

Having Kids and Careers on the Hill: Here's How

Explaining New Paid Parental Leave Benefits for Congressional Employees

OCTOBER 2020

Overview

Until this month, congressional staffers could only take paid time off to care for a new child if their office had a paid leave policy in place — and in many cases even those with policies offered just a few weeks off.

Paid parental leave for executive and legislative branch employees was included in the Fiscal Year 2020 National Defense Authorization Act. Starting on October 1, 2020, all eligible employees now have up to 12 weeks of paid leave in the event of the birth or placement of a child occurring on or after October 1, 2020.

Why is this benefit important?

Capitol Hill already attracts the best talent. With guaranteed benefits like paid parental leave that matches the private sector, more staff from diverse backgrounds can make Capitol Hill their choice for their careers and more staff can stay and grow in their roles.

Members of Congress are better served by having a mix of experienced staff and less turnover. Further, employees who use workplace flexibilities like paid parental leave are more likely to exceed performance standards and positively impact their office.¹

WHO IS COVERED UNDER PAID PARENTAL LEAVE?

Any of the following:

- Legislative branch employees of the:
 - U.S. House of Representatives
 - U.S. Senate
 - Office of Congressional Accessibility Services
 - Capitol Police
 - Congressional Budget Office
 - Architect of the Capitol
 - Office of the Attending Physician
 - Office of Congressional Workplace Rights
 - Office of Technology Assessment
 - Library of Congress
 - John C. Stennis Center for Public Service Training
 - China Review Commission
 - Helsinki Commission
- Government Accountability Office employees
- Executive branch employees as defined by [5 U.S.C. 6381\(1\)\(A\)](#)

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Only one in four Congressional staff was satisfied with their flexibility for work and life balance before this was introduced, leaving members of Congress with fewer experienced staff to hire.

Congressional staff who try to determine whether starting a family is feasible are faced with no uniform benefits and might need to cobble together vacation or sick time coverage.

Leading business owners and managers recognize that workers inevitably need time away from work to attend to health or family issues. Paid parental leave is proven to be good for business — it improves worker retention, which saves employers money through reduced turnover costs — something that Capitol Hill can benefit from too.

Is this benefit gender-neutral?

Yes, this benefit is available to eligible employees regardless of gender.

Do I qualify for paid parental leave benefits in the same way as FMLA?

Any executive branch employee eligible for the FMLA and all legislative branch employees may use this benefit in the event of the birth or placement of a child. Qualified executive branch employees are those who have completed 12 months of service that could have been eligible for the FMLA anytime in the past. These requirements do not apply to legislative branch employees.

How much time can I use for leave under this new paid parental benefit?

Any eligible employee will have access to paid parental leave for up to 12 weeks. This does not prevent an employee from using accrued vacation time in conjunction with this leave, nor can a supervisor prevent an employee from combining

Who:

- adds a child to their home through placement from the foster care system, regardless of the child's age;
- has a child placed in their care through a formal adoption process, regardless of the child's age; or
- welcomes or has a partner/spouse welcome a child through birth

And provides proof of:

- Child's birth certificate;
- Official court or adoption documents naming the eligible employee as parent;
- Immigration documentation and visas; or
- Other official documents naming the eligible employee as the legal/birth parent of the child.

WHO IS EXCLUDED UNDER PAID PARENTAL LEAVE?

- Employees of the District of Columbia Courts and District of Columbia Public Defender Service
- Federal Aviation Administration employees
- Transportation Security Administration employees
- Title 38 employees, including VA physicians, dentists, and nurses
- Article 1 Judges, including magistrate and bankruptcy judges
- Contractors, including food service employees

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paid sources of leave. It is best to work with your supervisor to determine how to use other leave in conjunction with FEPLA leave.

Do I get additional unpaid FMLA time off for other qualifying reasons in the same year?

No. Each employee gets up to 12 weeks of FMLA-protected leave per twelve month period.

For example, if Natalie has to take four weeks of unpaid leave to recover for an unexpected appendix surgery in March, she now has a total of eight weeks left of unpaid FMLA leave or eight weeks of paid parental leave left until the next March.

Does paid parental leave accrue? Can I use my partner/spouse’s paid parental leave in conjunction with my own?

No, paid parental leave does not accrue on an annual basis. Up to twelve administrative weeks of leave are available upon each instance of a child birth or placement with an employee, provided that the employee has not used any FMLA leave in the last twelve months.

If you and your partner are both eligible, you both individually get up to twelve weeks of paid parental leave that may be used concurrently or at separate times, as long as it is within the first 12 months of welcoming a new child and used to provide care for the child (i.e. the child cannot be in daycare).

What kind of protections do I have against retaliation if I take paid parental leave?

The FMLA includes anti-retaliation protections for employees who take FMLA leave.

Can my supervisor require me to use other paid sources of leave (vacation or sick time) before I can use paid parental leave?

No. Employers are prohibited from asking employees to exhaust other sources of leave before using paid parental leave or FMLA leave, although employees are free to use other types of leave as a supplement after taking their paid parental leave.

OTHER THINGS TO KNOW

- This leave is available to all legislative employees starting on Oct. 1, 2020, for any child born or placed on or after Oct. 1, 2020
- This leave is available to eligible employees, even if other sources of paid leave are available at the time (vacation and sick time)
- In the event that an executive branch employee uses their twelve weeks of paid parental leave, they must agree to go back to work for at least 12 workweeks unless a serious health condition related to the birth or placement of a child prevents returning. Any employee who takes paid parental leave and does not return to their office must pay back the health care premiums made on their behalf during their period of leave. No such requirement exists for legislative branch or GAO employees.

Am I eligible to take paid parental leave if I welcomed a child before Oct. 1, 2020?

No. This benefit is eligible for the birth or placement of a child on or after October 1, 2020. Some Congressional offices may have had their own independent paid parental leave policies prior to this law taking effect. With this benefit starting on October 1, 2020, all eligible employees now have equal access to paid parental leave.

How do I apply for paid parental leave?

In accordance with FMLA procedures, an employee must give notice of taking such leave as soon as is practicable. Eligible employees having the birth or placement of a child after October 1, 2020, must give their employer notice that they are electing to take paid parental leave and provide relevant documentation, including birth certificate, official court or adoption documents naming the employee as parent, immigration visas, or other legal documents that show the federal employee is the legal or birth parent of the new child. An employee may not retroactively apply for paid parental leave.

How does this leave differ from the Family and Medical Leave Act?

The Family and Medical Leave Act (FMLA) provides up to twelve weeks of **unpaid** leave without threat of employer termination upon the birth or placement of a child, as well as during instances of personal medical care, care of an immediate family member with an illness, or a qualifying exigency upon a family member's leave for serving overseas in the military.

The new paid parental leave policy, which replaces unpaid leave provided by the FMLA, allows federal executive and legislative branch employees to take job-protected leave and receive their regular pay while they are on leave to welcome a child into their family. Taking leave under other purposes of the FMLA remains unpaid.

Note: this document uses the guidance provided in the Office of Personnel Management's [interim final rule](#) published on August 10, 2020, as well as the Office of Congressional Workplace Rights' [interim guidance](#) published on September 21, 2020. It will be updated when a final rule is published.

¹ See U. S. OFC. OF PERS. MGMT., FED. WORK-LIFE SURVEY GOVERNMENTWIDE REP. 5 (2018), <https://www.opm.gov/policy-data-oversight/worklife/federal-work-life-survey/2018-federal-work-life-survey-report.pdf>.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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