

## MARATHON CITY SCHOOL DISTRICT

Admin. Rule 532.1

### Family and Medical Leave Acts

A. The Federal Family and Medical Leave Act (FMLA) and the Wisconsin Family and Medical Leave Act (WFMLA) provide employees with the right to take unpaid leave when employees need time off work to care for themselves or a family member who is seriously ill, to care for a newborn or newly adopted child, or to attend to the affairs of a family member who is called to active duty in the military. Questions regarding these laws and the district's FMLA and WFMLA policies should be directed to the District Administrator's office.

### B. *Eligibility*

#### WFMLA

- Employee must have worked for the district for more than 52 consecutive weeks; and
- Employee must have worked for the district for at least 1,000 hours during the 52-week period preceding the beginning of the leave.

#### FMLA

- Employee must have worked for the district for at least 12 months; and
- Employee must have worked for the district for at least 1,250 hours during the 12-month period preceding the beginning of the leave.

### C. *Leave Entitlement*

1. Leave under the WFMLA and FMLA will run concurrently under circumstances where an employee's use of leave qualifies under both laws. Leave under the FMLA/WFMLA may be taken intermittently or on a reduced leave schedule under some circumstances.

WFMLA – Employees are allowed up to 10 work weeks of unpaid leave in a calendar year as follows:

- Up to six weeks of unpaid leave for the birth or adoption of a child;
- Up to two weeks of unpaid leave for the care of a child, spouse, domestic partner or parent with a serious health condition;
- Up to two weeks of unpaid leave for the employee's own serious health condition that makes the employee unable to perform his or her duties.

FMLA – Employees are allowed up to 12 work weeks of unpaid leave in a rolling 12-month period for any combination of the following:

- Birth, adoption or foster care placement of the employee's child;
- To care for the employee's spouse, child or parent who has a serious health condition;

- For the employee’s own serious health condition;
  - Due to any qualifying exigency arising as a result of the employee’s spouse, son, daughter, or parent serving on active military duty in a foreign country. The following circumstances constitute a “qualifying exigency”:
    - Short-notice deployment (7 days notice or less);
    - Attending military events or ceremonies and related activities related to active duty or call to active duty;
    - Child care and school activities;
    - Financial and legal arrangements;
    - Counseling;
    - Spending time with a military member who is on temporary rest and recuperation leave;
    - Post-deployment activities;
    - Additional activities not encompassed in the other categories, but agreed to by the employer and employee.
2. Under the FMLA, employees are allowed up to 26 work weeks of unpaid leave in a single 12-month period to care for their parent, spouse, child or next of kin who is a current member of the armed forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred or aggravated in the line of duty (or a veteran who has a serious injury or illness incurred or aggravated in the line of duty within the last five years) that may render the service member medically unfit to perform his or her duties and for which the service member is undergoing medical treatment, recuperation or therapy, is in inpatient status or is on the temporary disability retired list.
  3. Spouses who are both employed by the district are limited to a combined total of 12 weeks of FMLA leave during any 12-month period if the leave is taken for birth or placement of a child for adoption or foster care, or to care for a parent with a serious health condition.
  4. Spouses who are both employed by the district are limited to a combined total of 26 weeks of FMLA leave during any single 12-month period if the leave is taken for birth or placement of a child for adoption or foster care, to care for a parent with a serious health condition or to care for a covered service member with a serious injury or illness.

D. ***Serious Health Condition***

- Under the FMLA/WFMLA, a “serious health condition” is defined as an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the

continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment or incapacity due to pregnancy or incapacity due to a chronic condition.

**E. *Notification of Leave***

1. Employees requesting FMLA/WFMLA leave should notify the District Administrator's office by submitting a Leave Request form. In the event of foreseeable FMLA/WFMLA leave, the employee must notify the District Administrator's office at least 30 calendar days before the date on which leave is to begin or as soon as practicable. In the event of unforeseeable leave, notice must be provided to the District Administrator's office as soon as practicable after the commencement of leave.
2. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the district's operations.
3. Failure to comply with the notification requirements under this policy may result in the delay or denial of FMLA/WFMLA leave, in which case an employee's absence may be subject to the district's regular attendance policy.

**F. *Substitution of Paid Leave during FMLA or WFMLA Leave***

- The district requires employees to substitute accrued paid leave for unpaid FMLA leave. Employees may elect to substitute accrued paid leave for unpaid WFMLA leave.

**G. *Certification***

1. An employee taking leave involving the serious health condition of the employee or the employee's family member, or the serious injury or illness of a covered service member will be required to provide medical certification completed by a health care provider within 15 days of the district's request for certification. The district may require second or third medical opinions, or re-certifications from employees taking FMLA/WFMLA leave as it deems necessary and as permitted by law.
2. An employee taking leave due to a qualifying exigency arising as a result of the employee's spouse, son, daughter, or parent serving on active military duty in a foreign country may be required to provide documentation verifying the need for such leave. In such instances, the employee is required to provide the requested documentation within 15 days of the district's request for the documentation.
3. Employees returning to work after the completion of FMLA/WFMLA leave for their own serious health condition may be required to submit a fitness-for-duty

certification verifying their eligibility to perform the essential functions of their position.

4. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by law. To comply with this law, the district requires that employees not provide any genetic information when responding to requests for medical information associated with FMLA leave. "Genetic information," as defined by GINA, includes an individual's family medical history, results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assisted reproductive services.
5. Failure to comply with the certification requirements under this policy may result in the delay or denial of FMLA/WFMLA leave, in which case an employee's absence may be subject to the district's regular attendance policy.

#### H. *Continuation of Benefits*

1. During any period of FMLA/WFMLA leave, an employee will be retained in the employee's elected group benefit plans on the same basis as if the employee had been continuously employed during the employee's leave period. To continue group coverage, the employee must continue to make any contributions that the employee made to the plan before taking leave. In some instances, the district may recover the cost of the employer's contributions toward the employee's group coverage made during the FMLA/WFMLA leave period if the employee fails to return to work upon the conclusion of the employee's leave.
2. Benefits that accumulate based upon hours worked shall not accumulate during an employee's FMLA/WFMLA leave.

#### I. *Return to Work*

1. Generally, an employee taking leave under the FMLA/WFMLA will be restored to the job position the employee held prior to taking leave or, if the position is no longer vacant, to a position with equivalent pay, benefits, and other terms of employment.
2. An employee who desires to return to work before the scheduled expiration of the employee's FMLA/WFMLA leave must notify the district of such desire as soon as possible, but no later than two working days prior to the employee's requested return date.

