

Proposed Rulemaking

Title

Promulgated by:
Division of Elementary and Secondary Education

Title 6. Education

Chapter I. Division of Elementary and Secondary Education

Subchapter G. School District Personnel

Part 193. Rules Governing Maternity Leave Cost Sharing

Subpart 1. Generally

6 CAR § 193-101. Purpose.

The purpose of this part is to outline the ~~management of cost sharing~~ agreements required ~~per by~~ Arkansas Code § 6-17-122 ~~in addition to developing~~ the ~~cost sharing~~ reimbursement processes and other related procedures regarding ~~paid~~ maternity leave ~~for eligible employees cost sharing between the State of Arkansas and participating public school districts or open enrollment charter schools.~~

6 CAR § 193-102. Definitions.

As used in this part:

(1) “Adoptive child” means a minor child who has been legally adopted by ~~education personnel~~ an eligible employee pursuant to the Revised Uniform Adoption Act, Arkansas Code § 9-9-201 et seq.;

(2) ~~“Cost sharing” means joint, equal responsibility for the cost shared between the State of Arkansas and a public school district or open enrollment public charter school that employs an individual considered education personnel under this part;~~

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~~—(3) “Cost-sharing agreement Agreement” means the agreement entered into between a school district or open-enrollment public charter school and the Division of Elementary and Secondary Education regarding maternity leave cost sharingthe reimbursement of expenses incurred for substitute staff for eligible employees on maternity leave;~~

~~(4) (3) “Division” means the Division of Elementary and Secondary Education;~~

~~(5)(A) “Education personnel” means an individual, as defined in Arkansas Code § 21-4-214(d)(2) and consistent with the Governor’s Executive Order entered on October 19, 2023, who:~~

~~—————(i) Gives birth or adopts a child; and~~

~~—————(ii) Is employed full-time by a public school district or open-enrollment public charter school in Arkansas for more than one (1) calendar year preceding the birth or adoption of the child.~~

~~—————(B) For purposes of this part, education personnel are employed full-time if the employee is:~~

~~—————(i) In a position that requires, during the duration of a contract, an average of at least thirty (30) hours per week of actual performance of duty during the annual school year; or~~

~~—————(ii) A full-time school bus driver who is employed by a school district to drive regular routes during the annual school year;~~

~~(6)(4) “eFinance” means the financial management system utilized by a school district for entering financial transactions;~~

~~(5)(A) “Eligible employee” means an individual, as defined in Arkansas Code §21-4-214(d)(2) and consistent with the Governor’s Executive Order entered on October 19, 2023, who is employed full-time by a public school district or open-enrollment public charter school in Arkansas for more than one (1) calendar year preceding:~~

~~(i) The birth of a child;~~

~~(ii) The placement of a foster child who is less than one (1) year old at the time of the placement; or~~

(ii) The adoption of a child who is less than one (1) year old at the time of the adoption so long as no leave under this rule has been taken for the benefit of the adopted child base on a prior foster placement;

(B) For the purposes of this part, an employee who has been disciplined for any leave abuse during the twelve month period prior to the staff member's request for maternity leave shall not be eligible for paid maternity leave.

(6) "Employed full time" means the employee is:

(A) In a position that requires, during the duration of a contract, an average of at least thirty (30) hours per week of actual performance of duty during the annual school year; or

(B) A full-time school bus driver who is employed by a school district to drive regular routes during the school year; and

————(7) (7) "Foster placement" means the arrangement of care for a juvenile in the custody of the Department of Health and Human Services within the home of an employee of a public school district or open enrollment public charter school pursuant to Arkansas Code § 9-28-108.

(8) "Maternity leave" means ~~partially or fully~~ partially or fully compensated time away from work within the first twelve (12) weeks, including any extensions provided for in this part, immediately following the:

(A) Birth of a biological child by ~~education personnel as defined by subdivision (5) of this section~~an eligible employee; or

(B) Placement of an ~~adoptive-adopted~~ child under one (1) year of age in the home of ~~education personnel as defined by subdivision (5) of this section~~an eligible employee; or

(C) Foster placement of an infant under one (1) year of age in the home of an eligible employee;- and

————(9) "Substitute staff" means an individual or entity employed or contracted for the primary purpose of fulfilling the duties of an eligible employee on maternity leave.

~~6 CAR § 193-103. Maternity leave cost sharing management and participation in program.~~

~~(a) For the 2023-2024 school year, a public school district or open-enrollment public charter school choosing to opt in to the program shall provide to the Division of Elementary and Secondary Education a signed cost-sharing agreement developed by the division within thirty (30) days of the effective date of this part.~~

~~(b) In subsequent years, districts must provide a signed cost-sharing agreement by July 1 for the school year beginning on that date.~~

6 CAR § 193-104. Reimbursement requirements.

(a) ~~Districts~~ A public school district or open enrollment public charter school may claim reimbursement only for incurred non-federal costs ~~to fill the position~~ for substitute staff for the ~~of the~~ eligible employee, for up to twelve (12) weeks, while the eligible employee, as defined by 6 CAR § 193-102(5), is on approved paid maternity leave.

~~(b) In order to claim reimbursement pursuant to this part, a public school district or open-enrollment public charter school must submit all final reports required by the cost-sharing agreement via eFinance.~~

A public school district or open-enrollment public charter school may claim reimbursement for one hundred percent (100%) of the total incurred cost of the substitute staff for the period of time that an eligible employee is on maternity leave.

~~(c) Reimbursement shall be:~~

~~(1) Calculated at the rate determined by the Division of Elementary and Secondary Education; and~~

~~(2) Based upon information submitted by each participating district.~~

~~(d)~~ (c) -All disbursements for the prior fiscal year shall be issued by the division no later than October 1.

~~(e)~~ (d) Continuation of ~~cost sharing~~ payments pursuant to the agreement shall be contingent upon available funding.

~~(f)~~ (1) ~~A public school district or open-enrollment public charter school may claim reimbursement for up to fifty percent (50%) of the total cost of the substitute staff for~~

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~~the period of time that an eligible employee is on maternity leave.~~

~~(2)(1)~~ If a school district provides partial compensation to an eligible employee during maternity leave, the amount that the eligible employee's compensation is reduced shall ~~not exceed the district's share~~ be subtracted from the cost of the substitute staff payable by the department under ~~the cost-sharing agreement.~~

(2) The school district shall not reduce the eligible employee's compensation more than the total cost of the substitute staff.

6 CAR § 193-105. Eligible Employee Maternity Leave.

(a) Effective July 1, 2025, an eligible employee shall receive upon written request to the employing public school district or open--enrollment public charter school, up to twelve (12) weeks of paid maternity leave as defined in Arkansas Code § 6-17-122 and these rules.

(1) The 12-week period shall begin on the day an event described in §193-102(8) occurs and end on the 83rd calendar day following the first day of the period; and

(2) The period shall be extended by one day for each day described below which occurs within the eighty four (84) day period:

(1) A designated school holiday within the academic school year, not to include summer;

(2) A day on which school was scheduled to be held under the school's calendar but on which school was cancelled; and

(b)(1) To receive reimbursement pursuant to this part, a school shall compensate an eligible employee for each day in which the eligible employee would have been compensated if that eligible employee had reported for their normal duties within the period of time that an eligible employee is on maternity leave.

(2) An employee shall not receive more than the amount specified in their employment contract as a result of being eligible for paid maternity leave.

(3) Nothing in these rules shall prohibit a public school district or open-enrollment public charter school from providing additional benefits to an employee eligible for en maternity leave.