

<b>Series: 400- Time at Work &amp; Time Away from Work</b>	<b>§ 405- Leave – Family, Medical, and Military Family</b>
<b>Title: Leave – Family, Medical, and Military Family</b>	<b>Effective Date:</b> December 15, 2022
	<b>Adoption/Revision Date:</b> December 15, 2022
<b>Custodian:</b> Personnel Manager	<b>Approving Body:</b> Personnel Committee

**1. Authority**

- a. Wis. Stat. 59.02, 59.03, 59.51, 59.52, 66.0509, 10, 103, and 111; Wis. Admin. Code DWD 225; and 29 C.F.R. 825
- b. Clark County Code of Ordinances, Section 2-48

**2. References**

- a. Adopting Resolution/Ordinance/Motion: 52-12-22
- b. Other Resolution/Ordinance/Motion: XXX

**3. Purpose**

- a. To establish a policy that complies with Wisconsin and Federal Family and Medical Leave Acts to provide eligible employees leave from employment under specific conditions.
- b. To establish a process to request leave, administration of approved leave, and returning to work after leave.

**4. Scope**

- a. This policy applies to all county employees.

**5. Policy Overview**

- a. Clark County is committed to administering family and medical leave that is compliant with and consistent with Wisconsin and Federal laws.
  - i. Should this policy conflict in any way with applicable state and federal law/regulations, the state and federal law/regulation shall control.
  - ii. For more details on administration of family and medical leave, refer to Wis. Stat. 103.10 and Wis. Admin. Code DWD 225 for state family and medical leave and 29 C.F.R. 825 for federal family and medical leave.
- b. Questions about this policy shall be directed to the Personnel Manager.

**6. Definitions**

- a. The terms below have the following meanings in this policy:
  - i. Child means a natural, adopted, or foster child, a stepchild, or a legal ward if the individual is less than 18 years of age or if the individual is 18 years of age or older and cannot care for himself/herself because of a serious health condition.
  - ii. Serious health condition means a disabling physical or mental illness, injury, impairment, or condition that involves inpatient care (i.e. in a hospital, nursing home, or hospice) or outpatient care that requires continuing treatment (i.e. a period of absence of more than three (3) consecutive calendar days due to period of incapacity/impairment) by a health care provider.
  - iii. FMLA means state and/or federal family and medical leave.

**7. Types and Conditions of FMLA**

- a. To be eligible for federal FMLA, the employee must be employed with Clark County for at least twelve (12) months and have worked at least 1,250 hours in the preceding twelve (12) month period. The employee must have also work at a worksite where fifty (50) or more employees are employed within seventy-five (75) miles of that worksite.
- b. To be eligible for state FMLA, the employee must be employed with Clark County for at least twelve (12) months and have worked at least 1,000 hours in the preceding fifty-two (52) week period.

- c. State and federal FMLA run concurrently and also run concurrent with leave under worker's compensation, short term disability, and any other type of leave provided by law.
- d. An employee may take federal FMLA for any of the following reasons and durations:
  - i. To care for the employee's child after birth or adoption for up to twelve (12) weeks
  - ii. For a pregnant mother's incapacity due to pregnancy or prenatal care or the spouse's care of the pregnant spouse who is incapacitated or if care is needed during prenatal care up to twelve (12) weeks
  - iii. To care for the employee's child, spouse, or parent with a serious health condition for up to twelve (12) weeks
  - iv. For the employee's serious health conditions which makes the employee unable to perform employment duties for up to twelve (12) weeks
  - v. For any qualifying exigency (i.e. attending military events, arranging childcare, making financial or legal arrangements, etc.) arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or has been notified of an impending call or order to covered active duty status for up to twelve (12) weeks
  - vi. To care for a covered service member with a serious injury or illness if the employee is the spouse, child, parent, or next of kin of the covered service member for up to twenty-six (26) weeks per serious injury or illness.
- e. Federal FMLA is subject to the following conditions:
  - i. Unless otherwise stated above, federal FMLA is calculated on a rolling twelve (12) month period measured backwards from the date an employee takes FMLA.
  - ii. If both spouses are employed by Clark County, FMLA entitlement is cumulative.
  - iii. An employee cannot take more than twelve (12) weeks total of FMLA (twenty-six (26) weeks if FMLA taken for a covered service member) for any combination of reasons specified above.
- f. An employee may take state FMLA for any of the following reasons and durations:
  - i. To care for the employee's child after birth or adoption for up to six (6) weeks
  - ii. To care for the employee's own serious health condition for up to two (2) weeks
  - iii. To care for the employee's child, spouse, domestic partner, or parent with a serious health condition for up to two (2) weeks
- g. State FMLA is subject to the following conditions:
  - i. State FMLA entitlement is calculated on a calendar-year basis.
  - ii. If both spouses or domestic partners are employed by Clark County, FMLA entitlement is cumulative.
  - iii. An employee cannot take more than eight (8) weeks total of FMLA for any combination of reasons specified above.
  - iv. FMLA for the adoption or birth of the employee's child shall begin within sixteen (16) weeks of the child's birth or adoptive placement and shall conclude within twelve (12) months from the child's birth or adoptive placement.
- h. Intermittent Leave
  - i. An employee does not need to use FMLA leave entitlement in one block. An employee may be eligible to take intermittent leave or reduced schedule leave if medically necessary.
  - ii. Employees must make reasonable efforts to schedule leave for planned medical treatment so as to not unduly disrupt the employer's operations.
  - iii. In certain circumstances, Clark County may transfer an employee taking intermittent FMLA leave temporarily to a position with equivalent pay and benefits if the new position better accommodates the leave.
  - iv. Leave due to qualifying exigencies may also be taken in an intermittent basis. An Employer may deny the use of intermittent FMLA leave for the birth, adoption or foster placement of

