



Belcourt School District #7

COVID-19 Response Plan

March 2020

ADDENDUM

March 29, 2020

Submitted

to

Jim Upgren

Assistant Director

Office of School Approval and Opportunity

QUESTION 1

What has the district done to consider flexibility in leave policies for all staff members?

Belcourt School District #7 recognizes staff who are mitigating effects COVID-19 may need to be absent because they are sick or caring for sick family members, need to care for children whose schools or day care centers are closed, have at-risk people at home, or are afraid to come to work because they think they'll be exposed to the virus. BSD#7 has established policies to address all of the leave situations just mentioned, many of which the staff member could use accumulated paid leave. In addition, the Paid Sick Leave and Expanded FMLA under the new Families First Coronavirus Response act provides staff with job protection and paid leave for applicable COVID-19 situations. Our District also acknowledges under OSHA rules, staff who reasonably believe they are in imminent danger cannot be terminated for refusing to come to the worksite (See Pages 5-28).

QUESTION 2

How will the district ensure an equitable high quality education for students that do not have a device, internet access, or need assistive technology?

The majority of our Turtle Mountain School families reside on the Turtle Mountain Band of Chippewa Reservation. BSD#7 recognizes the fact that many will not have access to internet/device access. Additionally, BIE technology devices are not being sent home to K-8 TMCS students. TMCHS is offering devices and internet access to all students. Regardless, in the event that technology is not a viable means of instructional support, assessment and evaluation of work, materials and instructional methods will be detailed to fit the needs of TMCS students. This includes, but is not limited to: synchronous online learning, asynchronous online learning, content download, books, textbooks, workbooks, worksheets, phone conferences, email, and television (Braves Vision). Teachers have created a virtual lesson plan for families with technology as well as a plan for those without, containing the same content (Kindergarten example provided at end).

Teachers in grades PK-5 will establish Zoom meetings and/or conference calls with students and/or parents.

Teachers in grades 6-12 will be assigned advisory groups of no more than 10 students and establish recurring Zoom meetings, and conference calls with students and/or parents. If students cannot make it to Zoom meetings, they may check-in via email, text, and will receive weekly check – ins from their assigned adult in the building.

Special education teachers will be in charge of their individual caseloads and will establish Zoom meetings and/or conference calls with students and/or parents. Para educators will assist special education teachers in providing support to students.

Should a student be identified as EL (TMCS currently does not have any), a schedule will be established to work with students that qualify for Individual Language Plan. TMCS will communicate with each EL student's family to address individual supports necessary.

QUESTION 3

How will Lab Science and Career and Technical Education (CTE) courses be taught in a virtual environment?

CTE Students will continue project based learning through a virtual environment. CTE instructors have identified essential learning standards that are aligned to the career and technical curriculum, and have shifted to alternate online activities. Specialized software may be substituted with online supporting learning targets.

All TMCS CTE students will be provided special equipment/software as well as access to internet (United Communications) and devices to effectively interact through:

- online platforms (virtual simulations, google classroom, Zoom)
- video lessons
- virtual field trips, guest speakers, simulators, tours and experiences that are real-world PBL that can be completed at home. Instructors have pulled online resources from [CTE Learning That Works for North Dakota](#) and Virtual CTE Centers Shared Resources.

Science lab activities will occur through virtual science lab activities, watching lab demonstrations and responding to inquiry based questions. Student activities and assessments will emphasize the Science and Engineering practices.

1. Asking questions and defining problems
2. Developing and using models
3. Planning and carrying out investigations
4. Analyzing and interpreting data
5. Using mathematical and computational thinking
6. Constructing explanations and designing solutions
7. Engaging in argument from evidence
8. Obtaining, evaluating and communicating information

Google Sites, Google Classroom, and Zoom will be used to virtually interact with our students synchronously and asynchronously to provide services and support. Our CTE and Lab Sciences will use Google Classroom to deploy blended learning experiences every school day. These courses require hands-on learning opportunities that will now be addressed with the use of video lessons, virtual field trips and experiences, and real-world projects that can be completed at home.

Example Activities for CTE and Lab Sciences:

- EverFi - www.everfi.com/login
- Jan's Illustrated Computer Literacy 101
<http://www.jegsworks.com/lessons/computerbasics/lessonintro.htm>
- MoneySkill - <https://lms.moneyskill.org/students>
- FoolProof - www.foolproofme.org
- Better Money Habits - www.bettermoneyhabits.com
- Life Scenarios by Banzai! - www.teachbanzai.com
- EverFi - www.everfi.com/login

- Google Finance - www.google.com/finance
- MoneySkill - <https://lms.moneyskill.org/students>
- Better Money Habits - www.bettermoneyhabits.com
- Life Scenarios by Banzai! - www.teachbanzai.com
- <https://www.mycaert.com/>
- Miller Welding Education <https://www.millerwelds.com/industries/welding-education-and-training>
- Lincoln Electric Education <https://education.lincolnelectric.com/>

Science (in conjunction with regular science classes)

- Phet Interactive resources <https://phet.colorado.edu/ChemistryHomework> Interactive Tutorials
- <http://chemistry2.csudh.edu/homework/hwintro.htm>
- Holt Quicklabs
- Go-Labs Online Labs <https://www.golabz.eu/labs>
- PBS Learning Media <https://prairiepublic.pbslearningmedia.org/>
- BioInteractive <https://www.biointeractive.org/>
- Biology Simulations <https://www.biologysimulations.com/>
- ClassicGenetics Simulator <http://cgslab.com/>
- Virtual dissections
- <https://www.purposegames.com/game/anatomy-of-a-common-earthworm-quiz>
- <https://www.purposegames.com/game/2335>
- <https://www.purposegames.com/game/cow-eye-labeling>
- <https://www.purposegames.com/game/perch-anatomy-internal-game>
- <https://www.purposegames.com/game/frog-anatomy-quiz>

Career Activities for students in grades 9-12 have been established through access to ruready.nd.gov.

