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**Appendix A**

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**MISSION STATEMENT**

**La Tierra Montessori School of the Arts and Sciences will provide students and their families in the Española region the opportunity to improve educational outcomes utilizing an integrated approach that includes Montessori, the Arts and the Sciences.**

**Governing Council AGENDA**

LTMAS GOVERNING COUNCIL MEETING:

**Monday, May 23, 2022 at 5:30 p.m.**

Join **Zoom** Meeting

Topic: LTMAS Governing Council Board Meeting

Meeting ID: 846 3992 0596

Passcode: LTMASGC

Dial by your location

+1 312 626 6799 US (Chicago)

+1 346 248 7799 US (Houston)

Meeting ID: 846 3992 0596

Passcode: 0800701

*\*\*The recording of this meeting will be maintained on file.*

**I.** Call meeting to order.

**II.** Roll Call: Quorum Needed is 3

<b>Seat</b>	<b>Name</b>	<b>Position</b>	<b>Present/ Absent</b>
1	Willie Williams	Chair	
2	Isaac Casados	Vice Chair	
3	Brenda Atencio	Secretary	
4	Delisha Gordon	Member	
5	Charlie Riddick	Member	
6	Position to be filled	Open	
7	Position to be filled	Open	
8	Position to be filled	Open	

**III.** Vote on approval of Today's Agenda & Meeting Minutes. (ACTION\*) - Approve Meeting Minutes of April 25th (Regular Board Meeting).

**IV.** President's Report (10 minutes)

**V.** Head Learner's Report (15 minutes)

**VI.** Financial Report (10 minutes)

**VII.** PTSO Report (10 minutes)

**VIII. Public Comment (5 minutes each)**

**IX. New Business (30 minutes)**

- a. Purchase Orders and Contracts
- b. Procurement and Reimbursement Policy
- c. Separation of Duties
- d. Audit Committee
- e. 2022-2023 School Calendar (ACTION\*)
- f. Grants (ACTION\*)

**X. Unfinished Business (30 minutes)**

- a. Board Retreat - Complete
- b. Contract Renewal paperwork - Complete
- c. Contracts – Other
- d. Digital Signature software purchase – Adobe
- e. LTMAS Governing Council Zoom Account / LTMAS Website Access

**XI. Executive Session (NO ACTION\*)**

**XII. Adjourn (ACTION)\***



## **POLICY 200 - Personnel Policy Statement**

The personnel policies of the La Tierra Montessori School of the Arts and Sciences are an essential part of the program of public education in the community. Through its policies, the Governing Council wishes to establish conditions that will attract and hold the highest qualified personnel who will devote themselves to the education and welfare of our students.

The Governing Council encourages cooperative efforts by the administration and employees or their representatives in the development of personnel policies and regulations. Provisions for the implementation of adopted personnel policies should include channels of communication and procedures for the handling of professional and ethical problems, through which all persons or groups affected, may voice their opinion.

To achieve the above purposes, the Administrator is directed to establish related procedures as needed.

## **POLICY 201 - Nondiscrimination Policy**

La Tierra Montessori School of the Arts and Sciences is an Equal Opportunity employer. It is the policy of the school not to discriminate against any employee or applicant for employment because of race, color, religion, age, sex, handicap, national origin, ancestry, physical disability, marital status, sexual preference, gender identity or political affiliation. The school promotes the principle of equal employment opportunity.

Accordingly, all recruiting, hiring and promoting is made without regard to race, color, religion, age, sex, handicap, national origin, ancestry, physical disability, marital status, sexual preference, gender identity or political affiliation, except where relevant to a bona fide occupational qualification. The school makes diligent efforts to assure that all personnel actions, such as recruitment, job advertising, employment, rates of pay or other forms of compensation, promotion, transfer, demotion, furlough, termination, discharge, selection for training, discipline, or any rule, regulation or policy relating to the terms and conditions of employment will be administered without regard to race, color, religion, age, sex, handicap, national origin, ancestry, disability, marital status, sexual orientation, gender identity, or political affiliation, except where relevant to a bona fide occupational qualification.

## **POLICY 202 - Educators' Code of Ethics**

The Governing Council expects all staff to instill the highest ethical standards in the students and therefore, expects employees to model the highest ethical standards. Instructional and administrative staff are expected to conduct themselves according to the professional standards established in the following Code of Ethics for the educational profession.



# **La Tierra Montessori School of the Arts and Sciences**

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### RESPONSIBILITY OF THE EDUCATION PROFESSION

*In fulfilling his/her obligation to the student, the educator shall:*

1. Deal justly and considerately with each student.
2. Encourage the students to study and express varying points of view and respect his/her right to form his/her own judgment.
3. Conduct conferences with or concerning students in an appropriate place and manner.
4. Seek constantly to improve learning facilities and opportunities.

*In fulfilling his/her obligation to the community, the educator shall:*

1. Share the responsibility for improving the educational opportunities for all.
2. Acknowledge the right and responsibility of the public to participate in the formulation of educational policy.
3. Evaluate through appropriate professional procedures, conditions within the school, make known serious deficiencies, and take action deemed necessary and proper.
4. Assume full political and citizenship responsibilities, but refrain from exploiting the privileges of our professional positions to promote political candidates of partisan activities.
5. Protect the educational program against undesirable infringement.

*In fulfilling his/her obligation to the profession, the educator shall:*

1. Recognize that a profession must accept responsibility for the conduct of its members and understand that one's own conduct may be regarded as representative of the profession.
2. Participate and conduct oneself in a responsible manner in the development and implementation of policies affecting education.
3. Cooperate in the selective recruitment of prospective teachers and in the orientation of student teachers, interns, and those colleagues new to their positions.
4. Accord just and equitable treatment to all members of the profession in the exercise of their professional rights and responsibilities.
5. Refrain from assigning professional duties to nonprofessional personnel when such assignment is not in the best interest of the student.
6. Refrain from exerting undue influence based on the authority of one's position in the determination of professional decisions by colleagues.
7. Keep the trust under which confidential information is exchanged.
8. Make appropriate use of the time granted for professional purposes.
9. Interpret and use writings of others and findings of educational research with intellectual honesty.
10. Maintain integrity when dissenting by basing public criticism of education on valid assumptions as established by careful evaluation of the facts.



## La Tierra Montessori School of the Arts and Sciences

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11. Respond accurately to requests for evaluation of colleagues seeking professional positions.
12. Provide applicants seeking information about a position with an honest description of the assignment, the conditions of work and related matters.

*In fulfilling his/her commitment to professional employment practices, the educator shall:*

1. Apply for or offer a position on the basis of professional and legal qualifications.
2. Apply for a specific position only when it is known to be vacant and refrain from such practices as underbidding or commenting adversely about other candidates.
3. Fill no vacancy except where the terms, conditions and policies are known.
4. Adhere to and respect the conditions of a contract or to the terms of an appointment until either has been terminated legally or by mutual consent.
5. Give prompt notice of any change in availability of service, in status of applications or in change of position.
6. Conduct professional business through recognized educational and professional channels.

**References: SBE regulation 6.60.9 NMAC**

### **POLICY 203 - Standards of Professional Conduct**

The La Tierra Montessori School of the Arts and Sciences Governing Council acknowledges that ethical values among students cannot exist without moral values among educators. The Governing Council is therefore committed to a code of professional conduct and understands that it provides minimally accepted standards of professional conduct in education.

#### DUTY TO THE STUDENT

Ethical leadership requires licensed educators to teach not only by use of pedagogical tools, but by consistent and justifiable personal example. To satisfy this obligation, educators:

1. Shall withhold confidential student records or information about a student or his/her personal and family life unless the release of information is allowed, permitted by the student's parents(s)/legal guardian, or required by law.
2. Shall not discriminate or permit students within the school to discriminate against any other student on the basis of race, color, national origin, ethnicity, sex, sexual orientation, gender identity, disability, religion or serious medical condition.
3. Shall not exploit or influence a student to engage in an illegal act, immoral act, or any other behavior that would subject the employee or student to disciplinary measures for misconduct.
4. Shall not give a gift to any one student unless all students situated similarly receive or



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are offered gifts of equal value for the same reason.

5. Shall not lend a student money except in clear and occasional circumstances as where a student may go without food or beverage or be unable to participate in a school activity without financial assistance. Shall not have inappropriate contact with any student, whether or not on school property.
6. Shall not harass a student or permit students within the school to harass any other student.

### DUTY TO THE PROFESSION

The educational profession has been vested by the public with an awesome trust and responsibility therefore all educators within the La Tierra Montessori School of the Arts and Sciences:

1. Shall not make a false or misleading statement or fail to disclose a material fact in any application for educational employment or licensure.
2. Shall not orally or in writing misrepresent any professional qualifications.
3. Shall not assist persons into educational employment whom are known to be unqualified in respect to character, education or employment history.
4. Shall not make a false or misleading statement concerning the qualifications of anyone in or desiring employment in education.
5. Shall not permit or assist unqualified or unauthorized persons to engage in teaching or other employment within a school.
6. Shall not disclose personal, medical or other confidential information about other educational colleagues to anyone unless disclosure is required or authorized by law.
7. Shall not knowingly make false or derogatory personal comments about an educational colleague, although First Amendment protected comments on or off campus are not prohibited.
8. Shall not accept any gratuity, gift, meal, discount, entertainment, hospitality, loan, forbearance, favor, or other item having monetary value whose market value exceeds \$100 and which compromises the integrity of the educator, excluding approved educational awards, honoraria, plaques, trophies, and prizes.
9. Shall avoid conduct connected with official duties that is unfair or is improper, illegal or gives the appearance of being improper or illegal.
10. Shall not sexually harass any employee, school visitor or anyone else encountered in the course of official duties.
11. Shall attend workplace harassment training.
12. Shall not engage in inappropriate displays of affection, even with consenting adults, while on school property or during school events off campus.
13. Shall not use public school property or work time to conduct personal business or personal affairs.
14. Shall use educational facilities and property only for educational purposes or purposes





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- for which they are intended consistent with applicable policy, law and regulation.
15. Shall not discriminate against any school employee, or any other person with whom one has any dealings or contact in the course of official duties, on the basis or race, color, national origin, ethnicity, sex, sexual orientation, gender identity, disability, religion, or serious medical condition.
  16. Shall not engage in any outside employment which conflicts with one's school duties or impairs one's physical ability to perform the required school duties effectively.
  17. Shall not, with the intent to conceal/confuse a fact, change or alter any writing or encourage anyone else to change or alter any document.
  18. Shall not in connection with any approved teacher test knowingly make any misrepresentations about one's identity, or engage in any false or deceptive acts of test-taking or test-registering.
  19. Shall not, when on school property or off campus while representing the school or attending a school function, engage in violent, abusive, indecent, profane, boisterous, unreasonably loud or otherwise disorderly conduct, which tends to disturb the peace.
  20. Shall not, without just cause, restrain students from independent action in the pursuit of learning, shall not, without just cause, deny students access to varying points of view.
  21. Shall not deliberately suppress or distort subject matter for which he/she bears responsibility.
  22. Shall make reasonable effort to protect students from conditions harmful to learning or to health and safety.
  23. Shall conduct professional business in such a way that students are not exposed to unnecessary embarrassment or disparagement.
  24. Shall teach the assigned curriculum.
  25. Shall not use professional relationships with students for private advantage.
  26. Shall not misrepresent the institution or organization with which he/she is affiliated, and shall take adequate precautions to distinguish between personal and institutional or organizational views.
  27. Shall not distort or misrepresent the facts concerning educational matters in direct and indirect public expression.
  28. Shall conduct professional business through the appropriate chain of command.

**References: SBE regulation 6.60.9 NMAC A.**

### **POLICY 204 - Applicant Background Investigations**

La Tierra Montessori School of the Arts and Sciences will conduct work and education investigations and personal reference inquiries on each applicant recommended for hire, including but not limited to, substitutes, temporaries, and finalists for position vacancies. Each applicant must sign a statement which authorizes the School to inspect and/or obtain copies of any arrest fingerprint-card-supported record of information maintained by the State Department of Public Safety, including information concerning felony or misdemeanor arrests



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pursuant to NMSA 1978, Section 29-10-6 (A) of the New Mexico Arrest Record Information Act, and as maintained in any other state in which an applicant resides/resided. This arrest record investigation will be conducted at the candidate's expense and is a condition of further consideration for employment.

The signed statement shall also include acknowledgements by the applicant:

1. that the person's application reveals any and each prior felony conviction(s), and
2. that the applicant understands that the School may, at its discretion, make inquiries about the applicant with persons other than the persons listed as references.

Any offer of employment is contingent upon the satisfactory completion of all background investigations.

Criminal convictions shall not automatically bar an applicant from obtaining employment with the La Tierra Montessori School of the Arts and Sciences. However, pursuant to the Criminal Offender Employment Act, NMSA 1978, §§ 28-2-1 et seq. and any other applicable state or federal law, certain prior criminal convictions may be the basis for refusing employment.

