TRIO Wolf Creek Distance Learning Charter School #4095

410 FAMILY AND MEDICAL LEAVE POLICY

I. PURPOSE

The purpose of this policy is to provide for family and medical leave to charter school 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 charter 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, 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 charter 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 charter

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 at the discretion of the charter 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, the charter school 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 charter school has reason to doubt the validity of a health care provider's certification, it may require a second opinion at the charter school's expense. If the opinions of the first and second health care providers differ, the charter school may require certification from a third health care provider at the charter 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 the director. 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 charter 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 charter 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. The charter school 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 charter school 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 charter 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 ("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.

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 charter school 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.

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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 semester may be required to extend the leave through the end of the semester. The number of weeks remaining before the end of a semester 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 semester and it is likely the leave will last at least three weeks, the charter school may require that the leave be continued until the end of the semester.

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 semester, the charter school may require that the leave be continued until the end of the semester 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 semester.

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 semester and the leave will last more than five working days, the charter school may require the employee to continue taking leave until the end of the semester.

D. The entire period of leave taken under the special rules will be counted as leave. The charter school will continue to fulfill the charter 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.

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IV. DISSEMINATION OF POLICY

A. This policy shall be placed in the employee manual.

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)
U.S.C. § 101 (Definitions)
29 C.F.R. Part 825 (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 Charter School Employees – Family and Medical Leave Act Summary)