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## **EXPLANATION: SUPPORT STAFF LEAVES**

MSBA has added leave for victims of domestic or sexual violence as required by House Bill 432 (2021). This leave is being informally referred to as the Victims' Economic Safety and Security Act (VESSA) leave. Employees who are victims of domestic or sexual violence may use this unpaid leave for court appearances, counseling, medical attention and other services related to being a victim of domestic or sexual violence. Employees may also use this leave if a family member or member of the household has been a victim of domestic or sexual violence.

While the law does not address the use of paid leave, MSBA assumes the district can allow employees to take accumulated paid leave concurrently with this leave.

The district must provide notice to all current employees and to new employees when they are hired. The Missouri Department of Labor and Industrial Relations (DOLIR) has created a sample notice, and MSBA has created a form that is available on our website. Upon request, DOLIR will provide summaries and rules of the law without charge.

### **Employees:**

- **Are entitled to two weeks of unpaid leave unless there are fewer than 50 employees. Districts with at least 20 and no more than 49 employees are required to provide only one week of leave.**
- **Are required to provide 48 hours' notice before taking the leave unless such notice is not practicable.**
- **May take leave intermittently or on a reduced work schedule.**
- **Must provide requested certification of the need to take leave within a reasonable period after the request.**
- **Are entitled to return to their previous position or a position with equivalent pay, benefits and other terms and conditions of employment upon return from leave.**
- **Shall not lose any benefit accrued prior to taking leave.**
- **May request safety accommodations based on the domestic or sexual violence experienced.**

### **Employers:**

- **Must provide notice to all current employees and new hires.**
- **May request certification of the need for leave.**

- **Must maintain coverage for the employee and any family or household member under any group health plan for the duration of such leave at the level and under the same conditions such coverage would have been provided if the employee had not taken leave.**
- **Must make reasonable safety accommodations in a timely manner.**
- **Must maintain records associated with taking VESSA leave in the strictest confidence.**

## SUPPORT STAFF LEAVES

Consistent staffing is important to the learning environment and district operation and therefore is an essential duty of all employees. However, the board recognizes that there are circumstances that require an employee to miss work, and the purpose of this policy is to identify situations where paid and unpaid leave from work are appropriate.

The district may require an employee to provide the district verification of illness from a healthcare provider or supply other documentation verifying the absence before the district applies annual leave or other applicable paid leave to the absence. In accordance with law, the district may require an employee to present a certification of fitness to return to work whenever the employee is absent from work due to the employee's health.

The following leaves with pay will be provided to full-time support staff employees. Regular full-time support staff employees are defined as working at least six hours per day or 30 hours per week over a nine-month period. The district will not award Annual Leave Days (ALD) to those individuals working less than 30 hours a week or six hours a day. Individuals who were awarded ALD in previous years will retain the current balance until approved leave is exhausted. This policy does not apply to temporary or substitute staff members unless otherwise noted.

**Annual Leave Days** – Annual leave days (ALD) are available to full-time support staff employees to provide greater flexibility in the use of their time off. Full-time support staff employees will receive 12 days of leave per fiscal year. Each employee shall have his or her ALD available beginning on his or her first working day of each school year. All current and cumulative ALD shall be available to employees on the first working day of his or her employment agreement. Unused ALD will be cumulative to 120 days. ALD may not be taken in less than two-hour increments.

Annual leave days shall be earned over the full term of employment. Therefore, employees working less than a full term (new hires or terminations) shall receive a prorated share of the ALD based on length of employment during the current school year compared to a full term of employment. If an employee starts on or before the fifteenth of the month, the employee will receive one ALD for that month. If an employee starts after the fifteenth of the month, the employee will not receive an ALD for that month.

For employees terminating employment, adjustments will be made in the final payroll check. Any employees receiving an overpayment shall reimburse the district within 30 days of termination.

Absences may be charged against ALD for the following reasons:

- a. Illness, injury or incapacity of the employee. The board reserves the right to require a healthcare provider's certification attesting to the illness or incapacity of the claimant

and/or inclusive dates of the employee's incapacitation. The FMLA health certification procedures apply to FMLA-qualifying absences, even if such absences are paid ALD.

- b. Illness, injury or incapacity of a member of the immediate family. The board defines "immediate family" to include:
- The employee's spouse.
  - The following relatives of the employee or the employee's spouse: parents, children, children's spouse, grandparents, grandchildren, siblings and any other family member residing with the employee.
  - Any other person over whom the employee has legal guardianship or for whom the employee has power of attorney and is the primary caregiver.

(Note: "Family" for FMLA purposes is more limited.)

