

COLLECTIVE BARGAINING AGREEMENT

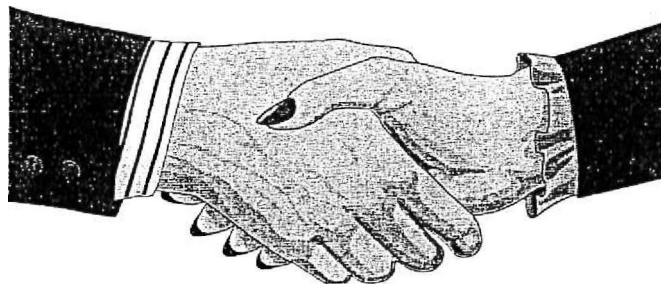
Between

**BOARD OF TRUSTEES
STEVENSVILLE SCHOOL DISTRICT #2**

And

PARA-EDUCATORS AND SECRETARIES

FEDERATION OF STEVENSVILLE
SUPPORT STAFF, MEA-MFT, NEA-AFT,
AFL-CIO



Collective Bargaining Agreement

SCHOOL YEAR 2021-2022

Between

BOARD OF TRUSTEES, STEVENSVILLE SCHOOL DISTRICT No. 2

And

FEDERATION OF STEVENSVILLE SUPPORT STAFF, MEA-MFT, NEA-AFT, AFL-CIO

ARTICLE 1: PURPOSE

This agreement is entered into this 1st day of July 2021, by and between the Board of Trustees of Stevensville School District #2, Stevensville, Montana (hereinafter called the "Board"), and the Federation of Stevensville Support Staff (hereinafter called the "Federation").

The parties recognize that all positions certified by the Board of Personnel Appeals shall be covered by this Unit, and all other employees shall be excluded. In the event a new position is created and the Federation believes such should be covered by this Agreement, the parties shall meet at reasonable times to discuss an inclusion. It is understood that the Employer is engaged in furnishing an essential public service, which vitally affects the general well-being of the public, and both parties hereto recognize the need for continuous and reliable service to the public.

ARTICLE 2: SCHOOL DISTRICT RIGHTS

The Federation recognizes that the District is not required and is not permitted to meet and negotiate on matters of inherent managerial prerogatives, which include but are not limited to the following : Directing employees; hiring; promoting; transferring; assigning and retaining employees; relieving employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive, maintaining the efficiency of government operations; determining the methods, means, job classifications and personnel by which District operations are to be conducted; take whatever actions may be necessary to carry out the missions of the District in situations of emergency; and establish the methods and processes by which work is performed. The Federation further agrees that all management rights not expressly waived in this Agreement are reserved to the District. The Federation recognizes the rights and obligations of the District to manage and conduct the operation of the District within its legal limitations and with its primary obligation to provide educational opportunity for the students of the District.

ARTICLE 3: EMPLOYEE RIGHTS

Section 1. Warnings, Suspension & Discharge: Non-probationary employees will be warned, in writing, suspended without pay, or discharged only for just cause. The District will follow a policy of progressive discipline unless the seriousness of the situation warrants more severe action. The District has the right to warn, suspend, or discharge probationary employees.

Section 2. Probationary Period: Newly hired employees will serve a probationary period of one (1) school year or 180 workdays beginning with their first day of work.

Section 3. Newly Transferred or Promoted Employees: Non-probationary employees who are transferred or awarded open positions will **be returned** to their previously held position or an available like position at any time within the first three calendar months they are in the new position, when either the employee or the District believe that such a return is warranted. The three-month period shall not be extended except by mutual agreement. This Section does not restrict application of any of the other provisions of this Agreement to such an employee.

Section 4. Schedule Changes: Except in cases of unanticipated need, employees will receive at least five working day advance notice of a change in beginning or ending times of shifts, days of work, or work location. This shall not apply to those employees who frequently work varied shifts, days, or work locations.

Section 5. Job Sharing: The District may create job-sharing positions without permission of the employees subject to such a schedule. However, nothing in this Agreement shall be construed as a guarantee of a minimum workday, week, or year.

Section 6. Personnel Files:

A. Conditions and Procedure for placement of materials in file:

Only one official file shall be maintained. No material shall be placed in the file unless the Employee has had an opportunity to read such material. The Employee shall acknowledge that he/she has read any material by affixing his/her signature on the copy to be filed. However, any material that has not been reduced to writing, submitted to and discussed with the Employee, within ten (10) calendar days following the event or occurrence or discovery of the event or occurrence may not be added to the file. Any materials not contained in the Employee personnel file, may not be used to discipline the Employee in any manner.

B. Right to Respond to Materials in File:

The Employee shall have the right to respond to any material, which is entered into their file, and his/her response shall be attached to the file or the disputed document in the file.

C. Right to Examine File:

The Employee shall have the right to examine his/her personnel file, and to have a representative of the Union accompany him/her to such review.

D. Right to Reproduce Material in File:

An Employee may request copies of any material from his/her file with the first copy provided by the District. However, when the Employee receives a copy of material in his/her personnel file and when such information is made public by the Employee, the District bears no responsibility for such loss of privacy.

E. Release of Information:

An employer or former employer shall not divulge any of the contents of the personnel file including a disciplinary report, letter of reprimand, or other disciplinary action to any person or party other than the

employee except as follows:

1. A School District official in a need-to know capacity.
2. The Employee has specifically waived written as part of a written signed employment application with another employer.
3. The disclosure is ordered by legal action or arbitration proceeding.
4. The information is requested by a government agency as a result of a claim or complaint, or as a result of a criminal investigation.

F. Removal of Material from File:

Disciplinary reports, letters of reprimand, or other records of disciplinary action shall not be removed from the personnel file.

Section 7. Appearances before the Employer:

All employees shall, at his/her request, be entitled to the presence of a Federation Representative during any appearance required by the District which concerns any matter that could adversely affect his/her position, employment, salary or benefits.

Sections 8. District Rules and Policies:

Each employee shall have access to District rules and policies. The Board agrees to furnish the Federation, in response to a written request, all information required by law. The District may require payment for copying costs.

Section 9. Meetings:

Whenever the District requires the presence of an Employee at a meeting, which is scheduled during the normal workday, the employee required to attend shall not suffer a loss of pay. If such meetings exceed the Employee's contracted hour's limit, said Employee shall receive compensation for this extra time at their normal rate of pay or overtime rate if in excess of forty hours.

Section 10: Safety

An Employee who has knowledge of an unsafe condition will immediately notify the District, which will then take appropriate steps. The Federation President or his/her designee shall be allotted one seat on the District Safety Committee.

ARTICLE 4

Section 1. Federation Business: representatives of the Federation shall be permitted to transact official Federation Business on school property, provided that this shall not disrupt normal school operation and has been approved by the Administration.

Section 2. Use of the Building: The Federation and its representatives shall have the right to use school buildings for meetings after 3:30 pm with the approval of the administration.

Section 3. Use of School Equipment: The Federation shall have the right to use school equipment as authorized in advanced by the Administration. Associated costs will be borne by the Federation.

Section 4. Use of Interschool Communication Facilities: The Federation shall have the right to post notices

of activities and matters of Federation concern on the lounge bulletin board. The Federation may use mailboxes for communication to members of the Unit, but the District shall carry mail within a building or between buildings.

Section 5. Conditional Use: The District reserves the right to restrict or disallow use of the District facilities by the Federation and its members should such use involve discussion of a work slow-down, picketing, strike, or other inflammatory or political purposes, or should such use become excessive.

Section 6. Labor Management Meetings: When the parties believe a meeting would be productive, they shall meet together at reasonable times and places. Such meetings shall involve not more than two bargaining unit members and not more than two administrators or Board members, plus a representative of each party, and shall normally be held during non-working hours except when the District schedules such a meeting during the normal working day. Except by mutual agreement or in case of emergency, one party shall notify the other of any issue to be discussed at least two working days in advance of the scheduled meeting date.

Section 7. Exclusive Rights of the Association: The District recognizes the rights and privileges of negotiating wages, fringe benefits, conditions of employment, and processing grievances are exclusively those of the Federation. The School Board will not circumvent the Federation to bargain wages, fringe benefits, or process grievances with a competing labor organization or an individual employee.

ARTICLE 5: Professional Dues & Fees; Payroll Deductions

Section 1. Payroll Options: Paychecks are to be issued on a monthly basis. Checks will be distributed on or before the last workday of each month, except in December checks will be distributed on or before the last scheduled working day.