With regard to existing employees, the School may conduct background investigations if the School becomes aware of facts, circumstances or conduct giving rise to a reasonable suspicion that the employee has a history that, if substantiated, may adversely affect their fitness to continue employment with the School.

**Reference: NMSA 1978, Section 29-10-6 (A) of the NM Arrest Record Information Act  
Criminal Offender Employment Act, NMSA 1978, §§ 28-2-1 et seq.**

### **POLICY 205 - Qualifications for Licensed Employees**

All persons employed to administer, teach, supervise, counsel or provide special instructional services in La Tierra Montessori School of the Arts and Sciences shall hold and present to the School within ninety (90) days after the beginning of the school year a valid New Mexico license authorizing that person to perform that function. Failure to present such license within the prescribed time leads to forfeiture of all claims to compensation rendered thereafter.

Each licensed employee shall comply with and enforce all laws, regulations and policies applicable to the La Tierra Montessori School of the Arts and Sciences; if instructing, teach the courses prescribed; exercise supervision over students on La Tierra Montessori School of the Arts and Sciences property and while students are under the control of the La Tierra Montessori School of the Arts and Sciences; and furnish such reports and attend such meetings as may be required.



## **POLICY 206 - Job Descriptions**

The Administrator is charged with the responsibility for creating job descriptions for all classes of employees. It is the Governing Council's desire that the job descriptions:

1. assist employees to meet their duties and responsibilities,
2. assist employees and supervisors in the employee evaluation process,
3. encourage the cooperation and collaboration among and between employees needed for maximum efficiency and effectiveness in achieving the work of the School, and assist the School in meeting its responsibilities under the Americans with Disabilities Act.



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### **POLICY 207 - Administrator of Schools**

The Administrator is the chief administrative officer of the La Tierra Montessori School of the Arts and Sciences.

The Administrator is responsible to and shall serve under the direction of the Governing Council.

The Administrator shall assume the responsibility and be given the authority for the operation of the school. This responsibility extends to business and administration, educational leadership, personnel, management, public relations, organization of resources, both material and personnel, delegation of duties and authority, and supervision of all delegated tasks and of all individuals to whom authority and responsibility are assigned.

The Governing Council will meet regularly, but no less than twice a year, with the Administrator to discuss the Administrator's job performance.

The Administrator's salary shall be determined annually by the Governing Council.

The Administrator is responsible, in accordance with state standards, regulations, statutes and local school policies, for the organization, administration, supervision and outcomes of the school.

The Administrator shall meet New Mexico State Licensure requirements for the position.

### **POLICY 208 - Evaluation of Employees**

The Administrator shall provide a system of periodic evaluation for all employees of the school, with written reports prepared and reviewed with each employee and kept on file. The plan for evaluation for each class of employees shall meet any state regulatory or statutory requirements.

The employee's supervisor is responsible for preparing the periodic evaluation. No evaluation report shall be placed in an employee's file without review and discussion between the employee and the employee's supervisor.

An employee in disagreement with the contents of the evaluation report may submit a written rebuttal to be attached to the report and kept on file. Such a rebuttal must be submitted within five (5) school days of the evaluation review.

### **POLICY 209 - Employment, Assignment, Re-Employment, Termination of**



## **Employees**

The employment, re-employment and termination of employees other than the Administrator is the responsibility of the Administrator. Employment of the Administrator is the responsibility of the Governing Council.

## **POLICY 210 - Reemployment, Termination, Discharge of Certified School Employees**

On or before the 14<sup>th</sup> calendar day before the end of the school year, the Administrator shall serve written notice of reemployment or termination on each licensed school instructor employed by the La Tierra Montessori School of the Arts and Sciences. The notice of reemployment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to reemploy for the ensuing school year. Failure of the School to serve a written notice of reemployment or termination on a licensed school instructor shall be construed to mean that notice of reemployment has been served upon the person for the ensuing school year according to the terms of the existing employment contract but subject to any additional compensation allowed other licensed school instructors of like qualifications and experience employed by the School.

Each licensed school instructor shall deliver to the Administrator a written notice of acceptance or rejection of reemployment for the ensuing school year within fifteen (15) days of the following:

1. The date written notice of reemployment is served upon the person; or,
2. The last day of the school year when no written notice of reemployment or termination is served upon the person on or before the last day of the current school year.

In both instances, the offer of reemployment shall be deemed revoked if the employee has not returned an acceptance by the end of the 15<sup>th</sup> calendar day, unless extended in writing by the Administrator.

### TERMINATION

Termination for certified instructors means that the instructor's contract was not renewed for the following school year.

All procedures and required timelines regarding the rights of terminated certified school instructors referred to in the following paragraphs are detailed in NMSA 1978, 22-10A-24, copies of which are on file and available in the Administrator's office.

A certified school instructor who has been employed by the La Tierra Montessori School of the Arts and Sciences for three consecutive years may be terminated only for just cause or a reason that is rationally related to the employee's competence or turpitude or the proper performance of duty and that is not in violation of the employee's civil or constitutional rights. An employee who has received notice of termination may request an opportunity to make a statement to the Governing Council and may also request in writing the reasons for the

termination action, as provided by law. Neither the Administrator nor the Governing Council shall publicly disclose its reasons for termination.

The employee may be granted a hearing before the Governing Council, as provided by law, under the contention that the decision to terminate was made without just cause. If the employee requests a hearing before the Governing Council within 5 working days from the date the employee receives notice of termination, the employee's termination will not be effective until the Governing Council rules. If the employee is still aggrieved by the decision of the Governing Council following the hearing, the law provides that an appeal may be made to an independent arbitrator for a *de novo* hearing. The arbitrator shall decide whether there was just cause for the decision to terminate.

The Governing Council may decline to re-employ a certified school instructor with less than three years of consecutive service with the La Tierra Montessori School of the Arts and Sciences, in the same classification, for any reason it deems sufficient. Upon request of the certified school instructor, the Administrator shall provide written reasons for the decision to terminate. The

Administrator or Governing Council shall not publicly disclose the reasons. The reasons shall not provide a basis for contesting the decision.

#### DISCHARGE

A certified school employee may be discharged during the school year only for a reason that is rationally related to the employee's competence or turpitude or the proper performance of duty and that is not in violation of the employee's civil or constitutional rights.

The Administrator shall serve a written notice of intent to recommend discharge on the certified school employee in accordance with the law of process in civil actions. The notice shall state the intent to recommend discharge and the cause for the recommendation, and shall advise the employee of the right to a discharge hearing before the Governing Council.

The employee may exercise the right to a hearing by giving the Administrator written notice of that election within five (5) working days of the receipt of the notice to recommend discharge.

All details pertaining to the employee's rights and the procedures to be followed are detailed in NMSA 1978, 22-10A-27 (2003), copies of which are available in the Head Administrator's office.

**Reference: NMSA 1978, 22-10A-24, 22-10A-27 (2003)**

## **POLICY 211 - RE-EMPLOYMENT/TERMINATION OF OTHER EMPLOYEES**

Certified school instructors who are employed to fill the position of an instructor who is out on military leave and licensed administrators are not entitled to a hearing or other due process regarding non-renewal of an employment contract. They are entitled to due process for discharge from a current contract.

The Administrator may terminate a non-certified employee with fewer than three (3) years of consecutive service for any reason she or he deems sufficient. Upon request of the employee, the Administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten (10) working days of the request. The Administrator Governing Council shall not publicly disclose the reasons. The reasons shall not provide a basis for contesting the decision.

All procedures and timelines regarding the rights of terminated non-certified school employees referred to in the following paragraphs are detailed in NMSA 1978, 22-10A-24 (2003), copies of which are on file and available in the Administrator's office.

Before terminating a non-certified school employee, the Administrator shall serve the employee with a written notice of termination. Termination of a non-certified school employee who has been employed for three (3) consecutive years or longer shall be only for just cause or for a reason that is rationally related to the employee's competence or turpitude or proper performance of duty and that is not in violation of the employee's civil or constitutional rights. Any such employee who has been employed for three (3) consecutive years may request an opportunity to make a statement to the Governing Council and may also request in writing the reasons for the termination action. Neither the Administrator nor the Governing Council shall publicly disclose the reasons for termination.

If the employee is still aggrieved by the decision of the Governing Council following a hearing with the Governing Council, an appeal may be filed to request a *de novo* hearing with an independent arbitrator. The arbitrator shall decide whether there was just cause for the termination.

**Reference: NMSA 1978, 22-10-14, 14.1; NMSA 1978, 22-10-16**

## **POLICY 212 - Resignations of Employees**

Certified/licensed employees shall provide La Tierra Montessori School of the Arts and Sciences with at least thirty (30) days notice of the intent to resign.

Non-certified/licensed employees shall provide at least two (2) weeks' notice of the intent to resign.

Under extenuating circumstances, the Administrator may waive these notice requirements.



## **POLICY 213 - Drug-Free Schools/Campuses and Work Place**

The Governing Council recognizes that substance abuse in the work place can seriously injure the health of employees, adversely impair job performance, and endanger the safety and well-being of other employees, students and members of the community. In addition, increased health care problems arising from substance abuse can cause increased health care costs to the employee and School in the form of treatment costs and increased insurance costs. The Governing Council has adopted this policy and will make a good faith effort to maintain a drug-free work place.

### Prohibited Practices

Substance abuse in the work place, on school premises, during school programs, or while on school business is prohibited. The unauthorized manufacture, distribution, dispensation, sale, possession, or transfer, use or being under the influence of controlled substances (as proscribed by the Controlled Substances Act and Schedules I through V of the Federal Drug Free Work Place Act of 1988) or any other substance abuse in the work place, on school premises, during school programs, or while on school business constitutes a violation of this policy. Also prohibited is possessing, selling, giving away or using any equipment or apparatus used for measuring, packaging, distributing or facilitating the use of drugs.

### Disciplinary Actions

Any violation of these prohibited practices by an employee is cause for disciplinary action up to and including dismissal, reprimand, suspension without pay, termination or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies. A disciplinary action may also include the satisfactory completion of a rehabilitation program at the individual's expense. However, when an employee acknowledges having an alcohol and/or drug abuse problem and willingly undergoes treatment, his/her job rights and job security will not automatically be jeopardized.

Any violation by a student of these prohibited practices may result in suspension or expulsion from school or in suspension or dismissal from participation in and attendance at extracurricular activities.

### DEFINITIONS

*Substance abuse* means the unauthorized possession, distribution, dispensing, manufacture, sale, or use or being under the influence of controlled substances that are identified in Schedules I through V of Section 202 of the Controlled Substances Act, 21 USC, Statute 812(United States code, Title XXI, Chapter 13) or in implementing regulations, 21 CFR Sections 1308.11 to 1308.15 where the use is neither authorized by law nor a valid

prescription, or the misuse of a legal substance, including but not limited to prescription drugs, that may affect an individual's ability to perform his or her job in a safe, adequate and secure manner. Controlled substances include, but are not limited to marijuana, barbiturates, anabolic steroids, cocaine, (including crack), amphetamines, heroin, PCP, hallucinogens, and certain prescription drugs. Substance abuse shall also include the unauthorized use or possession of, or being under the influence of, alcohol, alcoholic beverages or controlled substances on school premises or during school programs. Also included are solvents or inhalants used for intoxication and any substances that are represented to be controlled or illegal substances.

*School premises* means any school building and any school property, any school-owned vehicles and any other school-approved vehicle used to transport students to and from school activities or for school business.

*School programs* means any school sponsored or approved activity, event or function, on or off school premises where students are under the jurisdiction of the School; or during any period of time school employees are supervising students on behalf of the School or are otherwise engaged in school business. Collectively, school premises and school programs constitute the work place.

#### USE OF AUTHORIZED PRESCRIPTIONS AND DRUGS

Authorized prescription drugs and "over the counter" legal drugs may be used at the work place so long as prescribed dosage and recommended use is not exceeded and the use of these drugs do not adversely affect the employee's ability to perform required work in a safe and secure manner. When such legal drugs are used at the work place and will affect performance, employees should inform their supervisor.

#### FEDERAL FUNDING REQUIREMENTS

La Tierra Montessori School of the Arts and Sciences is a recipient of federal funding and is subject to the Federal Drug Free Work Place Act of 1988. As a condition of employment, each employee shall notify his or her employer of such employee's conviction of any criminal drug statute for a violation occurring in the work place no later than five (5) days after such conviction.

As a condition of employment, each employee of La Tierra Montessori School of the Arts and Sciences shall abide by the terms of this policy. Violation of this policy is cause for discipline, up to and including dismissal, reprimand, suspension without pay, termination or discharge from employment and referral for investigation and/or prosecution by law enforcement agencies for violation of the standards of conduct. Employees may also be required to participate in and satisfactorily complete a drug abuse assistance or rehabilitation program approved by the School at the employee's expense.