QUESTION 4:

How will Federal Title Services be delivered in the district learning environment?

Belcourt School District #7 is designated as Schoolwide. This is addressed in the BSD#7's overall schoolwide plan as staff funded with Schoolwide funds can serve all students. K-12 staff funded with federal dollars range from Intervention services to co-teaching. They will continue in their current assignment from a remote standpoint.

The student support strategist will be working with parents and students on an individual basis to provide additional instructional supports on Zoom, conference call. This support includes small group instruction and coordinating instruction with the classroom teacher, parents, and students. Students will continue to receive supports for reading and math. The strategist will work closely with classroom teachers to coordinate supports.

Students who are identified as at risk will continue to receive intervention through same groups (or individual if necessary) originally designated at the beginning of school year. Each assigned Intervention Teacher will provide at minimum twenty minutes of instruction twice a week. This instructional support will be provided through Zoom, google classroom, or conference calls. Teachers at each respective school have already planned for this (See Original Distance Learning Plan for teacher schedules).

SICK LEAVE

Sick leave for licensed personnel is governed by the negotiated agreement.

Non-licensed full-time permanent personnel are eligible for sick leave. Non licensed permanent part-time personnel are eligible for sick leave on a prorated basis.

In addition, effective at the end of each school year, staff using 3 or less days of sick leave will be paid an incentive of \$150. Also, special recognition will be given to these staff members.

Personal leave earning staff members with a sick leave balance of 300 or more hours may convert 32 hours of sick leave into 16 hours of personal leave once per fiscal year by request to the Superintendent. Sick leave converted to personal leave will not be considered as sick leave as used for the \$150 incentive mentioned in the previous paragraph.

In the event that it is necessary to be absent from duty because of personal illness or injury, continuance of salary will be based on the sick leave and annual leave available. When no leave is available, the hourly rate of pay shall be deducted. Under normal circumstances, an employee may take up to 24 consecutive hours of unverified sick leave, but thereafter must have a leave slip signed by a doctor. However, a supervisor may require a signed leave slip for any amount of sick leave taken.

Sick leave will be earned at the rate of four (4) hours per pay period. The number of sick leave hours accumulated by an employee will not be restricted. Upon termination of employment, an employee with at least 10 years of service will receive payment of 1/2 the number of hours available up to a maximum of 240 hours. Payment will be based on the current hourly rate of pay and will be made one time only for each employee. The 10 year requirement need not be accrued consecutively; however, each period of employment must be at least one year or one school term, whichever applies. Employees employed after July 1, 1988, that have never received prior payment for sick leave, upon termination of employment or after 10 years of service, an employee with at least 10 years of service, upon request, will receive a one-time payment at \$10.00 per hour of 1/2 hours available up to a maximum of 240 hours. Payment will be made one time only for each employee. The 10 year requirement need not be accrued consecutively; however, each period of employment must be at least or one school term, whichever applies. One year is defined as 2080 hours. One school term is defined by each year's school calendar.

Employees returning to employment within three years will have unused and unreimbursed sick leave reinstated. However, on initial employment and termination of employment the employee must have 80 hours initial employment of pay status in order to accrue sick leave for that pay period. In addition, during the regular term of employment, the employee must have at least 40 hours of pay status, and interview and termination, (excluding the accrual) in order to accrue sick leave for a pay period.

Up to a total of five days per work year shall be allowed for unusual circumstances where a member of the immediate family is ill or severely injured and it becomes necessary for the employee to assist in the care of the immediate family member, Application for Leave under this policy must be submitted in writing to the Superintendent through the supervisor before taking leave where possible or on the next working day after taking leave. These five days shall be deducted from the accumulated total of sick leave to which the employee has become eligible. If the employee is absent more than five days due to family illness, the hourly rate of pay shall be deducted.

Bereavement absence with pay shall be allowed to staff at the death of an immediate family member up to a maximum of two days. Sick leave may be used at the death of a member of the immediate family. A maximum of three sick days may be used for each bereavement. These three days may be used during the period of time beginning with the date of death and ending on the third calendar day following the funeral.

For the purpose of this policy, immediate family is defined as spouse, children, grandchildren and any members of the employee's home; father and mother; brothers and sisters; grandfather and grandmother; brother-in-law and sister-in law, father-in-law and mother-in-law and grandparents in-law.

FAMILY & MEDICAL LEAVE

The District will comply with the Family and Medical Leave Act.