Section 2. Dues Deductions:

- A. While no employee shall be required to be a member of the Federation, the District will deduct, upon receipt of an individual's written authorization, the dues designated by the Federation. The Union as exclusive representative of classified employees (para-educators and secretaries), will represent such persons fairly, whether members or not. Membership shall be made to all who apply, consistent with the Union constitution and policies. Each individual election of membership will require a written authorization for payroll deduction of dues by the employee or prospective employee.
- B. Commencing in September and each month thereafter the School District shall deduct in equal installments the monies that are so authorized. New authorizations when received by the District during the school year will be deducted pro-rata. The Exclusive Representative shall certify to the District the membership dues for the following school year no later than the first day of that school year.
- C. Any authorization for additional deductions shall be with the prior authorization of the District. Any additional deduction authorization shall be terminated between date of receipt of a signed notice to terminate from the individual employee, and two months thereafter.
- D. The District shall transmit all deducted monies, along with a list of names for which deductions are made, to the party designated by the Treasurer of the Exclusive Representative, on a monthly basis. No later than the last day of September, the District shall at the request of the Federation prepare and submit a list of names, addresses, job titles, hourly pay, and projected working days of each bargaining unit member. The District shall provide the same information for the Federation when a new employee, covered by the Unit is hired.

- E. The Federation agrees to indemnify and hold harmless the School District, the Board, each individual Board member, and all administrators against any and all claims, suits, or other forms of liability, and all court costs arising out of the provisions of this Agreement between the parties for dues deductions.

ARTICLE 6: LEAVES

Section 1. Sick Leave: Sick leave shall be granted and observed in accordance with statutes [2-18- 618 MCA (1999)] and the Administration Rules of Montana (ARM) section 2.21.121 (see Addendum C, page 19).

Section 2. Sick Leave Bank: Employees shall be allowed to contribute from their individual accumulated and unused sick leave to a bargaining unit member who has exhausted all of his/her leave. In the event this becomes necessary, it is the responsibility of the receiving person to request donations. If that person is unable to make the request for themselves, they may appoint a unit member to request for them. This is a personal matter, and at no time should it become a union matter.

Section 3. Bereavement Leave: In case of death in the immediate family, sick leave may be used for bereavement. "Immediate family" shall be defined as spouse, son, daughter, foster-child, father, mother, brother, sister, grandparents, grandchildren, in-laws, nieces, nephews, and the spouse of those mentioned herein. Subsequent to the use of sick leave for bereavement, the employees shall present substantiation to the appropriate building administrator, and must receive the Superintendent's approval. Use of sick leave for bereavement in additional circumstance, such as friends and the like, must be approved by the Superintendent.

Section 4. Annual Leave: Annual Vacation leave shall be granted and observed in accordance with statutes [2/18/611 through 617 MCA (1999) and Administrative Rules of Montana (ARM) sections 2.21.215 through 2.21.234. (See Addendum D page 20). Annual leave must be approved by the employee's assigned supervisor and requires Twenty-four (24) hours notice unless an exceptional circumstance is approved by the supervisor. Up to five (5) days, accumulated unused vacation time may be banked and carried over into the next school year. It is understood that employees who voluntarily terminated their employment with the District during the four weeks prior to the fall term or during the first two weeks of school have terminated employment under conditions bringing discredit to themselves and forfeiture of all rights to cash compensation for unused accrued annual/vacation leave. If an employee terminates his/her employment with the District during the four weeks prior to the beginning of the fall term or during the first two weeks of the school year for extraordinary reasons, the Board, at its sole discretion, may permit that employee to receive cash compensation for accrued leave without establishing a practice or precedent. Employees are expected to give a minimum of two weeks notice at any time, except when extraordinary reasons occur. Should the employee not give ample notice, that employee will be deemed to have discredited him/herself and are subject to forfeiture of accrued leave.

Section 5: Holidays

A. Holidays shall be per Montana statute [20-1-305, MCA]. The holidays include.

| Holiday | Day |
|----------------------------|--|
| New Year's Day | January 1 |
| President's Day | Third Monday in February |
| Memorial Day | Last Monday in May |
| Independence Day | July 4 |
| Labor Day | First Monday in September |
| Thanksgiving Day | Fourth Thursday in November |
| Christmas Day | December 25 |
| State & National Elections | When the building is used as a polling place and is closed because school would be disruptive. |

- B. In order to be paid and credited for a holiday, employees must be in pay status at least one day during the calendar week of the holiday.
- C. Any employee who works on a holiday will be paid straight time in addition to the holiday.
- D. In addition, any holiday included as a paid holiday, will only be paid provided that school is not in session.

Section 6. Maternity Leave: No employee will be terminated because of pregnancy or required to a mandatory maternity leave for an unreasonable period of time. In addition to accrued sick leave and vacation, a reasonable leave of absence without pay will be granted to any employee not able to perform employment duties due to the employee's pregnancy or her post-pregnancy complications. The beginning and length of maternity leave shall be determined by the employee, her physician, and the Superintendent shall be notified immediately thereafter. Such leave will follow provisions of the Family Medical Leave Act (FMLA). When she is no longer disabled due to pregnancy or childbirth, she shall return to her original job or to an equivalent position, and shall receive all benefits accumulated to the point that she left on maternity leave. This provision shall in no way limit the District's rights regarding discharge or layoff based on other reasons.

Section 7. Military and Jury Duty: Employees eligible for military leave and jury duty shall receive such leave under the provisions of Montana statute [2-18-619 and **10-1-604** MCA 1999] and Administrative Rules of Montana (ARM) sections 2.21.501 through 2.21.506 and 2.21.410 through 2.21.419.

Section 8. Family and Medical Leave: The provisions of the Family and Medical Leave Act shall be honored and such leave be deemed in effect when an employee is off duty for a qualifying reason.

Section 9. Personal Leave: Each employee in the bargaining unit will be granted two accumulated personal leave days per year during the duration of this contract. The immediate supervisor must be given twenty-four (24) hour notice so an appropriate substitute can be hired. The personal leave days will not be available for use until after an employee has been continuously employed by the District for 90 (ninety) calendar days.

Section 10. Leave of Absence: Any employee in the bargaining unit must have been continuously employed by the District for three (3) years before applying for a leave of absence (does not impact any other type of leave).

Section 11. Other Leaves: The District reserves the right to add to the lengths and/or benefits of the leaves established herein, and to establish other forms of leave, all at its own discretion and without establishing precedent. Any employee on an approved leave shall not lose their seniority and will be allowed to accrue seniority for up to one year.

ARTICLE 7: EVALUATION

Each employee shall be evaluated at least once during each work year. When the evaluation is completed by the District, a copy of the form will be given to the employee for his/her review. The employee will sign the form, indicating that he/she received the form. The evaluation may be discussed at the option of either the employee or the District. If an employee disagrees with the evaluation, he/she may author a rebuttal and it shall be placed together with the evaluation in his/her file. Employees will receive a sample evaluation form at least seven workdays prior to the evaluation.

ARTICLE 8: COMPENSATION, BENEFITS, & WORK DAY

Section 1. Wages:

- A. All employees shall be compensated according to the wage rates reflected in Addendum A pages 15-16, and shall be compensated on an hourly rate for all hours worked.
- B. The provisions of the Fair Labor Standards Act shall determine the rules for overtime compensation, except holiday, sick, and annual leave shall be considered as time worked when computing overtime.
- C. When an employee is temporarily assigned by the District to perform the work of a lower paid classification, the employee's wage will not be reduced. When an employee is temporarily assigned by the District to perform the work of a higher paid classification, all such work performed after the first aggregate ten work hours shall be at the higher rate of pay, with the exception of para-educators temporarily and specifically assigned as substitute teachers in which case they shall be paid substitute rates.

Section 2. Call Out: When an employee is called back to work and when such call-out is not connected to the ending or beginning time of the employee's regular shift, the employee shall be compensated for a minimum of one-half hour.

Section 3. Fringe Benefits: Unless otherwise specified, for the purposes of fringe benefits, including, but not limited to insurance premium contributions, an employee who normally works at least 1200 hours in the fiscal year shall be considered "full-time", and shall receive full fringe benefits. All employees working 1040 hours per year (20 hours per week) in the 2006-2007 school year will be grandfathered to qualify as full-time employees for the life of employment in the District. Employees working less than 1040 hours per fiscal year can purchase insurance at their own expense with no District contribution. Employees working 1040 hours to 1200 hours in a fiscal year will receive a prorated District contribution to insurance.

Section 4. Insurance: Beginning July 1, 2021 the District shall contribute \$811.00 per month toward the health insurance premium on behalf of each eligible employee who elects to participate in the District's Group Health Plan. ~~Beginning July 1, 2020 the District shall contribute \$811.00 per month toward the health insurance~~

~~premium on behalf of each eligible employee who elects to participate in the District's Group Health Plan. The Parties agree that they will re-open this agreement during the term of the agreement solely for the purpose of addressing health insurance for the 2021-2022 school year. The District and Federation of Stevensville Staff, MEA-MFT, NEA-AFT, AFL-CIO agree to add a 60 day waiting period before new employees are eligible for insurance.~~

The President or designee of the Federation shall sit on the Insurance Committee.

