

**Policy Title: Personal Time Off**

<b>Policy Owner:</b> Director of PTT <b>Policy Originated by</b> PTT	<b>Date Written:</b> 10/1/13
<b>Applicable Programs:</b> All	<b>Date Reviewed and Approved by PLT:</b> 7/22/2020, 1/13/2021, 01/10/2024
<b>Statutory or Regulatory Citation:</b> MN Earned Sick and Safe Time (ESST) Minnesota Statutes 181.032 and 181.9445-181.9448.	<b>Signature if needed:</b>

**Policy:** St. David's Center Staff will commit to scheduled times with clients/families and will follow through as scheduled unless there is an emergency, unexpected circumstance, or the absence is otherwise excused by the requirements of the Minnesota Earned Sick and Safe Time (ESST) law, applicable local law, or St. David's Center PTO. All employees who are not eligible for St. David's Center PTO will accrue ESST, consistent with applicable law. This policy is intended to ensure supervisors and families receive adequate notice to make alternative arrangements. Therefore, staff will be accountable for following through on all scheduled shifts and rescheduling cancelled shifts in programs that are applicable, to the extent allowed by law, and providing appropriate notice of any ESST-related absence.

**Procedure:**

**1. In Center Paid Time Off (PTO)**

- A. The following employees are eligible for PTO:
  - i. Regular, center-based employees who regularly work at least 20 hours per week
- B. The following employees are not eligible for PTO:
  - i. Temporary employees
  - ii. On-call employees
  - iii. Substitute employees
- C. Whenever possible, a request to use PTO should be submitted to the individual's supervisor at least two weeks prior to the planned time off, except for unforeseeable circumstances and PTO used for a reason covered under the Earned Sick and Safe Time law (for additional details, see below). The use of PTO must be approved by an employee's supervisor. Failure to request and/or lack of supervisory approval of PTO may result in unpaid time off, consistent with

applicable law.

- D. PTO may be used for any reason the employee chooses, including but not limited to vacation or personal reasons. Staff who are eligible for In-Center PTO may use PTO for reasons covered by and under the same conditions as under the ESST law.
- E. Employees who wish to use their PTO for ESST Reasons (as defined below) must notify their supervisor of the designation. Employees are not required to find a replacement worker when using PTO for ESST Reasons. Therefore, providing appropriate notice of an ESST-related absence is essential for St. David's Center to plan for coverage. Whenever possible, employee must provide at least 7 days' notice for a foreseeable use of PTO for ESST Reasons. For unexpected absences, the request for PTO for ESST Reasons should be submitted to the Supervisor as soon as practicable. Failure to request and/or lack of supervisory approval of PTO for ESST Reasons may result in unpaid time off or discipline, consistent with applicable law.
- F. Staff members may use PTO in one-hour increments.
- G. Employees are responsible for calculating their PTO and ensuring they have an adequate balance prior to requesting time off.
- H. Employees may not go into a negative PTO balance, therefore must be certain they have sufficient PTO before requesting time off.
- I. PTO is accrued from January 1 to December 31 of each calendar year, according to the Accrual Schedule below. Employees may carry over accrued and unused PTO, up to a balance of 40 hours, into a new calendar year. PTO balances in excess of 40 hours at the start of a new calendar year will be converted into the Sunshine Fund hours, up to a total balance never to exceed 280 hours. Sunshine Fund hours are eligible for use for the below approved reasons:
  - i. Documented and approved FMLA or personal medical leaves
  - ii. Sick time for the employee or to care for an ill family member or any reason provided by the Earned Sick and Safe Time law.
    - a. Sunshine Fund hours can be used for sick time prior to an employee's regular PTO balance being exhausted
  - iii. To attend Dr's appointments for the employee or for immediate family members Dr's appointments
  - iv. As supervisor approved, up to 5 days (1 workweek) can be used for extra vacation or personal time for a planned vacation one time per fiscal year.
  - v. Excessive absences will be addressed following St. David's Center Performance Management Process, consistent with applicable law.
- J. St. David's Center does not provide financial compensation for unused PTO or provide payment for unused PTO in lieu of time off, except upon voluntary

termination of employment and meeting the conditions described below. Accrued but unused PTO will be paid out to the employee on the next regularly scheduled payroll cycle following voluntary termination of employment (if all conditions described below are met). Accrued but unused PTO will be paid out to employees who are in good-standing (i.e.):

