

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1903

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

I believe that you mean the clause starting on line 12: "for at least 1,040 hours . . . 12-month period" to apply to all of (2) and not just (2)(C). If so, delete that clause and move to line 17, i.e., on line 17, "The employee has been in pay status ~~with:~~ for at least 1,040 hours during the previous 12-month period, aggregating employment at any of these employers:

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: June 27, 2024

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1903 is adopted as published in 38:18 NCR 1205-1208 as follows:

2
3 **25 NCAC 01E .1903 ELIGIBILITY FOR PAID PARENTAL LEAVE**

4 (a) This Section applies to all agency employees subject to G.S. 126-8.6, whether or not those employees are exempt
5 from other sections of the State Human Resources Act.

6 (b) Employees may receive paid parental leave under this Section only if they are in a permanent, time-limited, or
7 probationary appointment. Temporary employees are not eligible for paid parental leave under this Section.

8 (c) An agency shall allow an employee to take paid parental leave under this Section only if, at the time of the
9 qualifying event, the employee meets each of the following conditions.

10 (1) For the immediate 12 preceding months, the employee has been employed without a break in service
11 as defined by 25 NCAC 01D .0114 in a permanent, time-limited, or probationary appointment by:

12 (A) the State of North Carolina agencies, departments, and institutions, including without
13 limitation the University of North Carolina;

14 (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or

15 (C) community college institutions of the State of North Carolina, aggregating employment at
16 any of these employers.

17 (2) The employee has been in pay status with:

18 (A) the State of North Carolina agencies, departments, and institutions, including without
19 limitation the University of North Carolina;

20 (B) public school units that provide paid parental leave in accordance with G.S. 126-8.6; or

21 (C) community college institutions of the State of North Carolina, for at least 1,040 hours,
22 aggregating employment at any of these employers, during the previous 12-month period.

23 (d) This Section applies to requests for paid parental leave related to qualifying events occurring on or after July 1,
24 2023.

25
26 History Note: Authority G.S. 126-8.6;

27 Temporary Adoption Eff. August 25, 2023;

28 Temporary Adoption Eff. December 22, 2023;

29 Permanent Adoption _____, 20__.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1909

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 11, the phrase “are encouraged to be flexible” sets a vague standard that is likely to lead to objection. The easiest fix would be to replace with “can”, i.e. “agencies **can** ~~are encouraged to be flexible and~~ allow”. You could also set an explicit standard with language like “agencies should allow . . . when . . .”.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: June 27, 2024

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1909 is adopted as published in 38:18 NCR 1205-1208 as follows:

2
3 **25 NCAC 01E .1909 LEAVE ADMINISTRATION FOR ADOPTIONS OR FOSTER CARE**
4 **PLACEMENTS**

5 (a) When a child is given up for adoption or placed in foster care, from that point forward:

6 (1) The birth parent shall continue to be eligible for the paid parental leave listed in Rule .1904(a)(1)(A)
7 of this Section for physical and mental recuperation; and

8 (2) Each parent shall not be eligible for further use of the paid parental leave listed in Rule
9 .1904(a)(1)(B) of this Section for bonding with the child.

10 (b) When a prospective adoptive parent or foster parent expects an adoption or placement, but it does not occur, it
11 does not produce paid parental leave under this Section. However, agencies are encouraged to be flexible and allow
12 adequate time for bereavement to the persons who would have become parents, using sick leave, vacation leave, bonus
13 leave, compensatory time, and any other leave options that may be available to the employee.

14
15 History Note: Authority G.S. 126-8.6;

16 Permanent Adoption _____, 2024.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Human Resources Commission

RULE CITATION: 25 NCAC 01E .1910

DEADLINE FOR RECEIPT: July 12, 2024

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*On line 15, the phrase “are encouraged to be flexible” sets a vague standard that is likely to lead to objection. The easiest fix would be to replace with “can”, i.e. “agencies **can** ~~are encouraged to be flexible and~~ allow”. You could also set an explicit standard with language like “agencies should allow . . . when . . .”.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Seth Ascher
Commission Counsel
Date submitted to agency: June 27, 2024

Permanent Adoption for Publication in the NCAC

1 25 NCAC 01E .1910 is adopted as published in 38:18 NCR 1205-1208 as follows:

2
3 **25 NCAC 01E .1910 MISCARRIAGE OR STILLBIRTH**

4 (a) When a fetus dies before 12 weeks of the pregnancy were complete, it is not a qualifying event for paid parental
5 leave under this Section.

6 (b) When a fetus dies after the 12th completed week of pregnancy, but before childbirth is complete:

7 (1) If the birth parent meets the eligibility requirements in Rule .1903 of this Section, the birth parent
8 may receive the paid parental leave listed in Rule .1904(a)(1)(A) of this Section. This leave is four
9 weeks for a full-time eligible state employee.

10 (2) The parents shall not receive the paid parental leave for bonding with the child that is listed in Rule
11 .1904(a)(1)(B) and Rule .1904(a)(2) of this Section.

12 (c) When a child dies after childbirth is complete, each parent of the child who meets the eligibility requirements in
13 Rule .1903 of this Section shall receive the full paid parental leave listed in Rule .1904(a)(1) and (a)(2). The paid
14 parental leave will not be ended at the time of the child's death.

15 (d) In any of the situations above, agencies are encouraged to be flexible and allow adequate time to the parents for
16 bereavement and recovery, using sick leave, vacation leave, bonus leave, compensatory time, and any other leave
17 options that may be available to the employee.

18
19 History Note: Authority G.S. 126-8.6;

20 Permanent Adoption _____, 2024.