ARKANSAS REGISTER

Proposed Rule Cover Sheet

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Name of Department Department of Education

Agency or Division Name Division of Elementery and Secondary Eduation

Other Subdivision or Department, If Applicable

Previous Agency Name, If Applicable

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Name of Rule Rules Governing Maternity Leave Cost Sharing

Newspaper Name Arkansas Democrate-Gazette

Date of Publishing July 12, 2025

Final Date for Public Comment August 11, 2025

Location and Time of Public Meeting Four Capitol Mall Auditorium, 7/18/2025, 10am

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 process~~es~~ 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;~~

~~(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 sharing~~the 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~~e)~~(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~~

~~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~~of~~ 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 mateurnity leave.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY.

DEPARTMENT Arkansas Department of Education
BOARD/COMMISSION State Board of Education
PERSON COMPLETING THIS STATEMENT Daniel Shults
TELEPHONE NO. 501-682-4202 **EMAIL** daniel.shults@ade.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the Financial Impact Statement and email it with the questionnaire, summary, markup and clean copy of the rule, and other documents. Please attach additional pages, if necessary.

TITLE OF THIS RULE Rules Governing Maternity Leave Cost Sharing

1. Does this proposed, amended, or repealed rule have a financial impact?
   Yes ☐ No ☑

2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule?
   Yes ☑ No ☐

3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes ☑ No ☐

   If no, please explain:

   (a) how the additional benefits of the more costly rule justify its additional cost;

   (b) the reason for adoption of the more costly rule;

   (c) whether the reason for adoption of the more costly rule is based on the interests of public health, safety, or welfare, and if so, how; and

   (d) whether the reason for adoption of the more costly rule is within the scope of the agency's statutory authority, and if so, how.

4. If the purpose of this rule is to implement a *federal* rule or regulation, please state the following:

   (a) What is the cost to implement the federal rule or regulation?

Current Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total_____

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total_____

(b) What is the additional cost of the state rule?

Current Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total_____

Next Fiscal Year

General Revenue_____
Federal Funds_____
Cash Funds_____
Special Revenue_____
Other (Identify)_____

Total_____

5. What is the total estimated cost by fiscal year to any private individual, private entity, or private business subject to the proposed, amended, or repealed rule? Please identify those subject to the rule, and explain how they are affected.

Current Fiscal Year
$ 0

Next Fiscal Year
$ 0

6. What is the total estimated cost by fiscal year to a state, county, or municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year
$ 0

Next Fiscal Year
$ 0

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars ($100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☑

If yes, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

(1) a statement of the rule's basis and purpose;

(2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;

(3) a description of the factual evidence that:
(a) justifies the agency's need for the proposed rule; and
(b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;

(4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

(6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and

(7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
(a) the rule is achieving the statutory objectives;
(b) the benefits of the rule continue to justify its costs; and
(c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

Jacob Oliva
Secretary

Stacy Smith
Deputy
Commissioner

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May 28, 2025

Proposed Rule – Rules Governing Maternity Leave

BACKGROUND

The amendment updates the rule to reflect changes enacted by Act 904 and Act 905 of the 2025 session. The primary change is that the ADE is now required to cover 100% of the costs of Maternity leave were prior law allowed the costs to be shared

KEY POINTS

- ADE will cover 100% of the costs of Maternity leave
- Enhances definition to provide other clarity pursuant to statutory changes
- Provides added detail to statutory provision consistent with statutory intent

DISCUSSION

The effect of the statutory changes as implemented by this proposed rule amendment is to require the ADE to fully reimburse the school district for the actual costs of replacing a district employee on maternity leave. Twelve weeks is defined as an 84 calendar day period with added days possible for school holidays and cancelled school days pursuant to Act 905 of 2025. Implementation is designed to ensure that a public school will experience no additional costs than the district would have experienced had the employee not taken maternity leave but also to ensure that the district cannot experience a financial windfall under the program at the expense of the employee.

Notice of Rulemaking

Pursuant to Arkansas Code Annotated § 25-15-201 et seq., notice is hereby given that the Division of Elementary and Secondary Education is considering the following new administrative rules or amendments to administrative rules: Rules Governing Student Discipline, Rules Governing Public School Choice, and Rules Governing Maternity Leave Cost Sharing. Public comment hearings will be held for the forgoing rules on July 18, 2025, at 10:00 am at the Arkansas Department of Education, Arch Ford Building, Four Capitol Mall, Little Rock, AR, 72201 in the ADE Auditorium. The public comment period for these rules ends on August 11, 2025. Written comments regarding these proposed rules may be mailed to ADE Legal Services, Four Capitol Mall, Room 302A, Little Rock, AR, 72201. Comments also may be emailed to ADE.RulesComments@ade.arkansas.gov. A copy of the proposed rules can be found on the Division of Elementary and Secondary Education's website at: https://dese.ade.arkansas.gov/Offices/legal/rules/pending. Copies also may be obtained by contacting ADE's Office of Legal Services at the above address or via phone at (501) 683-1390.

From:	Brianne Franks (ADE)
To:	Daniel Shults (ADE)
Subject:	Fw: Administrative Rules Notice for Publication
Date:	Thursday, July 10, 2025 4:16:27 PM
Attachments:	image001.png

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Sent: Thursday, July 10, 2025 3:47:34 PM
To: Brianne Franks (ADE) <Brianne.Franks@ade.arkansas.gov>
Subject: Re: Administrative Rules Notice for Publication

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Scheduled for Sat 7/12, Sun 7/13, and Mon 7/14. Thanks.

Gregg Sterne, Legal Advertising
Arkansas Democrat-Gazette
legalads@arkansasonline.com

From: "Brianne Franks, ADE" <Brianne.Franks@ade.arkansas.gov>
To: "Legal Ads" <legalads@arkansasonline.com>
Cc: "Daniel Shults, ADE" <Daniel.Shults@ade.arkansas.gov>
Sent: Thursday, July 10, 2025 9:59:13 AM
Subject: Administrative Rules Notice for Publication

Good morning,

Please find attached a notice of rulemaking for Department of Education's Student Discipline, Public School Choice, and Maternity Leave Cost Sharing administrative rules and confirm receipt. Please run for three consecutive days beginning on July 12, 2025, through July 14, 2025.

Thank you,

ARKANSAS DEPARTMENT OF EDUCATION

Brianne Franks
Associate Legal Counsel
Arkansas Department of Education
4 Capitol Mall, Suite 302
Little Rock, Arkansas 72201