## EMPLOYEE/STUDENT ASSISTANCE

Substance abuse affects employee performance, conduct, and/or reliability, and students' ability to learn and complete assigned tasks.

La Tierra Montessori School of the Arts and Sciences strongly encourages employees who engage in any form of substance abuse, including alcohol or other drug-related problems, to voluntarily refer themselves for assistance. The School will provide information or referral for employee assistance, rehabilitation, and/or counseling.

Referrals may be provided for employees who request medical help or rehabilitation. Therefore, employees who voluntarily seek such assistance, termed **self-referrals**, will be accorded different treatment than **supervisor referrals**. Information regarding the employee who is participating in the program will be treated as confidential and will be accorded the protection required by applicable state and federal law.

Employees who have entered into rehabilitation must comply with the terms of the program. Employees entered into inpatient rehabilitation a part of a prescribed program will be placed on appropriate leave status for that period. Fees and expenses incurred are the responsibility of the employee.

## EMPLOYEE PERFORMANCE/SUPERVISOR REFERRALS

Supervisors are to take appropriate action as directed in this policy when they:

1. observe behavior that may pose an immediate threat to the health and safety of the employee or of others and the supervisor reasonably suspects that substance abuse may be a contributing factor;
2. observe the use of controlled substances, the misuse of legal substances, or unauthorized use of alcohol in the work place; or,
3. are advised of a work-related accident or incident and the supervisor reasonably suspects that substance abuse, misuse of legal substances, or alcohol abuse may be a contributing factor.

## STANDARDS OF CONDUCT

All employees are expected to cooperate fully with the School's objective of maintaining a Drug- Free Work Place. Failure to do so is deemed to be a violation of this policy and the standards of conduct prescribed therein. Accordingly, in the event that an employee violates this policy, refuses to submit to a required evaluation for substance abuse, refuses rehabilitation, fails to complete a prescribed rehabilitation program, fails to submit required

documentation relative to evaluation, or falsifies any record relative to abuse of any substance, such employee will be subject to disciplinary action up to and including discharge.

### RANDOM DRUG TESTING

The School does not conduct random testing or general periodic testing for drug or alcohol use by employees.

### EDUCATION PROGRAM

1. The Administrator shall arrange for periodic (at least annually) training and education in the dangers and risks to physical and mental health, economic welfare, and civil status from the use of illicit drugs and abuse of alcohol and tobacco.
2. The Administrator or designee will post notices regarding drug-free work place on a bulletin board in the teacher workroom.
3. This policy shall be included with the orientation package of materials for each new employee. The Administrator will distribute the policy to each employee under his/her supervision and will maintain records signed by the employee substantiating this distribution and stating that compliance with the policy is mandatory. This policy shall also be incorporated in student handbooks.

### CONFIDENTIALITY AND DUE PROCESS

Employees and students are assured that every effort will be taken to protect their confidentiality. Actions taken in enforcement of this policy shall comply with such hearing or due process procedures as may be required by district policy or state laws.

This policy is adopted in accordance with Public Law 101-226, Drug-Free Schools and Communities Act Amendments of 1989, for receipt of federal program funds.

**Reference: Public Law 101-226, Drug-Free Schools and Communities Act**

### **POLICY 214 - Bus Drivers Drug Testing**

La Tierra Montessori School of the Arts and Sciences and its transportation contractors shall require that all applicants for employment as bus drivers be tested for the use of substances which could lead to impaired performance as a driver. Drivers may be required to undergo such testing at any time during their employment by the School or a school contractor. Refusal by the employee to undergo such testing upon request will be considered insubordination and shall automatically disqualify the employee from further employment as a driver.

Unless required by law, the La Tierra Montessori School of the Arts and Sciences and its

contractors shall not disclose individual drug testing results to anyone other than the applicant without a written release from the applicant or employee requesting the disclosure.

All procedures followed regarding the drug testing of drivers shall be consistent with the Regulations of the United States Department of Transportation.

As used in this policy, drug testing involves the driver or applicant making himself or herself available at a place and time specified by the Administrator or his or her designee, and providing a sample of body fluid or tissue to be analyzed for the presence of alcohol or controlled substances, as those terms are defined by DOT regulations.

All contracts with school bus operators are subject to such operators providing the Administrator with test results for their employees and applicants for employment.

The Governing Council hereby delegates to the Administrator the authority to adopt implementation guidelines and regulations governing testing and testing procedures as called for by this policy.

**References: Federal Highway Administration and Department of Transportation; Federal Regulations Title 49, Part 382; SBE Regulation 95-1, 95-6, 95-9**

## **POLICY 215 - Employee Use of Tobacco Products**

The use of tobacco products, including e-cigarettes by employees and any other persons is forbidden in school buildings, on school property, in any school-owned vehicle or in any vehicle used to transport students.

## **POLICY 216 - Drug/Alcohol Testing: Employees under the Influence**

No employee of La Tierra Montessori School of the Arts and Sciences shall unlawfully manufacture, distribute, dispense, possess, be under the influence of a hallucinogenic drug, amphetamine, barbiturate, marijuana, or any other controlled substance as defined in Schedules I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812) and as further defined by regulation at 21 CFR 1300.11 through 1300.15. In addition, school employees shall not distribute, dispense, possess, be under the influence of, or use alcoholic beverages in the work place. It is the employee's responsibility to determine from his/her physician whether a prescribed drug may impair job performance.

As a condition of employment in the School, each employee shall notify his or her supervisor of any criminal drug related conviction occurring in the work place as defined below, no later than five (5) days after such conviction.

As a condition of employment in the School, each employee shall abide by the terms of the School policy regarding a drug free work place (*POLICY 213*).

If there is reasonable suspicion that an employee is under the influence of drugs or alcohol or an employee is suspected of drug or alcohol abuse, the School may have the employee tested without advance notice at the School's expense. If additional testing is necessary, it may be at the employee's expense. If appropriate an ongoing condition of employment may include periodic unannounced drug and/or alcohol testing.

Employees to whom this applies will be notified in writing when this is a condition of employment following the initial testing or other notification of reasonable suspicion such as arrest for usage or following completion of a treatment program.

#### DEFINITION

*Work place* includes any school building or any school premises; any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities; and off school property during any school-sponsored or school-approved activity, event or function, such as field trip or athletic event, while in an official capacity, where students are under the jurisdiction of the school district.

#### REASONABLE SUSPICION

Reasonable suspicion may arise from supervisory observation, co-worker reports or complaints, performance decline, attendance or behavioral changes, arrest for violation of a criminal drug/alcohol statute and/or vehicular accident indicating a possible impairment in judgment or negligence due to the employee being under the influence of drugs or alcohol. Suspicion should be based on observations that a supervisor can articulate concerning appearance and/or behavior. Other factors that may establish reasonable suspicion include, but are not limited to: violation of company safety policies, discovery of illegal drugs, drug paraphernalia and/or alcohol in an employee's possession or near the employee's workplace, a report of drug/alcohol use, sale and/or transfer of drugs/alcohol on work premises/property from a credible and reliable source.

An employee shall be required to undergo a drug/alcohol screening/testing if there is reasonable suspicion that the employee's alcohol and/or drug use could impair job performance and/or affect safety. The School reserves the right to search all areas of the work site, personal articles at the work site and vehicles on school grounds. A supervisor

will conduct searches with appropriate assistance.

## PROCEDURES FOLLOWING POLICY VIOLATION

If an employee violates Policy 213, the actions to be taken are described in the steps below. Supervisors are required to document each step.

### **Step 1**

Remove the employee from the work area. If the employee is under the influence, the employee will not be allowed to leave without supervision. In fitness for duty incidents, the supervisor is responsible for ensuring that the employee is offered transportation home or to a test facility. If the employee refuses the transportation and attempts to drive, the supervisor should notify the local law enforcement.

### **Step 2**

A timely conference with the employee and the Administrator or his/her designee will be held. The employee may choose to be accompanied by a representative of his/her own choosing at any step of this procedure. If the incident occurs at an after work hours school event, the conference shall be held as soon as possible following the incident. The employee will be asked to submit to a drug/alcohol test at the time of the conference.

### **Step 3**

Suspension with pay/administrative leave may be imposed while:

1. An investigation of the circumstances is conducted and testing is completed. The Administrator will direct the employee to the appropriate place for immediate testing to determine if suspicion is confirmed. The Administrator will set the appointment and may arrange for an escort of the employee to the testing site. Testing safeguards will be in effect including an observed test. If the test is tampered with, the employee will be required to submit to a second test immediately. This second test may be at the employee's expense. If the employee refuses or does not appear for the test, the Administrator will remind the employee orally and in writing of the policy and that refusal may lead to discipline including termination.
2. A positive result or refusal to submit to a drug/alcohol screening, refusal of a search will be considered insubordination and will result in a disciplinary action up to and including termination. The employee will be placed on administrative leave or suspension pending administrative review and action. Pay status is to be determined in review.

### **Step 4**

A second conference will be held with the employee, the supervisor, the Administrator or his/her designee at the end of the suspension or administrative leave period. Final disposition of the

situation will depend upon the outcome of the conference and may include, but not be limited to:

1. An opportunity for the employee to explain the positive result;
2. Unannounced or periodic drug and alcohol testing for a designated period at the employee's expense;
3. Consideration of the following prior to taking disciplinary action:
  - a. job safety of others past employment record and length of employment
  - b. employee willingness to seek assistance
  - c. suspension without pay; or
4. 5. A recommendation for termination.

The employee may have a representative accompany him/her to this conference.

#### **STEP 5**

Documentation will be kept as follows:

1. Drug testing documentation will be kept in a separate confidential file for medical concerns.
2. Letters or memorandums addressed to the employee outlining disciplinary procedures will be placed in the personnel file.
3. Upon return or completion of treatment, the employee will contact the Administrator for an appointment and will be required to comply with the terms stated in a Memorandum of Agreement. This agreement shall contain specific guidelines for future expectations indicating whether further disciplinary action including termination, will be taken.
4. Once compliance has been achieved through EAP and confirmed by the Administrator, the employee will receive a letter of release from the memorandum of agreement.



## **POLICY 217 - Reduction-In-Force (R.I.F.)/Furlough**

The Administrator has the authority to discharge certified school personnel during the term of their contracts or to terminate certified school instructors and non-certified school employees with rights created by NMSA 1978, Section 22-10-14 (C), (hereafter "tenured employees" ), after notice and a hearing when a reduction in such personnel is required as a result of decreased enrollment or a decrease or revision of educational programs. Reduction-in-force (R.I.F.) is "just cause" for discharges of certified school personnel and terminations of tenured employees, when established pursuant to this policy. This policy is adopted as the procedure by which reductions in the personnel who are covered by the policy may be accomplished, within the context of the school's general personnel policies.

The Governing Council is vested with the discretion to determine the educational program of the School so long as the Public Education Department's Educational Standards and statutorily required standards are met. The Governing Council, in its discretion, may revise the educational program or decrease the number of employees of the School at any time and is solely vested with the discretion to determine when decreased enrollment, financial exigency, or other causes justify a reduction in personnel.

Situations that justify a R.I.F. shall include, but are not limited to, the following:

1. decrease in student enrollment;
2. decrease in revenue:
  - a. because of decrease of student enrollment;
  - b. because of loss or reduction of tax revenues;
  - c. because of reduction of state, local, or federal financial support; or
  - d. because of inflation reducing the value of revenues received;
3. change in the educational program of the school, as determined by the Governing Council in its good-faith exercise of discretion;
4. court orders;
5. orders of the Public Education Department;
6. Legislative mandates.

The Governing Council shall exercise its discretion in good faith, and determinations that a R.I.F. may occur at any time during the calendar year when the Governing Council, in its discretion, determines that it is justified and the procedures prescribed herein are applicable and are followed. A R.I.F. may be based upon projections of future enrollment, revenues or expenses, and the subsequent receipt of more revenue than expected or a subsequent saving of projected expenses shall not invalidate any actions previously taken in good faith reliance on such projections or require the reemployment of any employees who were released on the basis of such projections.

**Except as required by Legislative mandate or orders of the Public Education Department** and to the extent that circumstances permit, the Administrator, with the assistance of

designated staff, shall report to the Governing Council any circumstances which may ultimately require a R.I.F., in order that notice be given to certified personnel of the possibility of a R.I.F. and so that consideration be given to means by which a R.I.F. may be avoided.

