

Education Bureau Circular No. 17/2018
Kindergarten Education Scheme
Paid Maternity Leave for Staff and Staff Relief Grant
Questions and Answers

Q1. How would kindergartens (KGs) be eligible for applying for the staff relief grant?

A1. For KGs joining the kindergarten education scheme (Scheme), if their original staff meets the following criteria, the respective KG is eligible for applying for the staff relief grant from Education Bureau (EDB):

- (i) the original staff meets the requirements for taking paid maternity leave (ML) under the Employment Ordinance (Cap. 57);
- (ii) the KG concerned has approved her for taking paid ML for **14 weeks** in accordance with EDB Circular No. 17/2018;
- (iii) her salary is paid by the subsidies under the Scheme or school fees; and
- (iv) her actual date or expected date of confinement fell on or after 1 January 2019.

Q2. Could KGs apply for the grant if the staff only takes paid ML for 10 weeks?

A2. No. According to the eligibility criteria as stated in EDB Circular No. 17/2018, only KGs which have approved the staff concerned for taking paid ML for **14 weeks** are eligible for applying for the staff relief grant.

Q3. If a principal / vice principal / senior teacher takes paid ML, can the KG(s) concerned apply for the staff relief grant from EDB?

A3. Yes. If the principal / vice principal / senior teacher taking paid ML meets the criteria mentioned in Q&A (1) above, the KG(s) concerned may apply to EDB for **reimbursement** of the expenses incurred for employing a supply teacher (to be calculated according to the actual proportion of the principal's duties in the KG(s) concerned where applicable). As the supply teacher employed should take up only the basic duties of a teacher and it is not appropriate for them to take up the responsibilities of those at higher ranks, the KG concerned should assign a suitable teacher to act up the duties of the principal temporarily to ensure effective school operation (according to school-based needs, assigning a suitable teacher to act up the duties of the vice principal / senior teacher taking paid ML temporarily can also be arranged). Instead, the supply teacher should be arranged to perform the basic duties of the teacher taking up the acting appointment.

Q4. If the original staff also works in the child care centre section and/or the non-local curriculum stream of the KG, can the KG apply for the staff relief grant from EDB?

A4. Yes. The KG should apportion the expenses based on the duties of the original staff or the number of students and fill in the actual proportion of her duties in the KG section joining the Scheme on the application form. EDB will reimburse the expenses on employing the substitute staff proportionally.

Q5. How to determine whether a substitute staff should be employed on a monthly-rated or a daily-rated basis?

A5. If the employment period of a substitute staff lasts for 90 consecutive calendar days or more, the KG concerned should employ him/her on a monthly-rated basis. For substitute staff whose employment period is less than 90 calendar days, KGs should calculate their salary according to the daily rate and their actual number of working days.

Q6. If a KG does not employ a supply teacher but internally deploy teachers to take up the duties of the original staff, is the KG eligible for applying for the staff relief grant?

A6. The objective for EDB to provide KGs with the staff relief grant is to allow KGs to employ substitute staff during the 14-week paid ML of their original staff to ensure staff stability and effective school operation. The grant is provided to KGs on reimbursement basis. If a KG deploys other teachers in the school to share the duties of the staff taking ML instead of employing a supply teacher, the KG concerned is not eligible for applying for the staff relief grant.

Q7. If the staff taking paid ML is a full-time teacher, can the KG employ two or more part-time supply teachers (such as one for the AM session and one for the PM session) to take up her duties? How can the KG determine the salary of these supply teachers?

A7. In principle, if there is one full-time staff taking paid ML, the KG should employ a full-time substitute staff to take up the duties of the staff taking paid ML. Unless under special circumstances (such as recruitment difficulties) in which the KG is unable to employ one full-time supply teacher, it may employ more than one part-time supply teachers to temporarily take up the duties of the staff taking paid ML provided that the proportion of their duties in total should be equal to that of a full-time teacher. For

example, the KG may employ one part-time teacher for each of the AM session and the PM session (the proportion of duties for each part-time teacher is 50%, i.e. 50%+50%=100%) to take up the duties of the full-time staff taking ML. The salary of the part-time supply teachers should be determined based on their actual proportion of work. In any cases, the sum of the monthly salary of the part-time supply teachers should not be higher than that of the original staff or the ceiling of the respective salary range (whichever is the lower).

Q8. If the staff taking paid ML is a full-time teacher, can the KG employ only one part-time supply teacher to take up her duties in the AM session or the PM session?

A8. In principle, if there is one full-time staff taking paid ML, the KG should utilize the staff relief grant to employ a full-time substitute staff to take up the duties of the staff taking ML so as to maintain staff stability and effective school operation. However, if under special circumstances (such as recruitment difficulties) in which the KG can only employ one part-time supply teacher to take up the duties in either the AM session or the PM session of the original full-time staff and have to deploy its own teachers to take up the remaining duties, the KG concerned is responsible for sufficient communication with and clear explanation of the situation to its teachers so as to avoid unnecessary complaints. When applying for the staff relief grant, the KG concerned should submit its application together with a letter explaining its special circumstances and relevant teaching arrangement. EDB will consider handling the application with discretion according to its actual situation.

