

# POLICY

BOARD OF EDUCATION  
HORTONVILLE AREA SCHOOL DISTRICT

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## FAMILY AND MEDICAL LEAVE

It is the policy of the Hortonville Area School District (HASD) to grant up to twelve (12) weeks (or twenty-six (26) weeks, if leave is taken to provide care for wounded military personnel) of family and medical leave during any twelve-month period to eligible employees, in accordance with the Family and Medical Leave Act (FMLA), and two (2) and/or six (6) weeks of leave under the Wisconsin Family and Medical Leave Act (WFMLA). In most cases, FMLA and WFMLA will run concurrently, so that employees will generally be limited to a maximum of twelve (12) weeks of leave in any twelve-month period.

### **Implementation:**

#### **A. Eligibility**

*Under the FMLA*, the employee must meet all of the following conditions:

1. The employee must have worked for the HASD at least 12 months (these 12 months need not have been consecutive);
2. The employee must have worked at least 1250 hours during the 12-month period immediately before the date when the leave would begin (this calculation includes only actual hours worked, and will not include any holiday, vacation, sick time, or other forms of paid leave that may occur during the relevant 12-month review period, regardless of whether such time is counted as hours worked for overtime purposes); and
3. The employee must work in an office or worksite where 50 or more employees are employed within 75 miles of that office or worksite. (Remote employees with no fixed office or who work out of their home will be treated as though they work in the office to which they report.)

*Under the WFMLA*, in order to qualify to take family and medical leave the Wisconsin employee must meet all of the following conditions:

1. The employee must have worked for the HASD for more than 52 consecutive weeks; and
2. The employee must have worked at least 1000 hours during the 52-week period immediately before the date when the leave would begin (this calculation includes holiday, vacation, sick time, or other forms of paid leave).

#### **B. Reasons for Leave**

In order to qualify as FMLA leave under this policy, the employee must be taking the leave for one of the reasons listed below:

1. The birth of a child; (*also qualifies for WFMLA leave*);
2. The adoption of a child, or the placement of a child with the employee for foster care; (*adoption of a child also qualifies for WFMLA leave*);
3. The employee's own serious health condition (a "serious health conditions" under the FMLA includes those requiring inpatient care, those involving a doctor's visit plus follow up treatment that results in more than 3 days of incapacity, or chronic health conditions accompanied by continuing care from a licensed health care provider); (*also qualifies for WFMLA leave*);

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4. To care for a spouse, child or parent with a serious health condition; *(also qualifies for WFMLA leave, and additionally the WFMLA allows leave to care for an in-law or stepparent with a serious health condition);*
5. To care for a domestic partner (registered or unregistered) with a serious health condition; or to care for a domestic partner's parent with a serious health condition *(only permitted under the two-week family leave allotment under WFMLA);*
6. Due to a "qualifying exigency" for the spouse, children or parents of individuals who are on, or are about to be on, "covered active duty";  
*(A "qualifying exigency", as defined by Federal regulations, include: 1) short-notice deployment; 3) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation – maximum fifteen (15) calendar days; 7) post-deployment activities; 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; and 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.)*  
*("Covered active duty" means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of 50% or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers. )*
7. To provide care for a "covered service member" with a serious injury or illness incurred or exacerbated in the line of duty while on active duty (employees eligible to take caregiver leave include the spouse, children, parents and next of kin of military personnel).  
Employees with questions about whether their leave needs may be covered under this policy are encouraged to consult with the Human Resource Director.

## C. Duration of Leave

1. *12 Weeks: Under the FMLA*, eligible employees can take up to 12 weeks of leave under this policy during any 12-month period (except for leaves taken to provide care for wounded military personnel). The Hortonville Area School District will use July 1-June 30 as the 12-month period.
2. *2 or 6 Weeks: Under the WFMLA*, eligible employees can take up to 6 weeks of leave in a calendar year for the birth or adoption of a child, up to 2 weeks of leave in a calendar year for their own serious health condition, and up to 2 weeks of leave in a calendar

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year to care for a spouse, domestic partner (registered or unregistered), parent (including parents in-law or your domestic partner's parents) or child with a serious

health condition. The WFMLA is based on a 12-month calendar year beginning January 1<sup>st</sup>.

