

Guidelines for Requesting Reimbursement for Costs of Workers' Compensation Premiums – Students Participating in Workers' Compensation Insurance Premiums

Overview

Section (s.) 446.54, Florida Statutes (F.S.), was signed into law during the 2021 legislative session and establishes requirements for workers' compensation insurance coverage for certain students participating in work-based learning (WBL) opportunities and authorizes reimbursement of costs for associated premiums. The law addresses both paid and unpaid students (ages 18 years old and younger) and students enrolled in Florida school districts and Florida College System (FCS) institutions.

Pursuant to the Statute, the State Board of Education approved rule 6A-6.05732, Florida Administrative Code (F.A.C.), which established procedures for implementing the statutory requirements. These guidelines for 2022-23 provide details for following the requirements of Florida Statutes and State Board of Education rule.

Workers' Compensation

Workers' compensation insurance is coverage purchased by an employer for job-related employee injury/illness expenses, such as medical expenses, lost wages, and other related costs. Workers' compensation insurance is regulated by the state in accordance with chapter 440, F.S.

Costs that are Eligible for Reimbursement

Section 446.54, F.S., states the following:

A student 18 years of age or younger who is in a paid work-based learning opportunity shall be covered by the workers' compensation insurance of his or her employer in accordance with chapter 440. For purposes of chapter 440, a school district or Florida College System institution is considered the employer of a student 18 years of age or younger who is providing unpaid services under a work-based learning opportunity provided by the school district or Florida College System institution. Subject to appropriation, the Department of Education may reimburse employers, including school districts and Florida College System institutions, for the proportionate cost of workers' compensation premiums for students in work-based learning opportunities in accordance with department rules.

The statute specifically allows for reimbursement of the “proportionate cost of workers' compensation premiums.” In this context, proportionate cost means just those costs that are associated with providing workers' compensation insurance for students participating in WBL opportunities.

From this section, the criteria for reimbursement are that:

- Students are 18 years of age or younger;

- Students are participating in WBL through a Florida school district or FCS institution; and
- The WBL opportunity is paid OR is unpaid and the student provides services, as opposed to shadowing, observing, simulated WBL, virtual WBL, or project-based learning.

Requirements to Carry Workers' Compensation Insurance

According to chapter 440, F.S., employers are required to carry workers' compensation insurance for all paid employees, including full-time, part-time, remote, and in-person employees. Exceptions are made for non-construction businesses with three (3) or fewer employees, as well as, farmers with five (5) or fewer regular employees and/or 11 or fewer seasonal employees who work for more than 30 days. In these limited cases, no workers' compensation insurance is required to be carried by the employer. In all cases, construction businesses must carry workers' compensation insurance for their employees.

Section 446.54, F.S., requires districts and FCS institutions to cover students through their workers' compensation insurance policies when a student is 18 years old or younger, unpaid, and providing services in a way similar to how an employee would. Employers, primarily businesses, of paid students 18 years old and younger are to provide workers' compensation coverage through their existing workers' compensation coverage.

Work-Based Learning

Examples of "service providing" WBL opportunities that are eligible for workers' compensation coverage include, but are not limited to:

- Internships—paid and unpaid;
- Apprenticeships/preapprenticeships;
- Clinicals;
- Practicums; and
- Service learning.

Examples of work-based learning that are ineligible for reimbursement because the student is not providing services and, therefore, does not act like an employee, include but are not limited to:

- Simulated WBL;
- Virtual WBL; and
- Project-based WBL.

Job shadowing, off-campus business tours, and other forms of employer interactions that fall short of the definition of work-based learning in s. 446.0915, F.S., do not require workers' compensation insurance and are excluded from reimbursement.

Costs Eligible for Reimbursement

A "premium" for workers' compensation insurance is the amount of money paid to carry an employee(s) under a workers' compensation insurance policy. There may be other costs associated with covering an employee with workers' compensation insurance, such as fees paid to insurance brokers. These, however, are not eligible, as they are not premiums. However, the Department of

Financial Services (DFS) has advised that the workers' compensation assessments paid by self-insured school districts and FCS institutions may be considered premiums for the purposes of the WBL reimbursement opportunity. The citations provided by DFS in support of this interpretation are s. 440.51, F.S., and rules 69L-4001 and 69L-4002, F.A.C. Given this determination, self-insured entities may use the WC assessments paid to DFS as the equivalent of premiums for the purpose of calculating their requests for reimbursement.