- c. Pregnancy, childbirth and adoption leave in accordance with this policy.
- d. Tax investigation.
- e. Court appearances, unless applicable law or policy provides for paid leave.
- f. Wedding or graduation.
- g. Observance of a religious holiday.
- h. Conducting personal business of such a nature that cannot be performed on a Saturday, Sunday or before or after school hours. This also includes medical or dental appointments.
- i. Absences under leaves authorized by law, policy or the board that would otherwise be unpaid including, but not limited to, leave under the FMLA.
- j. Staff members who are ill are encouraged to stay home to promote healing and reduce the risk of infecting others, especially during a pandemic or other significant health event. In the event of a pandemic or other significant health event, schools may be closed to all staff and students or just students. If schools are closed only to students, staff members are expected to work regular schedules or use appropriate leave.
- k. Other personal situations approved by the superintendent or designee.

### **Guidelines for ALD Use**

1. A district employee may not use ALD during the period the employee receives Workers' Compensation for time lost to work-related incidents.

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2. Any support staff employee who is a member of a retirement system shall remain a member during any period of leave under ALD provisions of the district or under Workers' Compensation. The employee shall also receive creditable service credit for such leave time if the employee makes contributions to the system equal to the amount of contributions that he or she would have made had he or she been on active service status.
3. ALDs may not be taken in increments of less than two hours.
4. ALDs must be scheduled at least 48 hours in advance, whenever possible, and must be approved by the employee's immediate supervisor except for unexpected illness, emergencies or unusual circumstances. However, a 30-day notice is required by law if the leave qualifies as FMLA leave and such notice is practical. Employees must also comply with established procedures for notification of absence and arrangements for substitute coverage. Employees who are unexpectedly absent and provide proper notification to obtain a substitute but are unable to receive prior approval by his or her supervisor may be subject to denial of ALD use and/or disciplinary action if the absence does not fall within one of the above exceptions. The use of ALD may be limited based on substitute availability.
5. Paid ALD are considered time worked for benefit purposes, but they shall not be considered as hours worked for overtime purposes.
6. In the event of an employee's death, all accrued ALD shall be paid to the designated beneficiary at the current daily rate of pay for a substitute.
7. Requests for advances on unearned ALD shall not be permitted.
8. Paid ALD shall not be used on the following days, unless approved by an administrator:
  - a. Before or after a holiday or break in school attendance.
  - b. Professional development days, including early release days dedicated to PLCs.
  - c. During the first or last five student contact days of the year.
  - d. Parent-Teacher Conferences.
9. An employee who is absent for reasons other than those specified under board rules, or by reason of fraudulent application of district leave provisions, shall be subject to disciplinary action that may include pay reduction, and other sanctions, up to and including termination of employment.

*ALD Reimbursement* – All employees will be reimbursed at half the current rate of substitute pay per day for each day of unused ALD over and above the maximum accumulation of 120 days at the conclusion of the school year in which this occurs.

Employees with at least five, but not more than ten, years of continuous service will be reimbursed one-half of their accumulated ALD at half the rate of substitute pay upon voluntary

resignation or retirement from the school district. Current year award of ALD will be prorated for payout depending on resignation or retirement date. Employees who are terminated or non-renewed are not eligible for this benefit. Employees leaving the district for any reason who have not acquired five years of service will forfeit any remaining ALD.

***Longevity Stipend***

Continuous service and experience are valuable assets to our school district. Therefore, all employees with ten or more years of service in the Platte County R-3 School District shall receive a Longevity Incentive Stipend provided they leave the district due to resignation or regular service retirement through the Public Education Employee Retirement System of Missouri (PEERS). Total years of service credit will be prorated for payout depending on resignation or retirement date. If an employee resigns or retires on or before January 1, the employee will receive half of a year service credit. If the employee resigns or retires after January 1, the employee will receive a full year of service credit. Employees who are terminated or non-renewed are not eligible for this benefit. Employees with less than ten years vested in the district are not eligible for this benefit.

The longevity stipend amount will be calculated by multiplying the employee's total number of years of service to the district, remaining ALD balance, a proration factor and the daily rate of pay for a substitute teacher. An example is listed below:

- Years of service x ALD x 0.0275 x daily rate of substitute pay

**Vacation** – The following provisions for vacation shall apply to full-time support staff employed on a 12-month basis working 30 hours a week or six hours a day. The fiscal year of July 1 through June 30 shall be used as a base for vacation allowance.

Support staff employed on a 12-month basis will be awarded their vacation time at the beginning of the fiscal year. Employees hired after July 1 will have their vacation days prorated on a monthly basis until the following fiscal year. If an employee starts on or before the fifteenth of the month, the employee will receive vacation credit for that month. If an employee starts after the fifteenth of the month, the employee will not receive a vacation day for that month. Initial vacation award is based on the following schedule:

- One-Five years of service – Two weeks' paid vacation
- Six-Ten years of service – Three weeks' paid vacation
- Eleven or more years of service – Four weeks' paid vacation

Management or supervisory personnel will be awarded up to 20 days of vacation at the beginning of the fiscal year, to be determined by the superintendent.

