

§ 792.218

§ 792.218 Does the law apply only to on-site Federal child care centers that are utilized by Federal families?

The bill includes non-Federal center-based child care as well as care in family child care homes, as long as the providers are licensed and/or regulated by the State and/or local regulating authorities.

§ 792.219 Are agencies required to negotiate with their Federal labor organizations concerning the implementation of this law?

Agencies are reminded of their obligation under 5 U.S.C. 7117 to negotiate or consult, as appropriate, with the exclusive representatives of their employees on the implementation of the regulations in this subpart.

§ 792.220 What are the requirements that child care providers must meet in order to participate in this program?

The provider, whether center-based or family child care, must be licensed and/or regulated by the State and, where applicable, by local authorities where the child care service is delivered. Outside of the United States, agencies may adopt or create criteria to ensure a child care center or family child care home is safe. Agencies must not restrict the use of funds to apply to accredited child care providers only.

§ 792.221 Is there a statutory cap on the amount or the percentage of child care costs that will be subsidized?

The law does not specify a cap on the amount or percentage of child care subsidy that may be subsidized.

§ 792.222 What is the definition of a lower income Federal employee and how is the amount of the child care subsidy determined?

Each agency decides who qualifies as a *lower income Federal employee* within that agency. OPM has provided guidance for determining eligibility in the "Guide for Implementing Child Care Legislation—Public Law 107-67, Sec. 630." This publication is available on OPM's Web site, <http://www.opm.gov/wrkfam>.

5 CFR Ch. I (1-1-10 Edition)

§ 792.223 Who determines if a Federal employee qualifies as a lower income employee and how is the program administered?

The agency or another appropriately identified organization determines eligibility using certain income and/or subsidy program criteria chosen by the agency. If the agency itself does not administer the program, it must select another organization to do so, using procedures that are in accordance with the Federal Acquisition Regulations. Regardless of what organization administers the program, the model for determining both the subsidy program eligibility and the amount of the subsidy is always determined by the Federal agency.

§ 792.224 Are child care subsidies paid to the Federal employee using the child care?

Agencies must pay the child care provider directly, unless one of the following exceptions applies:

(a) If an agency chooses to have an organization administer its program (see § 792.223), the organization pays the child care provider;

(b) For overseas locations, the agency may choose to pay the employee if the provider deals only in foreign currency; or

(c) In unique circumstances, an agency may obtain written permission from OPM to do so.

§ 792.225 May an agency disburse funds to an organization that administers the child care subsidy program prior to the time the employee receives the child care services?

The agency may disburse funds to an organization that administers the child care subsidy program in one lump sum. The organization will be responsible for tracking the funds and providing the agency with regular reports. An agency contract should specify that any unexpended funds shall be returned to the agency after the contract is completed.