

GENERAL NOTICE  
FAMILY AND MEDICAL LEAVE ACT  
NOTICE OF RIGHTS AND OBLIGATIONS

The following information concerns the rights and obligations of School District of McFarland employees under the federal Family and Medical Leave Act (FMLA) and the Wisconsin Family and Medical Leave Act (WFMLA). The purpose of this document is to explain the conditions under which an employee may qualify for family or medical leave under the FMLA and/or the WFMLA, the obligations associated with such leave, and the consequences of failing to comply with the requirements of the FMLA and/or the WFMLA.

The School District of McFarland complies with all applicable state and federal laws relating to family and medical leave, and will not discriminate against or interfere with the rights of an employee to take such leave. Employees should work with the Human Resources Coordinator to coordinate FMLA leave.

Leaves of absence provided under the FMLA and/or the WFMLA are complex and interact with other laws and agreements, such as the Wisconsin Worker's Compensation Act, the Americans with Disabilities Act, the Wisconsin Fair Employment Act, and any applicable collective bargaining agreements. This document will only describe the rights and obligations under the FMLA and the WFMLA.

Where Wisconsin law and Federal law regulate the same subject, the District will apply the law that is more favorable to the employee. If an employee's leave qualifies for family or medical leave under both the FMLA and the WFMLA, the leave the employee uses will count against the employee's entitlement under both laws.

**Eligibility Requirements**

Employees are eligible for Federal FMLA leave if they have worked for the School District of McFarland for at least 12 months at any time within the last seven years, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the School District of McFarland within 75 miles of their worksite.

Employees who have been on the payroll for 52 consecutive weeks, and have been paid for at least 1000 hours in the previous 52-week period are eligible for Wisconsin Family and Medical leave.

**Basic Leave Entitlement**

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees in a 12-month period for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or childbirth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition;  
or
- For a serious health condition that makes the employee unable to perform the employee's job.

Wisconsin law requires covered employers to provide:

- Up to 2 weeks of leave in a calendar year for the employee's own serious health condition

- Up to 2 weeks of leave in a calendar year for the serious health condition of an employee's spouse, dependent child, parent or parent-in-law, domestic partner, as defined in § 40.02(1) or 770.01(1), or parent of a domestic partner; and
- Up to 6 weeks of leave in a calendar year for the birth or adoption of the employee's child, which must be taken within sixteen (16) weeks of the birth or adoption of the employee's child

The School District of McFarland administers its 12-month period for purposes of federal law on a "calendar year" basis. Wisconsin leave is always administered on a calendar year basis. Leaves that qualify under both federal and Wisconsin law will run concurrently when possible.

### **Military Family Leave Entitlements (Federal leave only)**

Eligible employees with a spouse, son, daughter, or parent on active duty or call to active duty status in any branch of the Armed Forces may use their 12-week leave entitlement to address certain qualifying exigencies.

- For members of a regular component of the Armed Forces, covered active duty is defined as duty during deployment to a foreign country.
- For members of a reserve component, covered active duty is defined as duty during deployment to a foreign country under a call or order to active duty.

Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered service-member or veteran during a single 12-month period. To qualify, a veteran must have been a member of the Armed Forces during the five (5) years before the veteran receives the treatment, recuperation or therapy. A covered service-member 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 in the line of duty on active duty that may render the service-member medically unfit to perform his or her duties for which the service-member is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. Additionally, injuries or illnesses that existed before the service-member's active duty and were aggravated by service in the line of duty on active duty, in addition to those that were incurred during active duty.

### **Definition of Serious Health Condition**

A serious health condition is 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 3 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. Other conditions may meet the definition of continuing treatment.

### **Use of Leave**

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the School District of McFarland's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

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The School District of McFarland may transfer an employee on intermittent or reduced-schedule leave to a different position that would better accommodate the employee's leave.

When the intermittent or reduced schedule leave is related to the employee's family member, the employee's serious health condition or the serious health condition of the employee's immediate family member, the employee will be required to submit a proposed schedule to his/her immediate supervisor and provide medical certification supporting the intermittent or reduced schedule leave.

### **Benefits and Protections**

Both the FMLA and the WFMLA provide that, upon returning to work from family or medical leave, the District must reinstate the employee to the position he/she held prior to the family or medical leave. If this position is no longer available, the employee will be reinstated to an equivalent position.

During FMLA leave, the School District of McFarland will maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work.