Twelve-Month Leave Description

Eligible employees may request, and upon approval use, unpaid family and medical leave in accordance with and for the applicable duration guaranteed by the federal Family and Medical Leave Act. Unless subject to an exception in law, FMLA shall be made available for up to a combined total of 12 weeks beginning July 1 and ending June 30 of next year.

Use of Other Leaves

Other available and applicable paid vacation, personal, family, sick or other paid leave will be substituted for family and medical leave necessitated by birth, adoption/foster care placement, a family member's serious health condition, an employee's own serious health condition, qualifying exigency, or to care for covered service member in accordance with law. Any substitution required by this policy will count against the employee's family and medical leave entitlement. The District will pay family leave or sick leave only under circumstances permitted by the applicable leave plan.

Medical & Qualifying Exigency Certification

The Superintendent shall request medical certification for an employee's or his/her spouse's, parent's, child's, or, when applicable, next of kin's serious health condition and shall do so in accordance with federal law and district regulations. The Superintendent may also request qualifying exigency certification when an employee requests such leave.

Notice of Leave

An employee shall provide notice in accordance with regulations. If deemed necessary, the Board may waive notice requirements. Continuation of health benefits during the family and medical leave as if they were working.

Return to Work

An employee returning from family and medical leave will be given a position equivalent to his or her position before the leave, subject to the district's reassignment policies, negotiated agreement, and practices. Instructional employees may be required to wait to return to work until the next academic term in certain situations as provided by law.

Implementing Procedures

The Superintendent shall develop procedures to implement this policy consistent with the federal Family and Medical Leave Act.

FAMILY AND MEDICAL LEAVE REGULATION

Procedure to Request Leave

Foreseeable FMLA leave shall be requested 30 days in advance. If 30 days notice is not practicable, the employee shall provide notice as soon as possible. An employee shall at least provide verbal notice of leave to the Superintendent and supervisor. Requests for foreseeable FMLA leave should be made in writing and include the reason for the leave, anticipated duration, and anticipated commencement date.

Request for Medical & Qualifying Exigency Certification

When requested, medical or qualifying exigency certification shall be provided in accordance with law (29 CFR 825.305-825.310). Failure to provide certification or adequate certification may result in [delaying or] denying an employee's leave request. Medical certification must contain all components in 29 CFR 825.306, 825.309, or 825.310.

Intermittent or Reduced-Leave Requests

1. The Board limits leave increments to one-hour periods of time.
2. An employee should follow the regular notice procedures when requesting an intermittent or reduced-hour leave. If the leave is taken because of the birth or placement of a child, leave may be taken intermittently or on a reduced schedule only if the Superintendent agrees.

Response to Leave Request

Response to leave requests will be made in accordance with 29 CFR 825.300. When applicable, the District will require fitness-for-duty documentation certifying that an employee is able to perform essential job functions as a condition of returning to work. The District shall provide notice of this requirement to employees in accordance with law.

Posting and Notice to Employees

Building principals shall post a notice explaining the FMLA's provisions in a location where it can be readily seen by employees and applicants for employment. The FMLA Fact Sheet, published by the Department of Labor, Wage and Hours Division, shall be incorporated into any employee handbook or provided to employees. (29 C.F.R. 825.300)

Recordkeeping

The Superintendent shall ensure that records are kept according to the requirements contained in law. (29 C.F.R. 825.500)

FAMILY AND MEDICAL LEAVE LAW

Definitions

Definitions under FMLA are contained in 29 C.F.R. 825.800. Included below are key definitions for quick reference.

- *Covered Active Duty*: The term means, in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and, in the case of a member of the reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code.
- *Covered service member* means a member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
- *Equivalent position* is defined in 29 C.F.R 825.15.
- *FMLA* refers to the Family and Medical Leave Act of 1993, implemented by 29 C.F.R. 825.
- *Health care providers* are defined in 29 C.F.R 825.125.
- *In loco parentis* applies to employees with either day-to-day care or financial support of a child when the employee intends to assume the responsibilities of a parent with regard to a child.
- *Intermittent leave* means leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. Examples of intermittent leave would include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six months, such as for chemotherapy.
- *Next of kin* of a covered service member means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. When no such designation is made, and there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously. When such designation has been made, the designated individual shall be deemed to be the covered service member's only next of kin.
- *Outpatient status*, when used with respect to a covered service member, means the status of a member of the Armed Forces assigned to a military medical treatment facility as an outpatient or a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (29 U.S.C. 2611).
- *Parent* means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter as defined below. This term does not include parents "in law."

