
ADMINISTRATIVE REGULATION

ADMINISTRATIVE REGULATION 4323.1
FAMILY AND MEDICAL LEAVE
NOTICE OF RIGHTS

Employees may be eligible for leave in accordance with the state and federal Family and Medical Leave Acts.

Under the federal Family and medical Leave Act (FMLA), eligible employees are entitled to 12 work weeks of unpaid leave during a calendar year for the birth of a child and to care for the newborn child; or placement with the employee of a child for adoption or foster care and to care for the newly placed child; to care for the employee's spouse, child, or parent who has a serious health; a serious health condition that makes the employee unable to perform the essential functions of his or her job; or for any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active duty status. An employee may qualify for FMLA of up to 26 work weeks of leave during a "single 12-month period" to care for a covered service member with a serious injury or illness, when the employee is the spouse, child, parent or next of kin of the service member.

Under the Wisconsin Family and Medical Leave Act (WFMLA), eligible employees are entitled to 6 weeks of unpaid family leave in a calendar year for the birth of a child or placement of a child with the employee for adoption, and 2 weeks of unpaid family leave to care for the employee's child, spouse, domestic partner, or parent, if the child, spouse, domestic partner, or parent has a serious health condition. Eligible employees are entitled to 2 weeks of unpaid medical leave for a serious health condition of the employee which makes the employee unable to perform his or her employment.

Leave under the FMLA and WFMLA will be run concurrently, as allowed by law, and will be run concurrently with any other leave which is available to the employee under other district leave and absence policies. All or a portion of this period may be paid in certain instances. The taking of leave under this policy and its accompanying guidelines will not be used against an employee in any employment decision, including in the determination of raises or discipline.

These are the guidelines for taking family and/or medical leave by employees of the Kenosha Unified School District:

1. ELIGIBILITY FOR LEAVE

An employee is eligible for leave under the WFMLA if he or she has been employed by the for more than 52 consecutive weeks and has been paid by the District for at least 1,000 hours during the 52-weeks prior to the time leave begins. An employee is eligible for leave under the FMLA if he or she has been employed for 12 months by the District and has worked at least 1,250 hours during the 12-month period prior to the time leave begins.

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2. TYPE OF LEAVE AVAILABLE

A. Birth of a child or placement of a child for adoption or foster care

Unpaid leave may be taken by an eligible employee for the birth of a child or placement for adoption or foster care of a child with the employee. Under the FMLA, leave must conclude no later than 12 months after the child's birth or placement. An employee may elect to substitute accrued paid leave, as defined under the applicable District Policy or employee handbook, or the District may require the employee to substitute accrued paid leave for unpaid FMLA leave. Leave taken under the WFMLA must begin within 16 weeks of the child's birth or placement. An employee entitled to leave under the WFMLA may substitute any other paid or unpaid leave which has accrued to the employee. Any substituted paid time used will not be available later.

B. Serious health condition of employee

Unpaid leave may be taken by an eligible employee in the event the employee experiences a "serious health condition." A "serious health condition" will generally occur when the employee receives inpatient care at a hospital, hospice or nursing home or when the employee experiences a disabling physical or mental condition and receives outpatient care which requires continuing treatment by a health care provider. Medical leave may be taken all at once or in smaller increments as medically necessary. An employee must provide the district with a "Health Care Provider Certification" completed by the treating health care provider no later than 15 days of the employee's request for leave. "Health Care Provider Certification" forms are available from the Office of Human Resources. Any accrued leave, as defined under the applicable district policy or the employee handbook, that the employee may have at the time the leave begins may be used, or may be required to be used as permitted under federal law, for all or a portion of the otherwise paid leave period. If the leave is required due to a work-related injury, workers' compensation leave will run concurrently with the leave an employee is entitled to under the law to the extent permitted. Any substituted paid leave used will not be available later.

C. Serious health condition of parent, spouse, child, domestic partner

Unpaid leave may be taken by an eligible employee in the event the employee's parent, spouse, child or domestic partner experiences a "serious health condition." A "serious health condition" will generally occur when the individual receives inpatient care at a hospital, hospice or nursing home or when the individual experiences a disabling physical or mental condition and receives outpatient care which requires continuing treatment by a health care provider.

D. Qualifying exigency

Under the FMLA, unpaid leave may be taken for any qualifying exigency arising out of the fact that a spouse, child, or parent is a military member on covered active duty or call to covered active duty status. An employee may be required to provide certification of the need for exigency leave. Accrued leave, as defined under the applicable district policy or the employee handbook, that the employee may have at the time the leave begins may be used, or may be required to be used as

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permitted under federal law, for all or a portion of the otherwise paid leave period. Any substituted paid leave used will not be available later.

E. Military caregiver eave

Under the FMLA, unpaid leave may be taken to care for a covered service member with a serious injury or illness, when the employee is the spouse, child, parent, or next of kin of the service member. An employee may be required to provide certification of the need for exigency leave. Accrued leave, as defined under the applicable district policy or the employee handbook, that the employee may have at the time the leave begins may be used, or may be required to be used as permitted under federal law, for all or a portion of the otherwise paid leave period. Any substituted paid leave used will not be available later.