Section 5. Work Day: A regular workday shall include 2-15 minute duty-free breaks and an unpaid 30-minute duty-free lunch break. When such employee is scheduled recess or has lunch detention etc... and is not able to take their duty-free lunch, such employee shall be compensated at their regular rate of pay.

Section 6: Training: The District will provide appropriate training to staff, during work hours, that give the employees specific skills to manage and teach students with disabilities. The training may need to be individualized based on the needs of the particular student.

~~**Section 7: Retroactive Pay and Retroactive Insurance Contribution:** The District and Federation of Stevensville Staff, MEA MFT, NEA AFT, AFL CIO agree the District will not pay retroactive pay and staff covered by this agreement will not be responsible for retroactive employee insurance contribution from July 1, 2021 up to the date of execution of this agreement.~~

ARTICLE 9: POSTING AND FILLING POSITIONS; TRANSFERS

Section 1. Job Posting: When a newly created or vacant position within the bargaining unit exists which the District intends to fill, a notice of such opening will be posted about campus in places unit members are in sole contention for the position. The notice shall identify the vacant position, the number of work hours usually assigned, and the building administrator employees can contact to obtain additional information about the position. Such posting will take place approximately at the same time the District advertises elsewhere with a general statement of the qualifications necessary for the position. During the school year, such notices will remain posted until filled, and for 2 weeks during the summer break.

Section 2. Filling Positions: The District shall consider seniority, qualifications, and the need of the District when filling newly created and vacant positions when the District decides that the bargaining unit members are in sole contention for the position. The District will, in writing notify unsuccessful applicants who are members of the Unit.

Section 3. Transfers:

A. **Voluntary Transfers:** Employees may request transfer within the bargaining Unit at any time, for any position for which they feel they are qualified. If such transfers are within the employees' current classification, the employee shall be placed at a step of that pay column that is no less than the employee's current rate of pay. If the transfer is out of the employee's current classification, they will retain their current rate of pay for the remainder of the school year. The following year, they will be placed on the pay scale according to their years of service to the District.

B. **Involuntary Transfer: Reason for Transfer:**

1. Disciplinary
2. Needs of the District

Conditions of Transfer: Except in cases of transfer for disciplinary reasons, the Superintendent, at the recommendation of the Principal, may make necessary transfers of employees. Said transfers shall be made after taking into account:

1. The appropriate qualifications of the employee,
2. Seniority, and the
3. Desires of the employee (s) to be transferred.
4. No employee will be involuntarily transferred to a position for which the employee is unqualified unless adequate training is provided or if there is a qualified volunteer from the staff.

Section 4. Seniority: For the purposes of the Agreement, seniority shall mean the length of time employed by the District in the following categories: Aide (all categories) or Secretary since the last date of hire. Seniority shall continue to accrue during all approved leaves of absence not exceeding one year. In cases involving industrial accident, seniority shall continue to accrue for up to eighteen (18) months. There will be no loss of seniority when an employee changes positions within the bargaining unit.

ARTICLE 10: REDUCTION IN FORCE

Section 1. Lay Off: In situations where the Board finds it necessary to relieve bargaining unit members from duties, seniority will be the deciding factor, with layoffs commencing from the least senior to the most senior employee within the bargaining unit. If more than one employee has been hired, and started working on the same date, the District will choose by drawing straws. No employee will be laid off while a temporary employee is employed. Except in cases of an emergency, affected employees will be given at least 15 working days advance notice of a layoff.

Section 2. Recall: The most senior employee on layoff status who successfully worked for the District in a classification which is open and who remains qualified to perform the work required shall be recalled to that classification first. Should an individual refuse a recall or not respond to a recall within 10 calendar days, such actions will be deemed a resignation. Individuals may remain on layoff status for a period of two calendar years after being laid off.

ARTICLE 11: GRIEVANCES

Section 1. Grievance Definition: A "grievance" shall mean an allegation by an employee resulting in a dispute or disagreement between the employee and the School District as to the interpretation or application of specific terms and conditions contained in this Agreement, which pertain to wages, hours of employment, and conditions of employment or fringe benefits. Representative means member of the Federation.

Section 2. Rights to Representation:

- A. Any party in interest may be represented at all stages of the grievance procedure by him/herself or by a representative selected or approved by the Federation. The employee shall have the right to request the presence of a Federation representative or a member of the Bargaining Unit at any time during the procedure.

- B. No reprisals of any kind shall be taken by the Board or by any member of the Administration or by the Federation against any party in interest, any building representative, or any member of the Federation Grievance Committee or any other participant in the grievance procedure by reason of such participation.

Section 3. Individual Rights:

- A. The purpose of this procedure is to secure, at the lowest level possible, equitable solutions to the problems, which may from time to time arise affecting the welfare or terms and conditions of employment of employees. Both parties agree that these proceedings will be kept as informal as may be appropriate at any level of the procedure.
- B. Nothing herein contained shall be construed as limiting the right of any employee having a grievance to discuss the matter informally with any appropriate member of the Administration, and having the grievance adjusted without intervention of the Federation, provided the adjustment is not inconsistent with the terms of this Agreement.

Section 4: Grievance Procedure:

- A. In order to provide a standard method for resolution of differences arising during the duration of the Agreement, parties hereto shall make a determined effort to settle any issues arising in the interpretation of the Agreement, by the use of the grievance procedure herein set forth.
- B. A grievance shall not be valid for consideration unless the grievance is submitted in writing to the Federation President/designee to the School District's Superintendent/designee, setting forth the facts and the specific provisions of the Agreement allegedly violated and the particular relief sought within 10 days of the date of the first event given rise to the grievance occurred, or within 10 days of the time the employee should have known of the event, and is written on the Grievance Reporting Form (Addendum B, page 17-18). Failure to file any grievance within such period or on such form shall be deemed a waiver thereof. Failure to appeal a grievance from one level to another within the time period hereafter provided or on such form shall constitute a waiver of the grievance. An effort shall be made to adjust any alleged grievance informally between the employee and the School District's designee.

Section 5. Adjustment of Grievance: The School District and the employee shall attempt to adjust all grievances, which may arise during the course of employment on any employee within the School District in the following manner:

Level One: If the grievance is not resolved through informal discussions, the School District Principal shall give a written decision on the grievance to the parties involved within 5 days after receipt of the written grievance.

Level Two: In the event the grievance is not resolved in Level One, the decision rendered may be appealed to the Superintendent of Schools, provided such appeal is made in writing within five (5) days after receipt of the decision in Level One. If a grievance is properly appealed to the Superintendent, the Superintendent shall set a time to meet regarding the grievance within 7 days after receipt of the appeal. Within five (5) days after the meeting, the Superintendent shall issue in writing, to the parties involved a decision.

Level Three: In the event the grievance is not resolved in Level Two, the decision rendered may be appealed to the Board of Trustees, provided such appeal is made in writing to the District Clerk, within five (5) school days after receipt of the decision in Level Two. If a grievance is properly appealed to the Board of Trustees, a meeting between the Board of Trustees or representative thereof and the Federation shall be held within thirty (30) days to discuss the grievance. The Board of Trustees or its representative within seven (7) days after the meeting will render a decision in writing to the party involved.

Level Four:

1. Should the grievance not be resolved in Level 3, the Federation President may within ten (10) days of receipt of the Board's decision in Level 3 submit the grievance, using the Grievance Reporting Form, to final and binding arbitration in accordance with the following provisions.
2. The arbitrator shall be chosen from a list of seven (7) potential arbitrators, provided by the Board of Personnel Appeals, by each party eliminating one name until the arbitrator is left. This "striking" procedure shall take place within ten (10) working days after receipt of the list.
3. The arbitrator shall hear the case as soon as possible, and issue a written decision to the parties within thirty (30) days after the close of the hearing.
4. The costs of the arbitration hearing shall be shared, except that each party shall be responsible for its own representation and presentation costs.
5. The arbitrator is prohibited from adding to, subtracting from or otherwise modifying the terms of the Agreement.

Should any grievant process the same matter that is subject to the grievance process to any agency or authority outside of the School District, the employee's grievance on that same matter shall be considered waived.

Step Waiver: Provided both parties agree in writing, any level of this grievance procedure may be by-passed and processed at a higher level. This waives all rights to resubmit the same grievance back to a lower level. All time limits outlined refer to working days.

ARTICLE 12: NO STRIKE

For the term of this Agreement, there shall not be work slow-downs, picketing, strikes, or other activities that have the effect of reducing the amount of work, which is normally performed by the District's employees. The District agrees not to lock out employees as long as the employees and Federation are in compliance with this Article.

ARTICLE 13: DURATION

Section 1. Effective Period: This Agreement shall be in effect from **July 1, 2021** or upon ratification by the parties, whichever is later, and shall remain in force **until June 30, 2022.**

Section 2. Agreement: This Agreement constitutes the entire agreement between the parties and no verbal statements or past practices shall supersede any of its provisions. Any amendment supplemental hereto shall not be binding upon either party unless executed by the parties. The parties further acknowledge that during the course of collective bargaining each party has had the unlimited right to offer, discuss, accept, or reject

proposals. Therefore, for the term of this Agreement, no further collective bargaining shall be had upon any provisions of the Agreement or upon any mandatory subject of collective bargaining unless such subject has a monumental affect on the members of the bargaining unit, or by mutual consent of the parties hereto.