- i. all billing for client services has been submitted in full;
- ii. all company property has been returned; for example, computers, cell phones, keys, etc.;
- iii. have made full repayment of any Specialized Training amounts that have taken place within the last year (see Training and Professional Development policy); and
- iv. sufficient resignation notice has been submitted as outlined in the Staff Employment Termination Policy. For staff who have provided an insufficient resignation notice period, no further PTO requests will be approved.

K. PTO requests made following an employee giving their resignation notice, may be declined at the supervisor's discretion.

L. Sunshine Fund hours roll over from year-to-year, subject to a maximum cap of 280 hours, and are not eligible for payout upon termination of employment.

M. **Paid Time Off Accrual Schedule.** Hourly, nonexempt employees accrue PTO for every hour worked according to the schedule below. Salaried, exempt employees accrue based on their regular workweek, up to a 40-hour workweek.

- i. 1st Year .0615/hr
- ii. 2nd Year .0654/hr
- iii. 3rd Year .0692/hr
- iv. 4th Year .0731/hr
- v. 5th Year .0769/hr
- vi. 6th Year .0808/hr
- vii. 7th Year .0846/hr
- viii. 8th Year .0885/hr
- ix. 9th year .0920/hr
- x. 10plus years .09615/hr

## 2. **Field-based Paid Time Off (PTO)**

Field-based staff are eligible for an annual, one time per year, allotment of PTO based on their average weekly hours worked through the prior year. The allotments will be made in the amounts of 20, 30, or 40 hours as applicable. These hours will not accrue from year to year (use it or lose it) and are not eligible for payout at termination of St.

David's Center employment. Hours will be removed or replenished on January first of each new calendar year.

3. **Earned Sick and Safe Time (ESST)** St. David's Center follows the Minnesota Earned Sick and Safe Time law, which allows employees to accrue, and use paid sick and safe time ("ESST leave") for work performed in Minnesota. Staff members who are not eligible for Center Based PTO nevertheless accrue ESST leave while performing work in Minnesota, pursuant to the ESST Law. Employees are eligible for ESST if they work at least 80 hours in a year for St. David's Center in Minnesota, excluding independent contractors.

- A. An employee may take ESST leave for the following reasons (hereinafter "ESST Reasons"):
- i. An employee's mental or physical illness, injury, or other health condition; need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or need for preventive medical or health care;
  - ii. To care for a family member with a mental or physical illness, injury, or other health condition; who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition; or who needs preventive medical or health care;
  - iii. Absences due to domestic abuse, sexual assault, or stalking of the employee or employee's family member, provided the absence is to seek assistance related to:
    - a. physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking;
    - b. obtaining services from a victim services organization;
    - c. obtaining psychological or other counseling;
    - d. seeking relocation or taking steps to secure an existing home due to domestic abuse, sexual assault, or stalking; or
    - e. seeking legal advice or taking legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking;
  - iv. Closure of the employee's place of employment due to weather or other public emergency or an employee's need to care for a family member whose school or place of care has been closed due to weather or other public emergency;
  - v. The employee's inability to work or telework because the employee is:
    - a. prohibited from working by the employer due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or
    - b. seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease; or
    - c. the employee's employer has requested a test or diagnosis;
  - vi. When it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the

employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease; or  
For any other reason as may be required under the Minnesota ESST or applicable local law.