Only costs associated with covering eligible work-based learning students may be reimbursed, not the full employers' workers' compensation costs that include non-work-based learning employees. Employers are to calculate the portion of their total workers' compensation expenses that are associated with covering eligible students. Because the variables associated with premiums may vary from one institution to another, the Florida Department of Education (department) is not specifying the methodology to be used in calculating the proportionate cost of the premiums. Instead, the FCS institution, school district, and business employers are asked to share their methodology with the department when submitting their requests for reimbursement. The methodology must be reasonable and take into consideration factors such as the total amount of the premium(s), the numbers of students, and the length of time each student is covered.

Reimbursements are Subject to Appropriation and Proration

If the total funding requested by Florida school districts, FCS institutions, and businesses exceeds the total funds appropriated by the Florida Legislature for these purposes, the disbursements to employers will be prorated.

Requesting Reimbursement

At least 45 days prior to the deadline, rule 6A-6.05732, F.A.C., requires that the department annually notify school districts and FCS institutions of the deadline for submission of requests for reimbursement. Each district and college is then required to provide notice of the opportunity to request reimbursement to businesses that provide WBL opportunities to eligible students enrolled in the school district or college.

Although there is a final deadline, generally June 30 of each year, applicants for reimbursement are encouraged to submit their request no later than June 15 to ensure that end-of-fiscal year requirements can be met.

Completed requests should be sent to the following:

WCReimbursement@fldoe.org

Or

Florida Department of Education.
Bureau of the Comptroller
325 West Gaines Street, 914 Turlington Building
Tallahassee, Florida 32399-0400

Businesses Request Reimbursement through Districts and Colleges

School districts and FCS institutions are to not only apply for their own reimbursement, but also for the reimbursement of all eligible businesses hosting work-based learning through their district or college. Given this, districts and colleges will need to communicate with relevant business partners well in advance of the deadline for requesting reimbursement. Districts and colleges are not expected to preapprove businesses' applications prior to their submission. That said, districts and colleges should review all business applications submitted for completeness and to confirm the accuracy of content known by the district/college, such as enrollment breakdowns. Districts and colleges are not expected to review/approve the methodology for calculation of the proportionate share of the premiums.

The requests for reimbursement prepared by a business employer should be included in the submission by the school district or college. For example, if a school district is submitting a request on its own behalf as well as requests from two businesses, the total submission would consist of three separate requests—one from the district on its own behalf and one for each of the two businesses.

Businesses should also be notified that their requests for reimbursement must be limited to the district or college submitting the request. Thus, if a business serves students enrolled in more than one institution, that business must submit a separate request for reimbursement through each of the institutions whose students are served.

Required Information in Request for Reimbursement (Invoice)

Rule 6A-6.05732, F.A.C., outlines the information that must be submitted to the Comptroller's Office within the department to request reimbursement. This includes:

- **Employer Information:** The employer's name, telephone number, email address, and an identifying number, such as a FEIN number.
- **Student Counts:** The total number of students participating in work-based learning opportunities with the employer and the disaggregated number of students who are participating in paid and unpaid work-based learning opportunities with the employer.

- **Age Confirmation:** Confirmation that students were 18 years of age or younger during the time when they were participating in the work-based learning opportunity and for which reimbursement is sought.
- **Cost Calculations:** A description of the method of determining the proportionate share of the employer's workers' compensation insurance attributable to student(s) in work-based learning opportunities.
- **Total Requested:** The dollar amount for which reimbursement is being requested.
- **Attestation of Document Maintenance:** A statement by the employer agreeing to maintain documentation supporting the information described in paragraph (2)(e) for a minimum of five (5) years.

Sample formats for requests for reimbursement have been created by the department. School districts, colleges, and business employers are not required to use these sample formats; however, the information listed above must be included in whatever format is used.

Florida Department of Education Review

The Florida Department of Education staff will review the requests for reimbursement to ensure compliance with the requirements specified in the rule. Staff may have questions regarding information provided and will seek to clarify the information with the contact person designated by the district, FCS institution, or business.

Disbursement of Funds

Florida districts and FCS institutions will be the initial recipients of the disbursements. It is then incumbent upon the districts and colleges to disburse funds in accordance with the approved requests and any necessary proration (proration will occur when the total amount requested by all districts and colleges exceeds the total amount appropriate by the Florida Legislature and will be calculated by the department prior to the disbursement of any reimbursements). Should it be impossible to make a disbursement to a business that was included in the submission (for example, the business no longer exists), the funds are to be returned to the department.