a child during the federal-only portion of their FMLA leave. (under Wisconsin FMLA, the last increment of intermittent leave for the birth, adoption or foster placement of a child must begin with sixteen (16) weeks after the birth, adoption or placement of the child.)

- v. If spouses are employed by Clark County, their combined total leave for the birth, adoption or foster care placement is twelve (12) weeks.

#### 8. Requests and Certification

- a. All requests for FMLA shall be made by completing the FMLA Request Form and submit the completed form to the Office of Personnel.
  - i. See Attachment A – FMLA Request Form
- b. Employees shall submit the completed form at least thirty (30) days before FMLA is desired if practical.
  - i. If an employee cannot timely submit the request form, the employee shall provide form as soon as practical.
  - ii. If an emergency arises for the need of FMLA, an employee may call the Office of Personnel and submit a request form as soon as practical.
  - iii. Employees shall inform the Office of Personnel if requested FMLA is for a reason for which FMLA was previously taken and/or certified.
- c. In addition to submitting a request form, employees shall submit certification to support the requested FMLA within fifteen (15) days of the submission of a completed FMLA request.
  - i. For requests of family and/or medical FMLA, the employee shall have a health care provider complete the Certification for Family or Medical FMLA Form and submit the completed form to the Office of Personnel.
    - 1. See Attachment B – Certification for Family or Medical FMLA
  - ii. In the alternative, a health care provider shall provide written certification: 1) that the child, spouse, domestic partner, parent, or employee has a serious health condition; 2) the date the serious health condition commenced and its probable duration; 3) within the knowledge of the health care provider, the medical facts regarding the serious health condition; and 4) if the employee requests medical leave, an explanation of the extent to which the employee is unable to perform his or her employment duties.
  - iii. For requests of military family leave, the employee shall submit evidence to the Office of Personnel of the military member's duty orders or other documentation issued by the military and written certification of any qualifying exigency.
- d. The Office of Personnel reserves the right to:
  - i. Obtain the opinion of a second health care provider as chosen and paid for by Clark County.
  - ii. Require an employee to provide recertification of the need for FMLA.
  - iii. Deny and/or discontinue FMLA if employee does not provide sufficient/incomplete requests and/or certifications and/or the required information is not provided in a timely manner.
  - iv. Waive the right to receive timely, complete, and/or sufficient FMLA requests and/or FMLA certifications.
  - v. Request additional information of the employee as the law provides.
- e. Upon receipt and review of the completed FMLA Request Form, certification, and any other requested information, the Office of Personnel will approve or deny the FMLA request and provide any additional information that may be needed.
  - i. If the FMLA request is denied, the reasons for denial shall be stated.
- f. An employee planning to return to work from FMLA due to the employee's serious health condition shall provide the Office of Personnel with certification confirming that the employee is able to return to work and the employee is fit and able to perform essential functions of the employee's position.

- i. Clark County may delay and/or deny the employee's return to work until the employee provides the required return to work certification.