- *Qualifying exigency* is defined in accordance with 29 C.F.R. 825.126.
- *Reduced leave schedule* is a leave schedule that reduces an employee's usual number of working hours per workweek or hours per workday.
- *Same health benefits* mean, for example, that if family member coverage is provided to an employee, family member coverage must be maintained during a FMLA leave. Also, if an employer provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan or benefits to the same extent as if the employee were not on leave.
- *Serious health condition* means an illness, injury, impairment or physical or mental condition that involves inpatient care as defined in § 825.114 or continuing treatment by a health care provider as defined in § 825.115. Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not “serious health conditions” unless inpatient hospital care is required or unless complications develop. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness or allergies may be serious health conditions, but only if all the conditions of § 825.113 are met.
- *Serious injury or illness* means in the case of a member of the Armed Forces (including a member of the National Guard or Reserves), an injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating; and, in the case of a veteran who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during a period described in paragraph (15)(B), means a qualifying (as defined by the Secretary of Labor) injury or illness that was incurred by the member in line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.
- *Son or daughter* means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence.
- *Spouse* means husband or wife as defined under North Dakota law (29 C.F.R. 825.113).
- *Teachers* (or employee employed in an instructional capacity, or instructional employee) means an employee employed principally in an instructional capacity by an educational agency or school whose principal function is to teach and instruct students in a class, a small group, or an individual setting, and includes athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. The term does not include teacher assistants or aides who do not have as their principal function actual teaching or instructing, nor auxiliary personnel such as counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, bus drivers, or other primarily non-instructional employees.
- *Veteran*: the term has the meaning given the term in section 101 of title 38, United States Code.

Leave Description

The use of unpaid family and medical leave is subject to the following:

1. The District will pay family leave or sick leave only under circumstances permitted by the applicable leave plan (29 C.F.R. 825.207).
2. To be eligible for family and medical leave, an employee must (29 C.F.R. 825.110 and 825.111):
 - a. Have been employed by the District for at least 12 months (the 12 months need not be consecutive

—see 29 CFR 825.110 for explanation).

b. Have been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave.

3. Family and medical leave is available in one or more of the following instances (29 C.F.R. 825.112; 29 U.S.C. 2611):

a. The birth and first-year care of a son or daughter.

b. The adoption or foster placement of a child.

c. The serious health condition of an employee's spouse, parent, or child.

d. The employee's own serious health condition that makes the employee unable to perform his/her essential job functions.

e. Because of any qualifying exigency, arising out of the fact that a spouse, son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces.

f. To care for a covered service member if the eligible employee is the spouse, son, daughter, parent, or next of kin of the covered service member.

4. FMLA may generally be used for up to a combined total of 12 weeks during any 12-month period (29 C.F.R. 825.200). Eligible employee caring for a covered service member in accordance with “3f” above are entitled to a total of 26 workweeks of leave during a single twelve-month period (29 C.F.R. 825.127).

5. School board policy will govern family and medical leaves, but FMLA, and its implementing regulations, will be the final authority (29 C.F.R. 825.700).

Response to Leave Requests

The Superintendent or designee shall issue the following notices to employees upon receiving a leave request:

1. **Eligibility notice:** When an employee requests FMLA leave, or when the employer acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the employer must notify the employee of the employee's eligibility to take FMLA leave within five business days, absent extenuating circumstances. All FMLA absences for the same qualifying reason are considered a single leave and employee eligibility as to that reason for leave does not change during the applicable 12-month period. The eligibility notice must state whether the employee is eligible for FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible, including as applicable the number of months the employee has been employed by the employer, the number of hours of service worked for the employer during the 12-month period, and whether the employee is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite. Notification of eligibility may be oral or in writing.

2. **Rights and responsibilities notice:** Employers shall provide written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. This notice shall be provided to the employee each time the eligibility notice is provided. If leave has already begun, the notice should be mailed to the employee's address of record. Such specific notice must include, as appropriate:

a. That the leave may be designated and counted against the employee's annual FMLA leave entitlement if qualifying.

b. Any requirements for the employee to furnish certification of a serious health condition, serious injury or illness, or qualifying exigency arising out of covered active duty or a call to covered active duty status, and the consequences of failing to do so;

c. The employee's right to substitute paid leave, whether the employer will require the substitution of paid leave, the conditions related to any substitution, and the employee's entitlement to take unpaid FMLA leave if the employee does not meet the conditions for paid leave

- d. Any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments and the possible consequences of failure to make such payments on a timely basis (i.e., the circumstances under which coverage may lapse);
- e. The employee's status as a "key employee" and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial (see § 825.218);
- f. The employee's rights to maintenance of benefits during the FMLA leave and restoration to the same or an equivalent job upon return from FMLA leave
- g. The employee's potential liability for payment of health insurance premiums paid by the employer during the employee's unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.

3. Designation notice: The employer is responsible in all circumstances for designating leave as FMLA-qualifying and for giving notice of the designation to the employee. When the employer has enough information to determine whether the leave is being taken for a FMLA-qualifying reason (e.g., after receiving a certification), the employer must notify the employee whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances.

- a. If the employer determines that the leave will not be designated as FMLA-qualifying (e.g., if the leave is not for a reason covered by FMLA or the FMLA leave entitlement has been exhausted), the employer must notify the employee of that determination.
- b. If the employer requires paid leave to be substituted for unpaid FMLA leave, or that paid leave taken under an existing leave plan be counted as FMLA leave, the employer must inform the employee of this designation at the time of designating the FMLA leave.
- c. If the employer has sufficient information to designate the leave as FMLA leave immediately after receiving notice of the employee's need for leave, the employer may provide the employee with the designation notice at that time.
- d. If the employer will require the employee to present a fitness-for-duty certification to be restored to employment, the employer must provide notice of such requirement with the designation notice. If the employer will require that the fitness-for-duty certification address the employee's ability to perform the essential functions of the employee's position, the employer must so indicate in the designation notice, and must include a list of the essential functions of the employee's position.
- e. The designation notice must be in writing.
- f. The employer must notify the employee of the amount of leave counted against the employee's FMLA leave entitlement. If the amount of leave needed is known at the time the employer designates the leave as FMLA qualifying, the employer must notify the employee of the number of hours, days, or weeks that will be counted against the employee's FMLA leave entitlement in the designation notice. If it is not possible to provide the hours, days, or weeks that will be counted against the employee's FMLA leave entitlement (such as in the case of unforeseeable intermittent leave), then the employer must provide notice of the amount of leave counted against the employee's FMLA leave entitlement upon the request by the employee, but no more often than once in a 30-day period and only if leave was taken in that period.

