

DISTRICT OF COLUMBIA

EMPLOYMENT LAW

Universal Paid Leave



STATE RESOURCES

DC Office of Paid Family Leave (OPFL)

<https://dcpaidfamilyleave.dc.gov/>

Paid Family Leave Final Tax Regulations

[Final regulations](#) for the DC Paid Family Leave program

FAQs

OPFL published [answers](#) to frequently asked questions.

Posters

Employers can use these DOES model posters ([English](#) and [Spanish](#)) to satisfy their posting requirements.

Employer Toolkit

DOES provides an [employer toolkit](#) on the DC paid family leave requirements.

The District of Columbia (DC) [Universal Paid Leave Act](#) (Act) requires virtually all employers to fund paid family and medical leave for employees through an increase in payroll taxes. The paid leave program, which is administered by the DC Department of Employment Services (DOES), is funded by a 0.62% increase in payroll taxes for covered employers.

The Act provides eligible employees with up to:

- Eight weeks of parental leave to care for a newborn, adopted or foster child;
- Six weeks of family leave to care for family members with serious health conditions; and
- Two weeks of medical leave for an employee's own serious health condition.

However, employees are limited to eight weeks of paid family and medical leave in any 52-week period.

DOES will begin collecting contributions from covered employers on **July 1, 2019**, and will begin paying leave benefits to eligible individuals by **July 1, 2020**.

EMPLOYER COVERAGE

The Act covers **all private DC employers** that are required to pay unemployment insurance on behalf of their employees. Self-employed individuals may opt into the paid leave program at their own discretion.

ELIGIBLE EMPLOYEES

To be eligible for paid leave benefits under the Act, an employee must have been a covered employee during some or all of the 52 calendar weeks immediately preceding the qualifying event that the employee is taking paid leave for. A "covered employee" is an employee who spends **more than 50 percent of his or her work time working in DC** for a covered employer. This will likely include residents of Maryland or Virginia that commute to DC for work.

TYPES OF LEAVE

Under the Act, eligible employees are entitled to **three types of paid leave**—parental leave, family leave and medical leave. Each type of leave is permitted to be used in

DISTRICT OF COLUMBIA EMPLOYMENT LAW

Universal Paid Leave



blocks of time or on an intermittent basis.

**Under the Act,
an employee
may take up to:**

- **Eight weeks of parental leave** within one year of the birth of the employee's child, the placement of a child with the employee for adoption or foster care, or the placement of a child where the employee legally assumes and discharges parental responsibility;
- **Six weeks of family leave** to care for a family member with a serious health condition; and
- **Two weeks of medical leave** for the employee's own serious health condition.

Eligible employees are **limited to up to eight weeks of paid leave during any 52-week period**, in any combination of these types of leave.

PAID LEAVE BENEFITS

Benefits under the paid leave program are expected to begin in 2020. The amount of weekly paid leave benefits an employee is eligible for will depend on the employee's income.

- An employee who earns a wage that is **equal to or less than 150% of the DC minimum wage** is entitled to receive paid leave benefits at a rate equal to 90% of the employee's average weekly wage rate.
- An employee who earns a wage that is **more than 150% of the DC minimum wage** is entitled to receive paid leave benefits at a rate that equals:
 - 90% of 150% of the DC minimum wage; plus
 - 50% of the amount by which the employee's average weekly wage rate exceeds 150% of the DC minimum wage.

No eligible employee is entitled to receive more than the **maximum weekly benefit of \$1,000** under the paid leave program. This maximum weekly benefit amount may be adjusted for inflation beginning Oct. 1, 2021.

EMPLOYER CONTRIBUTIONS

To fund the paid leave program, covered employers are required to make **quarterly employer payroll tax contributions of 0.62% of the wages paid to covered employees**. These contributions will be pooled into a collective fund for the paid leave program, and are based on the immediate past quarter of wages paid, on the same reporting schedule as unemployment insurance (UI) tax.

DOES will begin collecting contributions from covered employers on **July 1, 2019**. Employers will use the same account they currently use for UI via the Employer SelfService Portal (ESSP). Prior to July 1, 2019, employers should update their ESSP accounts with any changes in contact information, including third-party administrator information.

NOTICE REQUIREMENTS

Covered employers must post a notice in the workplace regarding the Act's rights and protections, as well as provide the notice to employees. DC's mayor provides **model notices** in [English](#) and [Spanish](#) that employers can use to satisfy this notice requirement. Employers must provide the notice to each new employee upon hire, at the time an employer is aware that paid leave under the Act is needed and on an annual basis.

DISTRICT OF COLUMBIA EMPLOYMENT LAW

Universal Paid Leave



Failure to comply with the Act's notice requirements may result in a **civil penalty of up to \$100** for each covered employee who did not receive the required notice. In addition, an employer may be assessed a penalty of up to \$100 per day that the employer failed to post the notice in the workplace.

ENFORCEMENT

Employers are prohibited from retaliating against employees who request, apply for or use paid leave benefits. In addition, an employer may not retaliate against an employee who opposes unlawful practices as provided in the Act, files or attempts to file a charge, institutes or attempts to institute a proceeding, or provides information or testimony in connection with an inquiry or proceeding relating to the Act.

An eligible individual or the DC mayor may bring civil action against an employer to enforce the Act's requirements. The right to bring civil action ends one year after the occurrence or discovery of the violation. The mayor may also investigate and gather employer data regarding wages, hours, conditions and employment practices relating to the Act.

COORDINATION WITH OTHER TYPES OF LEAVE

If the DC Family Medical Leave Act or the federal Family and Medical Leave Act (FMLA) also applies to a paid leave, the paid leave under the Act will run concurrently with the job-protected leave. An employee who is receiving unemployment or long-term disability benefits is ineligible to receive paid leave benefits under the Act. The Act does not specifically address how it affects or interacts with DC's current paid sick leave law.

IMPLEMENTATION STEPS

DC's mayor has established the [Office of Paid Family Leave](#) (OPFL) to administer the paid leave program. This agency is responsible for making benefit eligibility determinations and notifying employers when benefit claims are filed with the agency. [Final regulations](#) implementing rules for the program have been published, subject to approval by the DC Council. These regulations:

- Establish a regulatory framework for the DC Paid Family Leave (PFL) program;
- Cover the PFL tax contribution, including the amount, payment schedules and related collection procedures; and
- Include the employer notice and recordkeeping responsibilities that must be completed in addition to their other obligations under the Act.

On July 6, 2018, DOES published a second [proposed rule](#) regarding paid leave benefits. These proposed regulations include significant changes from the initial proposed rules to address employer registration and responsibilities, opt-in and opt-out procedures for self-employed individuals, wages, and contribution and collection procedures.