**9. Conditions, Rights, and Expectations**

a. FMLA is subject to the following conditions:

- i. An employee taking FMLA is not entitled to receive wages or salary.
- ii. An employee may substitute unpaid or other types of accrued paid leave when taking state FMLA.
- iii. During federal FMLA only, Clark County may require an employee to substitute certain accrued paid leave without extending the duration of the FMLA.
- iv. Clark County may designate any qualifying absences as FMLA even if not requested by the employee. The employee shall be notified of such designation.
- v. Clark County may transfer an employee taking intermittent FMLA or reduced schedule temporarily to a position with equivalent pay and benefits if the new position better accommodates the FMLA.
- vi. An employee may take FMLA intermittently or pursuant to a reduced schedule if medically necessary.
- vii. An employee shall make reasonable efforts to schedule FMLA for planned medical treatment as to not unduly disrupt Clark County's operations.
- viii. An employee who returns to work after FMLA will be returned to their former position or, if that position is no longer available, an equivalent position with equivalent pay, benefits, schedule, and other employment terms.
- ix. An employee who is solely utilizing FMLA (i.e. state FMLA has been exhausted) and/or a County provided leave is prohibited from working for another employer while on federal FMLA.

**10. Insurance and Benefits**

- a. While an employee is on FMLA, the County will maintain group health coverage under the conditions that applied before FMLA began. If prior to FMLA the employee was required to participate in the premium payments, the employee is required to continue with premium payments while on FMLA. An employee's failure to make the required premium payments may result in termination of the employee's insurance coverage.
  - i. If an employee substitutes accrued paid leave when taking FMLA, the employee's portion of premium payments will be deducted from the employee's paycheck in the same manner as if the employee was actively working.
  - ii. If an employee takes FMLA unpaid, employees shall pay their portion of premium payments through a method determined by the County.
- b. Unless otherwise specified herein and subject to applicable laws, an employee does not accrue benefits and/or paid leave while an employee takes unpaid FMLA.
- c. Substituting earned time off:
  - i. During the portion of the FMLA leave covered by Wisconsin law, employees may elect to, or not to, substitute accrued paid leave for unpaid FMLA leave.
  - ii. During the federal-only portion of an FMLA leave, the County shall require employees to substitute accrued paid time off and applicable vacation/sick leave cash balance accounts if the employee is not covered by short-term or long-term disability.
  - iii. Additionally, if an employee is covered by either disability coverage, the employee may use accrued benefit time to supplement their disability benefit.
  - iv. Employees at the Clark County Health Care Center will be required to comply with the provision so of the applicable disability coverage. In order to use paid leave in conjunction with FMLA leave, employees must comply with our normal paid leave policies.
  - v. If an employee does not meet qualifications to use paid leave that will not affect the

- employee's ability to use FMLA leave if the leave qualifies as FMLA leave.
- d. The County's obligation to maintain health benefits will terminate if and when:
    - i. An employee informs the County of intent not to return to work at the end of the FMLA period;
    - ii. An employee fails to return to work when FMLA entitlement is used up;
    - iii. An employee fails to make any required premium payments while on FMLA after appropriate time periods as specified by law; and/or
    - iv. An employee's premium payment is more than thirty (30) days past due.
  - e. At the discretion of the County, the County may pay an employee's required premium payments while the employee is on FMLA. If the County does so and an employee does not immediately repay the County upon the employee's return to work, the County will deduct the amount of the premium payments owed from the employee's paycheck.
  - f. The County has the right to collect from an employee the premium payment paid by the County during an employee's unpaid FMLA if the employee does not return to work after the FMLA entitlement is used up. Such premium payment amounts may be deducted from any compensation owed to the employee upon separation from employment.
    - i. An employee must return to work for at least thirty (30) calendar days in order to be considered to have returned to work.

**11. Attachments**

- a. Attachment A - FMLA Request Form
- b. Attachment B - Certification for Family or Medical FMLA

ATTACHMENT A

**CLARK COUNTY  
FAMILY AND MEDICAL LEAVE POLICY**

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***EMPLOYEE REQUEST FORM***

NAME: \_\_\_\_\_ DATE: \_\_\_\_\_ EMPLOYEE #: \_\_\_\_\_

**Clark County, Wisconsin  
Series 400.405**

DEPARTMENT: \_\_\_\_\_ POSITION/JOB TITLE: \_\_\_\_\_

DATE OF HIRE: \_\_\_\_\_

STATUS:  FULL TIME

PART TIME

Dates of leave requested: From: \_\_\_\_\_ To: \_\_\_\_\_

I request intermittent leave (if applicable.).