Section 3. Copies: Copies of this Agreement will be printed at mutual expense after the Agreement is signed and ratified. Copies shall be presented to all contract and future employees.

Section 4. Savings: Should any portion of this Agreement be judged by a court of competent jurisdiction to be illegal or unenforceable, that provision shall be considered null and void, but the remainder of the Agreement shall remain valid.

Section 5. Nondiscrimination: The District and the Federation each confirm their opposition to discrimination based on race, creed, religion, color, national origin, age, sex, marital status, residence, or handicap, so long as an individual is qualified and capable of performing the work assigned by the District. No party or employee shall be discriminated against for their participation or refusal to participate in any lawful union activity.

In Witness Whereof:

FOR: THE STEVENSVILLE DISTRICT
NO 2, BOARD OF TRUSTEES

FOR: STEVENSVILLE FEDERATION
OF SUPPORT STAFF, MEA-MFT,
NEA-AFT, AFL-CIO

Chairperson, Board of Trustees

Unit President

DATE

DATE

Clerk of the Board

Unit Secretary

DATE

DATE

ADDENDUM A

2021-2022 WAGE INDEX

PARA-EDUCATOR PAY SCHEDULE

| | | | |
|----------------------------------|------|-------|---------|
| Year 1 | Base | | \$15.03 |
| | | | |
| Subsequent year(s) of employment | Add | \$.25 | yearly |

SECRETARY PAY SCHEDULE

| | | | |
|----------------------------------|------|-------|---------|
| Year 1 | Base | | \$15.35 |
| | | | |
| Subsequent year(s) of employment | Add | \$.25 | yearly |

All New employees will start on the first year, except an employee previously employed by the District who returns to the District within one calendar year shall be compensated based on the wage index at the time of their termination. The employee will not retain or be credited any seniority status for years previously worked and will be placed at the end of the seniority list as per the current date of hire.

The District, at its sole discretion, may hire and pay a licensed registered nurse as a Para-Educator and pay that person up to \$2.00 more than referenced above.

ADDENDUM B

GRIEVANCE REPORT FORM

| GRIEVANCE REPORT FORM | |
|--|--------------------------|
| STEVENSVILLE SCHOOL DISTRICT No. 2 | Page 1 of 2 |
| Grievant: | Date of |
| STATEMENT OF GRIEVANCE: | |
| A. | |
| Contract provision violated: | |
| B. | |
| Contract provision violated: | |
| C. | |
| Contract provision violated: | |
| use additional sheets if necessary ACTION OR RELIEF REQUESTED: (<i>A, B & C correspond to same above</i>) | |
| B. | |
| C. | |
| Grievant's Signature: | Date given to Principal: |
| PRINCIPALS RESPONSE: | |
| A. | |
| B. | |
| C. | |
| Principal's Signature: | Date given to Grievant: |
| GRIEVANT'S RESPONSE: | |
| A. | |

| |
|--|
| B. |
| C |
| Grievant's Signature: Date Given to Superintendent: |
| |
| Grievant: |
| SUPERINTENDENT'S RESPONSE: |
| A. |
| |
| |
| B. |
| |
| |
| C. |
| |
| |
| Superintendent's Signature: Date Given to Grievant |
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| GRIEVANT'S RESPONSE: |
| A |
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| B. |
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| C. |
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| Grievant's Signature: Date Given to District Clerk: |
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ADDENDUM C - SICK LEAVE

2.21.121 SHORT TITLE (1) This sub-chapter may be sited as the sick leave policy. (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80.)

2.21.122 DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) "Abuse of sick leave" means misrepresentation of the actual reason for charging an absence to sick leave and may include chronic, persistent, or patterned use of sick leave.

(2) "Break in service" means, as provided in 2-18-601, MCA, "a period of time in excess of 5 working days when the person is not employed and that severs continuous employment." A break in service could result from a termination or resignation or could result from an absence of more than 5 working days in a row without an approved leave of absence.

(3) "Continuous employment" means, as provided in 2-18-601, MCA, "working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days." An approved continuous leave of absence without pay exceeding 15 working days does not constitute a break in service.

(4) "Immediate family" means the employee's spouse and any member of the employee's household, or any parent, child, grandparent, grandchild, or corresponding in-law.

(5) "Jurisdiction" means the extent of authority of any state or local government entity within which the limits of authority or control may be exercised. State government is a single jurisdiction.

(6) "Qualifying period" means a 90-calendar day period an employee must be continuously employed to be eligible to use sick leave credits or to be eligible for a lump sum payment upon termination for unused sick leave credits,

(7) "Sick leave" means, as provided in 2-18-601, MCA, "a leave of absence with pay for a sickness suffered by an employee or a member of the employee's immediate family or for a permanent state employee who is eligible for parental leave under the provisions of 2-18-606, [MCA]."

(8) "Sick leave credits" means the earned number of sick leave hours an employee is eligible to use upon completion of the qualifying period.

(9) "Transfer" means, as provided in 2-18-601, MCA, "a change of employment from one agency to another agency in the same jurisdiction without a break in service." (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1985 MAR p. 1237, Eff. 8/30/85; AMD, 1992 MAR P. 2372, Eff. 10/30/92; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

2.21.123 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to grant eligible state employees sick leave benefits in accordance with 2-18-618, MCA.

(2) Nothing in this policy guarantees approval of the granting of such leave in any instance. Each request will be judged by the agency in accordance with this policy.

(3) The objectives of this policy are to establish functional uniform procedures for calculating and granting sick leave benefits in accordance with 2-18-618, MCA; provide interpretation required for automation of the payroll system, and ensure compliance with the Montana Maternity Leave Act, 49-2-310 and 49-2-311, MCA and the 1978 amendment to the Civil Rights Act of 1964 (42 USC S 20003, 78 statute 253) banning pregnancy discrimination. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1983 MAR p. 1455, Eff. 10/14/83; AMD, 1985 MAR p. 1237, Eff. 8/30/85; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

Rules 24 through 31 reserved

2.21.132 CONDITIONS FOR USE OF SICK LEAVE (1) An employee may use sick leave credits for:

- (a) illness;
- (b) injury;
- (c) medical disability;

- (d) maternity-related disability, including prenatal care, birth, miscarriage, abortion or other medical care for either employee or child;
- (e) parental leave as provided in ARM 2.21.1001 et seq.;
- (f) quarantine resulting from exposure to contagious disease;
- (g) medical, dental or eye examination or treatment;
- (h) necessary care of or attendance to an immediate family member, or at the agency's discretion, another relative, for the above reasons until other attendance care reasonably be obtained; and
- (i) death or funeral attendance for an immediate family member or, at the agency's discretion, for another person. (History: Sec. 2-18-604, MCA: IMP 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1985 MAR p. 1237, Eff. 8/30/85; AMD, 1992 MAR p. 2372, Eff. 10/30/92.)

2.21.133 ACCRUAL AND USE OF SICK LEAVE CREDITS (1) A permanent, seasonal, or temporary employee is eligible to earn sick leave credits. A short-term worker, as defined in 2-18- 101, MCA, is not eligible to earn sick leave credits.

- (a) Sick leave credits accrue from the first day of employment.
- (b) An employee must be continuously employed for the qualifying period of 90 cal days to use sick leave.
- (c) Leave may not be advanced nor may leave be taken retroactively.
- (d) Unless there is a break in service, and employee only serves the qualifying period once.
- (e) After a break in service, an employee must again complete the qualifying period to use sick leave.
- (f) A seasonal employee's accrued sick leave credits may be carried over to the next season if management has a continuing need for the employee, or paid out as a lump sum to the employee when the season ends in accordance with ARM 2.21.141.
 1. IF sick leave credits are carried over, employment in two or more seasons is continuous employment and can be counted toward the 90-calendar day qualifying period provided a break in service does not occur.
- (g) Returning seasonal employees must report for work by the date and time specified by the agency to avoid a break in service.
- (h) A person simultaneously employed in two or more positions in the same or in different agencies will accrue sick leave credits in each position according to the number of hours worked. Leave credits will be used only from the position in which the credits are earned and with approval of the supervisor or appropriate authority for that position.
- (i) Hours in a pay status paid at the regular rate will be used to calculate leave accrual. Sick leave credits will not accrue for those hours exceeding 40 hours in a workweek that are paid as overtime hours or are recorded as compensatory time hours. A full-time state employee shall not earn less than or more than the full-time sick leave accrual rate provided by ARM 2.21.134, except as provided in this rule.
 - (2) As provided in 2-18-618, MCA, "An employee may not accrue sick leave credits while in a leave-without-pay status."
 - (3) When an employee who has not worked the qualifying period for use of sick leave takes an approved continuous leave of absence without pay exceeding 15 working days, the amount of time on leave of absence will not count toward completion of the qualifying period. The approved leave of absence exceeding 15 working days is not a break in service and the employee will not lose any accrued sick leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of 15 working days or less will be counted as time earned toward the 90-day

qualifying period.

