

## FAMILY CARE LEAVE

This policy governs employee leave under 26 M.R.S.A. § 636, “An Act to Care for Families,” referred to in this policy as the “Family Care Act.” Leave under this policy is referred to as “Family Care Leave” or “Family Sick Leave.”

The Board recognizes that under Maine’s “Family Care Act,” if an employer provides paid leave under the terms of a collective bargaining agreement or employment policy, the employer must allow an employee to use the paid leave for the care of an immediate family member who is ill.

**[NOTE: “Employment policy” is not a defined term. Boards may adopt employment policies, but “employment policy” is not necessarily limited to board policy.]**

In law and for the purpose of this policy, the following definitions apply:

- A. “Employer” means a public or private employer with 25 or more employees.
- B. “Immediate family member” means an employee’s child, spouse or parent.
- C. “Paid leave” means time away from work by an employee for which the employee receives compensation. Paid leave is limited to sick time, vacation time, compensatory time, and leave that is provided as an aggregate amount for use at the discretion of the employee for any of these purposes. Paid leave does not include paid short-term or long-term disability, catastrophic leave, or similar types of benefits.

Employees may take up to \_\_\_\_ hours of paid leave as Family Care Leave per 12-month period or the amount provided by an applicable collective bargaining agreement, whichever is greater.

**[NOTE: 26 M.R.S.A. § 636 (3) states: “An employer may adopt a policy limiting the number of hours of paid leave taken (under the Family Care Act), but in no case may the number of hours allowed be fewer than 40 hours for a 12-month period.]**

The 12-month period shall be the same for all employees and shall be \_\_\_\_\_.

**[CHOOSE ONE OF THE FOLLOWING OPTIONS:**

- A. The calendar year, OR**
- B. The contract year, fiscal year or other fixed 12-month period, OR**
- C. The 12-month period consistent with the 12-month period identified for the school unit's administration of the Family Medical Leave Act (FMLA).]**

**[NOTE: While other 12-month periods may be used, the three suggested are the easiest to administer. MSMA recommends using the same 12-month period as is used by the school unit to administer the Family Medical Leave Act (FMLA) to reduce the potential for confusion.]**

An employee is not entitled to use paid leave until that leave has been earned.

**[CHOOSE ONE OF THE FOLLOWING OPTIONS TO CONTINUE THIS PARAGRAPH:**

- A. An employee may elect which type of paid leave and the amount of each type of paid leave to use for Family Care Leave.**
- B. Any employee electing to take Family Care Leave must apply such leave against available paid \_\_\_\_\_ leave [specify type, e.g. sick leave] and if \_\_\_\_\_ leave is exhausted, against \_\_\_\_\_ [specify next type of leave], then against \_\_\_\_\_ (and so on) until all paid leave available has been exhausted, except as otherwise provided in applicable collective bargaining agreements.]**

Notice/verification of illness for Family Care Leave shall be the same as that required for the employee's own illness. The employee must specify that leave is being taken pursuant to the Family Care Act.

**Application of Family Medical Leave Requirements**

For purposes of applying family medical leave requirements (i.e., FMLA), the school unit shall treat leave under the Family Care Act in the same manner as the employer treats leave for an employee illness. Therefore, Family Care leave and FMLA leave shall run concurrently.

Legal Reference: 26 M.R.S.A. § 636

Cross Reference: GBN - Family and Medical Leave

Adopted: \_\_\_\_\_

**PLEASE NOTE** MSMA sample policies and other resource materials do not necessarily reflect official Association policy. They are not intended for verbatim replication. Sample policies should be used as a starting point for a board's policy development on specific topics. Rarely does one board's policy serve exactly to address the concerns and needs of all other school units. MSMA recommends a careful analysis of the need and purpose of any policy and a thorough consideration of the application and suitability to the individual school system.

MSMA sample policies and other resource materials may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

