

TWIN CITIES INTERNATIONAL ELEMENTARY SCHOOL

FAMILY AND MEDICAL LEAVE POLICY (410)

I. PURPOSE

The purpose of this policy is to provide for family and medical leave to school district employees in accordance with the Family and Medical Leave Act and also with parenting leave under state law.

II. GENERAL STATEMENT OF POLICY

A. Twelve-week Leave

1. Regular full-time and part-time employees who have been employed by the school district for at least 12 months and have worked at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave are entitled to a total of 12 work weeks of unpaid family or medical leave during the applicable 12-month period as defined below, plus any additional leave as required by law. Leave may be taken for one or more of the following reasons in accordance with applicable law:
 - a. birth of the employee's child;
 - b. placement of an adopted or foster child with the employee;
 - c. to care for the employee's spouse, son, daughter, or parent with a serious health condition; and/or
 - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job.
2. For the purposes of this policy, "year" is defined as a rolling 12-month period measured backward from the date an employee uses any leave.
3. A "serious health condition" typically requires either inpatient care or continuing treatment by or under the supervision of a health care provider, as defined by applicable law. Family and medical leave generally is not intended to cover short term conditions for which treatment and recovery are very brief.
4. Eligible spouses employed by the school district are limited to an aggregate of twelve weeks of leave during any 12-month period for the birth or adoption of a child, the placement of a child for foster care or to care for a parent. This limitation for spouses employed by the school district does not apply to leave taken by one spouse to care for the other spouse who is seriously ill, to care for a child with a serious health

condition, or because of the employee's own serious health condition.

5. Depending on the type of leave, intermittent or reduced schedule leave may be granted in the discretion of the school district or when medically necessary. However, part-time employees are only eligible for a pro-rata portion of leave to be used on an intermittent or reduced schedule basis, based on their average hours worked per week. Where an intermittent or reduced schedule leave is foreseeable based on planned medical treatment, the school district may transfer the employee temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position, and which has equivalent pay and benefits.
6. If an employee requests a leave for the serious health condition of the employee or the employee's spouse, child or parent, the employee will be required to submit sufficient medical certification. In such a case, the employee must submit the medical certification within 15 days from the date of the request or as soon as practicable under the circumstances.
7. If the school district has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school district's expense. If the opinions of the first and second health care providers differ, the school district may require certification from a third health care provider at the school district's expense. An employee may also be required to present a certification from a health care provider indicating that the employee is able to return to work.
8. Requests for leave shall be made to the school district. Employees must give 30 days' written notice of a leave of absence where practicable. Employees are expected to make a reasonable effort to schedule leaves resulting from planned medical treatment so as not to disrupt unduly the operations of the school district, subject to and in coordination with the health care provider.
9. During the period of a leave permitted under this policy (which does not exceed a total of 12 work weeks in the applicable 12 month period), the school district will provide health insurance under its group health plan under the same conditions coverage would have been provided had the employee not taken the leave. The employee will be responsible for payment of the employee contribution to continue group health insurance coverage during the leave. An employee's failure to make necessary and timely contributions may result in termination of coverage.
10. The school district may request or require the employee to substitute accrued paid leave for any part of the 12-week period. Employees may be allowed to substitute paid leave for unpaid leave by meeting the requirements set out in the administrative directives and guidelines established for the implementation of this policy, if any. Employees

eligible for leave must comply with the family and medical leave directives and guidelines prior to starting leave. It shall be the responsibility of the Director to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the school board for annual review.

The school district shall comply with written notice requirements as set forth in federal regulations.

11. Employees returning from a leave permitted under this policy (which does not exceed a total of 12 work weeks in the applicable 12 month period) are eligible for reinstatement in the same or an equivalent position as provided by law. However, the employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the leave.
12. An employee who does not return to work after leave may, in some situations, be required to reimburse the school district for the cost of the health plan premiums paid by it.
13. The provisions of this policy are intended to comply with applicable law, including the Family and Medical Leave Act of 1993 (“FMLA”) and applicable regulations. Any terms used from the FMLA will have the same meaning as defined by that Act and/or applicable regulations. To the extent that this policy is ambiguous or contradicts applicable law, the language of the applicable law will prevail.
14. The requirements stated in the collective bargaining agreement between employees in a certified collective bargaining unit and the school district regarding family and medical leaves (if any) shall be followed.

B. Six-week Leave

An employee who does not qualify for leave under Paragraph A above may qualify for a six-week unpaid parenting leave for birth or adoption of a child. The employee may qualify if he or she has worked for the school district for at least 12 consecutive months and has worked an average number of hours per week equal to one-half of the full time equivalent. This leave is separate and exclusive of the family and medical leave described in the preceding paragraphs.

III. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES

- A. An instructional employee is one whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This includes, but is not limited to, teachers, coaches, driver’s education instructors, and special education assistants.
- B. Instructional employees who request foreseeable medically necessary intermittent

or reduced work schedule leave greater than twenty percent of the work days in the leave period may be required to:

1. take leave for the entire period or periods of the planned medical treatment; or
 2. move to an available alternative position for which the employee is qualified, and which provides equivalent pay and benefits, but not necessarily equivalent duties.
- C. Instructional employees who request continuous leave near the end of a quarter may be required to extend the leave through the end of the quarter. The number of weeks remaining before the end of a quarter does not include scheduled school breaks, such as summer, winter, or spring break.
1. If an instructional employee begins leave for any purpose more than five weeks before the end of a quarter and it is likely the leave will last at least three weeks, the school district may require that the leave be continued until the end of the quarter.
 2. If the employee begins leave for a purpose other than the employee's own serious health condition during the last five weeks of a quarter, the school district may require that the leave be continued until the end of the quarter if the leave will last more than two weeks or if the employee's return from leave would occur during the last two weeks of the quarter.
 3. If the employee begins leave for a purpose other than the employee's own serious health condition during the last three weeks of the quarter and the leave will last more than five working days, school district may require the employee to continue taking leave until the end of the quarter.
- D. The entire period of leave taken under the special rules will be counted as leave. The school district will continue to fulfill the school district's leave responsibilities and obligations, including the obligation to continue the employee's health insurance and other benefits, if an instructional employee's leave entitlement ends before the involuntary leave period expires.

IV. DISSEMINATION OF POLICY

- A. This policy shall be conspicuously posted in each school district building in areas accessible to employees.
- B. This policy will be reviewed at least annually for compliance with state and federal law.

Legal References: Minn. Stat. §§ 181.940-181.944 (Parenting Leave)
29 U.S.C. § 2601 *et seq.* (Family and Medical Leave Act)

Cross References: MSBA Service Manual, Chapter 13, School Law Bulletin “M” (Statutory Provisions Which Grant Leaves to Licensed as well as Non-Licensed School District Employees – Family Medical Leave Act Summary)

Adopted: 3/21/04, 3/8/08

MSBA/MASA Model Policy 410
Orig. 1995
Rev. 2008

Special Rules for Local Educational Agencies (i.e. Schools)

1. Eligible employees working primarily in an instructional capacity for public or private elementary or secondary schools (i.e. Teachers in grades K-12) whose intermittent or reduces schedule leave would cause an absence for more than 20% of scheduled work days in the leave period may be required to either
 - Take leave for periods of a particular duration not to exceed the duration of the planned medical treatment; or
 - Temporarily transfer to an available alternative position for which the employee is qualified and that has equivalent pay and benefits.
2. Rules for Leaves Beginning Near End of the School Term
 - If leave begins **more than 5 weeks before** end of term; the agency may require the employee to continue the leave until the end of the school term if the leave is of at least 3 weeks duration and if the return to employment would occur during the last three weeks duration and if the return to employment would occur during the last three weeks of the school term.

- If the leave is for a purpose other than their own serious health condition **during the five week period before the end of the term**, the employer may require the employee to continue the leave until the end of the term if the leave will last for more than two weeks and the employee's return to work would occur during the last two weeks of the school term.
 - If the leave is for a purpose other than their own serious health condition **during the last three weeks** of the school term and the leave will last more than five days, the employer may require the employee to continue taking leave until the end of the school term.
3. What time may be counted towards employee's FMLA allotment
- If employee "chooses" to take leave for a particular duration of time, all time taken may be counted toward their annual FMLA allotment.
 - If the employee is "required" by the employer to take leave for a particular duration of time, only that time before the employee is ready and able to return to work may be counted towards their annual FMLA allotment.

What Are the Recordkeeping Requirements Under the FMLA?

1. Covered employers must maintain the following records for at least three years:
- Basic payroll data on each employee including name, address, occupation, rate of pay and terms of compensation, daily and weekly hours worked per pay period, additions to or deductions from wages and total compensation paid.
 - Dates FMLA leave is taken (must be designated as FMLA leave on these records).
 - If the leave taken is less than full day increments, the hours of the leave (not required if the individual is an exempt employee, and the employer and employee reach a written agreement detailing how many hours they normally work each week and how to record time off taken as FMLA leave and maintain these records of their time off as per the agreement).
 - Copies of notices provided by the employee requesting leave and copies of notices give to employees informing them that their leave qualifies for, and will be counted, FMLA leave time.
 - Any documents describing the employer's benefits and policies regarding the taking of paid and unpaid leaves.
 - Premium payments of employee benefits.

- Records of any dispute between the employer and an eligible employee regarding the designation of leave as FMLA leave including written statements from employees and/or employers about the reason for the disagreement.
- Records and documents relating to medical certifications or recertifications or medical histories must be maintained in confidential medical files separate from the employee's regular personnel files.

How to Limit Family Medical Leave Problems

1. Terminate poor employees during the first year.
2. Ask for FMLA Certification from the doctor **IMMEDIATELY** (and only accept certifications from an authorized provider).
3. Ask for a 2nd and 3rd opinions **IMMEDIATELY** if in doubt.
4. Inform employees in writing if leave qualified for FMLA.
 - Within two days after you acquire knowledge leave qualifies for FMLA
5. Inform Employees of FMLA rights and obligations.
6. Maintain accurate records of FMLA leave.
7. Define what a "YEAR" means under the FMLA.

It is recommended that the year should start with the first day of the leave and 12 months from that date. (Remember workers compensation time also counts as FLMA leave).
8. Institute an Effective No-call, No-Show Rule