

IOWA COUNTY

Family and Medical Leave Act Policy January 2009 Revision

I. INTRODUCTION

Iowa County's Family and Medical Leave Act Policy is intended to conform to, and not exceed the requirements of the federal Family and Medical Leave Act of 1993 ("FMLA") including the January 2009 revised Department of Labor regulations, as well as Military Family Leave amendments to the FMLA, and the Wisconsin Family Leave Act ("WFMLA"). This Policy is intended to comply with applicable laws, but 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. Posters summarizing the benefits required to be provided under federal and state law may be found with other employment-related postings. In addition, employees may contact the Iowa County Personnel Department with specific questions.

Federal law, state law, or both may cover family, medical, and military family leave taken under this Policy. 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, employees should note that certain leaves may be covered by both state and federal law for only a portion of the leave.

Employees may be required to provide advance notice and certain information as set forth below in order to be eligible for family, medical, or military family leave under this Policy. An employee may also be required to submit leave requests in writing when circumstances and applicable law permit. Use of other leaves provided by the County will be treated as use of family and/or medical leave, and/or military family leave whenever applicable law allows.

II. ELIGIBILITY REQUIREMENTS

To be eligible for leave under **federal** law, an employee must have been employed by Iowa County for at least twelve months and must have worked a minimum of 1,250 hours during the twelve-month period immediately preceding the commencement of the requested leave. To be eligible for leave under **state** law, an employee must have been employed for more than 52 consecutive weeks and have been paid for at least 1,000 hours. The kind and amount of leave available under this Policy, as well as the employee's rights during leave depend on whether the above requirements are met.

III. TYPES OF LEAVE AVAILABLE

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

- (1) For the birth of the eligible employee's child and to care for a newborn child;
- (2) For placement with the eligible employee of a child for adoption or foster care;
- (3) To care for an eligible employee's spouse, child or parent with a serious health condition; or
- (4) Because of a serious health condition that makes the eligible employee unable to perform any of the essential functions of the employee's job, or
- (5) Because an eligible employee whose spouse, parent, son, daughter or next of kin is injured or recovering from an injury while on active duty, or
- (6) To allow an eligible employee who has a spouse, son, daughter or parent in the National Guard or Reserves to take FMLA leave due to a qualifying *exigency* resulting from the covered family member's active military duty (or call to active duty status) in support of a contingency operation.

“Child” under this paragraph includes a biological, adopted or foster child, a stepchild, legal ward, or a child for whom the employee has assumed the obligations of a parent and who is either under 18 years of age or unable to care for him or herself due to a physical or mental disability.

“Parent” under this paragraph includes parents in-law only if the employee is requesting leave **under the WFMLA**.

Please call the Iowa County Personnel Department to determine whether a request for leave qualifies under one of the categories listed above.

IV. CERTIFICATION BY HEALTH CARE PROVIDER

If leave is requested due to a serious health condition of an employee or the serious health condition of an employee's spouse, child, or parent, Iowa County requires that the leave request be supported by certification issued by the employee's health care provider or the health care provider of the spouse, child or parent. Iowa County reserves the right to certify all information permitted by law. Copies of Medical Certification forms are available from the Iowa County Personnel Department as well as available in the Employee Resources section of the Iowa County website..

Failure to provide the County with timely and responsive certification from a health care provider within fifteen (15) days of the County's request for certification may result in denial of the leave.

Employees returning from medical leave may be required to submit a health care provider's verification of their fitness to return to work.

V. DEFINITION OF SERIOUS HEALTH CONDITION

In conjunction with the certification provided by a health care provider, Iowa 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.

In general, a “serious health condition” under this Policy means an illness, injury, impairment, or physical or mental condition that involves one of the following:

- A. **Hospital Care** Inpatient care (i.e., an overnight stay in a hospital, hospice or residential medical care facility) including any period of incapacity or any subsequent treatment in connection with inpatient care.
- B. **Absence Plus Treatment**
 - (1) A period of incapacity of more than three full consecutive calendar days* (including any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (a) Treatment two or more times by a health care provider (including Physician's Assistant), by a nurse, or by a provider of health care services (e.g., physical therapist) under order of, or on referral by, a health care provider. Those two visits must be within 30 days of each other. The 30-day rule begins with the first day of incapacity, not the first office visit. or
 - (b) 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. That visit must occur within 7 days of the first day of incapacity. For chronic conditions, the individual must receive medical treatment At least two visits to the health care provider every year.