When the Administrator concludes that a R.I.F. is necessary, a plan for R.I.F. shall be developed for presentation to and consideration by the Governing Council, **after consultation with the leadership team at least thirty (30) days prior to the effective date of the R.I.F.** The R.I.F. plan shall not identify individuals to be discharged or terminated, but rather shall focus upon the total educational program of the school and how it may be modified to reduce the number of certified personnel while still providing the educational program required and the particular educational needs of the School. The R.I.F. plan shall include, but need not be limited to, the following:

1. a detailed description of the cause or causes requiring a R.I.F.;
2. a description of all adjustments already made by the administration in an attempt to avoid a R.I.F., if any (e.g. reduction by attrition, cuts in non-certified staff, abolition of extra-curricular activities, etc.);
3. a designation of the part or parts of the total educational program in which the R.I.F. is proposed and the number of positions to be reduced in each program;
4. a designation of extra-curricular activities which are to be retained, with a justification for retaining such programs; and
5. a discussion of alternatives (if any) considered by the Administrator and staff committee
6. with an explanation as to why such alternatives were rejected.

The Governing Council shall consider the recommendations of the Administrator for the adoption of the R.I.F. plan at a duly called Governing Council meeting, the public notice of which announces that a R.I.F. will be considered. The discussion and action on the plan shall be in open session; however, nothing herein shall restrict the Governing Council from holding portions of those discussions in closed session, if such discussion would be proper under the New Mexico Open Meetings Act. The Governing Council may allow such review, consultation, and comment by employees and members of the public, prior to taking final action on the plan, as the Governing Council, in its discretion, deems appropriate. The Governing Council may accept, reject, or modify the plan recommended by the Administrator as it deems appropriate.

Any plan for a R.I.F. adopted by the Governing Council shall be made available to all staff, by providing copies thereof in the office at the Administrators office, within three (3) work days after adoption by the Board.

Based upon the R.I.F. plan approved by the Governing Council, the administration shall perform a study of the school's personnel to determine which person or persons must be wholly or partially terminated or discharged in order to implement the plan.

In the event legislation is passed, which requires the Governing Council to reduce certified

school personnel, for any reason, the Governing Council shall follow the legislative procedures, if any, in lieu of this policy.

### **Furlough Policy**

If La Tierra Montessori School for the Arts and Sciences (LTMAS) experiences insufficient or reduced school revenues caused by a reduction in the number of enrolled students, number of students in a particular program, unexpected reduction in revenues from local, state or federal sources, or any other financial exigency that might result in a need to reduce the expenses in order to balance the budget, a furlough of employees may be considered. The Administrator may consider it necessary to implement a short-term employee furlough in order to preserve a sound and balanced educational program that is consistent with the functions and responsibilities of LTMAS. A furlough - in lieu of a reduction in force OR in addition to a reduction in force - will be implemented whenever such measures are in the best interest of LTMAS's students and program, based on the sole discretion of LTMAS. A furlough will only be carried out after the Administrator and the Governing Body jointly adopt a determination that based on the projected financial burdens of the school, LTMAS income cannot meet expenses for the fiscal year already underway unless a furlough is implemented.

The Administrator shall determine, based on the best interest of the educational program, whether all employees, or certain categories of employees or positions, will be subject to furlough as defined in this policy. It is the intent of LTMAS to conduct an intermittent rather than continuous furlough to mitigate employee financial hardship; however, LTMAS reserves the right to conduct a furlough in any manner deemed necessary to ensure the stability of the educational program. Furloughs will be implemented in a fair manner that is sensitive to the mission of LTMAS and the needs of its faculty and staff.

### ***Employee Furlough Policy***

1. **DEFINITION:** A Furlough is the placement of an employee in a temporary "Leave Without Pay" status for a specified number of hours or days within a certain time frame. A furlough is not a layoff or reduction in workforce and may be used to avoid or delay such action.
2. **DETERMINATION:** The decision to implement an employee furlough will be made by the Administrator after consultation with the Governing Council.
3. **FURLOUGH PLAN:** The Administrator shall prepare a furlough plan that will identify the budgetary justification for the furlough, who or what job classifications will be affected, the number of days/hours that will be reduced from each employees' day/week/month; specific dates, if applicable; and the procedure for implementing the furlough. The furlough plan shall be sufficiently comprehensive to address the entire shortfall projected for the balance of the budget year affected by the budget shortfall. The Head Administrator may, at his/her sole discretion, require staggered furlough days (one

employee or certain categories of employees during a specified time) or, alternatively, uniform furlough days (i.e., for all employees at one time).

4. IMPLEMENTATION: To implement a furlough, the Governing Body will consider the Administrator's furlough plan and vote on the plan at a public meeting. At this meeting the Administrator will explain the reasons for the furlough and his/her plan for implementing the furlough. The Governing Body may recommend revisions to the Administrator's furlough plan to the extent the plan does not adequately address the budgetary constraints identified as justification for the furlough. The Administrator, however, shall make the final decision regarding the plan as it affects employees and school programs.
5. WRITTEN NOTICE: Employees will be given as much advance written notice as possible but not less than 10 work days prior to implementation of the furlough.
6. STATUS DURING FURLOUGH: Affected employees must take time off without pay for the period of time designated by the furlough. Supervisors may not require, ask, or permit employees to work on a furlough day except in instances of an emergency. An employee may not conduct any school business during the 24 hours of a furlough day. This includes checking work-related email and voicemail.
7. VOLUNTARY FURLOUGH: If possible, prior to implementing a mandatory furlough, the Head Administrator may call for a voluntary furlough. However, the Administrator may, in his/her sole discretion, determine whether the response to the call for a voluntary furlough will be sufficient to meet the anticipated budgetary shortfall for which a furlough is necessary.
8. CATEGORIES OF EMPLOYEES: At the sole discretion of the Administrator, he/she may implement a furlough of employees according their job functions and responsibilities at LTMAS. The Administrator shall ensure that any categorical or position-based furlough is implemented in a non-discriminatory and fair manner. The categories of employees are as follows:
  - a. Administration (Administrator and Office Manager)
  - b. Licensed Faculty and Staff
9. SELECTION OF FURLOUGH HOURS AND DAYS: The Administrator will consider reasonable requests to schedule furlough hours or days at the convenience of the employee; however, any decision regarding an employee's furlough schedule will be made in order to minimize disruption to the efficient operation of LTMAS's programs. The scheduling of specific furlough hours is at the sole discretion of the Administrator and is not subject to the grievance procedure.
10. HOLIDAY PAY DURING FURLOUGH HOURS: If a holiday is selected as the eight-hour furlough period then the employee will not receive pay for that day. Furlough is considered an excused absence for holiday pay accrual purposes.
11. CONTINUATION OF BENEFITS: The intermittent nature of the furlough is designed to

avoid any adverse impact to employee benefits. Employees will continue to receive employer provided benefits and accrue leave during the furlough period.

12. PART TIME EMPLOYEES AND PHASED RETIREES: Part-time employees and return to work retirees are subject to a pro-rated furlough schedule. The amount of time a part-time employee must take off for the mandatory unpaid furlough will be prorated on the employee's assigned part-time percentage of a full –time position.

DOCUMENTATION: The Administrator shall ensure that appropriate documentation of the furlough plan and of those employees affected is maintained in the office files.

## **POLICY 218 - Unlawful Harassment**

The Governing Council is committed to providing a work and learning environment in which all individuals are treated with respect and dignity. Although the policy focuses on sexual harassment it applies equally to all forms of unlawful harassment.

Each employee and student has the right to work and learn in an environment that is free of unlawful discrimination, including sexual harassment and harassment based upon other protected characteristics. No person should be required to endure sexual or other unlawful harassment by supervisors, peers, which includes student-on-student sexual harassment, faculty members, educational support staff, independent contractors or vendors or work or learn in a hostile environment as a condition of employment or pursuit of academic excellence. This policy also applies when an employee is subject to harassment at the school or on school business by someone not affiliated with the school.

It is the policy of the La Tierra Montessori School of the Arts and Sciences to:

1. Prohibit any person in the work or academic setting from sexually harassing any other person in the work or academic setting.
2. Prohibit any person in the work or academic setting from harassing any other person because of sex, race, religion, national origin, disability, sexual orientation, gender identity, age, veteran status, or other protected characteristic.
3. Not tolerate or condone such harassment by or towards its employees or by or towards its students. The School will take appropriate actions to prevent, correct, and if necessary, to discipline an individual's behavior which violates this policy.
4. Take reasonable steps to provide a work and academic environment free of sexual and other unlawful harassment.
5. Investigate allegations of harassment/misconduct in a timely and thorough way.
6. Take appropriate and timely corrective action with respect to information or allegations that employees or students are being subjected to unlawful harassment in the work or academic environment.
7. Provide on-going education and awareness regarding sexual and other unlawful

harassment.

8. Provide information about how to pursue claims of unlawful workplace harassment.

Sexual harassment can occur in a variety of forms. Harassing conduct based on gender often is sexual in nature but sometimes is not. In order to violate federal and state anti-discrimination laws, sexual harassment must be unwelcome and must be sufficiently severe or pervasive to create an offensive or intimidating hostile working environment. However, any harassing conduct because of sex or any other protected characteristic is a violation of this policy even if it is insufficiently severe or pervasive to violate state or federal law.

Sexual harassment includes unwelcome sexual advances such as requests for sexual favors and written, visual or verbal conduct of a sexual nature.

If the behavior toward another employee makes them feel intimidated, uncomfortable or if the employee feels threatened, it may be considered sexual harassment even if the harasser did not intend for his/her action(s) to be offensive.

Sexual harassment may also be considered a criminal offense under state and local assault and child abuse laws.

### REPORTING HARASSMENT

Any employee who observes or experiences what they believe to be conduct that violates this policy shall, whenever possible, confront the person or persons responsible for the offensive behavior and indicate that it is unwelcome and should be stopped. The employee also has an obligation to promptly report it to a School Administrator. The Administrator is the individual authorized by the School to accept and respond to such complaints

### INVESTIGATIONS

The School will investigate all allegations of unlawful harassment. All School employees are required to cooperate with such investigations. The investigator will keep the complaint and investigation confidential to the extent possible consistent with the School's duty to conduct a thorough investigation.

### APPEAL

Any affected employee who is dissatisfied with the conclusion or results of an investigation, or with any corrective measures taken, may appeal the decision to the Governing Council. Any such appeal should be in writing and must include the nature of the employee's dissatisfaction with the conclusions or results of the investigation.

### DISCIPLINE

Conduct that violates this policy is cause for discipline.

### RETALIATION

No one will be retaliated against for making a good faith complaint regarding unlawful harassment. Such retaliation in and of itself is cause for discipline and will not be tolerated.

### **POLICY 219 - Sexual Misconduct**

La Tierra Montessori School of the Arts and Sciences will not tolerate sexual misconduct by any of its employees. All employees, as part of their regular duties, shall therefore be cognizant of their behavior, its intentions and how they may be perceived with respect to circumstances that suggest sexual misconduct against students. This policy also applies to non-employee volunteers, and to any other persons who work subject to the control of school authorities.

### DEFINITIONS

*Employee/employee*-Sexual misconduct includes, but is not limited to, physical act(s) of aggression, force or threat against another employee of the same or opposite sex, threatening to force or coerce sexual acts, including the touching of private/intimate parts, and coercing, forcing or attempting to coerce or force sexual intercourse.

*Employee/student*-As used herein, sexual misconduct by employees against students means any sexual or romantic contact between any employee of the school and any student of the school.

*Student/student*-Sexual misconduct includes, but is not limited to, physical act(s) of aggression, force or threat against another student of the same or opposite sex, threatening to force or coerce sexual acts, including the touching of private/intimate parts, and coercing, forcing or attempting to coerce or force sexual intercourse.

### DUTY TO REPORT INFORMATION

All employees of the school shall report to the Administrator any information concerning sexual misconduct. In the event the employee implicated by the information is the Administrator, then such report shall be made to the Governing Council.

School personnel may have a direct obligation, imposed by state statute, to provide a report to social services or law enforcement agencies immediately upon knowledge or a reasonable suspicion that a child is abused or neglected. The duty to report imposed by this policy,

however, is independent of, and in addition to any such statutory obligation.

### FAILURE TO REPORT

Failure of an employee in possession of such information who does not promptly provide the report described above may result in discipline of that employee.

### INVESTIGATION OF REPORTS

Upon receiving information regarding sexual misconduct by a school employee, the Administrator shall promptly and fully investigate all reported information concerning sexual misconduct. The Administrator, in consultation with legal counsel, shall oversee investigations conducted, including the initial determination as to whether a reasonable suspicion of sexual abuse by a school employee exists, and whether a full investigation should be conducted.

### COOPERATION WITH INVESTIGATIONS

Non-administrative staff are neither authorized nor responsible for conducting investigations with respect to such information, but will be expected to cooperate in the School's investigation by providing information they have received.

Sexual misconduct can result in criminal prosecution by law enforcement authorities. Accordingly, the reporting and investigation procedures described herein are to be conducted by the school in addition to any criminal investigation that may be conducted by law enforcement authorities.