In most cases, absences under this policy will be covered by both the FMLA and the WFMLA. As a result, the FMLA leave and the WFMLA leave will run concurrently, i.e., the leave will be counted against the employee's leave allowances under both leave programs.

3. *26 Weeks:* For all FMLA covered leaves taken to provide care for wounded military personnel, eligible employees can take up to 26 weeks of leave under this policy during any single 12-month period. Leave under this provision of the FMLA is limited to a single 26-week leave period per covered service member, per injury basis (i.e., employees will not be eligible for anything more than 26 weeks of leave for any single injury that an individual service member may suffer).

As required by law, the 12-month period for determining whether an employee has exhausted his or her 26 weeks of leave will be on a looking forward basis that will begin on the first day that leave begins to provide care for wounded military personnel (this is true regardless of the 12-month period. The HASD uses for all other forms of FMLA leave). Leave taken to provide care for wounded military personnel is not exclusive of other forms of FMLA leave, and any leave taken for other FMLA purposes will count against the 26 weeks that may be available to provide care for wounded military personnel. Similarly, any leave taken to provide care for wounded military personnel will be applied against the 12 weeks available for other forms of FMLA leave.

4. *Husband & Wife:* Under the FMLA, if a husband and wife both work for the HASD, and foster care, to care for a parent with a serious health condition, or to provide care for wounded military personnel, the husband and wife will be limited to a total of 12 (or 26) weeks of leave between the two of them.

## **D. Use and Accrual of Paid and Unpaid Leave**

1. Both FMLA and WFMLA leaves under this policy are unpaid. However, employees may choose to use any available vacation and/or sick time during any Wisconsin family and medical leave. Vacation, personal, and sick leave is taken as part of the family and medical leave, not in addition to such leave. The HASD requires employees to use some or all of their sick/vacation time during federal FMLA leave after any WFMLA leave has expired.
2. Leave that qualifies for workers' compensation, short-term disability, or other wage replacement benefits may still be covered by the FMLA and WFMLA (even though the leave is paid) and will count against the employee's overall FMLA balance.
3. During the unpaid leave, the employee shall retain accumulated leave but shall not accrue any additional paid leave during the unpaid leave.
4. No holiday pay will be earned if unpaid time is taken before and/or after a holiday.

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## E. Employee Benefits During Leave

1. While an employee is on leave under this policy, the HASD will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on a paid leave, the HASD will continue to make payroll deductions as normal to collect the employee's share of the premium.
2. While on unpaid leave, employees will continue to be responsible for their share of the insurance premiums and will be required to make monthly payments while out on leave. The premium payments must be received in the Business Office by the 1st day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave.
3. If the employee chooses not to return to work, for reasons other than a continued serious health condition, the HASD will require the employee to reimburse the district the amount it paid for the employee's health insurance premium during the leave period. An employee who returns to work for at least 30 calendar days is considered to have returned to work. An employee who transfers directly from taking FMLA leave to retirement, or who retires during the first 30 days after the employee returns to work, is deemed to have returned to work.

## F. Intermittent Leave or a Reduced Work Schedule

Under the FMLA, in addition to taking leave in consecutive blocks of time, eligible employees may be allowed to take time off intermittently (i.e., reduced workweeks or reduced workdays) if needing leave for one of the following reasons:

1. The employee's serious health condition; *(also qualifies for intermittent leave under the WFMLA)*;
2. The serious health condition of a spouse parent or child; *(also qualifies for intermittent leave under the WFMLA)*;
3. To provide care for wounded military personnel; or
4. Due to a "qualifying exigency" for the spouses, children or parents of individuals who are on, or are about to be on, active military duty.

To qualify for intermittent leave, the employee must show that the intermittent leave is medically necessary or related to a "qualifying exigency." If leave is taken on an intermittent or reduced leave schedule due to foreseeable leave needs (other than qualifying exigencies), the HASD may temporarily transfer an employee to an alternative position with equivalent pay and benefits. Intermittent leave may be available in other circumstances, as required by law.

