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Reviewed:

Revised:

Decommissioned: 12/19/22

Emergency Paid Sick Leave and FMLA-Public Health Emergency Leave Policy

Bluffview Montessori School (“BMS”) has adopted the following leave policies in accordance with the Families First Coronavirus Response Act (FFCRA). These policies are temporary and will expire on December 31, 2020, or as otherwise dictated by law.

EMERGENCY PAID SICK LEAVE

The FFCRA created a new form of paid sick leave called Emergency Paid Sick Leave (EPSL) for certain leave events related to COVID-19.

Eligible Employees. Full-time and part-time employees are eligible to use EPSL immediately upon hire.

Reasons for Using Leave. EPSL may be used for the following reasons:

1. To comply with a federal, state, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. To care for an individual who is subject to an order as described in (1) above or has been advised as described in (2) above;
5. To care for the employee’s son or daughter (as defined in the FMLA), if a school or place of care is closed, or the child care provider is unavailable, due to COVID-19 precautions; or
6. The employee is experiencing any other substantially similar condition as specified by the designated federal agencies.

See **Workplace Closures, Furloughs, Schedule Reductions** below for further information.

Amount and Usage of Leave. Full-time employees (those scheduled to work at least 40 hours per week) are eligible for eighty (80) hours of EPSL. Part-time employees are eligible for EPSL based on the number of hours the employee is normally scheduled to work in a two-week period. A weighted six-month average will be used if a part-time employee does not work a set schedule. If you are a part-time employee and have a question about your average hours, please contact the Head of School.

If an employee wishes to use EPSL for Reasons 1-4 or 6 above, EPSL must be used only on a continuous basis, not intermittently or on a reduced schedule basis. Once an employee returns to work, if he/she has not exhausted the EPSL entitlement, the balance can be used at a later time for another qualifying reason. If an employee uses EPSL for Reason 5, leave may be used intermittently.

Other Paid Leave Policies. EPSL is in addition to those other forms of paid leave, and employees may opt to use EPSL and other leaves in the sequence of their choice. It is the employee's responsibility to inform the Head of School of the form of leave being requested.

Pay Rate. EPSL will be paid based on the employee's regular rate of pay, as determined under the Fair Labor Standards Act (FLSA), taking an average over a six-month period. For leave under paragraphs 1, 2, or 3 above, this rate will be the employee's full regular rate, capped at \$511 per day (\$5,110 in the aggregate). For leave under paragraphs 4, 5, or 6, this rate will be two-thirds (2/3) of the employee's regular rate, capped at \$200/day (\$2,000 in the aggregate).

Termination of Leave. EPSL shall cease beginning with the employee's next scheduled work shift immediately following the termination of the need for EPSL as described above or when the employee has exhausted the EPSL entitlement, whichever is sooner. EPSL will not carry over from one year to the next or be paid out upon separation for any reason. See **Return to Work** below.

Notice and Documentation Requirements. See below.

FAMILY AND MEDICAL LEAVE – PUBLIC HEALTH EMERGENCY

The FFCRA also added a new reason for employees to take FMLA leave in relation to the COVID-19 pandemic. FMLA remains subject to the same twelve (12) workweek limit, counting any amounts of FMLA leave already used in the current leave year.

Eligible Employees. An employee who has been employed for at least thirty (30) calendar days may qualify for FMLA-Public Health Emergency Leave. Employees who were laid off after March 1, 2020, and rehired will also qualify, provided that they worked at least 30 calendar days of the 60 calendar days prior to layoff.

Reasons for Using Leave. FMLA-Public Health Emergency Leave can be used when an employee is unable to work, including telework, due to caring for the employee's son or daughter under age 18 (as defined in the FMLA), if the son or daughter's school or place of child care has been closed, or the child care provider is unavailable. This must be the result of a COVID-19 related emergency declared by a Federal, State, or local authority. In addition, the employee must certify that no other suitable person is available to care for the child during the period of requested leave, and, in the case of a child ages 15-17, that care during daylight hours is needed due to special circumstances identified by the employee requiring care. See **Workplace Closures, Furloughs, Schedule Reductions** below for further information.

Amount and Usage of Leave. All employees will be entitled to twelve (12) workweeks of leave, including the initial two weeks of EPSL or other paid leave. The remaining ten (10) weeks will be paid as set forth below in the "Pay Rate" portion of this policy.

FMLA-Public Health Emergency Leave may be used intermittently or on a reduced schedule basis. Once an employee returns to work, if he/she has not exhausted the full entitlement, the balance can be used at a later time for another qualifying reason.

Other Paid Leave Policies. The first ten (10) days of FMLA-Public Health Emergency Leave will be unpaid unless the employee has another form of paid leave available. Or, the employee may use EPSL for the first ten (10) days, if eligible. The balance of the FMLA-Public Health Emergency Leave will be paid at the Pay Rate below, unless the employee has available accrued paid time off in which case the Pay Rate will be the employee's normal full rate under the paid leave policy.

Pay Rate. For eligible employees taking FMLA-Public Health Emergency Leave, the pay rate will be two-thirds (2/3) of the employee's regular rate of pay, as determined under the FLSA, for the number of hours that the employee would normally be scheduled to work, capped at \$200/day and \$10,000 in the aggregate for the entire FMLA-Public Health Emergency Leave period. For non-exempt employees, the regular rate of pay is based on the weighted average rate over a six-month period. For exempt employees, it is their regular weekly salary. For individuals who do not keep regular working hours each week, a six-month average will be used. No premium for hours over forty (40) will be included.

Termination of Leave. Paid FMLA-Public Health Emergency Leave will continue until the employee has exhausted his/her twelve (12) workweek entitlement or the reason for using leave ends. **See Return to Work** below.

Notice and Documentation Requirements. See below.

FMLA Administration. All other administrative provisions of BMS's FMLA Policy apply to FMLA-Public Health Emergency Leave, unless modified herein.

WORKPLACE CLOSURES, FURLOUGHS, SCHEDULE REDUCTIONS

Employees affected by closures, furloughs, or reduced schedules may be eligible for EPSL or FMLA-Public Health Emergency Leave if they otherwise meet one of the qualifying reasons for leave.

NOTICE AND DOCUMENTATION REQUIREMENTS

Employees should provide notice of the need for leave, either orally or in writing, as soon as practicable and in accordance with the usual and customary notification processes. Notice may be given by way of e-mail or a telephone call to the Head of School. Notice must include: the employee's name; qualifying reason for leave; statement that the employee is unable to work, including telework, for that reason; and the date(s) for which leave is requested.

In addition, employees must provide documentation to substantiate the need for leave and the qualifying reason. A certification form will be provided that includes the specific information an employee must provide. This information is required, in part, to document the basis for payroll tax credits. If an employee fails to provide all necessary information, a reminder will be sent, after which leave will be denied if the information has not been provided. In addition, the usual FMLA medical certification requirements continue to apply for reasons such as the employee's own serious health condition or caring for a family member with a serious health condition.

RETURN TO WORK

Employees returning to work after using EPSL or FMLA-Public Health Emergency Leave will be restored to the same or an equivalent position, unless in the interim they would have been subject to an employment action, such as layoff and/or worksite closure regardless of leave usage. Key employees may be denied job restoration.

QUESTIONS

Should an employee have any questions related to this policy or the benefits provided hereunder, he or she should contact the Head of School.