## **POLICY 220 - Employee Assault**

The Governing Council acknowledges the need for its employees to perform their duties in a safe, secure and non-threatening atmosphere and recognizes the possibility of assault on an employee or another person on school property, or at school-sponsored events. The term "assault" as used in this policy shall mean not only a violent physical or verbal attack, but shall also include the concepts of legal battery, legal assault, and intentional infliction of severe mental or emotional distress.

No employee shall, while on duty, physically or verbally assault any other person. However, an on-duty employee is permitted to use reasonable force to repel a physical assault upon himself or a physical assault on another person. No verbal statements justify use of force. If an on-duty employee is threatened with an assault upon himself or another and has a reasonable method of retreating or causing the other to retreat so as to avoid the assault, the employee shall retreat or cause the other to retreat.



## **POLICY 221 - Violent and Aggressive Conduct by School Employee**

Violence or violent conduct by employees is inconsistent with the School's mission of instilling respect, self-control, and personal discipline in our students. The effective operation of the La Tierra Montessori School of the Arts and Sciences requires that employees strictly avoid subjecting other employees or non-student third persons to violence, the threat of violence, other forms of physical harassment, or intimidation.

### VIOLENT CONDUCT BY EMPLOYEES PROHIBITED

The prohibitions and exceptions in this policy apply to conduct by an employee on school premises, and while an employee is on duty at, or in connection with a school sponsored activity.

The La Tierra Montessori School of the Arts and Sciences Governing Council's prohibition of employee violence toward students is set forth in its policy on Corporal Punishment. Instances of employee violence toward students shall be addressed according to the terms of that policy. Violent conduct by employees is prohibited, including, but not limited to, the following:

1. Any form of physical violence, as defined herein;
2. Intimidation, harassment, or any threat of physical violence, communicated by words or conduct;
3. Possession of a weapon.

### DEFINITIONS

Physical violence is any form of intentionally forceful, harmful, hurtful, or patently offensive physical contact administered upon or directed to the body of another, including, but not limited to:

1. striking, kicking, squeezing, or pinching any part of the body, or forcefully grabbing the body or clothing, or attempting to do any of the foregoing; or
2. restraining or restricting physical movement through physical contact, or attempting to do either.
3. Exceptions: The following actions by an employee are exempt from this policy, and will not constitute a violation of the policy.
  - a. An employee may, but is not required to, reasonably restrain another employee or third party whose conduct is violent or physically disruptive if:
  - b. The conduct of the person-to-be-restrained is directed toward any person, including, but not limited to, any employee, a student, any third person, or the employee himself or herself, of
  - c. The conduct of the person-to-be-restrained is directed toward school property or

the property of another on school premises.

- d. In any instance in which another employee or third party has refused valid directives to proceed to, to leave, or to avoid entering any part of the school's premises, and the employee's or third party's refusal creates a disruption or potential disruption of the operations of the school. An employee may, but is not required to, exercise a reasonable grasp upon, or restraint of, the other employee or third party for the purpose of moving or removing such person, or for the purpose of preventing the other employee or third party from entering the premises.
- e. Violence toward property is intentionally damaging or destroying the property of the School, of another employee, of a third party, or attempting to do any of the foregoing.

## DISCIPLINE

An employee who is found to have violated this policy shall be subject to discipline, which may include suspension or discharge for any violation.

### **POLICY 222 - Grievance by Employees**

The Governing Council recognizes that in the normal course of school operations, one or more employees may feel that the school's rules and regulations, or their application, adversely and unfairly affect the employee's interests. These differences should be resolved directly by the persons involved. However, employees who are unable to resolve their differences directly with the individuals involved may bring their grievance to the Administrator. Employees who are dissatisfied with the resolution provided by the Administrator may appeal to the Governing Council by submitting a written appeal that describes their grievance and the nature of their dissatisfaction with the Administrator's response. Employees may not appeal to the Governing Council without first having presented their concern to the Administrator and receiving the Administrator's response.

This procedure does not apply to instances of sexual or other prohibited harassment which are governed by **POLICY 218 Unlawful Harassment**

### **POLICY 223 - Substitute Teachers**

The Administrator shall maintain an active list of persons approved and licensed by the State Department of Education to act as substitute teachers. Only persons on this approved list or persons holding a New Mexico teaching license or persons assigned to the classroom in question as a student teacher, co-op student, or instructional assistant may be employed as substitutes. The Administrator is directed to establish administrative procedures that will enhance the School's ability to maintain the best possible roster of substitutes.

In the event that no substitute can be found on a particular day, or for a particular class period, a school administrator may:

1. Divide a class of students among several teachers,
2. Request teachers to substitute during their preparation period,
3. Assign a classroom instructional assistant who is assigned to a regular classroom.

Teachers who agree to substitute during their assigned preparation period at their school shall be limited to one period per day.

The Administrator or designee shall develop and implement administrative procedures necessary to effectively employ, assign, monitor, evaluate, compensate and retain highly qualified substitute teachers for the School. Records will be kept by the Administrator or designee, meet minimum performance and initial certification requirements, and meet continuing certification requirements as set forth below.

Any person seeking to perform services as a substitute teacher in the School must hold a certificate authorizing that person to perform the duties of a substitute teacher. Substitute teacher certificates shall be issued by the Public Education Department to persons who, at a minimum, meet the requirements listed below. Such certificates authorize the substitute teacher to work as a substitute teacher in La Tierra Montessori School of the Arts and Sciences.

### REQUIREMENTS

At minimum, all applicants for initial substitute teacher licensure shall have attained twenty-one years of age and have earned a high school diploma or high school diploma equivalency. Additionally, each substitute shall meet the requirements of either item 1 or 2 below. Substitutes shall:

1. have completed an approved teacher preparation program from a regionally accredited college or university;
2. be in possession of a current substitute or standard teaching license issued by a state's educator licensure issuing agency;

Or substitutes shall meet the requirements of two or more of items 3 through 9 below.  
Substitutes shall:

3. have, within 12 months of the date of initial employment with La Tierra Montessori School of the Arts and Sciences, received on the job training by serving as a voluntary assistant to a licensed teacher in a school classroom for a minimum of three hours during three days;
4. have observed 3 hours or more of teaching in La Tierra Montessori or other public school classes;
5. has completed a substitute teacher workshop conducted by or acceptable to the School;
6. have, within the past three school years of application for employment or licensure, performed at least three hours of instructional services as a substitute teacher in any school accredited or recognized by the New Mexico Public Education Department;
7. have engaged in any paid employment in the three years prior to applying for substitute teaching licensure or employment, which, after verification by and in the opinion of the Administrator or designee, invests that applicant with relevant work or life experience;
8. have completed at least 60 hours of college-credit courses in a regionally accredited college;
9. have completed or currently be enrolled in an approved college course or program from a regionally accredited college, where the course or program is structured to provide primary/secondary school teacher preparation;

### BACKGROUND CHECKS

As a condition of employment as a substitute teacher at La Tierra Montessori School of the Arts and Sciences, all applicants for such initial certification shall submit to a fingerprint-based background check.

### **POLICY 224 - Tutoring of Students**

The La Tierra Montessori School of the Arts and Sciences Governing Council believes that by maintaining an instructional staff of high quality and providing for a rich and varied curriculum the need for individual tutoring is minimized.

When paid tutoring of a student by an employee is deemed necessary, such tutoring will be

conducted outside the employee's regular work hours. Such paid tutoring is to be arranged between families or other agencies or the staff and the school if it is a school sponsored program.

## **POLICY 225 - Conflict of Interest**

Each employee of the La Tierra Montessori School of the Arts and Sciences is in fact an employee of the State of New Mexico, responsive to the people or taxpayers of the state. As such, each employee will refrain from activities, employment, and business transactions which violate federal, state, or local laws or which, in any way, diminish the integrity, efficiency, or discipline of the school.

Employees are prohibited from using confidential information acquired by virtue of their association with the School for their individual or another's private gain.

**Reference: NMSA 1978, 22-21-1**

## **POLICY 226 - Travel, Per Diem and Mileage Payments**

The Administrator or designee shall be responsible for determining the necessity for reimbursable travel by employees.

Approved travel shall be reimbursed by mileage and per diem amounts allowed under New Mexico statute or regulation, except when lesser payments are agreed to by the employee(s) and the Administrator. Reimbursement for travel on public conveyance shall be at the most economical rate.

**References: NM Travel and Per diem Act**

## **POLICY 227 - Soliciting and Selling by Employees**

Employees are prohibited from soliciting from children on school premises during school hours.

School employees are prohibited from conducting any business transactions for political campaigns or candidates or for personal profit during school hours and on school premises.

School employees engaged in the sale of raffle tickets or other items for support of student-related organizations shall do so in a manner and time that will not interfere with the proper conduct of any school function or interfere with a school employee's effective performance of duties.

Application may be made to the Administrator's office for Governing Council approval of fundraising activities in special circumstances.

## **POLICY 228 - Gifts and Gratuities**

Individual employees shall neither solicit nor accept personal gratuities, favors or anything of monetary value from contractors as merchants with whom the La Tierra Montessori School of the Arts and Sciences is doing business or who are attempting to sell goods or services to the schools.

Individual employees shall not request, receive, or accept a gift or loan for themselves or another that tends to influence them or appear to influence them in the discharge of their duties as employees.

Business with suppliers to school will not be influenced or appear to be influenced by an employee's financial interest.

This policy does not preclude acceptance of food or drinks of a social nature or participation in a social event.

## **POLICY 229 - Political Activities by Employees and Others**

Employees seeking political office, as well as other candidates, are prohibited from conducting campaign activities during regular working hours on school premises. Under no circumstances will a candidate be permitted to use students during school hours in any campaign activity. Similarly, candidates are prohibited from using school machines or materials to produce campaign literature.

Those persons, including employees, seeking to promote themselves or another candidate for elected office are to observe the following:

All employees:

1. Are encouraged to register and vote,
2. Have a right to express their opinions on all political subjects and candidates,
3. May serve as convention delegates,
4. May attend political rallies,
5. May serve as an elected official, provided the employee is authorized leave; and
6. May be a member of a local board, which shall not be construed to be either holding political office or being an officer of a political organization provided the employee is authorized leave as necessary.

All employees shall observe the following:

1. May not engage in political activity during contract hours to include signing

- nominating petitions and making voluntary contributions to political organizations,
2. No employee shall use official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose,
  3. No employee shall directly or indirectly coerce, attempt to coerce, command or advise an employee to pay, lend or contribute anything of value to a party, committee, organization, agency, or person for political purpose. This includes threatening to make employment decisions regarding hiring, promotion, transfer, training, compensation, benefits or any other employee programs, based upon an employee's choice of candidate in an election.
  4. No employee or other person shall place campaign literature in faculty or staff mailboxes or distribute such literature in classrooms.
  5. Candidates, if invited by an employee group, will be permitted to address the employee group after school hours. Attendance for employees will not be mandatory. Otherwise, no campaigning will be allowed in the buildings. No visits to classrooms or staff areas for campaigning purposes will be permitted if it interferes with instructional time or is unwanted.
  6. Students are not to be asked to take home campaign literature for individual candidates.
  7. Employees may not use the School's electronic mail (email) service to distribute political activity communications. School telephones will not be used to engage in political activity and will be left free for school business.
  8. Bumper stickers affixed to personal vehicles will be allowed. However, campaign buttons or the like will not be worn during school hours.
  9. Sale of tickets for campaign fundraisers will not be permitted on school premises during contract hours.

#### The Hatch Act and New Mexico State Statutes

Employees who are covered by the provisions of the Hatch Act may be candidates in nonpartisan elections, if upon filing or accepting the nomination and during the entire campaign the employee is authorized leave. These employees may not be candidates in partisan elections.

Employees not covered by provisions of the Hatch Act may be candidates for any public office, if upon filing or accepting the nomination and during the entire campaign, the employee is authorized leave. In accordance with the provisions of Section 10-9-21(B) NMSA 1978, being a member of another local school board or community college shall not be construed to be holding political office.

#### **POLICY 230 - Academic Freedom**

The Governing Council desires that discussion and study of political and social issues be undertaken in a dispassionate atmosphere free from bias.

In this spirit, teachers shall serve as impartial moderators and shall not attempt directly or indirectly to limit or control the opinion of pupils on such issues. Teachers are encouraged to foster the study of issues rather than teach particular viewpoints with regard to them.

The Governing Council recognizes that teachers have the right and responsibility to exercise professional judgment, within the limits of the previous statements, when such issues are under study.

Teachers must inform the Administrator of names and topics of guest speakers appearing in their classrooms.