The district will not award vacation to those individuals working less than 30 hours a week or six hours a day.

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Because summer is such a busy time in the school district, employees who qualify for vacations in excess of two weeks must have those vacation days approved by the Assistant Superintendent of Personnel and Operations.

1. Vacations are to be approved during June, July and August by the Assistant Superintendent of Personnel and Operations or designee.
2. Requests for special consideration for vacation other than the above, may be approved by the Assistant Superintendent of Personnel and Operations. If the employee's absence may disrupt district operations, the supervisor has the discretion to deny a request for vacation or to limit the time of year the employee may take his or her vacation.
3. Any employee who does not use all of his or her vacation days by the end of the fiscal year will be reimbursed at the daily rate of pay for a substitute.
4. A district employee who has not used all of his or her vacation and resigns during the fiscal year, will be paid out a prorated amount of vacation days, at the daily rate of a substitute. Employees who are terminated or non-renewed are not eligible for this benefit.
5. A district employee may not use vacation days during the period the employee receives Workers' Compensation for time lost to work-related incidents.

**Paid Holidays** – The following are made available to full-time 12-month employees: July 4, Labor Day, Thanksgiving, Christmas, New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Good Friday, Memorial Day and four floating holidays as determined by the superintendent or designee, based on the academic calendar. Holidays may be modified or eliminated as needed when the academic calendar is changed due to inclement weather or for other reasons. Holidays may change from year to year.

Unless otherwise provided, the following leaves will be provided to full-time support staff.

1. **Bereavement Leave** – Staff will be granted a leave of absence upon request when a death in the immediate family requires the staff member's absence from the district. There will be no deduction in salary or ALD for a period not to exceed three workdays per fiscal year. If additional absence is required, ALD will be deducted.

For purposes of this policy, an immediate relative is defined as:

- The employee's spouse.
- The following relatives of the employee or the employee's spouse: parents, children, children's spouse, grandparents, grandchildren, siblings and any other family member residing with the employee.
- Any other person over whom the employee has legal guardianship or for whom the employee has power of attorney and is the primary caregiver.

2. **Professional Leave** – Employees may be granted professional leave to attend classes or conferences, meet with mentors or participate in other approved professional growth activities. Professional leave must be approved by the immediate supervisor, arranged well in advance and is not considered personal leave.
3. **Military Leave** – The board shall grant military leave as required by law. Members of the National Guard or any reserve component of the U.S. Armed Forces who are engaged in the performance of duty or training will be entitled to a leave of absence of 120 hours in any federal fiscal year (October 1 – September 30) without impairment of efficiency rating or loss of time, pay, regular leave or any other rights or benefits. Employees shall provide the district an official order verifying that they are required to report to duty.
4. **Election Leave** – Any employee who is appointed as an election judge pursuant to state law may be absent on any election day for the period of time required by the election authority. The employee must notify the district at least seven days prior to any election in which the employee will serve as an election judge. No employee will be terminated, disciplined, threatened or otherwise subjected to adverse action based on the employee's service as an election judge.
5. **Leave to Vote** – Employees who do not have three successive hours free from work while the polls are open will be granted a leave period of up to three hours to permit employees three successive hours while the polls are open for the purpose of voting. Requests for such leave must be made prior to election day, and the employee's supervisors will designate when during the workday the leave should be taken. Any employee who properly requests leave to vote and uses the leave for that purpose will not be subject to discipline, termination or loss of wages or salary.
6. **Jury Duty Leave** – An employee will be granted paid leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process or time spent actually serving on a jury. An employee will not be terminated, disciplined, threatened or otherwise subjected to adverse action because of the employee's receipt of or response to a jury summons. The employee will need to provide documentation of jury duty to a supervisor.
7. **Leave for Court Subpoena** – If the subpoena is directly related to the employee's school duties, the employee will be released for court appearance without loss of leave. Other court appearances will be deducted from the employee's available ALD leave.
8. **Firefighter Leave** – Employees will be allowed to use personal, vacation and/or unpaid leave for any time taken to respond to an emergency in the course of performing duties as a volunteer firefighter. For the purposes of this section, "volunteer firefighter" includes members of Missouri-1 Disaster Medical Assistance Team, Missouri Task Force One, Urban Search and Rescue Team or those activated by the Federal Emergency Management Agency (FEMA) in times of national disaster. Employees covered under this section shall not be terminated from employment for joining a volunteer fire



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department or for being absent from or late to work in order to respond to an emergency. Employees shall make every reasonable effort to notify the principal or supervisor if the employee may be absent from or late to work under this section. Employees are required to provide their supervisors with a written statement from the supervisor or acting supervisor of the volunteer fire department stating that the employee responded to an emergency along with the time and date of the emergency.

