules provide that employees covered by the FLSA shall be permitted to accept additional employment in another court or State agency with prior written consent of the affected court(s) or agency and consistent with the Code of Conduct for Court Employees and 29 *Del. C.* § 5821 et seq. Overtime eligibility would be based on the FLSA (Judicial Branch Personnel Rule 4.3). The second job would not qualify for PPL.

29. How long do I have to use PPL after the birth, adoption, or placement of a child?

You have twelve (12) months from the time of the event to use PPL as it expires twelve (12) months from the date of the birth, adoption, or placement.

30. Can I take PPL at a time that is more than twelve (12) months after my child's birth, adoption, or placement?

No, PPL expires twelve (12) months from the date of the child's birth, adoption, or placement.

31. How do I apply for PPL?

Please refer to the Paid Parental Leave Policy for information on applying for PPL.

32. Do employees need to be eligible at the time of their PPL request, which should be made at least 30 days prior to the birth, adoption, or placement?

No, employees must be eligible on the date of the birth, adoption, or placement. The employee does not need to be eligible at the time they make the PPL request.

33. What if I become eligible one day after I give birth or after my child is adopted or placed?

In this scenario, you would not be eligible for PPL as you must be eligible at the time of the birth, adoption, or placement.

34. What happens if a holiday falls while I am out on PPL?

Holidays, severe weather conditions, and emergency declarations occurring during a week when PPL is taken will not extend the PPL time.

35. Are there any consequences if an employee decides not to return to work after receiving the twelve (12) weeks of PPL?

PPL is not intended to be used immediately prior to retirement, resignation, or separation. An employee not returning to work after the expiration of PPL without formally resigning will be considered to have abandoned their job. The Judicial Branch Personnel Rules will apply.

36. Can I take PPL in half days or hours?

No, PPL must be charged as a full day regardless of the daily number of hours used or regularly worked. In fact, the smallest unit of time PPL can be taken is a 2-week block of time. The 2-week blocks of time can be taken consecutively or intermittently, as approved by your employer.

37. Can I use PPL to supplement my STD benefit?

Yes, PPL may be used to supplement your STD benefit not to exceed 100% of your creditable compensation. PPL will be charged as a full day regardless of the hours needed to supplement STD benefits.

38. I transitioned to long-term disability (LTD), am I still eligible to take PPL?

No, if you transitioned to LTD, this is considered a break in service, and you would not be eligible unless and until you have returned to full-time or permanent part-time employment for twelve (12) continuous months.

39. If I am suspended as a disciplinary action, can I supplement my pay with PPL?

No, an employee may not use PPL to cover an absence resulting from an administered disciplinary suspension.

40. If I requested twelve (12) weeks of continuous PPL or 2-week time periods of PPL and it was approved, may I change my request?

Yes, with reasonable notice to your HR representative, your request to revise your original PPL request will be considered.

41. Why can I only take PPL in two-week time periods?

The use of two-week time periods is designed to provide eligible employees the flexibility to use less than twelve (12) continuous calendar weeks; to assure that eligible employees on an Alternative Work Schedule, 14-day work periods (FLSA),

compressed schedules or other flexible schedules are provided PPL equitably; and to allow employers to plan operationally for employee absences.

42. Who should I contact if I have questions about the PPL benefit?

Your HR representative will be able to assist you with your questions.

43. My request for PPL was denied. Where do I appeal this?

Please contact your HR representative for clarification on the denial. If you need further assistance, please contact your Court Administrator or agency director.

44. Will my PPL include my recurring shift differential?

No, recurring shift differential ends when an eligible employee is out on approved PPL.

45. How will I get paid if I am on approved PPL?

Eligible employees on approved PPL will get paid as they are normally paid.

46. If my employment ends, am I entitled to the balance of my PPL?

An employee who terminates employment shall not be eligible for payment of any unused PPL.