## **POLICY 231 - Employee/Immediate Family Members Doing Business with the School**

Pursuant to the provisions of the Procurement Code and the Public School Code, no school employee or member of an employee's immediate family (as defined in NMSA 1978, Section 13-1-62) shall directly or indirectly sell or be a party to any transaction to sell any instructional material, furniture, equipment, insurance, school supplies, or work under contract to the school with which they are associated or employed when the employee or member of the employee's immediate family has a financial interest in the transaction.

No employee of the La Tierra Montessori School of the Arts and Sciences shall receive any commission or profit from the solicitation or sale of investment securities or insurance to any other employee under their supervision.

The provisions of this policy shall not apply to any employee making a sale in the regular course of the employee's business when the sale is in compliance with all applicable provisions of the Procurement Code.

The Governing Council reserves the right to grant a waiver of unlawful employee participation in a procurement process, pursuant to Section 163 of the Procurement Code (NMSA 1978, Section 13-1-190), upon making the following findings:

The contemporaneous employment or financial interest of the employee has been publicly disclosed.

The employee will be able to perform the procurement functions without actual or apparent bias or favoritism; and

The employee participation is in the best interest of the charter school.



In the event that the Governing Council determines that it is in the best interest of the school to waive unlawful employee participation, an affidavit stating the terms of the waiver have been complied with shall be completed by the participating employee(s) and appropriate school official(s) and remain on file in the school's business/finance department and in the procurement file for the applicable transaction.

The term "employee" includes all persons receiving a salary, wages or per diem and mileage from a state agency or local public body whether elected or not and any non-compensated individual performing personal services as an elected or appointed official or otherwise for a state agency or a local public body.

### **POLICY 232 - Personnel Records**

The Administrator shall maintain personnel records for all school employees, the records to include but not limited to: official transcripts, licensure documents, experience records and evaluation reports.

These records shall be open to inspection only to:

1. the employee concerned, but only in the presence of the Administrator or the person in charge of the records. The employee may see any reference only if there **is no written statement** by the employee or the person providing the reference that it will not be made available to the employee;
2. the Administrator, the Administrator's staff or other administrators on a need-to-know basis, and the Governing Council during executive personnel sessions, and
3. representatives of regulatory or accrediting agencies as required for the conduct of their official business.

Personnel records will not be made available to other persons without the consent of the employee. No material shall be removed from the record except for review. No record shall be removed from the Administrator's office.

### **POLICY 233 - Release of Personnel Information**

It shall be the policy of the La Tierra Montessori School of the Arts and Sciences Governing Council to protect the privacy of current, former and prospective employees to the extent permitted by law. Accordingly, all personnel information retained by the school shall be considered confidential unless the Inspection of Public Records Act requires otherwise.

Confidential personnel information will not be released without the affected person's written consent unless the Head Administrator determines that exceptional circumstance justify such

action. Other personnel information will be made available pursuant to the Inspection of Public Records Act, as interpreted by the New Mexico courts.

The Act and decisions interpreting it provide that the following types of personnel information may be treated as confidential:

1. Letters of reference concerning employment, licensing or permits;
2. Letters or memoranda in personnel files which are matters of opinion, including documents concerning infractions and disciplinary actions, performance evaluations, and related materials, opinions as to whether a person should be rehired or reasons why an applicant was not hired, and any other material expressing an opinion as to a current or former employee or an applicant for employment;
3. Medical and related information pertaining to illness, injury, disability to perform a job, task, or sick leave; and
4. Other types of personal information, such as military discharge or arrest records, which is solicited by the school; which is considered vital to the employment procedure; which was furnished after a promise to keep the information confidential; and for which disclosure would not appear to serve any identifiable public interest.

These types of information will be treated as confidential to protect the privacy of current, former and prospective employees and to encourage qualified persons to apply for positions with assurance that the mere fact of their application for another job need not become public information.

The School shall be entitled to ask persons seeking disclosure of personnel records to provide reasonable justification for such disclosure.

## **POLICY 234 - Disclosure of Employee Names**

Pursuant to State Regulation 93-17, no school employee, Governing Council member or school volunteer shall see or use employee lists or disclose the name of any employee for the purpose of marketing goods or services directly to employees or their families by means of telephone or mail.

The exceptions to this policy are when an employee authorizes the name release for any of the following legitimate educational purposes:

1. Regionally accredited colleges and universities
2. Accredited post-secondary and vocational educational entities
3. Accredited public educational entities providing adult basic educational opportunities
4. Educational entities offering continuing education opportunities for licensed and/or non- licensed faculty and staff
5. Educational entities offering tour/travel opportunities which result in educational credits through a regionally accredited college or university, or an accredited post-secondary or vocational school

6. The Armed Forces of the United States offering educational programs and/or opportunities within the military
7. Additionally, the Governing Council authorizes, upon request, release of employee names to the exclusive representative(s) of employees.

**Reference: NM State Regulation 93-17**

## **POLICY 235 - Leaves from Duty**

The La Tierra Montessori School of the Arts and Sciences Governing Council provides authorized leaves from duty as follows:

- Annual Leave
- Bereavement Leave
- Educational Leave
- Family and Medical
- Leave Funeral Leave
- Jury Duty/Subpoena Leave
- Military Leave
- Personal and Sick Leave
- Professional Leave
- Sabbatical

All leaves, with or without pay, require advance approval except in emergency situations. Full pay will be deducted from an employee's salary for each unauthorized absence or for any absence not meeting the criteria specified in the policy covering the leave for which the absence was authorized. No leave shall have any compensation as part of it unless specified by the individual leave policy.

**The following paragraphs apply in all cases unless specifically modified in the individual leave policies.**

An employee granted leave of absence will be returned whenever possible to the same position.

Except in cases of extended illness of the certified employee or his/her immediate family, proposed termination of leave of absence must be determined at the time the leave is granted. Date of expected return must coincide with the beginning of a semester unless other arrangements have been made. Failure of a certified employee to present himself/herself for duty upon expiration of a leave of absence relieves the School of its responsibility for reemployment, unless an extension is requested and granted.

No leave shall be granted which exceeds a twelve-month period unless an extension is granted by the Governing Council.

Employees on unpaid leave of more than one month of consecutive work-days may continue group insurance by timely payment of the full premium, with no La Tierra Montessori School of the Arts and Sciences contribution, unless the leave is under the provisions of the Family and Medical Leave Act.

Employees will not accrue leave or other benefits during any leave without pay.

## **POLICY 236 - Family and Medical Leave**

The School complies with the Family and Medical Leave Act, 29 U.S.C. §§ 2601 et seq. (FMLA). This policy only provides a general description of the benefits available to eligible employees under this federal law. Specific requests for FMLA leave will be handled according to the FMLA and the regulations promulgated by Workforce Solutions. In the event any conflict between the provisions of this or any other leave policy of La Tierra Montessori School of the Arts and Sciences and the provisions of the FMLA, the latter shall prevail.

The FMLA provides unpaid, job protected leave for eligible employees for certain family, medical, and military service reasons.

### ELIGIBILITY

In order to be eligible for FMLA leave the employee must: 1) have been employed by the School for at least 12 months; 2) have worked at least 1,250 hours for the School during the 12 month period immediately preceding the leave.

### 12 MONTH PERIOD

The 12 month period is calculated from the first day an employee takes FMLA leave.

### REASONS FOR FMLA LEAVE

Eligible employees may be granted up to 12 weeks of unpaid job protected leave during a 12 month period for any one or a combination of the following reasons:

1. To care for the employee's child after birth, or placement for adoption or foster care;
2. To care for the employee's spouse, son, daughter or parent (but not in-law) who has a serious health condition;
3. For the employee's own serious health condition (including any period of incapacity due to pregnancy, prenatal medical care or childbirth) that makes the employee unable

to perform one or more of the essential function of the employee's job; and/or

### INTERMITTENT LEAVE AND REDUCED LEAVE SCHEDULES

FMLA leave is usually taken for a period of consecutive days, weeks or months. However, employees are also entitled to take FMLA leave intermittently or on a reduced leave schedule when medically necessary due to a serious health condition of the employee or covered family member or the serious injury or illness of a covered service member.

### HEALTH INSURANCE BENEFITS WHILE ON FMLA LEAVE

During FMLA leave eligible employees are entitled to receive group health plan coverage on the same terms and conditions as if they had continued to work. An employee who wishes to continue their health insurance benefits must pay their portion of the insurance premium. If the employee fails to make payment of the employees share of health insurance premiums for thirty (30) days after such payment is due, coverage of such employee for benefits shall be discontinued. If the employee fails to return to work following leave under the FMLA for any reason (1) other than the continuation of the FMLA qualifying circumstances upon which the need for leave was originally based, or (2) circumstances beyond the control of the employee, the employee shall be required to reimburse the school for the cost of health insurance premiums which the school paid to maintain coverage for the employee during the leave period.

### FMLA LEAVE AND WORKERS COMPENSATION

Leaves of absence taken in connection with a disability leave plan or workers' compensation injury/illness run concurrently with any FMLA leave entitlement.

### USE OF ACCRUED PAID LEAVE WHILE ON FMLA LEAVE

Although FMLA leave is unpaid, the School requires employees to use their accrued paid sick, annual and personal leave while on FMLA leave. Employees who take family/medical leave must utilize any available paid leave they have accrued. If the requested leave period extends beyond the employees accrued number of paid leave days, the remaining leave days will be unpaid.

### REQUESTING FMLA LEAVE

Employees who wish to requests FMLA leave should fill out a "Request for Leave Form" and submit it to the Administrator. An employee seeking leave for a foreseeable reason such as the

birth or placement of a child or for planned medical treatment shall provide the School with at least thirty (30) days advance notice of the leave. If thirty (30) days advance notice is not possible under the circumstances, (e.g. in the case of a premature birth) the employee shall give such notice as is practicable, (e.g., within one or two business days) of the day the employee learns of the need for leave. If an employee's reason for seeking leave was unforeseeable, such employee shall give such notice as is practicable. An employee who fails to give notice of leave as required herein may be denied such leave until the notice requirements are met. Employees who fail to give adequate notice of foreseeable leave may have their leave delayed or denied. If less than thirty days notice of leave is provided, the employee must schedule an appointment with the Administrator for approval if practicable.

If an employee requests leave for treatment of an employee's serious medical condition or for that of a child, parent, or spouse, the employee must make a reasonable effort to schedule the treatment at a time that is not unduly disruptive to the school.

All requests for family/medical leave must be approved by the Administrator. It shall be the school's responsibility to identify the requested leave as covered by the FMLA and as paid or unpaid on the basis of leave time accrued under or during such leave, on the basis of information provided by the employee.

#### SERIOUS HEALTH CONDITION

A "serious health condition" is an illness, injury, impairment, or physical or mental condition that (a) requires in-patient care in a hospital, hospital, hospice, or residential medical care facility, or (b) requires continuing treatment by a health care provider and which, if left untreated, would likely result in an absence from work of more than three (3) days, or (c) involves pre-natal care. A "serious health condition" does not include voluntary cosmetic treatments, unless inpatient care is required, or routine physical examinations.

#### MEDICAL CERTIFICATION

Depending upon the nature of the FMLA leave sought, employees may be required to provide medical certifications supporting their need for FMLA qualifying leave.

An employee seeking leave on the basis of the serious medical condition of the employee or the employee's spouse, son or daughter, or parent, must provide certification issued by the health care provider of the employee or of the employee's spouse, son or daughter, or parent, stating:

1. the date the condition began,
2. it's probable duration
3. appropriate medical facts, and

4. that, for a specified time, either
  - a. the employee is unable to perform his or her job functions or will be unavailable to do so while receiving necessary medical treatment, or
  - b. the employee will be needed to care for the sick family member.

If the adequacy of medical certification is questioned by the school, the school may require the employee to seek, at the school's expense, the opinion of a second health care provider, who is not regularly employed by the school. If the opinions of the first and second health care providers differ, the school may require, at the school's expense, a third opinion from a health care provider agreed upon by the employee and the school. The third opinion shall be final and binding.

#### FMLA LEAVE FOR SPOUSES

Spouses employed by the school are limited to a combined total of twelve (12) work weeks per year for the birth or placement of a child, or to care for a parent. However, for other covered leaves, such as to care for a spouse or child, or for the treatment of the employee's own serious health condition, each spouse may take up to twelve (12) weeks a year.

#### INSTRUCTIONAL EMPLOYEES

If an eligible "instructional employee" seeks intermittent leave or reduced-schedule leave for the care of a spouse, son or daughter, or parent, or for the employee's own serious health condition, and the leave is foreseeable on the basis of planned medical treatment, and the employee would be on leave for more than twenty (20) percent of the work days during the period, the employee must choose either to:

1. Take leave for a period or periods of a particular length, not greater than the length of the planned medical treatment; or
2. Transfer temporarily to an equivalent position which better accommodates recurring periods of leave.

"Instructional employees" include teachers, instructional assistants, and other employees whose duties Administrator involve the direct provision of instructional services to students.