- (14) When an employee who has been laid off elects to maintain sick leave credits, as provided in ARM 2.21.5007, the employee shall not take any accrued sick leave credits. The employee may take those sick leave credits if reinstated or reemployed by the same agency, or another state agency pursuant to the State Employee Protection Act, 2-18-1201, et seq., MCA. The employee may elect to be cashed out at any time at the salary rate the employee earned at the effective date of lay-off. However, the employee shall be cashed out when the employee's rights under the State Employee Protection Act end. (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1983 MAR p. 1455, Eff. 10/14/83; AMD, 1985 MAR p.1237, Eff. 8/30/85; AMD, 1986 MAR p. 103, Eff. 1/31/86; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

2.21.134 CALCULATION OF SICK LEAVE CREDITS (1) As provided in 2-18-618, MCA, sick leave credits are "earned at the rate of 12 working days for each year of service" or full-time employees and are prorated for part-time employees.

- (2) If an employee is regularly scheduled to work 80 hours or more in a bi-weekly period:
- (a) the employee accrues 3.69 hours of sick leave credits a pay period; and
 - (b) the sick leave credits are to be rounded to two digits beyond the decimal point and carried in the employee's account in that configuration.
- (³) If the employee is regularly scheduled to work less than 80 hours in a bi-weekly pay period or works intermittently:
- (a) the employee accrues .046 hours of sick leave credits for each hour worked; and
 - (b) such sick leave credits are to be rounded to two digits beyond the decimal point and carried in the employee's account in that configuration.
- (4) Sick leave credits are earned at the end of each bi-weekly pay period. These sick leave credits may not be used until the start of the next bi-weekly pay period.
- (⁵) There is no restriction as to the number of hours of sick leave credits that may be accumulated, nor to the number of accrued sick leave credits that may be used for a bona fide employee illness or disability, provided that the qualifying period has been completed. (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p.2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82.)

2.21.135 PROHIBITED USE OF SICK LEAVE CREDITS (IS HEREBY REPEALED) (History: Sec. 2-18-604, MCA; IMP 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR P.2899, Eff. 11/15/80; REP, 1982 MAR p.2130, Eff. 12/17/82.)

2.21.136 RATE OF SALARY COMPENSATION (1) An employee on authorized sick leave is entitled to the employee's normal gross salary. (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA, NEW, 1980 MAR p. 2899, Eff. 11/15/80.)

2.21.137 SICK LEAVE REQUEST (1) An agency shall establish procedures for application for and approval of sick leave in compliance with requirements of this policy.

(2) The employee's immediate supervisor or appropriate authority may require medical certification of sick leave charged against any sick leave credits. The medical certification must be provided by a licensed physician or, at the agency's discretion, by a licensed practitioner competent to treat and diagnose the particular illness or condition

(3) Provisions of the federal Family and Medical Leave Act and the Americans with Disabilities Act of 1990 each place limitations on the kinds of information, which may be sought when

medical certification is required. The information required for medical certification should be job-related and consistent with business necessity. It may indicate a need for the leave, length of the leave and the timing of the leave. Seeking more information than necessary to verify the leave request may violate the ADA. An agency may not inquire into the possible future effects of an employee's "serious health condition", as that term is defined in the FMLA, during the certification process. For example, if a medical certification indicates an employee has cancer, the agency may not ask whether the illness is terminal.

(4) A statement by a licensed physician or, at the agency's discretion, by a licensed practitioner, may also be required to certify that the illness of a family member requires the immediate supervision of the employee.

(5) Medical certification of a maternity-related sick leave must be obtained in the same manner and under the same conditions as certification for other sick leave.

(6) The documentation of requests for leave should contain sufficient detail so that improper use of sick leave credits can be discovered and corrected.

(7) The agency may require an employee to be examined by a licensed physician or a licensed practitioner of the agency's choice. A medical examination must be job-related and consistent with business necessity. The agency shall pay the costs of such an examination. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1983 MAR p. 1455, Eff. 10/14/83; AMD, 1994 MAR p.1407, Eff. 5/27/94.)

2.21.138 SICK LEAVE RECORDS (1) An employee's sick leave credits earned and sick leave credits used shall be recorded by the statewide human resource information system. Agencies not paid through central payroll shall keep their own records.

(2) Sick leave credits used must be recorded to the nearest one-half hour when fractions of hours are used.

(3) Adjustments to an employee's accrual and use totals should be reported to the agency payroll clerk on a bi-weekly basis. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW, 1980 MAR p. 2130, Eff. 12/17/82; AMD, 1997 MAR P.1440, Eff. 8/19/97.)

2.21.139 SICK LEAVE ON HOLIDAYS (1) Sick leave taken over a holiday may not be charged to an employee's sick leave for that day. (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW 1980 MAR p. 2899, Eff. 1/15/80; AMD, 1982 MAR p.2130, Eff. 12/17/82.)

2.21.140 SICK LEAVE ACCRUAL DURING LEAVES OF ABSENCE WITHOUT PAY (IS HERBY REPEALED) (History: Sec. 2-18-604, MCA; IMP, 2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; REP, 1982 MAR p.2130, Eff. 12/17/82.)

1.21.141 LUMP SUM PAYMENT UPON TERMINATION (1) When an employee terminates employment with an agency, the employee is entitled to cash compensation for unused sick leave credits equal to one-fourth of the compensations the employee would have received if the employee has used the credits, provided the employee had worked the qualifying period.

(2) As required by 2-18-618, MCA, "an employee who receives a lump-sum payment... and is again employed by any agency shall not be credited with any sick leave for which the employee has previously been compensated."

(3) The value of unused sick leave is computed based on the employee's salary rate at the time of termination. Payment is the responsibility of the agency from which the employee is terminating.

(4) As provided in 2-18-618, MCA, "accrual of sick leave credits for calculating the lump-sum

payment begins July 1, 1971.

(5) Employees retain sick leave credits earned before July 1, 1971, if recorded by the agency prior to that date.

(6) Sick leave credits earned prior to July 1, 1971, can be transferred between agencies, but are not eligible for lump-sum payment when an employee terminates.

(7) Sick leave credits earned prior to July 1, 1971, must be used first.

(8) Upon termination from one position where the employee works in more than one agency, the employee may, at the agency's discretion, transfer leave credits to the remaining position. If the employing agency will not accept the transfer of credits, it is the responsibility of the agency from which the employee is terminating to cash out the employee, as provided in this rule.

(9) If both positions are in the same agency, the agency may choose to either cash out credits accrued to the terminated position or transfer credits to the position the employee continues to fill. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

2.21.142 TRANSFERS (1) If an employee transfers between agencies in the same jurisdiction, the employee shall not receive cash compensation for unused sick leave credits.

(2) In such a transfer, the receiving agency assumes the liability for the accrued sick leave credits transferred with the employee.

(3) If a break in service occurs during a change in employment between agencies, or the employee moves to another jurisdiction, the employee must receive a lump-sum payment for accrued sick leave credits earned after July 1, 1971, and must begin anew the qualifying period at the new agency. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82)

2.21.143 ABUSE OF SICK LEAVE (1) Misrepresentation of the actual reason for charging an absence to sick leave is cause for dismissal and forfeiture of the lump-sum payment.

(2) Chronic, persistent, or patterned use of sick leave may be subject to progressive discipline, pursuant to ARM 2.21.6505 et seq. (See the discipline handling policy, ARM Title 2, chapter 21, sub-chapter 65, or policy 3-0130, MOM.)

(3) Absences improperly charged to sick leave may, at the agency's discretion, be charged to available compensatory time or leave without pay. Annual leave may be used at the mutual agreement of the employee and the agency.

(4) Any charges of sick leave abuse that result in an employee's dismissal and forfeiture of the lump-sum payment are subject to the appropriate grievance procedure. (History: Sec. 2-18-604, MCA; IMP, 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p.2130, Eff. 12/17/82; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

2.21.144 INDUSTRIAL ACCIDENT (1) An employee who suffers an on-the-job accident may be eligible for workers compensation benefits. Pursuant to 39-71-736, MCA, an injured worker is not considered to be entitled to workers compensation benefits if the worker is receiving sick leave benefits, except:

(a) Sick leave may be used and counted toward the required 6-day waiting period. Departments should notify the state workers compensations insurance fund of approved sick leave benefits paid in this situation.

