

Model Language for Employee Materials





Employer Instructions

Employers are required to inform their employees about their rights under Paid Family Leave, either in an employee handbook or other written materials.

To assist you, the following pages provide model language you can use and customize based on your Paid Family Leave policies and procedures.

Your employee materials should include:

- The name of your Paid Family Leave insurance carrier or if you are self-insuring for coverage.
- Whether you permit employees to use accrued time to supplement Paid Family Leave benefits.
- Whether Paid Family Leave must be taken concurrently with any other type of leave (e.g., maternity leave).
- Employees' responsibility for covering health insurance premiums while out on leave.
- Instructions on how to request Paid Family Leave.
- Whether you, as the employer, are subsidizing all or part of the cost of your employees' Paid Family Leave premiums.

See the appendix at the end of this document for additional model language on some of these considerations.

Note: *These materials are not offered, nor should be construed, as legal advice. It is strongly advised that you have your company attorney review the draft before preparing your final copy.*



Paid Family Leave Overview

New York Paid Family Leave provides job-protected, paid time off so you can:

- Bond with a newly born, adopted or fostered child,
- Care for a close relative with a serious health condition, or
- Assist with family situations when a family member is deployed abroad on active military service.

Paid Family Leave may also be available for use in situations when you or your minor dependent child are under an order of quarantine or isolation due to COVID-19. See PaidFamilyLeave.ny.gov/COVID19 for full details.

Benefits – Time

Eligible employees may take up to 12 weeks of leave. This leave can be taken either all at once or intermittently, but must be taken in full-day increments. You may take the maximum time-off benefit in any given 52-week period.

Benefits – Pay

Paid Family Leave benefits provide 67% of your average weekly wage, capped at the same percentage of the New York State Average Weekly Wage.

Visit PaidFamilyLeave.ny.gov for information on this year's maximum weekly benefit, as well as a calculator to estimate your own benefits.

EXAMPLE: An employee who earns \$1,000 a week would receive a benefit of \$670 a week.

Eligibility

All eligible employees are entitled to participate in Paid Family Leave.

- **Full-time employees:** Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment.
- **Part-time employees:** Employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

Employees are eligible regardless of citizenship and/or immigration status.



Funding

Paid Family Leave is funded through employee payroll contributions that are set each year to match the cost of coverage. The rate of employee contributions is reviewed annually, and is subject to change by the New York State Department of Financial Services. Visit [PaidFamilyLeave.ny.gov](https://paidfamilyleave.ny.gov) for information on this year's employee contribution rate, as well as a calculator to estimate your own payroll contributions.

Qualifying Events

New Child: You can take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child. Expectant mothers cannot take Paid Family Leave for their own pregnancy. Paid Family Leave for the birth of a child begins after the birth. It is not available for prenatal conditions.

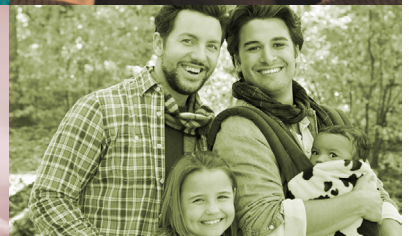
Serious Illness: You can take Paid Family leave to care for a family member with a serious health condition. These relatives can live outside of New York State and even outside the country. You cannot take Paid Family Leave for your own health condition.

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- Inpatient care in a hospital, hospice, or residential health care facility, or
- Continuing treatment or continuing supervision by a health care provider.

A family member includes:

- Spouse
- Domestic partner
- Child and stepchild
- Parent and stepparent
- Parent-in-law
- Grandparent
- Grandchild
- Sibling (biological, adopted, half, and step)



Military Active Service Deployment: You can take Paid Family Leave to assist with family situations arising when your spouse, domestic partner, child, or parent is deployed abroad on active military service or has been notified of an impending military deployment abroad. You cannot use Paid Family Leave for your own qualifying military event.

COVID-19 Quarantine: Paid Family Leave may also be available for use in situations when you or your minor dependent child are under an order of quarantine or isolation due to COVID-19. See [PaidFamilyLeave.ny.gov/COVID19](https://paidfamilyleave.ny.gov/COVID19) for full details.



Your Rights and Protections

- You have job protection, ensuring you can return to the same job (or a comparable one) when you return from Paid Family Leave.
- You can keep your health insurance while on leave. If you contribute to the cost of your health insurance, you must continue to pay your portion of the premium cost while on leave.
- Your employer is prohibited from discriminating or retaliating against you for requesting or taking Paid Family Leave.