FMLA Leave for Spouses

A husband and wife who are both eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken (29 C.F.R. 825.120):

1. For birth of the employee's son or daughter or to care for the child after birth;
2. For placement of a son or daughter with the employee for adoption or foster care, or to care for the child after placement; or
3. To care for the employee's parent with a serious health condition.

A husband and wife who are both eligible for FMLA leave and are employed by the same covered employer may be limited to a combined total of 26 workweeks during any single 12-month period if the leave is taken:

1. To care for a covered service member; or
2. As a combination of leave to care for a covered service member and leave for the birth, foster placement, or adoption of a child; or to care for the child after birth, adoption, or foster placement; or to care for a parent with a serious health condition. However, if the leave taken by the husband and wife includes leave for the birth, foster placement, or adoption of a child; or to care for the child after birth, adoption, or foster placement; or to care for a parent with a serious health condition, the leave for that reason shall be limited to 12 workweeks per year.

Medical Certification

Except in the case of leave for care of covered servicemember, the Superintendent or designee may challenge the adequacy of a medical certification and require the employee to obtain a second opinion from a second health care provider, paid for by the District. If a second medical opinion conflicts with the first, the Superintendent may require a third opinion, paid for by the District. The third health care provider must be designated or approved jointly by the District and the employee. The third opinion is final and binding.

Intermittent or Reduced-Leave Requests

1. If the leave is taken to care for a sick family member, to care for a covered service member, or for the employee's own serious health condition, leave may be taken intermittently or on a reduced schedule when medically necessary. Leave due to a qualifying exigency may be taken intermittently or on a reduced schedule basis.
2. Non-instructional employees, may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of intermittent or reduced- schedule leave. The alternative position must be equivalent in pay and benefits; benefits will not be eliminated even when they are not available to part-time employees.
3. If an instructional employee requests intermittent leave or leave on a reduced-leave schedule to care for a family member, to care for a covered service member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20 percent of the total number of working days over the period the leave would extend, the Superintendent may require the instructional employee to choose either to:
 - a. Take leave for a period(s) of a particular duration, not greater than the duration of the planned treatment. OR
 - b. Transfer temporarily to an available alternative position for which the employee is qualified, which has the equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position. (29 C.F.R. 825.601)

Health Insurance Premiums

Any share of health plan premiums which had been paid by the employee before taking the leave, must continue to be paid by the employee during the FMLA leave (29 C.F.R. 825.210). Districts must provide advance written notice of the terms and conditions under which premium payments must be made.

A district's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late (29 C.F.R. 825.212). In order to drop the coverage for an employee whose premium payment is late, the employer must provide written notice to the employee that the payment has not been received. Such notice

must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date.

All other obligations under the FMLA continue. If coverage lapses because an employee has not made required premium payments, the employer must still restore the employee to coverage and benefits when the employee returns from leave. Districts may recover: (1) the employee's share of any premium payments paid by the employer after the employee misses a payment, and (2) its share of premiums during an unpaid FMLA leave if the employee fails to return to work after the employee leave entitlement is exhausted or expires, with a few exceptions (29 C.F.R. 825.213). The district's attorney must be consulted for the appropriate premium recovery method.

Return to Duty

An instructional staff member may be required to wait to return to work until the next term if:

1. The employee's leave begins more than five weeks before the end of a term, the leave will last at least three weeks, and the employee would return during the three-week period before the end of the term.

2. The employee's leave, for a purpose other than the employee's own serious health condition or qualifying exigency, begins during the five-week period before the end of a term; the leave will last more than two weeks; and the employee would return during the two-week period before the end of the term.

OR

3. The employee's leave, for a purpose other than the employee's own serious health condition or qualifying exigency, begins during the three-week period before the end of a term and the leave will last more than five working days.

DONATION OF SICK LEAVE

Employees may be eligible to receive a transfer of sick leave from another employee.

The transfer of sick leave must be initiated by the donor on a form provided for that purpose. The request to transfer leave must include the number of hours to be transferred, the total accumulation of hours of the employee donating the hours, and the name of the employee to receive the leave.

