

MSAD #49
Procedure for Maine's Earned Paid Leave (EPL)

EARNED PAID LEAVE FOR NON-UNIONIZED EMPLOYEES

Maine has enacted a new law (effective January 1, 2021) which provides earned paid leave for employees. This earned paid leave may be used for any purpose, and to the extent that the leave qualifies for paid leave under another leave policy, law or individual employment agreement (such as ebt, sick leave, personal leave or vacation, as may be applicable), earned paid leave and the other type of leave will run concurrently.

The new law states that an employer that employs more than 10 employees in the usual and regular course of business for more than 120 days in any calendar year shall permit each employee to earn paid leave based on the employee's base pay. An employee is entitled to earn one hour of paid leave from a single employer for every 40 hours worked, up to 40 hours in one year of employment. Accrual of leave begins at the start of employment, but the employer is not required to permit use of the leave before the employee has been employed by that employer for 120 days during a one-year period. *Source: MDOL Labor Poster*

For employees covered by a CBA that addresses paid time off, the law does not apply until the expiration of the current CBA. Accordingly, applicable employees should refer to the provisions for paid leave in the CBA and follow the school unit's procedures for requesting and/or accounting for paid leave.

A. Accrual

1. Employees shall accrue one hour of earned paid leave for every forty (40) hours worked, beginning with the first day of employment, up to a maximum of forty (40) hours per year. The amount accrued per hour is 0.025.
2. All full time year round hourly employees and exempt salaried full time year round employees will earn at the rate indicated in A(1) however, they will receive their full 40 hours of earned paid leave accrual on the first day of their contract, wage statement, or agreement year (also known as front-loaded). For the calculation of hours worked for exempt salaried full time employees, e.g. supervisors and administrators, they will be presumed to work 40 hours per week unless indicated otherwise in their contract.
3. Hours worked is defined as hours when an employee is physically working. Earned paid leave is not counted as hours worked and will not be eligible to create overtime pay.
4. Employees may not use earned paid leave until they have been employed for 120 calendar days. New employees that are front loaded may not use their EPL until the 120-day employment requirement has been met. Start of Employment is defined as the first day the employee performed work for the employer.

5. The designated year for purposes of accrual and use shall be aligned with the employee's year defined in their contract, wage statement, or agreement. For all categories of temporary employees, or substitutes, the designated year for purposes of accrual and use will run July to June.

B. Allowable Uses and Notice Requirements

Earned paid leave may be used for any purpose, but the notice requirements differ between planned and emergency purposes. Earned paid leave cannot be used before it is earned, and must be taken in one (1) hour increments. For example, if an employee has a planned doctor's appointment and has to leave 15 minutes early, you would be required to use one hour of EPL but only the time needed to bring you to your full day will be paid. It cannot create a situation where you will exceed your weekly regularly scheduled hours. Earned paid leave can only be used for scheduled work hours.

1. **Emergency Purpose:** Earned paid leave may be used for a sudden emergency, sudden illness or injury, or other sudden necessity for which the employee does not have advance notice; is beyond the employee's control to schedule; and is otherwise unforeseeable. Examples include, but are not limited to, sudden illness or injury; car accident; unanticipated childcare closure; or residential issues such as burst pipes. In such cases, the employee is required to notify their supervisor as soon as practicable in the circumstances.

The supervisor will request a general description of the need for any unplanned leave. The supervisor will request appropriate documentation demonstrating the necessity of using earned paid leave for emergency purposes if an employee requests such leave for three consecutive days or more. Any such use of earned paid leave shall run concurrent with any other type of leave for which the employee is eligible for this purpose (such as ebt, sick, personal or vacation leave).

2. **Planned Purpose:** Employees shall provide at least four weeks' advance, written notice to their supervisor to use earned paid leave for a purpose that can be planned. Examples include, but are not limited to, wedding/social event, vacation or recreational activity. Any such use of earned paid leave shall run concurrent with any other type of leave for which the employee is eligible for this purpose.

Planned earned paid leave cannot be used on the days determined by the supervisor to conflict with operational needs of the district. Situations that conflict with operational needs would include but are not limited to: using planned leave on more than one consecutive student seat day, on planned professional development days, on days when substitutes or coverage is not available, on days that extend a vacation or long weekend, or on any blackout days identified for groups of employees. Additionally, no more than two employees from the same classification may have planned earned paid leave on the same day(s).

Current Blackout Dates by Group:

** Groups covered by a current CBA are not listed at this time

Daycare:

- The last week of school
- The first week of summer

- The last week of summer
- The first week of school

Technology

- The first two weeks of school
- The last two weeks of school

Central Office Staff:

- TBD based on annual needs: i.e. budget process, annual audit, software implementations, school needs, etc.

Administration:

- The first two weeks of school
- The last two weeks of school

Temporary Summer Work Staff:

- The first two weeks of summer work
- The last two weeks of summer work

C. Payment of leave

The employee will be paid the same base rate of pay that the employee received the week immediately prior to taking the Earned Paid Leave. For hourly employees with multiple base rates of pay, the base rate is determined by dividing total straight-time earnings for the week by the total hours worked. NOTE: half-time wages associated with overtime pay is excluded from the definition of “regular rate” and therefore not included in the base rate calculation. For salaried employees, the base rate of pay is the hourly equivalent of their salary. Salaried employees are presumed to be 8 hours a day (40 hours a week) unless otherwise indicated in their contract.

D. Carryover

Up to forty (40) hours of unused, accrued earned paid leave may be carried over to the next calendar year. However, the amount of leave that an employee may accrue in that year will be reduced by the number of hours that are carried over. For example, if an employee carries over eight (8) hours of earned paid leave from one year to the next, that employee shall only be eligible to earn thirty-two hours (32) in the second calendar year. Employees who have their time front loaded are not eligible for carryover days as they will receive their full allotment of hours at the start of every year. At no time will an employee be allowed to utilize more than 40 hours of EPL in a year.

E. Separation and Returning to Employment

1. When leaving employment with the District, any accrued unused earned paid leave will not be paid to employees upon termination or resignation, and it may not be used to extend an employee’s employment beyond the last day actually worked. Earned paid leave has no cash value.
2. An employee who returns to employment with MSAD #49, in any position, within one calendar year (365 days) of their last date of work will have their earned paid leave balance restored.
3. If earned paid leave was front-loaded and leave was taken before it was earned this leave may be pro-rated and deducted from the final paycheck.