The employee must continue to pay the required employee premium contribution, if any. His/her share of the group insurance premiums. If the employee is receiving paid leave through accrued sick leave or vacation, the District will deduct the premiums through the customary payroll deduction method. If the employee has exhausted all paid leave, the employee must contact the Human Resources Coordinator to make arrangements to pay the required premiums. If a required employee contribution is more than 30 days late, the employee's health care coverage will terminate at the discretion of the School District of McFarland. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

## **OBLIGATIONS UNDER FMLA**

### **Eligible Employee**

To be eligible under the FMLA, an employee must have been employed by the District for at least twelve (12) months and must have worked at least 1,250 hours during the twelve (12) month period preceding the beginning of the FMLA leave. To be eligible under the WFMLA for family or medical leave, the employee must have been employed by the District for more than fifty-two (52) consecutive weeks and have been paid by the District for at least 1000 hours during the preceding 52-week period.

### **Substitution of Paid Leave for Unpaid Leave**

FMLA leave is generally unpaid leave. Employees using Wisconsin leave (including Wisconsin leave taken concurrently with federal leave) may choose to use any of the employee's accrued paid leave while taking FMLA leave. Employees using federal leave only may choose to use accrued paid leave while taking FMLA leave.

### **Employee Responsibilities**

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA and/or WFMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions; the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care

provider, or circumstances supporting the need for military family leave. A completed and signed Family and Medical Leave Request Health Care Provider Certification form from the treating health care provider to support the employee's need for leave due to his/her own serious health condition or the serious health condition of the employee's immediate family member must be submitted to the Human Resources Coordinator within fifteen (15) days of its request, or in cases of unforeseen circumstances, as soon as practical after the employee's FMLA or WFMLA leave begins. If the employee experiences difficulties in getting the signed and completed form to the Human Resources Coordinator, the employee should contact the Human Resources Coordinator to provide notice of the delay.

Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide periodic re-certifications supporting the need for leave. Additionally, upon request by the District, the employee may be required to submit to a medical examination, 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.

If the employee fails to provide the Human Resources Coordinator with a timely medical certification, both the FMLA and the WFMLA allow the District to deny the employee's leave request, or the employee's continuation of leave, until the required medical certification is provided; and may also result in the District making a preliminary/temporary designation that the employee's leave qualifies as FMLA or WFMLA leave based upon the information provided at the time. The District will evaluate any further information provided by the employee and/or the treating health care provider, and issue a revised designation, if necessary.

**A Fitness for Duty Certification** must be completed and signed by the treating health care provider for any employee who is on FMLA or WFMLA due to his/her own serious health condition. The District may not approve an employee's return to work without a completed and signed Fitness for Duty Certification form.

If an employee wishes to return to work before the leave was to end, the employee must notify the Human Resource Department at least two days prior to the desired return date. If an employee, without approval from the Human Resource Department, does not return from FMLA leave on the day indicated on the original application (or any approved change of that date), or within three days of release by the employee's health care provider, the employee will be considered to have voluntarily resigned from employment with the School District of McFarland as of the day on which the employee's FMLA was to end. In the event this occurs, the School District of McFarland reserves the right to collect from the employee any employer-paid benefits payments made while employee was on leave, unless the employee's failure to return to work is due to circumstances outside of the employee's control (e.g., the continued serious health condition prevents returning to work).

If an employee fails to meet any employer requirements for federal or Wisconsin leave, the request for leave may be denied or delayed until the requirements are met.

### **Employer Responsibilities**

The School District of McFarland will inform employees requesting leave whether they are eligible under FMLA. If they are, the notice will specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the School District of McFarland will provide a reason for the ineligibility.

The School District of McFarland will inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the School District of

McFarland determines that the leave is not FMLA-protected, the School District of McFarland must notify the employee.

### **Unlawful Acts by Employers**

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA;
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

FMLA does not affect any federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement, which provides greater family or medical leave rights.

### **Medical Records Confidentiality**

The District will maintain all medical records obtained as a result of FMLA and/or WFMLA leave in a confidential manner. Additionally, for a period of at least three years, the District will maintain information related to the dates and hours of leave taken by employees, notices provided to the employee, premium payments made for employees on FMLA and/or WFMLA leave, and disputes regarding such leaves.

**Documentation of Receipt of this Notice** The District will require that the employee sign and date a copy of this notice to document that the employee received such notice.