9. **Crime Victim Leave** – Any employee who is a crime victim, who witnesses a crime or who has an immediate family member who is a crime victim will not be required to use vacation, or ALD in order to honor a subpoena to testify in a criminal proceeding, attend a criminal proceeding or participate in the preparation of the criminal proceeding.
10. **Civil Air Patrol Leave** – Any employee who is a member of Civil Air Patrol and has qualified for a Civil Air Patrol emergency service specialty or who is certified to fly counternarcotic missions shall be granted unpaid leave to perform Civil Air Patrol emergency service duty or counternarcotic missions without loss of time, regular leave or any other rights or benefits in accordance with law. The leave is limited to 15 working days in any calendar year, but is unlimited when responding to a state- or nationally declared emergency in Missouri. The district may request that the employee be exempted from responding to a specific mission.
11. **Coast Guard Auxiliary Leave** – Employees who are members of the United States Coast Guard Auxiliary will be granted an unpaid leave of absence for periods during which they are engaged in the performance of United States Coast Guard or United States Coast Guard Auxiliary duties, including travel related to such duties, when authorized by the director of auxiliary or other appropriate United States Coast Guard Authority. Such leaves of absence will be given without loss of time, regular leave or any other rights or benefits to which such employees would otherwise be entitled. The leave is limited to 15 working days in any calendar year, but is unlimited when responding to a state- or nationally declared emergency in Missouri or upon any navigable waterway within or adjacent to the state of Missouri. The district may request that an employee be exempted from responding to a specific mission.
12. **Victims' Economic Safety and Security Act (VESSA) Leave** – Employees may take unpaid leave in accordance with law for absences related to domestic or sexual violence where an employee, an employee's family member or a person residing in the employee's household has been the victim of domestic or sexual violence. Leave may be taken intermittently or on a reduced work schedule. Two workweeks of unpaid leave will be available in a 12-month period, except that employees of districts with fewer than 50 employees but at least 20 employees will be limited to one workweek of unpaid leave. Employees may use accumulated paid leave or compensatory time concurrently with unpaid VESSA leave. VESSA leave does not create a right for employees to take unpaid leave that exceeds the amount of unpaid leave time under FMLA. Employees are required to give 48 hours' notice of the need for leave unless such notice is not practicable. The district may require certification of the need for leave, which may include documentation from an entity aiding the victim, a police or court record, or other corroborating evidence.

Information provided by the employee in conjunction with the use of this leave will be confidential in accordance with law.

### **Pregnancy, Childbirth and Adoption Leave**

This section creates no rights extending beyond the contracted period of employment. FMLA certification and recertification procedures apply to FMLA-eligible employees. An employee must notify the district of the need for and anticipated duration of the leave at least 30 days before leave is to begin, if foreseeable. If 30 days' notice is not practical, the employee must give as much notice as possible. A pregnant employee shall continue in the performance of her duties as long as she is able to do so and as long as her ability to perform her duties is not impaired, based on medical opinion.

Employees eligible for FMLA leave for the birth, first-year care, adoption or foster care of a child will have such leave applied in accordance with the FMLA. Pregnant employees may have up to six weeks of accrued paid leave for the birth and pregnancy-related disability for the purpose of recovering from childbirth. In order to receive additional leave for pregnancy-related disability, the employee must provide certification of the medical necessity for such leave and may be eligible for the Sick Leave Pool (SLP). Requests for additional leave for the purpose of bonding may be approved under FMLA, however ALD and vacation days may not be used.

Employees who are ineligible for FMLA leave may take up to six weeks of leave for the birth, first-year care, adoption or foster care of a child and may use any combination of accrued ALD, vacation or unpaid leave. Pregnant employees who need more than six weeks of paid or unpaid leave for a pregnancy-related incapacity must provide certification of the medical necessity for such leave.

~~*Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.*~~ **Search the index for this section and the cross references to identify related policies, administrative procedures and forms.**

Adopted: 12/16/1999

Revised: 03/17/2005; 07/20/2006; 05/15/2007; 10/16/2008; 05/21/2009; 08/26/2010;  
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Cross Refs: DLB, Salary Deductions  
HA, Negotiations with Employee Representatives  
IC, Academic Calendar

Legal Refs: §§ 41.1000, .1005, 105.270 - .271, 115.102, .639, 168.122, 169.595, 285.625 - .670, 320.200, .330 - .339, 494.460, 595.209, RSMo.  
Fair Labor Standards Act, 29 U.S.C. §§ 201 - 218(c)

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Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2611 - 2619  
Title VII of the Civil Rights Act of 1964 as amended by the Pregnancy  
Discrimination Act, 42 U.S.C. § 2000e-1 - 2000e-17  
29 C.F.R. § 1604.10

Platte County R-3 School District, Platte City, Missouri