In the event an employee involuntarily takes additional leave time under subparagraph 1, above, the entire leave time shall be counted against the employee's available leave under the FMLA and any school leave policy.

If any employee requests intermittent leave or leave on a reduced work schedule to care for a seriously ill family member or for the employee's own serious health condition, and the need for leave is foreseeable based upon planned medical treatment, the employee may temporarily

be transferred to an available alternative position with equivalent pay and benefits, if the employee is qualified for the position and the position better accommodates recurring periods of leave than the employee's regular job.

The responsibilities of instructional employees near the end of academic terms (examinations, grading, etc.) requires that the school be able to limit leave taking by instructional employees at such times as follows:

1. Leaves beginning more than five (5) weeks before the end of a semester: If an instructional employee starts a leave more than five weeks before the end of a semester, the school may require the employee to continue the leave until the end of the semester if: the leave is of at least three (3) weeks duration; and the employee would return from leave during the three-week period preceding the semester's end.
2. Leaves beginning five weeks or less before the end of a semester: If an instructional employee begins a leave five (5) weeks or less before the end of a semester, the school may require the employee to continue the leave until the end of the semester if: the leave will last more than two (2) weeks; and the employee would return from leave during the two-week period before the term's end.
3. Leaves beginning three (3) weeks or less before the end of a semester: If an instructional employee starts a leave three (3) weeks or less before the end of a semester, the school may require the employee to continue the leave until the end of the term if the leave will last more than five (5) working days.

### ACCRUAL OF LEAVE

Employees will not accrue leave or other benefits during the family/medical leave period while on unpaid leave.

### RETURN TO WORK/FITNESS FOR DUTY MEDICAL CERTIFICATION

Employees returning to work from FMLA leave taken because of their own serious health conditions may be required to provide the School with a medical certification confirming that they are able to return to work and perform the essential function of their position with or without reasonable accommodation. The School may delay or deny job restoration until the employee provides a return to work/fitness for duty certification.

### NO WORK WHILE ON LEAVE



Taking another job while on FMLA leave is prohibited and grounds for termination.

## POSTING

The school shall post notice to all employees describing the provisions of the FMLA in a form approved by the Wage and Hour Division of the United States Department of Labor.

**Reference: FMLA 1993**

## **POLICY 237 - Annual Leave (Twelve Month Employees)**

*The following provisions apply:*

1. Annual leave shall not accrue to any employee while on a leave without pay status
2. Years of service credit include only those years of employment with La Tierra Montessori School of the Arts and Sciences
3. Annual leave will not be granted in excess of the number of days earned by the employee at the time of leave.
4. Authorization from an employee's immediate supervisor must be granted in writing prior to taking leave, and only for such times as will least interfere with the efficient operation of the school (except in cases of emergency).
5. Employees absent without prior authorization may be subject to deduction from annual leave or salary, suspension without pay or dismissal from the system.
6. Unused annual leave is cumulative.
7. Annual leave is earned leave computed on the basis of the number of months and percentage of FTE (full time equivalency) of greater than one-half of service in any given year.
8. Annual leave shall not be granted to temporary agency or part-time (under one-half FTE) employees.

## Holidays

The Governing Council upon recommendation of the Administrator will approve a calendar of paid holidays for all twelve-month employees that is in accord with the adopted school calendar.

## **POLICY 238 - Bereavement Leave**

In the case of death in the immediate family during an employment period of the employee, the employee shall be allowed leave with full pay for up to three (3) working days immediately following the date of such death. The immediate family is defined to include: husband, wife, domestic partner, child, grandchild, parents, grandparents, sister, brother, mother and father in-law, brother and sister in-law. If requested, two (2) additional days leave with pay may be

granted when out of town travel is required. Additional days may be granted on a case by case basis by the Administrator.

### **POLICY 239 - Funeral Leave**

Employees may be excused without loss of pay, for a period up to four hours, to attend funeral services of relatives other than those defined as immediate family in the bereavement leave policy and/or friends.

### **POLICY 240 - Professional Leave**

Leaves from duty without deduction may be granted for professional visitation and attendance at job-related meetings, conferences and training sessions or other activities which in the Administrator's judgment would be beneficial to the work of the employee or to the school as a whole. A procedure for equitable distribution of professional leave funds will be devised by staff.

### **POLICY 241 - Jury Duty/Court Subpoena Leave**

An employee receiving a Court summons for jury duty or a Court issued subpoena will be released from work in accordance with state and federal law. Employees receiving a subpoena to testify will be released on leave without pay (unless the employee elects to use Personal Leave) except in the case where said subpoena concerns matters related to School business. Leave with pay will be granted when an employee is subpoenaed to appear in an official proceeding, if such proceeding does not involve self-employment or other employer and does not concern the employee's own personal affairs.

Leave with pay will be granted to an employee for appearance in court as a witness, to serve on a jury, or to respond to an official order from another governmental jurisdiction for reasons not brought about through the connivance or misconduct of the employee. Employees are not required to accept paid time off for witness/court duty. However employees who take leave with pay in order to serve as a witness or juror must provide any reimbursement they receive for their service to the School

An employee who is served with a subpoena should show it to the Administrator immediately after it is received so that staffing can be adjusted, where necessary to accommodate the employee's absence. The employee is expected to report for work whenever the court schedule permits.

### **POLICY 242 - Military Leave**

Any employee who is a member of an organized unit of the National Guard, or a reserve unit of any of the military branches, when ordered to active duty training with such organized units, shall be given military leave with pay not to exceed fifteen (15) days annually.

Such leave is to be in addition to other leave or vacation time to which the employee is otherwise entitled. Such leave also provides fifteen days' pay for what would otherwise be unpaid FMLA leave for eligible employees.

Any employee who is drafted or called into duty by the armed forces of the United States shall be considered as on leave without pay, eligible for return to duty as provided by the Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. § 4301-4333.

### **POLICY 243 – Wellness Leave**

Employees accrue leave according to the terms of their contracts (see below) and may use their yearly allowed days of leave without loss of pay each school year for sickness, personal, legal, business, household, educational or family matters. Notice to the employee's Administrator that personal leave is to be taken will be given at least one (1) day before taking such leave (except in cases of emergency or unforeseen illness). The employee is not required to state the reason for taking such leave and his/her signature on the notice of absence form will attest that the leave is being taken under the conditions stated above.

#### **Employment Days/Year Allowed**

Regular School Term	10
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Leave accrual applies only to a regular contract assignment. For example, summer school teaching is not part of a regular contract and is therefore not covered by the sick leave policy.

Unused leave may be rolled over to the following year except that the Administrator will not approve more than 30 days of leave (depending upon the employees contract term) in any given contract year for reasons other than permitted under the FMLA. The Administrator may require medical certification or a physician's statement attesting to the fact that the employee is unable to return to work for health reasons in order to justify leave taken over and above the annually accrued amount. Accrued leave is not payable upon termination.

Employees on FMLA leave are required to use their accrued personal leave. Employees on Workers Compensation Leave are required to use their accrued personal leave to make up the difference between their Workers Compensation benefit and their regular rate of pay as provided in **POLICY 257 WORK RELATED INJURIES**.

In the event that an employee terminates employment prior to completion of a contract, personal leave shall be prorated from the above leave schedule. If the terminating employee has used more leave than has been earned, the adjustment shall be deducted from the final payment due the employee. If the continuing employee uses more days than those to which he/she is entitled for the contract year, payroll deduction for those days in excess of those allowed will begin the following pay period.

## **POLICY 244 - Sick Leave (Twelve Month Employees)**

Twelve Month employees are entitled to ten (10) days of sick leave in addition to their annual leave and may use their sick leave without loss of pay for sickness and for any reason authorized by the FMLA. Notice to the employee's supervisor that sick leave is to be taken must be given as far in advance as practical unless the need for leave is unforeseen in which case it will be given at least one (1) hour before taking such leave.

The Administrator may require a physician's statement attesting to the fact the employee is unable to return to work for health reasons and may also require certification as provided by the Family and Medical Leave Act when applicable.

Employees on FMLA leave are required to use their accrued sick leave. Employees on Workers Compensation Leave are required to use their accrued sick leave to make up the difference between their Workers Compensation benefit and their regular rate of pay as provided in **POLICY 257 WORK RELATED INJURIES**

Unused sick leave may be rolled over to the following year. Accrued sick leave is not payable upon termination. In the event that an employee terminates employment prior to completion of a contract, sick leave shall be prorated from eight days. If the terminating employee has used more leave than has been earned, the adjustment shall be deducted from the final payment due the employee. If the continuing employee uses more days than those to which he/she is entitled for the contract year, payroll deduction for those days in excess of those allowed will begin the following pay period.

## **POLICY 245 - Policy on Payroll Distribution**

La Tierra Montessori School of the Arts and Sciences employees on nine, ten or eleven month contracts are paid in installments equal to 1/26<sup>th</sup> of their contracted salary, except when they qualify for and elect the alternate pay plan described below. Except as noted below, installments commence after the employee's first day of work and will be paid biweekly over a period of twelve months or by August 31, whichever comes first. Installments for late starting employees will be reduced in number by the number of installments missed.

A La Tierra Montessori School of the Arts and Sciences employee who does not carry any

insurances for which regular payroll deductions must be taken, may elect to be paid their salary on a biweekly schedule as earned, as opposed to over twenty-six installments, provided that a written election to do so is made and received by school administration prior to their first day of work in the contract year. If an election form is not received or is received late, the employee will be paid on the twenty-six installment plan (as above). An employee's elective payroll distribution plan will be in effect until revoked by the employee in writing or until revoked by the school due to the employee having purchased an insurance policy that requires payroll deductions.

## **POLICY 246 - Employee Eligibility for Fringe Benefits**

All full-time employees of the La Tierra Montessori School of the Arts and Sciences are eligible for all benefits provided by statute or regulation and by the Governing Council. For the purposes of this policy "full-time" is defined as not less than twenty (20) hours weekly. Employees in any capacity working less than twenty (20) hours per week are **ineligible** for any medical/dental or other voluntary insurance coverage paid for in part or in whole by the Governing Council. Part-time employees will be provided any fringe benefit required by state or federal law or regulation.

Employees who work at least twenty (20) hours a week but less than full-time are eligible for all benefits provided by statute or regulation and by the Governing Council, **except annual leave**.

La Tierra Montessori School of the Arts and Sciences provides a Life Insurance Policy to all employees that work fifteen (15) or more hours per week.

## **POLICY 247 - Personnel and Communicable Disease/Health Threats**

The Governing Council recognizes that the health and safety of the students and personnel are primary concerns and that it is necessary to adopt a policy governing the manner in which the Governing Council and its administration will protect the health and safety of all students and personnel when a current or potential employee is infected with a communicable disease. This policy is adopted in order to protect the legitimate interests and rights of personnel with communicable diseases or who are carriers of communicable diseases, while also protecting all students and the remaining personnel in the district.

No individual will be denied employment in the school, nor will any employee be suspended, terminated, segregated, discharged or have his or her assignment changed as a result of the individual being a carrier or having a communicable disease, unless the procedures specified herein have been followed.

Any decision affecting the employment, continued employment, or the suspension from duty

of an individual who is a carrier of or who has a communicable disease will be based upon competent medical advice and will balance the rights of the infected individual against the legitimate interest of the school in protecting the health and safety of the students and the remaining personnel.

The School will not require mandatory testing or screening of individuals for communicable diseases as a condition for employment, either initially or annually. However, if the school authorities have reasonable cause to believe that an individual (employee) has or is a carrier of a communicable disease, such individual (employee), may be required to submit to an appropriate medical examination at the expense of the School.

Employees may voluntarily choose to absent themselves from their position, using accumulated sick leave or other appropriate leave or leave without pay, for any period during which the employee's condition is infectious or communicable, provided that such absence is supported by a statement to the effect by a medical doctor or other competent medical professional. If school authorities have reasonable cause to question the continued absence of an employee, such employee may be required to submit to an appropriate medical examination by medical professionals selected by the school district at the expense of the district.

Employees who have or are carriers of communicable diseases and who have not voluntarily absented themselves from their duties, will have their employment situation reviewed by a committee consisting of: (a.) the employee's physician, (b.) a physician appointed by the school, (c.) the employee, (d.) the President of the Governing Council, (e.) the Administrator and (f.) any other person, to be appointed to the committee by the Head Administrator, whose expertise would be useful to the committee in reaching and implementing its decision.

In determining the employment situation for any employee who has or is a carrier of any communicable disease, the following factors will be evaluated: (a.) the nature of the disease, (b.) the expected type of interaction the employee will have with students and other employees, (c.) the risk of transmission of the disease from the infected employee to students and other employees, (d.) the physical condition of the employee, (e.) the hygienic practices of the employee and (f.) any other pertinent factor reasonably related to the decision.