The form must be dated and signed by the donor and submitted to the Superintendent for approval. Criteria for approval will include the following:

1. The nature of the illness or injury. It must require hospitalization or written referral by a doctor of admittance to a hospital, written referrals by a doctor for out-of-town treatments that may not require hospitalization, or verification in writing by a doctor of treatments done locally that do not require hospitalization, but will require absence from work.
2. The employee has exhausted all other accumulated paid leave such as, but not limited to, sick, annual, and personal leave.
3. The receiving employee must be in good standing. Previous use of sick leave by the recipient will be examined closely. Prior abuse of sick leave may cause denial of the transfer.
4. The receiving employee must have been employed by the Belcourt School Public District #7 for at least one years. An employee employed at 30 days may be allowed to receive donated sick leave when there is a serious medical situation at hand at the discretion of the Superintendent.
5. An employee leaving the system may not donate his/her sick leave to another employee
6. The number of hours transferred must not exceed the number used by the recipient for the illness, which prompted the donor's request. The maximum will not exceed 500 hours per occurrence except as delineated in section 8 of this policy.
7. This policy is available to employees (3) times per school year between the following dates: July 1 to June 30.
8. A maximum amount of 24 hours of sick leave may be donated to a recipient for bereavement. However, the recipient must have a zero balance of sick leave before eligible to receive donated sick leave to be used for bereavement.
9. This policy will allow for the voluntary donation of a maximum of 160 hours of sick leave to be used for documented Family Medical Leave Act Leave **purposes such as:**
 - ◆ the birth of a child and to care for the newborn child within one year of birth;
 - ◆ the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
 - ◆ to care for the employee's spouse, child, or parent who has a serious health condition;
 - ◆ any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a covered military member on "covered active duty"; or
 - ◆ twenty-six workweeks of leave during a single 12-month period to care for a covered service member with a serious injury or illness if the eligible employee is the service member's spouse, son, daughter, parent or next

of kin (military caregiver leave).

10. This policy will allow for the voluntary donation of a maximum of 40 hours of sick leave to be used for documented medical conditions for "serious family illnesses" as allowed in Policy DAGD sick leave. For the purpose of this section of the policy, immediate family is defined as spouse, children, grandchildren and any members of the employee's home; father and mother; brothers and sisters; grandfather and grandmother; brother in-law and sister in-law, father in-law or mother in-law and grandparents in-law.

Donation of sick leave is strictly voluntary, and no employee should be made to feel that participation is encouraged or discouraged by the District or its representatives nor may employees be directly or indirectly intimidated, threatened or coerced, or promised any benefit by any employee for the purpose of donating or using leave.

ANNUAL & PERSONAL LEAVE

Annual Leave

Annual leave is defined as the amount of hours or days the District permits an annual-leave-earning employee to be away from their employment position without consequence or loss of pay. Annual-leave-earning employees are allowed to request the time off for any reasons.

1. Annual leave should only be granted by the supervisor so it does not cause a significant work interruption in the regular duties of the employee.
2. Fulltime permanent-annual-leave-earning employees will earn bi-weekly amounts of:
 - a. Four (4) hours annual leave through their first 3 fiscal years of employment,
 - b. Six (6) hours after 3 fiscal years of employment.
 - c. Eight (8) hours after 8 fiscal years of employment.
3. Less than fulltime employees may earn annual leave on a pro-rated basis.
4. Upon initial employment and termination of employment, leave hours earned under this policy may be pro-rated (rounded up to the nearest whole hour).
5. To earn annual leave for any pay period, an employee must be in pay status for at least 40 hours (excluding the accrual for the current pay period).

Annual Leave Terms & Conditions

Annual leave is not earned by teachers covered under the negotiated agreement.

The Board shall outline the job classifications that shall be awarded annual leave and the amount of leave for each classification in board regulations.

Board regulations may contain requirements whereby certain categories of employees must use any accrued annual leave by a reasonable deadline or lose the leave.

1. Annual leave accrual will begin when an employee first becomes eligible to earn annual leave.
2. Only 240 hours of annual leave may be carried beyond the pay period that includes the first day of the normal school calendar term of each fiscal year; hours in excess of 240 hours after that point will be lost.
3. Employees who leave District employment in an annual leave earning position and then return to District employment in an annual leave earning position within ten years will be credited with their previous annual leave years of service for the purpose of determining their annual leave accrual rate.
4. Military time verified by DD-214 will be credited for the purpose of determining annual leave accrual rate.
5. Upon separation from district employment, employees who have unused annual leave shall be entitled to monetary reimbursement for it at their current hourly rate. Any annual leave payment other than the foregoing shall be exclusively by written request to and approval by the Superintendent.

Personal Leave

Personal leave is defined as the amount of hours or days the District permits a personal leave earning employee to be away from their employment position without consequence or loss of pay. Personal leave earning employees are allowed to request the time-off for any reasons. Personal leave should only be granted by the supervisor so it does not cause a significant work interruption in the regular duties of the employee.

1. Nine-Month fulltime permanent personal leave earning employees will earn 24 hours personal leave annually.
2. Ten-Month fulltime permanent personal leave earning employees will earn 28 hours personal leave annually.
3. Eleven-Month fulltime permanent personal leave earning employees will earn 32 hours personal leave annually.
4. Less than fulltime employees may earn personal leave on a pro-rated basis.

Personal Leave Terms & Conditions

Personal Leave in this section is for employees not covered by the Teacher Negotiations Agreement except as specifically noted.

The Board shall outline the job classifications that shall be awarded personal leave. Employees who earn annual leave will not earn personal leave.

Board regulations may contain requirements whereby certain categories of employees must use any accrued personal leave by a reasonable deadline or lose the leave.