(b) Augmentation of workers compensation temporary total disability benefits with sick leave by an employer pursuant to a collective bargaining agreement may not disqualify a worker from receiving temporary total disability benefits. Departments should notify the state fund of sick leave benefits paid in this situation. (History: Sec. 2-18-604, MCA; IMP,

2-18-615 and 2-18-618, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1982 MAR p. 2130, Eff. 12/17/82; AMD, 1994 MAR p. 1407, Eff. 5/27/94; AMD, 1997 MAR p. 1440, Eff. 8/19/97.)

2.21.145 SICK LEAVE SUBSTITUTED FOR ANNUAL LEAVE (1) At the agency's discretion, and employee who experiences an appropriate use of sick leave as defined in this policy while taking approved annual vacation leave may be allowed to substitute accrued sick leave credits for annual leave credits. (History: Sec. 2-18-604, MCA, IMP, 2-18-618, MCA; NEW 1982 MAR p. 2130 Eff. 12/17/82.)

ADDENDUM D - ANNUAL VACATION LEAVE

2.21.215 SHORT TITLE (1) This sub-chapter may be cited as the vacation leave policy. (History: Sec. 2-18-604, MCA; IMP, 2-18-611, 2-18-612, 2-18-614 through 2-18-617 and 2-18-621, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80.)

2.21.216 DEFINITIONS As used in this sub-chapter, the following definitions apply:

(1) "Break in service" means, as provided in 2-18-601, MCA, "a period of time in excess of 5 working days when the person is not employed and that severs continuous employment." A break in service could result from a termination or resignation or could be an absence of more than 5 working days in a row without an approved leave of absence.

(2) "Continuous employment" means, (for purposes of the qualifying period), as provided in 2-18-601 MCA, "working within the same jurisdiction without a break in service of more than 5 working days or without a continuous absence without pay of more than 15 working days." An approved continuous leave of absence without pay exceeding 15 working days does not constitute a break in service.

(3) "Jurisdiction" means the extent of authority of any state or local government entity within which the limits of authority or control may be exercised. State government is a single jurisdiction.

(4) "Qualifying period" means a 6-calendar month period an employee must be continuously employed to be eligible to use vacation leave credits or to be eligible for a lump-sum payment upon termination for unused vacation leave credits.

(5) "Transfer" means, as provided in 2-18-601, MCA, "a change of employment from one agency to another agency in the same jurisdiction without a break in service."

(6) "Vacation leave" means, as provided in 2-18-601, MCA, "a leave of absence with pay for the purpose of rest, relaxation, or personal business at the request of the employee and with the concurrence of the employer."

(7) "Vacation leave credits" means the earned number of vacation hours an employee is eligible to use upon completion of the qualifying period. (History: Sec. 2-18-064, MCA; IMP, 2-18-601, 2-18-611, 2-18-612, 2-18-614 through 2-18-617 and 2-18-621, MCA; NEW, 1980 MAR p.2899, Eff. 11/15/80; AMD, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1986 MAR p. 101, Eff. 1/31/86; AMD, 1997 MAR p. 1442, Eff. 8/19/97.)

2.21.217 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to grant eligible state employees annual vacation leave benefits in accordance with Title 2, chapter 18, part 6, MCA.

(2) Nothing in this policy guarantees approval of the granting of annual vacation leave in any instance. Each request will be judged by the agency in accordance with this policy.

(3) The objective of this policy is to establish uniform procedures for calculating and granting annual vacation leave benefits in accordance with 2-18-611 through 2-18-617 and 2-18-621, MCA. (History: Sec. 2-18-604, MCA; IMP, 2-18-601, 2-18-611, 2-18-612, 2-18-614 through 2-18-617 and 2-18-621, MCA; NEW, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1997 MAR p. 1442, Eff. 8/19/97.)

Rules 18 through 20 reserved

2.21.221 ACCRUAL AND ELIGIBILITY TO USE VACATION LEAVE CREDITS (1) In accordance with 2-18-611, MCA, all permanent, seasonal, and temporary employees are eligible to earn vacation leave credits. A short-term worker, as defined in 2-18-101, MCA, does not earn leave or time toward the rate earned.

(2) An employee must be continuously employed for the qualifying period of 6 calendar months to be eligible to take or receive cash compensation upon termination for vacation leave. Unless there is a break in service, an employee is only required to serve the qualifying period once. After a break in service, an employee must again complete the qualifying period to be eligible to use annual vacation leave.

(3) Annual vacation leave credits accrue from the first day of employment. Leave credits may not be advanced nor may leave be taken retroactively.

(4) A seasonal employee's accrued vacation leave credits may be carried over to the next season, if management has a continuing need for the employee, or paid out as a lump-sum payment to the employee when the season ends, in accordance with ARM 2.21.232.

(5) If annual vacation leave credits are carried over, employment in two or more seasons is continuous employment and can be counted toward the 6-month qualifying period, provided a break in service does not occur. As provided in 2-18-611, MCA, a seasonal employee "must immediately report back for work when operations resume in order avoiding a break in service. Returning seasonal employees must report to work by the date and time specified by the agency to avoid a break in service.

(6) A person simultaneously employed in two or more positions in the same or in different agencies will accrue vacation leave credits in each position according to the number of hours worked. Vacation leave credits will be used only from the position in which are earned and with approval of the Supervisor or appropriate authority for that position.

(7) When a person who is simultaneously employed as provided in this rule exceeds the maximum accrual of vacation leave credits, the number of hours forfeited will be apportioned to each position in proportion to the balance of vacation credits for each position.

(8) Hours in pay status paid at the regular rate will be used to calculate leave accrual. Vacation leave credits will not accrue for those hours exceeding 40 hours in a workweek that are paid as overtime hours or are recorded as compensatory time hours. A full-time state employee shall not earn less than or more than the full-time annual leave accrual rate provided by ARM 2.21.223, except as provided in this rule,

(9) As provided in 2-18-611, MCA, "an employee may not accrue annual vacation leave credits while in a leave-without-pay status."

(10) Where an employee who has not worked the qualifying period for use of annual vacation leave takes an approved continuous leave of absence without pay exceeding 15 working days, the amount of time of leave of absence will not count toward completion of the qualifying period. The leave of absence exceeding 15 working days is not a break in service and the employee will not lose any accrued annual leave credits or lose credit for time earned toward the qualifying period. An approved continuous leave of absence without pay of 15 working days or less will be counted as time earned toward the 6-month qualifying period.

(11) When an employee who has been laid off elects to maintain annual leave credits, as provided in ARM 2.21.5007, the employee shall not take any accrued leave credits. The employee may take those annual leave credits if reinstated or reemployed by the same agency or another state agency pursuant to the State Employee Protection Act., 2-18-1201., MCA. The employee may elect to be cashed out at any time at the salary rate the employee earned at the effective date of lay-off. The employee shall be cashed out when the employee's rights under the State Employee Protection Act end. (History: Sec. 2.18.604, MCA, 2-18-611 and 2-18-617, MCA; NEW, 1980 MAT p. 2899, Eff. 11/15/80; AMD, 1985 MAR p.100, Eff. 2/1/85; AMD, 1986 MAT p. 101, Eff 1/31/86; AMD, 1997 MAR p. 1442, Eff. 8/19/97)

2.21.222 CALCULATING ANNUAL VACATION LEAVE CREDITS

(1) As provided in 2-18-612, MCA, "vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with any agency, whether the employment is continuous or not." For purposes of this rule, agency means, as provided in 2-18-601, MCA, "any legally constituted department, board, or commission of state, county, or city government of any political sub-division thereof."

(2) In accordance with 2-18-601, MCA, time as an elected state, county, or city official, as a schoolteacher, as an independent contractor or personal services contractor does not count toward the rate earned. For purposes of this paragraph, an employee of a school district or the university system is eligible to have school district or university employment time count toward the rate earned schedule if that employee was eligible for annual leave pursuant to 2-18-601, MCA, in the position held with the school district or university

system.

(3) As provided in 2-18-612, MCA, "(2) (a) For the purpose of determining years of employment under this section, an employee eligible to earn vacation credits under 2-18-611 must be credited with 1 year of employment for each period of:

2,080 hours of service following his date of employment; an employee must be credited with 80 hours of service for each biweekly pay period in which he is in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in the pay period; or

(ii) 12 calendar months in which he was in a pay status or on an authorized leave of absence without pay, regardless of the number of hours of service in any one month. An employee of a school district, a school at a state institution, or the university system must be credited with 1 year of service if he is employed for an entire academic year.

(b) State agencies, other than the university system and a school at a state institution, must use the method provided in subsection (2) (a) (i) to calculate year of service under this section."

(4) This method of calculating time is effective August 1, 1984. Prior to that date, an agency may have used different methods to accrue years of employment.

(5) Only regular hours in a pay status will count as hours worked toward the rate earned. Overtime hours (those in excess of 40 hours per workweek) will not count toward the rate earned.