Pregnancy Related Questions

47. If I have to go on bedrest during pregnancy, what leave am I able to use?

If you require leave before the actual birth due to medical reasons, other available leaves can be utilized in accordance with Judicial Branch Personnel Rules or leave policies as applicable. Please reach out to your HR representatives for assistance in determining which leave types are applicable.

48. If I have a miscarriage or stillbirth, what leave am I eligible to use?

We recognize that a miscarriage or stillbirth can be a very difficult experience for a parent, and we encourage you to reach out to your HR representative as soon as possible. Your HR representative can assist you by explaining your leave options and can connect you with available resources. Employees may be granted up to 37.5 hours of bereavement leave with pay in accordance with 29 Del. C. § 5125 for a miscarriage, stillbirth, or other pregnancy-related loss. "Pregnancy-related loss" includes a diagnosis that negatively impacts pregnancy and the loss of a pregnancy, including termination, regardless of medical necessity.

49. If my child passes just after birth, within the 12 weeks of continuous PPL, what leave am I eligible to use?

We understand that this would be a very difficult situation, and we encourage you to reach out to your HR representative as soon as possible. Although PPL would not be applicable in this situation, your HR representative can assist you by explaining your leave options and can connect you with other available resources.

50. Am I eligible for PPL if I am a surrogate mother or sperm donor?

No, surrogate mothers and sperm donors do not qualify for PPL.

51. If my newborn requires further medical care, will my time be designated as PPL or sick leave to supplement my STD (as a birthing mother)?

Understanding this could be a stressful situation, we encourage you to reach out to your HR representative as soon as possible. Your HR representative will be able to designate the leave appropriately and may require documentation or information, as appropriate.

52. If I am not the birthing parent, can I take PPL in less than a 12-week block of time?

Yes, if you are eligible for PPL, you may take PPL in 2-week time periods.

Adoption and Foster Care Related Questions

53. I am adopting an older child, not an infant. Can I take PPL?

Yes, you can. Previously, PPL was only available to parents who adopted children six (6) years of age or younger. However, under the updated policy, there is no longer an age cap applicable to minor children who are adopted or who are the subject of a lawful adoption placement or an initial foster care placement.

Additionally, a parent can be eligible for PPL if they adopt an adult who is incapable of self-care because of a mental or physical disability as the adoptee would fall under the policy's definition of a child.

54. Can I use PPL in the stages of preparation for adoption such as travel or visitation to another country?

No; however, Section 8.3.5.6 of the Judicial Branch Personnel Rules and Section 5116(b) of Title 29 of the Delaware Code provide that employees who have been continuously employed on a full-time basis for at least one year at the time of application for leave may utilize accumulated sick leave to travel out of the United States for the purpose of adopting a child from a foreign country. Before the leave will be granted, employees must provide documentation that they have applied for

the adoption and that the travel is required for the adoption to be approved. Once the lawful adoption placement has been finalized, the leave will be eligible for FMLA and PPL, as appropriate.

55. When is a child considered adopted for the purpose of PPL?

A child is considered adopted when an adoption has been finalized. This occurs when a decree (or order) of adoption has been issued. At that point, the child is considered the child of the adopting parent(s), entitled to the same rights and privileges and subject to the same duties and obligations as if the child had been born to the adopting parent(s).

56. What is considered foster care for purposes of PPL?

Foster care refers to the temporary care of a child placed with an agency-approved foster parent. A foster parent is an individual or a couple who has been approved by DSCYF (or another state's equivalent child protection agency) or a licensed agency to provide foster care in exchange for foster care payments provided by DSCYF (or another state's equivalent child protection agency) or a licensed agency.

57. If there is a disruption during the adoption, adoption placement, or initial foster care placement, what leave am I eligible to use?

In this situation, PPL will not apply. However, please reach out to your HR representative to discuss other available leave options.

NOTE: These FAQs are not intended to create any individual right or cause of action not already existing and recognized under State or Federal law. If there is a conflict with information contained in these FAQs and law or regulations, the law or regulations, as applicable, govern.