3. INTERMITTENT OR REDUCED SCHEDULE LEAVE

Under the FMLA, leave may be taken intermittently or on a reduced leave schedule under certain circumstances. For intermittent leave or leave on a reduced leave schedule taken because of an employee's own serious health condition, to care for a spouse, parent, son, or daughter with a serious health condition, or to care for a covered service member with a serious injury or illness, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Eligible employees may also take FMLA leave on an intermittent or reduced schedule basis when necessary because of a qualifying exigency. If an employee needs leave intermittently or on a reduced leave schedule for planned medical treatment, then the employee must make a reasonable effort to schedule the treatment so as not to disrupt unduly the district's operations. When leave is taken under the FMLA after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may take leave intermittently or on a reduced leave schedule only if the employer agrees.

The following information concerns your rights and obligations under the family and medical leave laws, and district policy and guidelines, and will explain to you the consequences of your failure to meet these obligations. Please read this information carefully, and if you have any questions, please contact your supervisor or the Office of Human Resources.

1. **Leave entitlement.** The actual amount of time you spend on family and/or medical leave will be subtracted from your unpaid leave entitlement for a calendar year. Your family and medical leave, under state and federal laws, will run concurrently with any other leave for which you are eligible under applicable district policies.
2. **Medical certification.** If your request is based on your serious health condition or the serious health condition of your child, spouse, parent, domestic partner or covered service member, you must provide the district with a medical certification ("Health Care Provider Certification") prepared by the health provider. This certification must be provided to the district within 15 calendar days of the request for leave, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good-faith efforts, in which case it must be provided as soon as practicable. If you fail to provide a timely certification, your leave request, or your continuation for leave, may be denied or delayed until the required certification is provided.

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3. **Additional certification.** If the district has any doubts about the accuracy of your initial medical certification, you must submit to another certification, at the district's expense, by a health care provider selected by the district. If the second opinion differs from the initial certification, a third opinion may be obtained. The third opinion is final and binding.
4. **Re-certification.** On a periodic basis, you must provide the district with subsequent re-certifications that your serious health condition still prevents you from performing your job functions or that you are still needed to care for a family member with a serious health condition.
5. **Intent to return to work.** You must provide the district with a periodic report on your status and intent to return to work.
6. **Fitness for duty.** If you are on medical leave because of your own serious health condition, you must provide the district with a medical release, "Fitness for Duty Certification" signed by your health care provider before you can return to work. If you fail to provide the district with a medical release, your reinstatement will be delayed until the required certification is provided or denied.
7. **Substitution.** Accrued leave, as defined under the applicable District policy or the employee handbook, that the employee may have at the time the leave begins may be used, or may be required to be used as permitted under federal law, for all or a portion of the otherwise unpaid leave period.

When paid leave is substituted for your unpaid leave, the paid leave will run concurrently with your family and medical leave and will not be available to you later. Under no circumstances will you be entitled to additional family and/or medical leave as a result of the substitution of paid leave.

8. **Maintenance of insurance coverage.** In order to maintain your group health coverage during your family or medical leave you must continue to pay any employee required contributions towards the health insurance premiums, as you did prior to your leave. If you elect to substitute paid leave, or if the district requires the substitution of paid leave, your share of premiums, if any, will be paid through the district's normal payroll deduction method. Otherwise, the district will designate a method for collecting premiums when your leave is unpaid.
9. **Employment protection.** Upon returning to work from family or medical leave, you will be reinstated to the position you held prior to leave or, if your position has been filled, to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment. You will have no greater right to employment at the end of your leave than you would have had with the district if you had not taken leave.

In the case of instructional employees, your re-employment may be delayed until the commencement of the next school semester if your leave begins in the last five weeks of the semester. Please contact the Office of Human Resources for additional information on your reinstatement rights.

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10. **Recovery of premiums.** If you fail to return to work after your family or medical leave, you will be liable to the district for any health coverage premiums paid on your behalf during your leave.

Wisconsin Bone Marrow and Organ Donation Leave Act

Unpaid leave may be taken by an eligible employee for the purpose of service as a bone marrow or organ donor if the employee provides his or her employer with written verification that the employee is to serve as a bone marrow or organ donor. An employee is eligible for leave if he or she has been employed by the District for more than 52 consecutive weeks and worked at least 1,000 hours during the preceding 52-week period. Leave may be taken only for the period necessary for the employee to undergo the bone marrow or organ donation procedure and to recover from the procedure, up to a maximum of six weeks in a 12-month period.

If an employee requests bone marrow and organ donation leave, the employer may require the employee to provide certification issued by the health care provider of the bone marrow or organ recipient or the employee, whichever is appropriate, of any of the following: that the recipient has a serious health condition that necessitates a bone marrow or organ transplant; that the employee is eligible and has agreed to serve as a bone marrow or organ donor for the recipient; and the amount of time expected to be necessary for the employee to recover from the bone marrow or organ donation procedure. The employee shall make a reasonable effort to schedule the bone marrow or organ donation procedure so that it does not unduly disrupt the District's operations, subject to the approval of the health care provider of the bone marrow or organ recipient, and give the District advance notice in a reasonable and practicable manner. An employee may substitute, for portions of bone marrow and organ donation leave, paid or unpaid leave of any other type provided by the District.

LEGAL REF: 29 USC Chapter 28 Sections 2601-2654 (Family and medical Leave Act)
29 C.F.R. Part 825
Wisconsin Statute Section 103.10 (Family or Medical Leave)
Wis. Admin. Code Ch. DWD 225
Wisconsin Statute Section 103.11 (Bone Marrow and organ donation leave)

CROSS REF.: Policy 4280, Employee Attendance and Punctuality
Employee Handbook