(6) As provided in 2-18-614, MCA "a period of absence from employment with the state, county, or city occurring wither during a war involving the United States or in any other national emergency and for 90 days thereafter for one of the following reasons is considered as service for the purpose of determining the number of years employment used in calculation vacation leave credits under this section:

(a) having been ordered on active duty with the armed forces of the United States.

(b) voluntary service on active duty in the armed forces or on ships operated by or for the United States government; or

(c) direct assignment to the United States department of defense for duties related to national defense efforts if a leave of absence has been granted by the employer."

(7) The employee must have been employed by the state, immediately prior to serving with the armed forces and return to state service within 90 days after separation or discharge, must have been employed by a city immediately prior to serving with the armed forces and return to city service within 90 days *after* separation or discharge; or must have been employed by a county immediately prior to serving with the armed forces and return to county service within 90 days after separation or discharge.

(8) An agency shall require an employee to produce documentation of eligible previous public employment or military service time, which may be applied toward the rate earned. It will be the responsibility of the employee to supply documentation of any previous employment time or military service time to be counted toward the rate earned schedule.

(9) An employee who provides appropriate documentation of eligible previous public employment or military service shall have that time use to calculate the future leave accrual rate. The employee's leave credit balance and the employee's accrual rate shall not be adjusted retroactively. The employee shall begin earning leave at an adjusted scale, where appropriate, at the beginning of the next pay period after the agency receives documentation of prior eligible service.

(10) Where specific records of months or hours of employment are not readily available, the agency may approximate total service time, relying on the formula rule. (History: Sec 2-18-604, MCA; IMP, 2-18-611, 2-18-612 and 2-18-614, MCA; NEW, 1980 MAR p. 2899, Eff. 1/1/80 MAR p. 2889; AMD, 1985 MAT p. 100, Eff. 2/1/85; AMD; 1986 MAR p. 101, Eff. 1/31/86, AMD, 1997 ARM p. 1442, Eff. 8/1/97.)

2-21-223 PAY PERIOD ACCRUAL OF VACATION LEAVE CREDITS (1) if the employee is in a pay status at least 80 hours in a bi-weekly pay period, the employee accrues the number of hours of vacation leave credits indicated in the following schedule:

FULL-TIME BI-WEEKLY PAY PERIOD SCHEDULE

| <u>No. of Years Completed</u> <u>Years of Employment</u> | <u>80 hours or more in</u> <u>pay status per pay period</u> |
|---|--|
| 0-10 years | 4.62 hours |
| 10-15 years | 5.54hours |
| 15-20 years | 6.46 hours |
| 20 on | 7.38 hours |

(2) If an employee in a pay status less than 80 hours in a bi-weekly pay period, the employee accrues the number of hours of vacation leave credits calculated by using the applicable amount from the following schedule multiplied by the hours worked.

PART-TIME BI-WEEKLY PAY PERIOD SCHEDULE

| <u>No. of Years Completed</u> <u>Years of Employment</u> | <u>80 hours or more in</u> <u>pay status per pay period</u> |
|---|--|
| 0-10 years | .058 x No. hours |
| 10-15years | .069 x No. hours |
| 15-20years | .081x No. hours |
| 20 on | .092 x No. hours |

(3) When recording annual leave credits, they are to be rounded to two digits beyond the decimal point and carried in each employee's account in that configuration.

(4) Vacation leave credits are earned at the end of each bi-weekly pay period. An employee may take vacation leave credits at the start of the next bi-weekly pay period, provided the employee has worked the qualifying period. (History: Sec. 2-18-604, MCA; IMP, 2-18-612, MCA; NEW., 1980 MAR p.2899, Eff. 11/15/80; AMD, 1985 MAR ID. 100₁ Eff 2/1/85; AMD 1997 MAR p. 1442, Eff 8/19/97.)

2.21.224 MAXIMUM ACCRUAL OF VACATION LEAVE CREDITS

(1) In accordance with 2-18-617, MCA, an employee may accumulate two times the total number of annual leave credits the employee is eligible to earn per year, according to the rate earned schedule. Except as provided in this rule, excess vacation leave credits will be forfeited unless the credits are used by the employee within 90 calendar days from the last day of the calendar year in which the excess credits were earned.

(2) A department director or designee is responsible for actively managing vacation leave for agency employees by, as provided in 2-18-617, MCA, "providing reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave." Departments are encouraged to work with an employee who has an excess vacation leave balance as early as possible in the 90 -day window or at any time if the employee's leave balance exceeds two times the annual vacation actual rate in order to allow the employee to avoid forfeiture of excess leave.

(3) An employee is responsible for making reasonable, written request to use excess vacation leave during the 90-day window. A department may approve all, some or none of the employee's request by written response within no more than 5 working days from the receipt of the request. If the original request is not approved, the department and the employee may negotiate alternate dates during the 90-day window.

(4) For purposes of this section, reasonable means sufficient notice to take the excess vacation leave off before the forfeiture deadline.

(5) If the employing department denies all or any portion of the written request, the excess vacation leave if not forfeited and the employing agency must ensure that the employee may use the excess vacation leave before the end of the calendar year in which the leave would have been forfeited.

(6) The calculation of excess vacation leave credits (those credits which must be used within the first 90 days of the next calendar year) will be made as of the end of the first pay period, which extends into the next calendar year. (History: Sec. 2-18-604, MCA; IMP, 2-18-617, MCA; NEW 1980 MAR p.2899, Eff. 11/15/80; AMD, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1994 MAR p. 151, Eff. 1/28/94; AMD, 1997 MAR p. 1442, Eff. 8/19/97)

2.21.225 PROHIBITED USE OF VACATION LEAVE CREDITS (REPEALED) (History: Sec. 2-18-604, MCA; IMP, 2-18-611 and 2-18-612, MCA; NEW, 1980 MAR p.2899, Eff. 11/15/80, REP, 1985 MAR p. 100, Eff. 2/1/85.)

2.21.226 RATE OF SALARY COMPENSATION (1) An employee on authorized vacation leave will be entitled to the employee's normal gross salary. (History; Sec 2-18-604, MCA, IMP 2-18-611 and 2-18-612, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD 1985 MAR p. 100 Eff. 2/1/85.)

2.21.227 VACATION LEAVE REQUESTS (1) As provided in 2-18-616, MCA, "the dates when Employees' annual vacation leaves shall be granted shall be determined by agreement between each employee and his employing agency, with regard to the best interested of the state...as well as the best interests of each employee.' Where the interest of the state requires the employee's attendance, the state's interest overrides the employee's interest. However, as provided in 2-18- 617, MCA, the agency must provide reasonable opportunity for an employee to use rather than forfeit accumulated vacation leave.

(2) An agency shall establish procedures for application for and approval of annual vacation leave in compliance with requirements of this policy.

(3) When approving an employee's request to take annual vacation leave, a supervisor must consider whether the combination of hours worked and annual leave taken will result in more than 40 hours in a pay status in a workweek. Normally, a supervisor shall only approve annual vacation leave that results in an employee receiving pay for 40 hours in a workweek. At any time during the workweek, management may adjust the amount of annual leave taken to maintain a 40- hour workweek.

(4) When it is in the best interest of the agency, management may approve annual leave in combination with time worked that result in more than 40 hours in a pay status in a workweek.

(5) In no case may the number of hours of annual leave taken exceed the number of hours the employee is regularly scheduled to work.

(6) Vacation leave must be taken in minimum increments of one-half hour. (History: Sec. 2- 18-604, MCA; IMP, 2-18-616, MCA; NEW, 1980 MAR p/ 2889, Eff. 11/15/80; AMD, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1994 MAR p. 151, Eff. 1/28/94; AMD 2000 MAR p. 1628, Eff. 6/29/00.)

2-21-233 USING ACCRUED VACATION TO DELAY EFFECTIVE DATE OF TERMINATION (REPEALED). (History: Sec. 2-18-604, MCA; IMP, 2-18-611, MCA; NEW, 1980 MAR p. 2899, Eff. 11/15/80; AMD, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1994 MAR p. 151, Eff. 1/28/94; AMD 2000 MAR p. 100, Eff. 2/1/85.)

2.21.343 TRANSFERS (1) As provided in 2-18-617 (3), MCA, "...if an employee transfer between agencies of the same jurisdiction, cash, compensation may not be paid for unused vacation leave. In such a transfer, the receiving agency assumes the liability for the accrued vacation credits transferred with the employee."

(2) If a break in service in excess of 5 working days occurs during a change in employment between agencies or the employee accepts a position in another jurisdiction, the employee must receive a lump-sum payment for accrued vacation leave credits and must begin anew the qualifying period for use of leave at the new agency or jurisdiction. . (History: Sec. 2-18-604, MCA; IMP, 2-18-617, MCA; AMD, 1985 MAR p. 100, Eff. 2/1/85; AMD, 1994 MAR p. 151, Eff. 1/28/94.)

2.21.410 SHORT TITLE (1) This sub-chapter may be cited as the military leave policy. (Eff.

11/11/82.)

