



Maternity Leave FAQ & Resources

Updated August 3, 2023

Senate Bill 1121, approved by Oklahoma legislators and signed by the Governor this spring, authorizes six weeks of paid maternity leave for school employees, among others. Although there are requirements to qualify, this new benefit is expected to make a positive difference for Oklahoma teachers and their families.

The OSSBA team has prepared several resources to help districts support their employees and properly implement the law before employees return for the 2023-24 school year. The state Board of Education is also expected to make rules related to the law. OSSBA will provide more information when it is available.

Who is eligible for the state-approved maternity leave?

The new law grants paid leave for female employees in the following roles who have (1) worked full time for the district or entity at least one year and (2) worked at least 1,250 hours during the 12 months prior to the maternity leave request:

- All common education employees.
- Classroom instructional employees of career technology centers.
- Teachers employed by the state Department of Rehabilitation Services.
- Teachers employed as correctional teachers or vocational instructors by the state Department of Corrections.
- Teachers employed by an Office of Juvenile Affairs facility.

Can eligible employees use maternity leave whenever they choose?

No. The six weeks must be taken immediately after the birth of the child.

What if the baby is born during the summer or during a school break, like Christmas?

The six weeks of leave still begins immediately and runs consecutively without interruption, regardless of school breaks. For example, if the baby is born on July 20 and the mother's contract for the new school year begins two weeks later, she would have four weeks of leave remaining after her original report date.

This new benefit is intended for salary protection, and there is not a loss of salary for employees during non-contract days.

Does the new law require any changes to board policies?

Yes. In addition to a new policy about the maternity leave, districts will need to revise policies related to:

- Family Medical Leave Act.
- Locally approved shared sick leave programs and sick leave banks.
- Additional sick days for teachers, specifically the 20 days provided to teachers by state law for personal injury, illness or pregnancy.

OSSBA’s Policy Services team will provide the new policy and revised policies for subscribers in an upcoming edition of PSST. Learn more about this service: ossba.org/services/policy-services/

Will this change how employees can use their accrued sick leave after the birth of a child?

The six weeks of maternity leave must be used first; then, the employee can use any paid sick leave available to them.

Can maternity leave run concurrently with Family Medical Leave Act (FMLA) leave?

Yes. The new law provides employees with six weeks of paid maternity leave and, when it runs concurrently with FMLA, they have an additional six weeks of unpaid leave remaining. The district’s practice of including the maternity leave within the 12 weeks of FMLA leave should be reflected in board policy.

How does maternity leave affect the district’s shared leave program or sick leave bank?

Oklahoma law does not require school districts to offer a shared leave program or sick leave bank. Districts that do should ensure their board policy requires maternity leave to be exhausted before sick leave program/bank days are granted to an otherwise eligible employee.

How does the maternity leave work with other leave allowed by state law?

Oklahoma law already provides 20 days of paid leave to teachers for personal injury, illness or pregnancy – less the cost of a substitute to cover their classroom. While this leave does not apply to bonding after birth, employees may use it for necessary physical recovery or pregnancy. Prior to taking these 20 days post birth, the employee must have exhausted all maternity leave and sick leave. This should be reflected in district policy.

Are employees who are new to the district eligible for paid maternity leave this school year?

No. New employees will not be eligible because they will not have worked full-time for the district for a year nor worked at least 1,250 hours during the 12 months prior to the maternity leave request.

UPDATE: What if the employee works for a district with a four-day school week and their annual contract does not include the equivalent of 1,250 hours?

The U.S. Department of Labor has recognized – through the Family and Medical Leave Act – that full-time teachers for elementary and secondary schools meet the 1,250-hour test, unless their employer can prove otherwise. This is because teachers regularly conduct work outside of their contract hours that are not documented but do count towards the 1,250-hour requirement. OSSBA believes this same rationale should be applied to maternity leave requests when necessary and that doing so aligns with the intent of the new law.

The standard 1,250-hour rule applies to support employees because they should not have undocumented hours as employees who are non-exempt under the Fair Labor Standards Act.

Is there anything else school leaders should do?

This is a perfect opportunity to review procedures and processes related to employee leave following the birth of a child. Work to communicate proactively with employees about how much total leave they have, how many days they will be paid for and when their benefits will expire. Provide them with as much information as possible to help them plan for their growing family.

How will districts be reimbursed for the cost of this leave?

Some details about reimbursement are still unknown; however, the law states that:

- School districts will file a claim with the state Board of Education to be repaid.
- Other entities, like the Department of Career Tech, will file claims with the Director of the Office of Management and Enterprise Services to be repaid.

More information about the reimbursement process is expected to be available in the future.