1. Personal leave hours may be accumulated and carried forward from school year to school year up to a maximum of 240 hours. The employee also has the option of being paid unused personal leave at the end of each fiscal year upon written request and approval by the Superintendent.
2. The usage of personal leave must be approved in advance by the employee's supervisor. Personal leave should be planned so that it does not cause a significant work interruption in the regular duties of the employee.
3. Upon separation from district employment, any employees who have unused personal leave shall be entitled to monetary reimbursement for it at their current hourly rate. Any personal leave payment other than the foregoing shall be exclusively by written request to and approval by the Superintendent.
4. The following will apply to TEACHERS covered under the Teacher Negotiations Contract as well as other personal leave-earning employees:
 - a. Employees not using any personal leave during the current year will receive eight (8) hours of additional pay at their current rate.
 - b. Employees not using more than one day (8 hours) of personal leave during the current year will receive four (4) hours of additional pay at their current rate.
 - c. Employees with a sick leave balance of 300 or more hours may convert 32 hours of sick leave into 16 hours of personal leave once per fiscal year by request to the Superintendent; fractionalized leave amounts maybe converted not to exceed leave amounts specified. Sick leave converted to personal leave will not be considered as "sick leave used" for fiscal year-end sick leave incentive purposes.

UNPAID LEAVE

This policy does not cover specific types of unpaid leave covered by other board policies or leaves provided by federal statute such as, but not limited to, political leave. This policy applies to both licensed and classified staff.

Short Term Intermittent Unpaid Leave (up to 120 hrs per fiscal year)

A classified, administrative, or instructional employee may request unpaid leave when s/he has exhausted paid leave or did not qualify to take additional paid leave. Supervisors may approve unpaid leave not to exceed a cumulative total of 80 hours in a fiscal year. Any unpaid leave requested beyond 80 hours and up to 120 hours may be requested in writing to the Superintendent.

Extended Unpaid Leave (beyond 120 hrs not to exceed 1 calendar year)

Extended unpaid leave must be pre-approved by the Board except when needed on an emergency basis as determined by the Superintendent. The Superintendent may approve such unpaid emergency leave for a period not to exceed 80 hours after which board approval will be required in order for an employee to continue unpaid leave.

Extended unpaid leave is a privilege and not a right. No more than two percent of the staff will should be granted any type of extended leave at any given time. Notwithstanding with the terms of this policy, an employee may be granted leave beyond one year and not to exceed two years with at least 2/3 vote of approval by the board. Unpaid leave shall only be granted for reasons of hardship, pressing need, or justifiable cause if the employee meets the following prerequisites:

1. The employee must be in good standing.
2. The employee must have been employed with the District at least three (3) years
3. Application is made early enough in advance so that the availability of a replacement may be determined except when unpaid leave is taken on an emergency basis and approved by the Superintendent.
4. Prior approval has been obtained in writing from his/her supervisor and/or principal and the Superintendent.
5. The employee has not been on an approved extended leave under this policy within the last five years.

The following are conditions that may apply to an employee while he/she is on extended unpaid leave. The District Human Resources Director will notify the employee in writing of which of the following conditions shall apply.

1. The leave will not extend beyond one year.
2. The employee will not be eligible for another extended leave for a period determined by the Board of five years consistent with this policy.
3. If the leave has been for more than one-half or more of the contract or work year, the employee shall not advance to the next experience step upon return to duty.
4. The balance of sick and annual leave to which the employee was entitled at the beginning of the leave shall be reinstated when the employee has returned to full employment status. No other benefits go with are permitted during the leave of absence except those specifically mentioned in this section.

Return to Duty

Teaching staff on leave for any purpose remain subject the district's reduction-in-force policy. Except in cases of reduction in force, support staff employees on approved unpaid leave will be assured of their former position or a

similarly situated position in the school system at the conclusion of the leave, provided that written notice of intent to return is submitted in accordance with this policy. Failure to submit written notice of intent to return thirty (30) days before the termination of unpaid leave shall be deemed to be a voluntary resignation and waiver of the right to re-employment. The District shall attempt to contact and notify the employee on approved unpaid leave of this notification deadline at least 60 days before the termination of unpaid leave.¹



NEW FEDERAL COVID-19 EMERGENCY LEAVES APPLY TO ALL SCHOOL DISTRICTS!

Two new federal emergency leaves were just enacted by Congress to help employees and their families during the COVID-19 pandemic. One is an expansion of the current leave under the Family and Medical Leave Act (FMLA), but unlike the previous FMLA law it provides for some paid as well as unpaid leave. The other leave, referred to as Emergency Paid Sick Leave (EPSL), requires employers to provide paid sick leave to be used for specific COVID-19 related reasons. These laws are unique in that the federal government has not previously required employers to provide employees paid leave.