When leave is governed only by the FMLA intermittent or reduced schedule leave to be with the employee's newborn child, or after the placement of a child with the employee for adoption or foster care, requires the District's agreement, unless the intermittent or reduced schedule leave is due to a serious health condition. Intermittent or reduced schedule leave due to a serious health condition must be medically necessary. Medically necessary means there must be a medical need for the leave and the leave can be best accommodated through an intermittent or reduced leave schedule, as certified by the healthcare provider in the Certification.

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## **G. Certification of the Need for Leave**

The HASD may ask for certification to verify the need for leave for the reason requested by the employee. The employee must respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of the leave. The HASD may also require recertification during the leave to verify the status of the need for leave. If the certification is incomplete or otherwise unclear, the administrator must request that the employee obtain updated or completed information from the healthcare provider and return it directly to the administrator.

The HASD may directly contact the health care provider or other third-party to verify and clarify information contained in the certification. Employees are responsible for signing or obtaining any authorization necessary to permit the health care provider or other third party to provide the HASD with the required information.

The HASD has the right to ask for a second opinion of a certification of a serious health condition. Should we choose to do so, we will pay for the employee to get a certification from a second health care provider, which we will select. If it is necessary to resolve a conflict between the original certification and the second opinion, we will require the opinion of a third health care provider. The HASD and the employee will jointly select the third doctor, and we will pay for the opinion. This third opinion will be considered final.

## **H. Returning from Leave**

Employees taking leave under this policy will be returned to the same jobs they held when their leaves began. If this is not feasible, employees will be returned to a position that entails substantially equivalent skill, effort, responsibility and authority as the position they had previously held. The only exceptions to this rule will be in circumstances of layoffs or reorganizations, where the employees' positions would have been eliminated even if they had not been on leave. Employees returning from a leave of absence for their own serious health condition may be required to provide a fitness for duty assessment.

## **I. Procedure for Requesting Leave**

When an employee plans to take leave under this policy, the employee must give the HASD 30 days' notice. If it is not possible to give 30 days' notice, the employee must give as much notice as is practicable. An employee undergoing planned medical treatment is required to make a reasonable effort to schedule the treatment to minimize disruptions to the HASD's operations. If an employee fails to provide 30 days' notice of foreseeable leave, the leave request may be denied until at least 30 days from the date we received notice.

All employees requesting leave under this policy must submit the request in writing to their immediate supervisors, with a copy to the Business Office. Where the need for leave is not foreseeable, employees must verbally notify their supervisors of the need for leave as soon possible and follow the HASD's normal call-in procedures for unexpected absences. Failure to follow our normal call-in procedures under such circumstances will be treated like any other violation of our call-in procedures, and may result in discipline or termination, even

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though the leave itself would otherwise be covered by the FMLA. Employees may be required to confirm their need for FMLA leave in writing after giving verbal notice.

While on leave, employees may be required to periodically report to the HASD regarding the status of their intent to return to work.

## **J. Rights, Remedies, and Additional Information**

The HASD fully complies with the provisions of the FMLA. Accordingly, any employee who has questions regarding this policy is encouraged to contact the Business Office. Further information on your rights and remedies under the FMLA can be located on our FMLA poster located in each building, on our company website, [www.hasd.org](http://www.hasd.org) or online on the Department of Labor's website at: <http://www.dol.gov/esa/whd/fmla/>.

Additional information about the WFMLA may be found at the following website:  
[http://www.dwd.state.wi.us/ER/family\\_and\\_medical\\_leave/default.htm](http://www.dwd.state.wi.us/ER/family_and_medical_leave/default.htm).

Family and Medical Leave Act of 1993  
Wisconsin Family and Medical Leave

29 U.S.C. 2601 et seq.  
29 C.F.R. Part 825  
103.10, Wis. Stats.

Wis. Admin. Department of Workforce Development (DWD) 225  
National Defense Authorization Act of 2010

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