Taking Paid Family Leave

1. **Notify your employer.** When you want to take Paid Family Leave, you must notify your employer at least 30 days before your leave will start if it's foreseeable. Otherwise, notify your employer as soon as possible.
2. **Obtain required forms.** Contact your employer, employer's insurance carrier, or visit PaidFamilyLeave.ny.gov to obtain the required forms.
3. **Complete and attach:** The ***Request For Paid Family Leave (Form PFL-1)*** has sections that need to be completed by you and by your employer. Fill out your section, make a copy and give the form to your employer to fill out ***Part B***. Your employer is required to return ***Form PFL-1*** to you within three business days. If there is a delay, you do not have to wait to proceed. Send the ***Form PFL-1*** that you have filled out, along with the rest of your request package, directly to your employer's insurance carrier.
4. **Obtain and attach supporting documentation.** The specific documentation or additional forms required for each type of leave are described on the request for Paid Family Leave and at PaidFamilyLeave.ny.gov/Apply.
5. **Submit your request forms and supporting documentation.** You must submit your completed request package to your employer's insurance carrier within 30 days after the start of your leave to avoid losing benefits. In most cases, the insurance carrier must pay or deny benefits within 18 calendar days of receiving your completed request or your first day of leave, whichever is later.

Paid Family Leave Process and Contacts

At _____, requests for Paid Family Leave forms

and forms submissions should be directed to: _____.

Our Paid Family Leave insurance carrier is: _____.

Disputes

If your Paid Family Leave claim is denied, the insurance carrier or employer, if self-insured, will provide you with information about how to request arbitration. A neutral arbitrator will decide claim-related disputes.

Contact:

insurance carrier: _____

or,

For self-insured employers: _____



Discrimination Complaints

Employees are protected from discrimination and retaliation for requesting or taking Paid Family Leave.

If your employer terminates your employment, reduces your pay and/or benefits, or disciplines you in any way as a result of you requesting or taking Paid Family Leave, send your employer's designated Paid Family Leave contact a formal request for job reinstatement using the *Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)*, which can be found in the forms section of PaidFamilyLeave.ny.gov. File the completed form with your employer and send a copy to:

Paid Family Leave, P. O. Box 9030, Endicott, NY 13761-9030

If your employer fails to comply with the request for reinstatement within 30 days, you may file a Paid Family Leave discrimination complaint with the Workers' Compensation Board using *Paid Family Leave Discrimination Complaint (Form PFL-DC-120)*, which is also available on the Paid Family Leave website. Once your complaint is received, the Board will assemble your case and schedule a preliminary hearing in front of a Workers' Compensation Law Judge.



For more information on Paid Family Leave,
please visit PaidFamilyLeave.ny.gov or contact Human Resources.



**Paid Family
Leave**

Appendix: Model Language by Topic

As outlined in the Employer Instructions, there are elements of Paid Family Leave you may wish to explain in more detail, or provide specific information about in connection with your company policies. The list below describes some of these considerations and provides model language you can use as appropriate.

- 1. Relationship with other types of leave:** It may be beneficial for your business to address the relationship between *NYS Paid Family Leave (PFL)*, the federal *Family and Medical Leave Act (FMLA)*, short-term disability and Workers' Compensation.

Model language:

- Paid Family Leave can be taken by employees who are eligible for time off under the provisions of the FMLA. PFL will run concurrently with designated FMLA leave when the reason for leave qualifies under both PFL and FMLA. Eligible employees must then apply for both PFL and FMLA.
- Generally, you may not receive short-term disability and Paid Family Leave benefits at the same time. You may not take more than 26 combined weeks of short-term disability and Paid Family Leave in a 52-week period.
- If you are unable to work and qualify for workers' compensation benefits, you may not use Paid Family Leave benefits at the same time as you are receiving workers' compensation benefits. If you are working and receiving reduced earnings, you may be eligible for Paid Family Leave. Please check with human resources.

- 2. Accruing time for PFL eligibility:** You may want to clarify that paid time off will count as a qualifying work day/days for eligibility for Paid Family Leave. An employer who makes payroll deductions for Paid Family Leave should continue to collect employee contribution during periods of paid time off.

- Model language: Time spent on paid vacation, sick or personal days can be counted toward an employee's eligibility determination. Time out on short-term disability does not count towards an employee's eligibility determination.

- 3. Supplementing PFL with accrued time:** You may want to specify whether your business will allow employees to supplement PFL with accrued leave time in order to receive full pay.

- **Model language:** Employees may/may not supplement PFL with accrued time in order to receive full pay during their absence.

- 4. Using accrued time with PFL:** You may want to specify whether your business will allow employees to use accrued leave time in order to receive full pay. If you do allow this, you may seek reimbursement from your insurance carrier.

- **Model language:** Employees may/may not use accrued time with PFL benefits in order to receive full pay during their absence.

- 5. Accrual of leave time while on PFL:** You may want to clarify whether your business allows employees to continue to accrue leave while on PFL.

- Model language: While on PFL, employees will/will not continue to accrue sick or vacation time.

- 6. Policy on spouses taking PFL:** If two spouses work for your company, you may want to share your policy on whether these employees can take Paid Family Leave at the same time for the same qualifying event (e.g., to bond with a new child), or if they must take it one at a time.

- **Model language:** Company policy allows only one employee at a time to receive PFL to bond with the same child or care for the same family member.