- vii. To make arrangements for or attend funeral services or memorials or handle financial or legal matters after a family member's death.

B. The ESST leave policy is administered as follows:

i. Definitions.

- a. "Public emergency" is defined as follows: a declared emergency as defined by applicable law.
- b. "Family member" is defined as follows:
  - An employee's:
    - child, foster child, adult child, legal ward, child for whom the employee is legal guardian, or child to whom the employee stands or stood in loco parentis;
    - spouse or registered domestic partner;
    - sibling, stepsibling, or foster sibling;
    - biological, adoptive, or foster parent, stepparent, or a person who stood in loco parentis when the employee was a minor child;
    - grandchild, foster grandchild, or stepgrandchild;
    - grandparent or stepgrandparent;
    - a child of a sibling of the employee;
    - a sibling of the parents of the employee; or
    - a child-in-law or sibling-in-law;
  - any of the family members listed above of a spouse or registered domestic partner;
  - any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
  - up to one individual annually designated by the employee.

ii. Employees may take ESST leave for only those reasons set forth above in Paragraph 2(A).

iii. Employees absent for ESST Reasons must promptly inform their supervisor or Human Resources so that the time off request may be properly designated. Employees are not required to, and should not, disclose the specific details of an illness, injury, condition, and/or safe

time request to their supervisors, managers, or otherwise, and Employer will treat this information as confidential. St. David's Center reserves the right to request relevant documentation verifying any ESST absence of three or more consecutive days. Documentation may take the following forms:

- a. For personal sick leave, a signed statement by a health care professional indicating the need for use of ESST.
  - b. For care of a family member, or if a healthcare statement verifying ESST for personal reasons cannot be obtained in a reasonable time or without added expense, a written statement from the employing attesting the absence is used for a qualifying ESST purpose.
  - c. A court record or documentation signed by a volunteer or employee of a victim's services organization, an attorney, a police officer, or an antiviolence counselor (if applicable).
- iv. Employees working within the State of MN will earn 1 hour of ESST leave for every 30 hours worked in the State of MN, up to a maximum of 48 hours in one calendar year. Employees will not accrue ESST while on any type of leave of absence, unless otherwise required by law.
- v. Staff members may use ESST in one-hour increments.
- vi. ESST is accrued from January 1 to December 31 of each calendar year, at a rate of 1 hour per every 30 hours worked. Accrual rate does not increase with years of service. Employees may carry over any accrued, unused PTO to the next year, but at no time may an employee carry a PTO balance exceeding 80 hours.
- vii. ESST accrual begins immediately when an employee starts working for an employer.
- viii. Employees may use earned sick and safe time as it is accrued.
- ix. Employees may carry over any unused ESST leave to the next year, but at no time may an employee carry an ESST leave balance exceeding 80 hours.
- x. St. David's Center will not consider bonuses or other forms of pay in the rate of pay, unless otherwise required by applicable law. Employees will receive ESST by the next regular payroll period after the ESST was taken and/or reported. Use of ESST is not considered hours worked for purposes of calculating the overtime premium pay rate.
- xi. Employees who have been rehired within 180 days of termination will have any previous balance of unused ESST leave restored.

