

Chapter 1 – Human Resources

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LEAVES OF ABSENCE

Section 1500

1500	Introduction.....	2
.1	Leave of Absence Planning Assistance	2
.2	Contact While on an Extended Illness, FMLA or Wisconsin Bone Marrow and Organ Donation Leave	2
.3	Placement Upon Return to Work	2
.4	Early Return	3
.5	Failure to Return	3
.6	Other Employment While on Leave	3
.7	Filling Vacancies Due to Extended Leaves of Absence	3
.8	Upon Exhaustion of Worker’s Compensation Disability Pay	3
.9	Seniority During Leaves of Absence	3
.10	Overtime During Leaves of Absence	3
1505	Benefits During and After a Leave of Absence Other than Uniformed Services Leave	3
.1	Benefits During a Non-Uniformed Services Leave of Absence	3
.2	Benefits Upon Return to Work from a Non-Uniformed Services Leave of Absence.....	5
1510	Family and Medical Leave Act (FMLA).....	7
.1	Eligibility	7
.2	Qualifying Event and Amount of Leave	7
.3	Non-Continuous or Intermittent Leave	9
.4	Payments While on FMLA Leave.....	9
.5	FMLA Notice and How to Apply for FMLA Leave.....	10
.6	Worker’s Compensation and Transitional Modified Duty.....	12
.7	Complaint Procedure	12
.8	Definitions	12
1515	Wisconsin Bone Marrow and Organ Donation Leave Act.....	16
1520	Extended Illness Leave	17
.1	Request Process.....	18
1525	Personal Leave	18
1530	Uniformed Services Leave.....	19
.1	Uniformed Services Leaves of Absence are Granted in the Following Instances	19
.2	Request Process.....	19
.3	Reemployment.....	19
.4	Wages and Benefits During Uniformed Services Leaves	21
.5	Wages and Benefits Upon Return from Uniformed Services Leave.....	23
1535	Educational Leave	23
1540	Conditional Leave.....	24
.1	Certain Employment Conditions After a Conditional Leave.....	24
1545	Catastrophic Illness or Injury	24
1550	Pregnancy Accommodation	24

Appendices:

HR-1500-A	Leave of Absence Request Form (Non-FMLA)
HR-1500-B	FMLA Leave of Absence Request Form
HR-1500-C	FMLA Health Care Provider Certification Form
HR-1500-D	Federal FMLA Certification for Military Family Leave for Qualifying Exigency Form
HR-1500-E	Federal FMLA Certification for Serious Injury or Illness of a Current Servicemember (Military Caregiver Leave)
HR-1500-F	Federal FMLA “IN LOCO PARENTIS” Affidavit Form
HR-1500-G	Wisconsin FMLA Domestic Partnership Affidavit Form
HR-1500-H	Personal Certification for Intermittent Leave Form
HR-1500-I	Health Care Provider Certification Form (Non-FMLA)
HR-1500-J	Health Care Provider Return to Work Form
HR-1500-K	Leave of Absence – Pay Codes

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1500 INTRODUCTION

The County may grant the following leaves of absence under certain conditions to regular full time and regular part time employees, and qualifying temporary employees where applicable: Uniformed Services, FMLA (WI and Federal Family Medical Leave Acts), Wisconsin Bone Marrow and Organ Donation, Extended Illness, Personal, Educational, Conditional, Catastrophic Illness or Injury, and pregnancy accommodation. The County will abide by any applicable Federal and State regulations. By authorizing a leave of absence, the County grants an employee time off for a specific period of time and may, in most instances, place the employee in their same classification and department when the employee returns from the leave.

1500.1 Leave of Absence Planning Assistance

An employee is encouraged to contact the Human Resources Division for assistance in planning leaves of absence to obtain maximum benefits available under State and Federal laws and County Policy and to understand any potential impact to benefits.

1500.2 Contact While on an Extended Illness, FMLA or Wisconsin Bone Marrow and Organ Donation Leave

The purpose of an Extended Illness, FMLA, or Wisconsin Bone Marrow and Organ Donation leaves is generally to allow an employee to take leave from work to meet their and/or an eligible family member's medical needs. While on leave, an employer may contact an employee to provide basic information that does not require the employee to perform time consuming tasks, retrieve information that is not easily accessible, or to obtain status updates on the employee's expected return to work date.

"De minimis" work-related contacts, such as calling an employee on FMLA Leave to request client contact information, update the employee about workplace news, request keys and passwords to employer equipment and facilities, or discuss administrative information, are acceptable.

