

Richland County FMLA



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FAMILY AND MEDICAL LEAVE ACT POLICY

1. INTRODUCTION

The County's Family and Medical Leave Policy is intended to conform to, and not exceed, the requirements of the federal Family and Medical Leave Act of 1993, as amended ("FMLA") and, the Wisconsin Family and Medical Leave Act ("WFMLA"). This Policy is intended to comply with applicable laws and does not necessarily incorporate all provisions of such laws directly into the County's personnel policies. This Policy does not repeat every provision of the FMLA's or the WFMLA's statutory or regulatory requirements. You may contact the County ~~Clerk's Administrator's~~ Office if you have specific questions regarding the FMLA, WFMLA or this Policy.

Family and medical leave taken under this Policy may be covered by federal law, state law, or both. When leave taken by employees under this Policy is governed by both federal and state law, the more generous provision will control in the event of a conflict. However, when leaves are governed by state or federal law, but not both, the applicable law will control under this Policy. In this regard, you should note that certain leaves may be covered by both state and federal law for only a portion of the leave.

2. ELIGIBILITY REQUIREMENTS.

To be eligible for leave under federal law, you must have been employed by the County for at least twelve months, must have worked at least 1,250 hours during the twelve-month period immediately preceding the commencement of the requested leave, and be employed at a worksite where 50 or more employees are employed by the County within a 75-mile radius. To be eligible for leave under Wisconsin law, you must have been employed for more than 52 consecutive weeks and have been paid for at least 1,000 hours in the 52 weeks immediately preceding the request for leave. The kind and amount of leave available to you under this Policy, as well as your rights during leave, depend on whether you meet the above requirements.

3. TYPES OF LEAVE AVAILABLE.

The County provides family and medical leave for eligible employees under the following circumstances:

- a. For the birth of the eligible employee's child and to care for a newborn child.
- b. For placement with the eligible employee of a child for adoption or foster care.
- c. To care for an eligible employee's spouse, domestic partner, child, parent or parent-in-law with a serious health condition.
- d. Because of a serious health condition that makes the eligible employee unable to perform any of the essential functions of the employee's job.
- e. Because of a "qualifying exigency" arising out of the fact that the eligible employee's spouse, son, daughter or parent is a member of the Armed Forces, including the National Guard or Reserves or a retired member of the Armed Forces, on active duty (or has been notified of an impending call or order to active duty) in support of a contingency operation.
- f. For an eligible employee to care for his or her spouse, son, daughter, parent or next of kin who is a covered ~~servicemembers~~ service member with a serious injury or illness.

See the County ~~Clerk's Administrator's~~ office to determine whether your request for leave qualifies under one of the above categories.

4. CERTIFICATION.

If leave is requested due to your own serious health condition, the serious health condition of your spouse, domestic partner, child or parent, the serious illness or injury of a covered servicemember or for a qualifying exigency, the County requires that the leave request be supported by certification issued by a health care provider or other specified third party. The County's certification forms can be obtained from the County ~~Clerk's-Administrator's~~ Office. Failure to provide the County with timely, complete and responsive certification within 15 days of the County's request for certification may result in delay or denial of the leave.

If an employee provides the County with incomplete or insufficient certification, the County will provide written notice to the employee explaining the deficiency in the certification and will allow the employee at least 7 days to cure the deficiency. If such deficiency is not cured, the County may deny the employee's leave request.

The County reserves the right to request re-certification or a second medical opinion, when necessary. In addition, the Company may contact the employee's health care provider to clarify and authenticate a medical certification, as permitted by law.

5. DEFINITION OF SERIOUS HEALTH CONDITION.

In conjunction with the certification, the County reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling you to family or medical leave under state or federal law.

Under federal law, a "serious health condition" under this policy means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility.
- A period of incapacity of more than three consecutive full calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - In-person treatment two or more times by a health care provider related to the same condition under the following circumstances:
 - the first in-person treatment must occur within 7 days of the first day of incapacity; and
 - the second in-person treatment must occur within 30 days of the first day of incapacity, unless extenuating circumstances exist.
 - In-person treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- Any period of incapacity due to pregnancy, or for prenatal care.
- A chronic condition that requires periodic visits for in-person treatment by a health care provider.
- A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective.
- Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider.

Under Wisconsin law, a serious health condition is a disabling physical or mental illness or condition that involves inpatient care or outpatient care that requires continuing treatment of a health care provider.

6. MILITARY FAMILY LEAVE ENTITLEMENTS.

Federal law allows eligible employees with a spouse, son, daughter or parent who is an active or retired member of the Armed Forces, including the National Guard or Reserves, and who is on active duty or call to active duty status in support of a contingency operation to use their general 12-week leave entitlement to address certain “qualifying exigencies.” Qualifying exigencies may include attending certain military events, arranging for alternate childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

Federal law also provides a special leave entitlement for eligible employees to take up to 26 weeks of leave in a single 12-month period to care for their spouse, son, daughter, parent or next of kin who is a covered servicememberservice member. A covered servicememberservice member is a current member of the Regular Armed Forces, including the National Guard or Reserves, who has a serious illness or injury incurred or aggravated in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing treatment, recuperation or therapy, or is on outpatient status, or is on the temporary disability retired list. The term covered servicememberservice member also includes a veteran who was a member of the Armed Forces, including the National Guard or Reserves, at any time during the five year period preceding his/her medical treatment, recuperation or therapy for a serious illness or injury incurred or aggravated in the line of duty on active duty.

Service memberService member and qualifying exigency leave may run concurrent with other leave entitlements provided under federal, state and local law. For details, contact the County Clerk's Administrator's Office.