A maintenance of full employment for all employees is the primary goal of this policy. Restrictions of or suspension from full employment will only be imposed when the risks to students and other employees outweigh any benefits which the employee may receive from remaining on duty.

## **POLICY 248 - Overtime Compensation**

The School complies with the Fair Labor Standards Act and pays covered nonexempt

employees overtime at the rate of one and one-half times their regular rate of pay when they work more than forty hours in a workweek. Overtime must be authorized by the Administrator and is calculated based upon actual hours worked. Paid time off does not count as hours worked.

## **POLICY 249 - Personnel Assignments**

No employee of the La Tierra Montessori School of the Arts and Sciences shall be assigned a position or job classification in which the immediate supervisor is the spouse, father, father-in-law, mother, mother-in-law, brother, brother-in-law, sister, sister-in-law of the assigned employee. As used herein, "immediate supervisor" shall include the Administrator or administrative unit to which the employee is assigned or any other person responsible for the assigned employee.

## **POLICY 250 - Reporting Illegal or Improper Conduct**

The Governing Council affirms its commitment to adherence to proper and legal conduct by all employees of the La Tierra Montessori School of the Arts and Sciences. As part of this commitment, the Governing Council requires that an employee who has reliable information that another employee is engaging in illegal or improper conduct shall report such information to the Administrator. The School shall hold the employee making the report safe from any retaliation, unless the employee acted in bad faith or with malicious purpose. Any employee who retaliates against an employee who makes a proper report of illegal or improper conduct shall be subject to discipline.

It is the duty of appropriate administrative officials to investigate any report of illegal or improper conduct by an employee. The employee making the report has no duty to investigate, but shall cooperate with the investigating administrator(s). During the investigation the originating report shall be held confidential, consistent with the requirements of an effective investigation. Upon the conclusion of the investigation, a determination shall be issued.

If the charge(s) of illegal or improper conduct is supported by the investigation, appropriate disciplinary action shall be taken including, but not limited to, warning or reprimand, suspension, termination or discharge, subject to any applicable procedural requirements.

If the charge(s) is found to be without merit, the record retained by the School shall be on file in the Administrator's office and not be part of the employee's personnel file.

## **POLICY 251 - Reporting Student Abuse of Alcohol or Drugs**

New Mexico law (NMSA 22-5-4.4) requires that school employees who know or in good faith suspect any student of using or abusing alcohol or drugs shall report such use pursuant to

procedures established by the Governing Council. So long as such report is made in good faith, the reporting school employee shall be immune from civil damages for his or her action. This policy is enacted to provide a procedure to be followed by all school employees in reporting known and/or suspected use of alcohol or drugs by students.

All employees have a mandatory, non-discretionary duty to report known or suspected alcohol or drug use or abuse by any student of the school.

All reports made shall be on a uniform reporting form, available from the Administrator, and shall be given to the Administrator upon completion.

Reports shall be made within a reasonable time after the employee learns or suspects the use or abuse of drugs or alcohol by a student.

It is not the duty of the school employee making the report to conduct an investigation to determine whether the student identified has in fact used or abused drugs or alcohol. The duty to investigate shall be upon the Administrator provided, however, that the reporting employee shall cooperate with responsible school officials during the course of any investigation.

The failure to any school employee to report knowledge or suspicion of student alcohol or drug use in a timely manner may be cause for discipline of the employee.

**Reference: NMSA 22-5-4.4**

## **POLICY 252 - Reporting Acts of Violence and/or Vandalism**

New Mexico law (NMSA 22-1-7) requires that any district employee who observes or has direct knowledge from a participant or victim of an act of violence upon any employee engaged in the lawful discharge of duty or of vandalism to public school property shall file a report describing the incident pursuant to procedures established by the State Department of Public Education. Any person who files such a report shall not be discriminated against in any manner or discharged because he/she has filed that report.

**Reference: NMSA 22-1-7**

## **POLICY 253 - Reporting Child Abuse and Neglect**

New Mexico law (22-5-4.2) requires that school employees who know or suspect that a child is an abused or a neglected child shall immediately report the matter to:

The Children, Youth and Families Department, or the criminal prosecution division of the Office of the District Attorney.



So long as such report is made in good faith, the reporting school employee shall be immune from civil liability or criminal sanctions for his/her action. Any school employee who permits a member of a law enforcement agency or an employee of the Children, Youth and Families Department to interview the child with respect to that report without the permission of his/her parent, guardian or custodian is presumed to be acting in good faith and shall be immune from civil and criminal liability that might otherwise be incurred, unless the employee acted in bad faith or with malicious purpose.

All employees have a mandatory, non-discretionary duty to report known or suspected abuse or neglect of a child.

It is not the duty of the school employee making the report to conduct an investigation to determine whether the child identified has in fact been abused or neglected. The duty for the state to investigate the report is set forth in Section 32-1-15 of New Mexico Statutes.

The failure of any school employee to report knowledge or suspicion of child abuse or neglect will be cause for criminal prosecution and may be cause for discipline of the employee.

**Reference: New Mexico Statute 22-5-4.2**

## **POLICY 254 Anonymous Complaints**

The following guidelines instruct staff on the proper prioritizing and processing of anonymous complaints.

Anonymous complaints are defined as a complaint or concern received either in written or verbal form that is from a person who does not wish to be named or go on the record. This policy attempts to balance various legal and procedural issues against the need for protecting the right of both parties of a complaint. Staff who receive an anonymous complaint should encourage the complaining party to report their concerns to Child Protective Services.

To properly investigate a complaint it is often necessary to obtain additional or clarifying information from the complainant. It is also vital to close the circle and inform the complainant when there is not a violation, or that an investigation has resolved the issue, so they both understand the issue and the Schools response. This follow up is not possible if the complainant wishes to remain anonymous. In investigations, the School limits information shared with others only on a need to know basis. In all cases, retaliation, against the complainant, for raising a complaint or concern is prohibited. Thus employees should not make their concerns or complaints on an anonymous basis.

Exceptions to this policy may be made if the following conditions are present:

1. The complaint concerns what appears to be a serious imminent threat to an

- individual's safety and well being.
2. The complaint concerns what appears to be a serious imminent environmental issue.
  3. The complaint involves the reporting of actual or suspected child abuse.

## **POLICY 255 - Sex Offender Registration and Notification (Megan's Law)**

It is the policy of the La Tierra Montessori School of the Arts and Sciences Governing Council to support the purposes of the Sex Offender Registration and Notification Act (New Mexico's version of "Megan's Law").

## **POLICY 256 - Employee Recommendations for Current or Former Employees of the School**

An employer and individual employees may be held liable for having provided incomplete or misleading employment references or recommendations in regard to the employer's current or former employees under certain circumstances. The individual employees of the La Tierra Montessori School of the Arts and Sciences who wish to provide employment references or recommendations for current or former employees may not be in possession of all pertinent information regarding a current or former employee to provide a complete and fair employment reference or recommendation. That under current law, individual employee of the school who provides a recommendation or reference for a current or former employee of the school may be mistakenly perceived as providing such reference or recommendation on behalf of the La Tierra Montessori School of the Arts and Sciences. Limitations and conditions are required to prevent employment references or recommendations by individual employees from being attributed to the School when such references or recommendations have not been authorized by the School.

## **POLICY 257 – Work-Related Injuries**

Employees will be compensated for lost earnings and medical expenses incurred as the result of job-related injuries or illnesses in accordance with the New Mexico Workers' Compensation Act (NMSA 1978 §§ 52-1-1 et seq.).

1. Exclusive Remedy / No-Fault Standard Workers' Compensation is the exclusive remedy for employees injured on the job. It establishes a no-fault system that focuses on recovering health and getting employees back to work.
2. Reporting an Injury
  - a. Regardless of the severity of the injury or whether or not medical treatment is sought, on the job injuries or accidents must be reported to the Administrator

immediately and no later than 15 days after the injury/accident occurred.

- b. The employee is responsible for completing the Notice of Accident report and providing it to the Administrator for processing as soon as possible and no later than 15 days after the employee knew or should have known of the accident. See NMSA 1978 §52-1-29.

### 3. Treatment Facilities

- a. Employees who are injured at work shall seek medical attention at a LTMAS designated facility. Contact the Administrator for the current facility options.
- b. If after sixty days of treatment through a LTMAS-specified provider the employee is not satisfied with the care, the employee has the right to select a new care provider by following certain specified steps in compliance with workers' compensation law and regulation. An Ombudsman at the Workers' Compensation Administration (1-800- 255-7965) or an attorney can explain the process to the employee.

### 4. Emergencies

- a. If the injury is an emergency that requires immediate medical attention the injured party or anyone in a position to help shall secure the necessary treatment without delay. In the event of an emergency any appropriate medical facility may be used, including the injured employee's primary care physician.
- b. Follow-up treatment for any injury must be through an approved facility. Contact the Administrator for the name of a designated facility.
- c. When the emergency has abated, the employee must inform the supervisor of the injury as soon as possible, and no later than 15 days after the injury occurred.

### 5. Injuries Due to Employee's Own Intoxication, Willfulness or Intention

- a. The New Mexico Workers' Compensation Act provides that no compensation will become due or payable in the event that the employee's injury is the result of the employee's own intoxication, or if the injury is willfully suffered or intentionally inflicted by the employee.

### 6. Medical Billing

- a. Approved medical facilities will bill the school's Workers' Compensation administrator directly. Other providers should send bills and medical records to:

CCMSI

P.O. Box 30870

Albuquerque, NM 87190

Phone: 800 635-0679

### 7. Coordination with Other Leave Policies

- a. Sick Leave. An employee's sick leave is not charged for lost time on the day of the injury. Employees are expected to return to work unless the treating physician provides a statement that the employee is not fit to return to work.

- b. Family and Medical Leave Act (FMLA). If an employee experiences a job-related injury or illness that meets the definition of an FMLA qualifying event, the employee shall be placed on FMLA leave. The amount of FMLA leave that the employee is eligible to take is reduced by the time off covered under Workers' Compensation.
- c. Available Accrued Leave. Workers' Compensation is automatically paid by the insurance carrier after seven days of missed work. The first seven days of work missed due to a work-related injury or illness will be paid from the employee's available accrued leave. In addition, Worker's Compensation benefits do not compensate an employee for the full amount of their lost wages. Employees must use available accrued leave to make up for the difference between their regular pay and workers compensation benefits.
- d. Leave Accrual. An employee does not accrue leave while off work on workers' compensation leave.

#### 8. Compensation

- a. After seven days workers' compensation wage replacement benefits go into effect, paying the employee an amount equal to two-thirds of the employee's average weekly wage at the time of the injury up to the current State-determined maximum.
- b. The employee's available accrued leave will make up for the difference between their regular pay and workers' compensation benefits. If the employee is off work for more than 28 calendar days, workers' compensation benefits will reimburse the employee for the first seven days of absence.

#### 9. Group Health Plans.

- a. The school's workers compensation insurance will pay for reasonable and necessary medical care to treat the employees work related injury.
- b. Employees may not use private or LTMAS -sponsored health insurance for injuries or illnesses covered under the Workers' Compensation Act.

#### 10. Benefits Coverage While on Workers' Compensation Leave

- a. While an employee is on leave as the result of a work-related injury or illness, the employee's existing benefits remain in place as long as premiums are paid.
- b. LTMAS will pay the employer's share of insurance premiums and the employee will repay LTMAS for the employee share of insurance premiums that have not been deducted from payroll checks.
- c. Employee payments are due at the time that the premium deduction would ordinarily be taken.

#### 11. Return to work

- a. An employee returning to work following a leave of absence due to a work-related injury or illness must submit a physician's statement certifying that the

employee can return to work and can perform the essential functions of the job, with or without reasonable accommodations.

- b. If an employee fails to return to work within three work days after their approved leave has ended and they have been released to return to work, the employee may be considered to have resigned.

#### 12. Retaliation

LTMAS will not discharge, threaten to discharge or otherwise retaliate in the terms of employment against any employee who seeks workers' compensation benefits for the sole reason that the employee seeks workers compensation benefits.

#### 13. Fraud

LTMAS Workers' Compensation Administrator investigates all claims to determine coverage and reviews medical records for indications of fraud.

## **POLICY 258- Emergency Closings**

At times emergencies such as severe weather or power failures can disrupt school operations. In extreme cases, these circumstances may require closing the school or delaying the start time. For the protection of employees, a snow day or delay is called when it is unsafe to travel.

Pay for instructional employees is not docked when the school is closed or a delay is called for employees otherwise scheduled to work. Individuals who are not scheduled to work or who are off work due to sickness or vacation are not affected by emergency closures or delays.

During emergency school closings, non-instructional employees will report to work as soon as road conditions allow safe travel to the school. Non-instructional employees may have their pay docked for hours not worked during school closures when the Administrator determines that road conditions allow safe travel.