Note, treatment requires an in-person visit with the health care provider for examination, evaluation or specific treatment; a phone call, letter, fax, e-mail or text message is not sufficient.

***Under the WFMLA**, leave may also be available for a serious health condition of less than three (3) consecutive days in duration.

C. Pregnancy

Any period of incapacity due to pregnancy or for prenatal care.

D. Chronic Conditions Requiring Treatment

A chronic condition which:

- (1) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider,
- (2) Continues over an extended period of time (including recurring episodes of a single underlying condition), and
- (3) May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc).

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimers disease, a severe stroke, or the terminal stages of a disease.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) full consecutive calendar days in the absence of medical intervention or treatment, such as cancer(chemotherapy, radiation, etc,) severe arthritis(physical therapy) and kidney disease (dialysis).

VI. AMOUNT OF LEAVE AVAILABLE

Under **federal** law, if the eligibility requirements spelled out in Section II have been met, an employee is entitled to a total of twelve (12) work weeks of leave during a twelve month period for any of the reasons stated above in Section III.

Also under **federal** law, under the **2008 Defense Authorization Act (Military Leave)** a qualified employee is eligible for 12 weeks of leave to deal with any "qualifying exigency", and 26 weeks of leave in a 12 month period to care for an injured service member.

The twelve month period utilized by Iowa County in applying the Policy is defined as the calendar year.

Under **state** law, an employee who meets the eligibility requirements spelled out in Section II is entitled to:

- (1) A total of six weeks of leave for the birth of their natural child and/or the placement of a child with them for, or as a precondition to, adoption;
- (2) a total of two weeks of leave to care for a covered family member with a serious health condition; and
- (3) a total of two weeks of leave if they cannot perform their employment duties due to a serious health condition, as described above in Section III.

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

VII. 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). Please contact the Iowa County Personnel Department for details.

VIII. COMPENSATION DURING LEAVE

Generally, leave taken under this Policy is unpaid. However, for leaves governed exclusively by **federal** law, an employee must use the following leaves provided by Iowa County if eligible:

- (1) Vacation or personal leave for any family or medical leave;
- (2) Accrued paid sick leave to care for a seriously ill family member, or for the employee's own serious health condition.

For leaves governed exclusively by **federal** law, Iowa County reserves the right to require an employee to use accrued paid leave for leave that would otherwise be unpaid FMLA leave taken under this Policy. However, paid sick leave may not be substituted for leave taken under this Policy in any situation where the County would not normally provide such paid leave.

For leaves governed by **state** law, an employee may substitute accrued paid or unpaid leave for leave taken under this Policy, if eligible. Iowa County reserves the right to deny substitutions as permitted by law.

IX. CONTINUATION OF BENEFITS

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

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. The employee is responsible for paying their portion of health insurance premiums regardless of whether the family and medical leave is paid or unpaid. It is the employee's responsibility to make arrangements with the Personnel Department for making premium payments for group health insurance during leaves.

To the extent permitted by law, the County reserves the right to require an employee to place up to eight weeks' health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty days late. If an employee does not return to work following family or medical leave, the employee may be required to reimburse the County for its share of health insurance premiums paid on the employee's behalf during that leave.

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.

X. ACCRUAL OF BENEFITS

The employee will not continue to accrue seniority or any other employment benefit during leave taken under this Policy, except that such benefits shall accrue if the employee elects to use other leaves provided by the County pursuant to Section VII, and if such benefits would normally accrue during such leave.

XI. EMPLOYMENT RESTORATION

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

If an employee fails to report to work promptly at the end of the approved leave period and does not contact the County about the need for additional leave, the County will treat such failure to return as the employee's voluntary resignation from employment with Iowa County.

XII. REQUIRED ADVANCE NOTICE

When an employee plans to take leave under this Policy, the employee must give the County 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 who is to undergo planned medical treatment is required to make a reasonable effort to schedule the treatment in order to minimize disruptions to the County's operations. If an employee fails to provide 30 days' notice for foreseeable leave e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for a serious health condition of the employee or that of a family member. with no reasonable excuse for the delay, the leave request may be denied until at least 30 days from the date the employer receives notice. While on leave, employees When requesting partial or intermittent leave in connection with child birth or adoption, employees 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.

Employees must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a completed Iowa County Leave Request Form.

END OF POLICY