



## ADMINISTRATIVE MEMORANDUM

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### PAID LEAVE FOR BIRTH OR ADOPTION OF A CHILD | 4007.6

#### Purpose

The purpose of this memorandum is to provide guidelines under which full-time employees of the District 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”).

#### Definitions

1. Full-time employee means a full-time State pension eligible employee employed by a reorganized school district, charter school, or vocational school district for at least 12 consecutive months in a 9-month, 10-month, 11-month, or 12-month position requiring 30 or more hours of work during a standard workweek.
2. 12 weeks of paid leave means 12 workweeks. 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.
3. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. If an employee works less than 12 months in a year, paid leave taken for a period ending at the end of a school year, and resuming at the beginning of the following school year, is leave taken consecutively rather than intermittently.
4. Reduced leave schedule is a leave schedule that reduces an employee’s usual number of working hours per workweek, or per workday.
5. Paid leave refers to the paid leave taken pursuant to Section 1333(a).
6. Parent means legal parent as evidenced by birth certificate, adoption documents, court order, or other legal documents.
7. Multiple births/adoptions mean more than one child is born from the same pregnancy, or more than 1 child who is 6 years old or younger adopted through the same adoption process, or on the same date.
8. FMLA refers to the Family Medical Leave Act.
9. STD refers to Short Term Disability.
10. Written notice means written notice to the District’s Human Resources Department.



## ADMINISTRATIVE MEMORANDUM

### Paid Leave Entitlement

1. A full-time employee employed by a reorganized school district, charter school, or vocational school district for at least 12 consecutive months (see definition of “full-time employee” in Section II.A.) shall be entitled to 12 weeks of paid leave upon the birth of a child of the employee, or upon adoption by the employee of a child who is 6 years old or younger. The birth of a child, or adoption of a child, must occur on or after April 1, 2019. Multiple births/adoptions do not increase the length of paid leave.
2. Paid 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. If, for whatever reason, the child is no longer in the care of the employee, the paid leave shall terminate.
3. The entitlement to paid leave shall expire at the end of the 12-month period beginning on the date of the birth or adoption creating the entitlement to paid leave. If, for example, an employee entitled to paid leave takes 6 weeks of paid leave during this 12-month period, there will be no entitlement to take the remaining 6 weeks of paid leave subsequent to the expiration of the 12-month period following the birth or adoption creating the entitlement to paid leave. If 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.
4. Paid leave cannot be taken on an intermittent basis, or be used to create a reduced leave schedule. Paid leave must be taken for a continuous block of time up to a maximum of 12 weeks.
5. If two District employees are eligible for paid leave for the same birth or adoption, each of the employees is eligible for 12 weeks of paid leave. Paid leave for the employees ends at the expiration of the 12-month period beginning on the date of the birth or adoption.

### Right to Use Accumulated Sick Leave

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). 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 District’s Board of Education.

The right to use accumulated sick leave pursuant to Section 1333(c) is without regard to length of employment.

### Impact on FMLA Leave Entitlement and STD

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, a full-time employee uses 12 weeks of paid leave, the use of the 12 weeks of paid 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 paid leave shall pay 25% of the employee’s salary.



RED CLAY CONSOLIDATED SCHOOL DISTRICT

## ADMINISTRATIVE MEMORANDUM

### Notice and Certification

If an employee intends to take paid leave upon the birth of the employee's child, the employee shall provide the District 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 of a child, the employee must provide written notice of intent to take paid leave at least 30 days' in advance of the adoption if the date of the adoption is foreseeable. If the date of the adoption is not foreseeable, the employee shall provide the District written notice of the date of adoption as soon as practicable.

If an employee requests paid leave based upon the birth or adoption of a child, the employee shall provide documentation of the birth or adoption within 30 days of the birth or adoption, 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. 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 order. The documents provided shall show the date of the birth or adoption age of the adopted child, and name of the parent(s). An employee's stepchild is not the child of the employee, unless the employee adopts the stepchild.

### Amendment or Repeal of Section 1333

The Board reserves the right to revise or rescind this memorandum. If Section 1333 is amended, the memorandum will be revised for conformity. If Section 1333 is repealed, this guidance is null and void.

Questions about the information contained in this administrative memorandum should be directed to the Director of Human Resources.