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*New Discoveries Montessori Academy Policy 410P*

## **410P FAMILY AND MEDICAL LEAVE POLICY**

### **I. PURPOSE**

The purpose of this policy is to provide for family and medical leave to New Discoveries Montessori Academy 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 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. Also covered under this policy is any qualifying exigency arising from the employee's spouse, son, daughter, or parent being on covered active duty, or notified of an impending call or order to covered active duty in the Armed Forces, 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;
  - d. the employee's serious health condition makes the employee unable to perform the functions of the employee's job;
  - e. to address any issues that arise from a short-notice deployment (seven calendar days or less) of a covered military member;
  - f. to attend military events and related activities of a covered military member;

- g. to address issues related to childcare and school activities of a covered military member's child;
  - h. to address financial and legal arrangements for a covered military member;
  - i. to attend counseling provided by someone other than a health care provider for oneself, a covered military member, or his/her child;
  - j. to spend up to five days with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment;
  - k. to attend post-deployment activities related to a covered military member; and/or
  - l. to address other events related to a covered military member that both the employee and school district agree is a qualifying exigency.
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 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 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 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, New Discoveries Montessori Academy 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 New Discoveries Montessori Academy has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the school's expense. If the opinions of the first and second health care providers differ, the school may require certification from a third health care provider at the school'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 New Discoveries Montessori Academy. Employees must give 30 days' written notice of a leave of absence where practicable. The failure to provide the required notice may result in a delay of the requested leave. 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, 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 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. New Discoveries Montessori Academy 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 board appointed administrator to develop directives and guidelines as necessary to implement this policy. Such directives and guidelines shall be submitted to the New Discoveries Montessori Academy school board for annual review.

New Discoveries Montessori Academy 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 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. In the event that NDMA establishes a collective bargaining agreement between employees in a certified collective bargaining unit and the school that contains Family and Medical Leave requirements, those requirements 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 New Discoveries Montessori Academy 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.

C. Twenty-six-week Service Member Family Military Leave

1. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of 26 work weeks of unpaid leave during a 12-month period to care for the service member. The leave described in this paragraph shall be available only during a single 12-month period. For purposes of this leave, the need to care for a service member includes both physical and psychological care.
2. During a single 12-month period, an employee shall be entitled to a

combined total of 26 work weeks of leave.

3. The 12-month period referred to in this section begins on the first day the eligible employee takes leave to care for a covered service member and ends 12 months after that date.
4. Eligible spouses employed by the school district are limited to an aggregate of 26 weeks of leave during any 12-month period if leave is taken for birth of the employee's child or to care for the child after birth; for placement of a child with the employee for adoption or foster care or to care for the child after placement; to care for the employee's parent with a serious health condition; or to care for a covered service member with a serious injury or illness.
5. New Discoveries Montessori Academy will request or require the employee to substitute accrued paid leave for any part of the 26-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.
6. An employee will be required to submit sufficient medical certification issued by the health care provider of the covered service member and other information in support of requested leave and eligibility for such leave under this section within 15 days from the date of the request or as soon as practicable under the circumstances.

### **III. SPECIAL RULES FOR INSTRUCTIONAL EMPLOYEES**

- A. An instructional employee is one whose principle 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, teaching partners 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 the calendar or school year may be required to extend the leave through the end of the calendar or school year. The number of weeks remaining before the end of a calendar or school year 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 calendar or school year and it is likely the leave will last at least three weeks, the school may require that the leave be continued until the end of the calendar or school year.
  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 calendar or school year, the school may require that the leave be continued until the end of the calendar or school year 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 calendar or school year.
  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 calendar or school year and the leave will last more than five working days, school may require the employee to continue taking leave until the end of the calendar or school year.
- D. The entire period of leave taken under the special rules will be counted as leave. New Discoveries Montessori Academy will continue to fulfill the school'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 the school building in an area 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)  
29 C.F.R. Part 825

**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)