While there has been a lot of media attention about these new laws, please be advised that the rules and qualifying factors are somewhat different for public school districts (and other governmental entities) than private employers. Here's what you need to know:

1. **These leave laws only apply if an employee is not able to work or telework.** Many school employees are working from home. Others have no work to do because the school is shut down. These leaves will only apply if the district has work for the employee to do and the employee cannot work (or work remotely) for their own personal reasons. So do not worry about these leaves until you have employees telling you that they cannot work.
2. **These leave laws apply to all school districts.** The Family and Medical Leave Act normally applies to districts with at least 50 employees, but the new FMLA COVID-19 leave applies to all school districts, no matter how small. And while the new emergency FMLA leave (EFMLA) only impacts private employers with fewer than 500 employees, it again applies to all school district and governmental entities, even the larger ones. Likewise, EPSL applies to all public school districts too.
3. **These leaves apply to full and part-time employees.** Even if your district does not regularly provide leave for part-time employees, these leaves apply to part-time employees.
4. **The federal emergency leave provision become effective on April 1, 2020.** The paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020. Therefore, any





leave taken by employees prior to April 1, 2020 will not be covered by the new federal leave provisions.

New FMLA Provision: The Emergency Family and Medical Leave Expansion Act (EFMLA)

This provision applies to all school districts, regardless of how many employees they have. Eligible employees are those:

- Who have been employed for at least 30 days; and
- Are “unable to work (or telework) due to a need for leave to care for” their son or daughter who is under 18 years old “because the school or place of care has been closed or if the care provider for the son or daughter is unavailable due to a public health emergency” as declared by a federal, state or local authority.

EFMLA leave is implemented as follows:

- Employees must give notice of the need to use foreseeable leave “as soon as practicable.”
- The first ten days of leave are unpaid, except that employees may use any accumulated employer-provided vacation, personal, medical or sick leave during those ten days. Schools and districts are prohibited from requiring employees to use accumulated paid leave before taking EFMLA leave.
- After ten days, employees will be compensated at two-thirds of their regular rate of pay based on the number of hours employees would be expected to work. The Act does not address whether an employee may use accumulated employer-provided paid leave concurrently with EFMLA. Districts considering this option should discuss tax and retirement issues with their private school attorney.
- The EFMLA requires employers to include overtime hours in the calculation of pay due to employees for paid EFMLA leave. However, pay does not need to include a premium for overtime (i.e. time and a half) hours.
- Paid EFMLA leave is capped at \$200 per day and \$10,000 in the aggregate.
- The combination of unpaid and paid leave is for a maximum of 12 work weeks.



Hours for employees with varying schedules, such as substitutes, will be determined by taking an average of the hours worked in the six-month period ending on the date employees take leave. If an employee does not work during that period, hours will be based on the reasonable expectation of the hours the employee would work at the time of hiring.

At the conclusion of the leave, the employee must be restored to the same or an equivalent position. There is an exception to this requirement for employers with fewer than 25 employees who meet certain criteria.

The Emergency Paid Sick Leave Act (EPSL)

This provision also applies to all school districts, regardless of how many employees they have. An employee who is unable to work (or telework) due to a need to take leave because the employee:

1. Is subject to a federal, state or local quarantine or isolation related to COVID-19
2. Has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis
4. Is caring for an individual who is subject to a federal, state or local quarantine or isolation or has been advised by a healthcare provider to self-quarantine related to COVID-19
5. Is caring for a son or daughter as defined in the FMLA because the school or place of care for the son or daughter has been closed or the care provider is unavailable due to COVID-19 precautions.
6. Is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

Compensation is based on the reason for the leave.

- If the leave is for reasons 1, 2 or 3, leave will be paid at the greater of the employee's regular rate of pay or the applicable minimum wage. Compensation will not exceed \$511 per day.
- If the leave is for reasons 4, 5 or 6, leave will be paid at two-thirds of the greater of the employee's regular rate of pay or the applicable minimum





wage. Compensation will not exceed \$200 per day. The Act does not address whether an employee may use accumulated paid leave concurrently with EPSL. Districts considering this option should discuss tax and retirement issues with their private attorney.

Schools and districts:

- Will post notice from the secretary of labor explaining available leave.
- Cannot require an employee to find a replacement employee in order to take the leave.
- Will make EPSL available for immediate use regardless of how long an individual has worked for the school or district.
- Cannot require employees to use other district-provided leave prior to using emergency leave.
- Cannot discharge, discipline or in any manner discriminate against any employee who uses emergency sick leave and has filed any complaint or instituted or caused to be instituted any proceeding under or related to the EPSL, including a proceeding that seeks enforcement of the EPSL, or has testified or is about to testify in an such proceedings.
- Are not required to pay employees for unused EPSL upon separation from employment.
- Full-time employees are entitled to 80 hours of leave.
- Part-time employees are entitled to leave based on the average number of hours the employee works over a two-week period.

Hours for employees with varying schedules, such as substitutes, will be determined by taking an average of the hours worked in the six-month period ending on the date employees take leave. If an employee does not work during that period, hours will be based on the reasonable expectation of the hours the employee would work at the time of hire.

How do the EMFLA and EPSL Act Interact?

According to the guidance issued by the federal DOL, employees may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. An employee may take both EPSL and EFMLA leave to care for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The EPSL Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of





EFMLA leave which are otherwise unpaid under the EFMLA unless the employee elects to use existing employer-provided vacation, personal, or medical or sick leave under the employer's policy. After the first ten workdays have elapsed, the employee will receive 2/3 of their regular rate of pay for the hours the employee would have been scheduled to work in the subsequent ten weeks under the EFMLA.

Please note that an employee can only receive the additional ten weeks of expanded family and medical leave under the EFMLA for leave to care for the employee's child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