7. AMOUNT OF LEAVE AVAILABLE.

Under federal law, eligible employees are entitled to a total of 12 work weeks of leave during a 12-month period for any of the reasons stated in Section 2, above. Except when leave is to care for a covered servicemember, an eligible employee may take up to 26 weeks of leave in a single 12-month period to care for the servicememberservice member. Leave to care for a covered servicemember, when combined with other leave, may not exceed 26 weeks in a single 12-month period. The 12-month period utilized by the County in applying this Policy is defined as the calendar year. Note that the federal FMLA is not available for leave to care for a domestic partner or a parent-in-law (including parents of domestic partners).

Under state law, eligible employees are entitled to:

- a. a total of 6 weeks of leave for the birth of your biological child and/or the placement of a child with you for, or as a precondition to, adoption;
- b. a total of 2 weeks of leave to care for a spouse, domestic partner, child, parent or in-law (including the parent of a domestic partner) with a serious health condition; and
- c. a total of 2 weeks of leave if you cannot perform your employment duties due to a serious health condition.

The County will treat use of family or medical leave under this Policy as simultaneous use of state and federal leave entitlements whenever permitted by law.

8. MANNER IN WHICH LEAVE CAN BE TAKEN.

Leave available under this Policy may be taken in full, and, under certain circumstances, may also be taken intermittently (e.g., one week at a time) or on a reduced leave schedule (e.g., consecutive hours at a time). See the County Clerk's-Administrator's office for details.

While on FMLA leave, employees may not work or otherwise provide services for another employer nor may employees engage in any for-profit enterprise themselves or on behalf of a family member.

9. COMPENSATION DURING LEAVE.

Generally, leave taken under this policy is unpaid. However, for leaves governed exclusively by federal law, you must, as allowed by law, use the following leaves provided by the County, if available:

- a. Vacation or personal leave, if available, for any family or medical leave;
- b. Accrued paid family leave (i.e., paid leave covering the particular circumstances for which the employee is seeking leave), if available, for birth, adoption, or to care for a seriously ill family member; and
- c. Accrued paid medical or sick leave, if available, to care for a seriously ill family member, or for the employee's own serious health condition.

However, you may not substitute paid sick leave or paid medical leave for leave taken under this Policy in any situation where the County would not normally provide such paid leave. In addition, in order to receive paid leave, you must satisfy any procedural requirements (e.g., notice requirements) associated with the taking of such leave, unless waived by the County. The procedural requirements for taking paid County leave are outlined in the Richland County Handbook of Personnel Policies.

For leaves governed by state law, you may elect to substitute paid leave, if available. The County reserves the right to deny substitution as permitted by law.

10. CONTINUATION OF BENEFITS.

You will remain eligible for group health insurance benefits under the County's group health plan during leave taken under this Policy under the same conditions as coverage would have been provided if you had been actively employed during the entire leave. However, you have the option of choosing not to retain such coverage during family or medical leave if you prefer.

During leave taken under this Policy, the County will continue to pay any portion of group health insurance premiums for coverage that it was responsible for paying immediately prior to the leave as required by law. You are responsible for paying your portion of health insurance premiums regardless of whether your family and medical leave is paid or unpaid. It is your responsibility to make arrangements with the County Clerk's-Administrator's office for making premium payments for group health insurance during leaves.

To the extent permitted by law, the County reserves the right to require you to place up to eight weeks' health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received from you more than thirty days late.

Your entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the County's policy regarding provision of such benefits when an employee is on other forms of leave.

11. ACCRUAL OF BENEFITS.

To the extent permitted by law, you will not continue to accrue seniority or any other employment benefit during leave taken under this Policy, except that such benefits shall accrue if you elect to use other leaves provided by the County pursuant to Section (i), above, and if such benefits would normally accrue during such leave.

12. EMPLOYMENT RESTORATION.

To the extent required by law, when you return from family or medical leave, you will be returned to the same position you held when leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. This policy does not entitle you to any right, benefit, or position of employment other than those to which you would have been entitled had you not taken leave. The County reserves all rights concerning restoration of employment or denial of same under state or federal law.

13. REQUIRED ADVANCE NOTICE.

Absent extenuating circumstances, you must provide the County with a completed FMLA Request Form, available from the County ~~Clerk's Administrator's~~ office before leave taken under this Policy is to begin. You will generally be expected to provide at least 30 days' advance notice for foreseeable leave (e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for your own serious health condition or that of a family member). When requesting partial or intermittent leave in connection with child birth or adoption, you must provide at least as much notice as required for taking other non-emergency or non-medical leave, as well as a definite schedule for the leave. Where advance notice is not practicable due to uncertainty as to when leave will be required to begin, a change in circumstances, or medical emergency, notice must be given as soon as practicable.

If you wish to take leave for a FMLA-qualifying reason for which you have already been approved for, you must provide the County specific notice of your need for FMLA-qualifying leave. Simply calling in "sick" will not be sufficient.

When planning medical treatment, you should consult with the County and make a reasonable effort to schedule the leave so as not to disrupt unduly the County's operations, subject to the approval of your health care provider. You are ordinarily expected to consult with the County in order to work out a treatment schedule which best suits your needs, as well as the County's.

14. THE COUNTY'S RESPONSIBILITIES.

It is unlawful for the County to (1) interfere with, restrain or deny the exercise of any right provided under the FMLA, or (2) discharge or discriminate against any person for opposing any practice made unlawful by the FMLA, or for involvement in any proceeding under or related to the FMLA. An employee must report any violation or potential violation of the policy to the County ~~Clerk's Administrator's~~ office. An employee may also file a complaint with the U.S. Department of Labor or may bring a private action against the Company. This Policy does not affect any federal or state law prohibiting discrimination nor does this Policy supersede any federal, state or local law that provides greater family or medical leave rights.