- xii. Accrued ESST leave hours that are not used, are not eligible to be paid out upon termination or in lieu of time off.
- xiii. Notification and Approval for In-Home Staff:
  - a. Staff will notify the Responsible Party and supervisor as soon as the staff member knows of the amount of PTO needed. There is a minimum requirement of a 7-day notice, or as soon as practicable for unforeseeable requests or any ESST used for a reason covered under the ESST.
  - b. In some instances, staff may seek to reschedule the hours at another time. This will be up to the family's and staff's discretion and will not impact ability to use ESST, if applicable.
  - c. Cancellation of Services with less than 24 hours' notice (emergency and unforeseeable ESST reasons)
  - d. If a staff member must cancel a shift with less than 24 hours' notice for an unforeseeable reason or due to circumstances that are beyond their control, the following procedure will be followed:
  - e. Staff must contact both the parent/guardian(s) and program coordinator to cancel the scheduled time. Staff should utilize voicemail if necessary. During weekends or after regular office hours, staff should utilize the on-call cell phone when they are unable to reach the Responsible Party and/or Program Coordinator.
  - f. The Responsible Party will implement the back-up plan.
  - g. If a staff member cancels a scheduled shift with less than 24 hours' notice and/or does not show up for work and does not call, the following procedure may be followed:
  - h. Staff members who do not receive their supervisor's approval for absence from a scheduled shift or do not provide appropriate notice for an absence for ESST Reasons are considered to have an unexcused absence. Unexcused absences are subject to the disciplinary process up to and including involuntary termination.
  - i. If a pattern of unexcused absences arises that affects the consistency of scheduled shifts with a client, staff members will be subject to the disciplinary process.
  - j. A staff member who is absent from work for two consecutive shifts without notifying his/her coordinator, or who does not return from an approved leave of absence on the scheduled return date, may be considered to have voluntarily resigned from his/her employment with St. David's Center.
- xiv. Therapeutic Recreation Program staff will contact their coordinator and/or look for a replacement staff, except for time off used for ESST reasons, in which case staff are not required to find a replacement staff.

- xv. Employees are not required to find a replacement worker when using ESST. Therefore, providing appropriate notice of an ESST-related absence is essential for St. David's Center to plan for coverage. Whenever possible, employee must provide at least 7 days' notice for a foreseeable use of ESST leave. For unexpected absences, the request for ESST leave should be submitted to the Supervisor as soon as practicable. Failure to request and/or lack of supervisory approval of time off may result in unpaid time off or discipline, consistent with applicable law.
  
- xvi. If a staff member cancels a scheduled shift with less than 24 hours' notice and/or does not show up for work and does not call, the following procedure may be followed:
  - a. Staff members who do not receive their supervisor's approval for absence from a scheduled shift or do not provide appropriate notice for an absence for ESST Reasons are considered to have an unexcused absence. Unexcused absences are subject to the disciplinary process up to and including involuntary termination.
  - b. If a pattern of unexcused absences arises that affects the consistency of scheduled shifts with a client, staff members will be subject to the disciplinary process.
  - c. A staff member who is absent from work for two consecutive shifts without notifying his/her coordinator, or who does not return from an approved leave of absence on the scheduled return date, may be considered to have voluntarily resigned from his/her employment with St. David's Center.

#### **4. Violation of this Policy or Procedure**

- A. No or only partial adherence to this policy or procedure may result in noncompliance with current regulatory requirements and subsequent penalties to St. David's Center. Remediation for violators will include, but not be limited to, disciplinary action up to and including termination, depending on the circumstances of the situation at the time.
- B. Failure to provide appropriate notice or documentation may result in disciplinary action, including and up to termination of employment.
- C. St. David's Center prohibits interference with, restraint, or denial of the exercise of, or attempted exercise of, any right protected under the Minnesota ESST or applicable local law. St. David's Center also prohibits any discipline, discrimination, retaliation, or adverse employment action of any kind against an employee because he or she requested or has taken leave under this policy, or otherwise exercised his or her rights in good faith under this policy, or for any



other reason prohibited by applicable law. Pursuant to applicable law, employees may have the right to file a complaint or bring a civil action if earned ESST is denied, or the employee is retaliated against for requesting or using earned ESST. Please see St. David's Center's Anti-Harassment Policy for more information, including how to report suspected discrimination, harassment, and/or retaliation.

- D. This Policy is not a contract. Nothing in this Policy alters the at-will nature of employment or creates a contract between St. David's Center or any employee regarding the entitlement to time off benefits.
- E. Employees with any questions about ESST leave or PTO must contact Policy, Training & Talent.

**Reference or Attachment:**