Q9. Are KGs allowed to employ substitute staff with a daily rate which is higher than the daily rate determined by EDB and top up the differences with their school funds?

A9. No. KGs must calculate the salary of substitute staff whose employment period is less than 90 calendar days according to the daily rates determined by EDB.

Q10. How to calculate the salary of a substitute staff with employment period across two school years?

A10. When employing a substitute staff on a monthly-rated basis, the KGs are required to state in the employment contract the monthly salary of the substitute staff during the whole contract period. Even if the salary of the original staff changes (e.g. a pay rise according to the established incremental date) during her paid ML, the monthly salary of the substitute staff concerned will not be affected. For substitute staff employed on a daily-rated basis, as EDB will adjust the daily rates every school year, the salary of

the substitute staff concerned will be calculated on the basis of the daily rates of the respective school years.

Q11. If a substitute staff who is employed on a monthly-rated basis does not serve for an entire month, how is the salary of that month calculated?

A11. If a substitute staff who is employed on a monthly-rated basis does not serve for an entire month, his/her salary will be calculated on a pro-rata basis as follows:

Average daily salary of the substitute staff (i.e. monthly salary of the substitute staff x 12 months ÷ 365 days) x no. of calendar days of employment in that month.

Please refer to examples (2) and (3) of Appendix 2 in EDB Circular No. 17/2018 for details.

Q12. If a substitute staff who is employed on a monthly-rated basis takes no-pay leave in a particular month during the employment period, how is the salary of that month calculated?

A12. If a substitute staff who is employed on a monthly-rated basis takes no-pay leave in a particular month during the employment period, his/her salary of that month should be calculated as follows:

Monthly salary of the substitute staff — [average daily salary of the substitute staff (i.e. monthly salary of the substitute staff x 12 months ÷ 365 days) x no. of days of no-pay leave taken].

Q13. Are KGs required to arrange Mandatory Provident Fund Schemes for their substitute staff?

A13. According to the information from Mandatory Provident Fund Schemes Authority (MPFA), as long as the employees have been employed for 60 days or more, employers are required to enrol them into a Mandatory Provident Fund (MPF) scheme and make contributions. However, despite the fact that the employers have signed a series of short-term employment contracts which are less than 60 days with the employees, if there is evidence that an employment relationship between the employers and the employees exists for 60 days or more, the employers are still required to enrol their employees in an MPF scheme. For latest details, information published by MPFA shall prevail and please refer to the webpage of MPFA (<http://www.mpfa.org.hk/eng/main/index.jsp>).

Q14. If a KG operates the AM session only and there is no need for its staff to work in the PM session, should the salary of the substitute staff be adjusted proportionally?

A14. KGs may adjust the salary of the substitute staff based on his/her actual proportion of work. If the employment period of the substitute staff lasts for 90 consecutive calendar days or more, the KG concerned should employ him/her on a monthly-rated basis. His/her salary should not be higher than that of the original staff or the respective salary range (whichever is the lower). For substitute staff whose employment period is less than 90 calendar days, KGs should calculate their salary on the basis of the daily rates determined by EDB and capped by such daily rates.

Q15. If the original staff is an English teacher possessing other qualifications while the supply teacher possesses Certificate in Early Childhood Education [C(ECE)] or above qualifications, should the KG concerned determine the salary of the supply teacher by applying the salary range for basic rank teachers?

A15. If KGs employ persons possessing C(ECE) or above qualifications as supply teachers, the salary range for basic rank teachers is applied in determining their salary. However, in any cases, the salary of the supply teachers and other substitute staff should not be higher than that of the original staff or the ceiling of the respective salary ranges (whichever is the lower).

Q16. When should KGs apply for the staff relief grant from EDB?

A16. KGs applying for the grant from EDB should complete the Application Form at Appendix 1 of EDB Circular No. 17/2018 and submit it to EDB together with the supporting documents listed in Q&A (17) below **within 1 month** after the end of the ML of the original staff.

Q17. What supporting documents should KGs submit when applying for the supply teacher grant?

A17. KGs applying for the grant should complete the Application Form at Appendix 1 of EDB Circular No. 17/2018 and submit it together with the following supporting documents:

- (i) original copy of the medical certificate specifying the expected and/or the actual date of confinement of the staff taking paid ML;
- (ii) duplicate copy of documentary proof on salary of the staff taking paid ML (certified by the school supervisor or the principal);

- (iii) original copy of the salary payment receipt(s) signed by the substitute staff (a sample is at Appendix 3 of EDB Circular No. 17/2018); and
- (iv) duplicate copy of the qualification document of the supply teacher (if applicable) (certified by the school supervisor or the principal).

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