Describe the length of each leave period (hours, days, etc.)

Reason for leave:

The birth of my son or daughter and to care for such child;

*Expected date of birth:* \_\_\_\_\_

The placement of a son or daughter with me for adoption or foster care;

*Date of placement:* \_\_\_\_\_

To care for my spouse, son, daughter, or parent, (circle one) who has a serious health condition;

*Check if parent-in-law.*

My serious health condition

My Worker's Compensation Injury

Other (please explain the reason for the leave):

**A PHYSICIAN'S CERTIFICATION WILL BE REQUIRED FOR ALL MEDICALLY RELATED LEAVES.**

Substitution of Paid Leave: (Optional if on State leave, required on Federal leave.)

Vacation \_\_\_\_\_ Hours

Compensatory Time \_\_\_\_\_ Hours

Sick Leave \_\_\_\_\_ Hours

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If receiving Short-Term Disability or Long-Term Disability on Federal FMLA, you are not required to use Vacation,

Compensatory Time, or Sick Leave in conjunction with FMLA to supplement the 60% paid disability benefit to be made

**Clark County, Wisconsin  
Series 400.405**

whole to 100%. However, it is your option to use this time to supplement any disability benefit. Will you be choosing to supplement with

- Vacation \_\_\_\_\_ Hours
- Compensatory Time \_\_\_\_\_ Hours
- Sick Leave \_\_\_\_\_ Hours

- I will be on STD and will not be supplementing with vacation/sick time
- I will be on LTD and will not be supplementing with vacation/sick time

I understand and agree to the following provisions:

- I have read the \_\_\_\_\_ County policy on administration of the "Family and Medical Leave Acts".
- I will be financially responsible for my share of monthly medical insurance premiums, if any, and will ensure they are paid promptly as stated in the "Employer Response".
  - N/A
- I may be required to exhaust my paid vacation, sick leave or accumulated compensatory time off during my leave.
- I will be considered to have terminated my employment with \_\_\_\_\_ County if I do not return to work or contact my supervisor on or before the intended ending date of my leave.
- I understand that any misrepresentation by me in completing this form may subject me to discipline up to and including termination of my employment and I hereby attest to the truthfulness and accuracy of the above information.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

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**SUPERVISOR'S APPROVAL OF LEAVE REQUEST**

- I hereby approve the request subject to verification of eligibility.
- I hereby deny this request for leave for the following reason(s):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Supervisor Signature

\_\_\_\_\_  
Date

APPROVE OR DENY THIS REQUEST AND DELIVER OR FAX THIS DOCUMENT TO THE \_\_\_\_\_ COUNTY  
DEPARTMENT OF ADMINISTRATION IMMEDIATELY AFTER RECEIPT FROM THE EMPLOYEE.

ATTACHMENT B



Physician or Practitioner Certification  
For Family or Medical Leave

Dear Physician or Practitioner:

To assist in establishing leave entitlements under Wisconsin's Family and Medical Leave Law (Section 103.10, Wisconsin Statutes) please answer the questions below and return this certification to Employer.

Employer Information

Employer Name			
Street Address	City	State	Zip Code

Employee/Patient Name

Employee Name	Patient Name (if not employee)
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Information Requested

Does _____ have a serious health condition?    Yes    No (Patient Name)
<b>Note:</b> Wisconsin's Family and Medical Leave Law (Section 103.10 Wisconsin Statutes) defines a <b>serious health condition</b> as a disabling physical or mental illness, injury, impairment or condition involving either inpatient care in a hospital, or outpatient care that requires continuing treatment or supervision by a health care provider.
What date did the condition begin?
What is the probable duration of the condition:
Specify medical facts regarding the serious health condition: <i>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 this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic information" as defined by GINA, includes an individual's family medical history, the 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 assistive reproductive services.</i>  _____  _____
Please indicate the extent to which the employee is unable to perform his or her employment duties.  _____  _____

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Series 400.405**

**Physician/Practitioner Information**

Physician/Practitioner Name (Please Print)	
Physician's Signature	Date Signed

**Please Return To Clark County-Office of Personnel  
Fax: 715-743-5159**