2.21.411 POLICY AND OBJECTIVES (1) It is the policy of the state of Montana to provide leave for an employee to attend training camp or other similar training of the organized militia of the state or the military forces of the United States or to attend regularly scheduled training, such as drills.

(2) It is the objective of this policy to provide leave in accordance with provisions of 10-1-604, MCA; to comply with chapter 43 of part III of title 38, U.S. code; and to comply with article IV, section 13, constitution of the State of Montana. (Eff. 11/11/82.)

2.21.412 DEFINITIONS As used in this subchapter, the following definitions apply:

(1) "Employees" means any employee of the State of Montana, who has served the qualifying period,

(2) "Military Leave" means a leave of absence with pay of up to 15 working days in any calendar year at attend regular encampments, training cruises, and similar active duty training of the organized militia of the State or of the military forces of the United States.

(3) "Qualifying period," means a 6 calendar month period of continuous employment, which an employee must complete to be eligible to receive military leave. (Eff. 11/11/82.)

2.21.413 ELIGIBILITY (1) A permanent, seasonal, or temporary full-time employee, who is a member of the organized state militia or the military forces of the United States and who has completed the qualifying period, is eligible to receive up to 15 working days per calendar year of military leave.

(2) A permanent, seasonal, or temporary part-time employee, who is a member of an organized state militia or the military forces of the United States and who has completed the qualifying period, is eligible to receive prorated military leave.

(3) As provided in 10-2-604, MCA, "this leave may not be charged to the employee's annual vacation time."

(4) An employee who has not completed the qualifying period is not eligible to receive military leave; however, the employee must be given leave without pay to attend encampments, cruises, or other similar training. (Eff. 11/11/82.)

2.21.414 RATE OF COMPENSATION (1) An employee on military leave receives the regular gross salary and benefits. (Eff. 11/11/82)

2.21.415 LEAVE NOT CUMULATIVE (1) Military leave, which is not used in one calendar year, may not be carried over to the next calendar year.

2.21.416 REQUESTS FOR LEAVE (1) An agency shall establish procedures for the application for and approval of military leave,

2.21.417 MILITARY LEAVE TAKEN OVER A HOLIDAY (1) Military leave taken over a legal holiday may not be charged to an employee's account. (Eff. 11/11/82.)

2.21.218 MEMBERS OF THE NATIONAL GUARD OF THE STATE OF MONTANA

(1) Employees of the State of Montana who are members of the National Guard of the State of Montana may be ordered to active federal and state service by competent authority to aid in the execution of the laws, suppress insurrection, repel invasion, or protect life and property in natural disasters as provided in Article VI, Section 13 of the Constitution of Montana.

(2) When ordered to active duty for such exigencies, state employees shall have the option of taking annual vacation leave or being placed in a leave without pay status. A State employee order to active federal or state service by competent authority is not an "affected employee" as defined in rule 2.21.306, ARM, relating to disaster and emergency leave.

(3) If the employee elects to take leave without pay during the period for which ordered to active duty by the Montana National Guard, the employee shall continue to accumulate annual vacation leave, sick leave, and other employee benefits when employed by the department of military affairs even if it extends beyond 15 working days, since the employee is paid from State monies for the time on active duty. (Eff 11/11/82.)

2.21.419 ACCOMMODATING REQUIRED DUTY (1) An agency must allow an employee to take time off to attend any required duty for which the employee presents the appropriate military orders.

(2) An agency may, at its discretion, allow an eligible employee to take military leave to cover active duty training other than encampments or cruises, for example, basic training, when an employee presents appropriate orders.

(3) Military leave shall not be taken for regularly scheduled drills.

(4) An agency is not required to allow an employee to make up any regular or overtime hours missed as a result of attending training such as drills. (Eff. 11/11/82.)

ADDENDUME — JURY DUTY

2.21.501 INTRODUCTION (1) As defined by statute (2-18-619, MCA), a state employee shall be eligible to serve as a witness or to serve on jury duty when properly subpoenaed or summoned. (History: Sec 2-1 8-1 02 and 2-18-604, MCA; IMP 2-18-619MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

2.21.502 DEFINITIONS (1) "Employee" means any person employed by the state of Montana on a permanent, temporary, full-time, part-time, or seasonal basis. This does not include an individual under contract with the state as an independent contractor.

(2) "Jury Duty leave" means an approved leave of absence with pay for an employee who has been properly summoned to serve as a juror in a court or judicial proceeding.

(3) "Witness Leave" means a leave of absence with pay for an employee who has been properly summoned to serve as a juror in a court or judicial proceeding, or administrative proceeding. (History: Sec. 2-1 8-1 02 and 2-18-604, MCA, IMP, 2-18-619 MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

2.21-503 RATE OF COMPENSATION (1) An employee on authorized Jury Duty or witness leave shall receive his/her normal gross salary/wage. An employee shall collect all fees and allowances payable as a result of serving on Jury Duty or as a Witness and forward the fees to his/her payroll clerk within 3 days of receiving them. Any expense or mileage allowance paid by the court shall be retained by the employee if the employee is using his/her personal vehicle. If the employee chooses to charge his/her juror or witness time off against his/her annual leave or compensatory time, he/she shall also keep all juror or witness fees paid by the court.

(2) A part-time employee will receive pro-rated compensation for those hours he/she is usually scheduled to work. History: Sec. 2-18-102 and 2-18-604, MCA, IMP 2-18-619 MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

2.21.504 BENEFITS ACCRUAL (1) An employee who is properly serving as a witness or on jury duty will continue to earn and accrue all benefits that the employee would normally earn. History: Sec. 2-18-102 and 2-18-604, MCA, IMP, 2-18-619 MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

2.21.505 ABSENCES (1) An employee shall complete an employee request form and inform his/her immediate supervisor of the date and anticipated length of absence as soon as possible after being summoned or subpoenaed. An employee should also furnish a copy of the summons or subpoena with the leave request form. Authorized jury duty or witness leave may only be charged against the employee's annual vacation time or accrued compensatory time at the employee's option.

(2) Agencies must document in writing jury duty leave or service as a witness on the employee's leave record. History: Sec. 2-1 8-1 02 and 2-18-604, MCA, IMP, 2-18-619 MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

2-21-506 REQUEST TO BE EXCUSED FROM JURY DUTY (1) Agency heads or their designee may request the court to excuse their employees from jury duty if those employees are needed for the proper operation of the agency. In view of this provision, all requests to excuse an employee from jury duty for this reason should cite 2-18-619, MCA, and must be signed by the employee's department director or agency head. History: Sec. 2-18-102 and 2-18-604, MCA, IMP, 2-18-619 MCA; NEW, 1977 MAR p. 720, Eff. 10/25/77.)

ADDENDUM F
INFORMATION REGARDING FAMILY AND MATERNITY LEAVE
FAMILY MEDICAL LEAVE

The Federal Family Medical Leave Act of 1993 (FMLA) allows, "eligible employees of a "covered" employer to take job protected, unpaid leave, or to substitute appropriate paid leave if the employee has earned or accrued it, for up to a total of twelve work weeks in any twelve month period because of child birth, care of a newborn child, adoption or placement of a child for foster care, care for a family member (child, spouse, or parent) with a serious medical condition or because the employee's own serious health condition makes the employee unable to perform his/her job. In certain cases, this leave may be taken in intermittent basis or the employee may be allowed to work a par-time schedule. During this leave period, the employee is also entitled to have health benefits maintained as though the employee were working instead of taking leave. At the conclusion of the leave, the employee generally has the right to return to the same position or an equivalent position with equivalent pay, benefits, and working conditions. **Missoula County Public Schools are covered by the act, however, only those employees who have been employed for at least one year and who have worked for 1,250 hours during the preceding twelve months are eligible. (29 CFR 825.100 et, seq.)** The Act is administered by the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, 200 Constitution Avenue, North West, Washington D.C. 20201, telephone (202) 219-4753.

MATERNITY LEAVE

Section 49-2-301(1) MCA provides that it is unlawful for an employer to terminate a woman's employment because of her pregnancy. Section 49-2-310(2), MCA provides that it is unlawful for an employer to refuse to grant an employee a reasonable leave of absence for pregnancy. In determining the standards of reasonableness, which shall apply to a request for a leave of absence for any other valid medical reason. Section 49-2-310(5), MCA provides that an employee may not be required to take maternity leave for an unreasonable length of time. The reasonableness of the length of time for which an employee is required to take maternity leave shall be determined on a case by basis. Section 49-2-311, MCA requires that an employee who has signified her intent to return at the end of her maternity leave shall be reinstated to her original job or an equivalent position. (ARM 24-9-1201 et, seq.) The Maternity Leave Act is administered by the Montana Human Rights Commission, Montana Department of Labor and Industry, P.O. Box 1728, Helena, Montana 59624-1728, telephone (406) 444-2884.