The employer may also disable network access during extended leaves.

1500.3 Placement Upon Return to Work

- A. Unless otherwise noted, an employee is returned to the same classification, department, and step in the salary plan as when they were granted a leave as long as the employee still possesses the necessary qualifications for their classification. Assignment of work duties to employees within the same classification is within the discretion of the department.
- B. An employee returning from leave for their own serious health condition may be required to submit a health care provider certification indicating whether they can fully resume their normal duties. An employee who fails to provide a return-to-work certification from their health care provider may be prohibited from returning to work until it is provided.

Use of the County's Health Care Provider Return to Work Certification Form (Appendix [HR-1500-J](#)) is recommended.

If restrictions are indicated, the department will determine if the restrictions can be accommodated. Accommodations may be subject to the Transitional Modified Duty Program Policy 600 ([Risk Management](#)).

- C. An employee may not be restored to their original or equivalent position, or if the position is not vacant, to an equivalent position with equivalent pay, benefits and other terms and conditions of employment, if they are unable to perform the essential functions of their job because of a mental

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

or physical condition. An interactive process will be engaged in by the supervisor/department in conjunction with the employee, their health care provider, and the Human Resources Manager.

- D. An employer may deny job reinstatement to a key employee if the reinstatement would cause substantial and grievous economic injury to the employer's operations.

1500.4 Early Return

An employee may request to return to work at an earlier date. In the event a department allows an employee to return from a leave prior to the expiration of a leave of absence, the employee must arrange a return-to-work date with the department and the department shall notify the Human Resources Division and the Department of Administration's Payroll Office. Refer to [Section 1500.2](#) for an employee returning from their own serious health condition leave.

1500.5 Failure to Return

If an employee fails to return to work on the date indicated on the leave, the employee shall be terminated unless an acceptable reason is provided.

1500.6 Other Employment While on Leave

No employee may pursue or engage in other employment when on an Extended Illness, and/or a continuous leave for a Bone Marrow/Organ Donation and/or FMLA Leave for their own serious health condition.

1500.7 Filling Vacancies Due to Extended Leaves of Absence

Departments may fill vacancies due to extended leaves of absence, especially for long periods of illness, disability, or Uniformed Services leaves. Since an employee returning from leave is considered to be an incumbent, the replacement employee must vacate the classification when the incumbent employee returns. In order to plan for returnees, leaves of absence must have specific dates.

1500.8 Upon Exhaustion of Worker's Compensation Disability Pay

An employee who has sustained a job-related injury or illness compensable under the Worker's Compensation Act, and who has exhausted their eligibility for disability pay, must apply for a FMLA Leave, or an Extended Illness Leave upon exhaustion or ineligibility for FMLA, to continue their employment status.

1500.9 Seniority During Leaves of Absence

Seniority applies only to those employees covered by a collective bargaining agreement. Seniority continues to accrue during Uniformed Services and Extended Illness Leaves of absence. Seniority does not accrue during other leaves of absence of more than thirty (30) days; and, therefore, seniority dates are adjusted to account for lost service time.

1500.10 Overtime During Leaves of Absence

An employee may not incur overtime while on FMLA or Wisconsin Bone Marrow or Organ Donation Leave.

1505 BENEFITS DURING AND AFTER A LEAVE OF ABSENCE OTHER THAN UNIFORMED SERVICES LEAVE

1505.1 Benefits During a Non-Uniformed Services Leave of Absence

An employee normally does not earn benefits while on any type of unpaid leave of absence. Eligibility for employee benefits is handled as follows:

Chapter 1 – Human Resources

Issued: November 2020
Revised: September 2024

LEAVES OF ABSENCE

Section 1500

- A. Sick Leave and Vacation Credits are not earned for the month unless the employee works the majority of the workdays of the month. All time paid for is considered time worked.
- B. Holiday or Floating Holiday If a holiday or an eligibility date for a floating holiday falls within an approved WI and/or Federal FMLA Leave, Personal Leave, or WI Bone Marrow and Organ Donation Leave, of five (5) workdays or less immediately preceding or following the accrual holiday (the holiday does not count towards the five (5) days), the employee will earn the holiday. However, for unpaid leaves of absences of six (6) workdays or more, the employee will not receive pay for the holiday or accumulate a floating holiday.
- C. Health, Dental, and Vision Insurance
1. If the majority of an employee's workdays are either paid or are covered under FMLA or the Wisconsin Bone Marrow and Organ Donation Act, the County will pay the employer contribution for the month and the employee will continue to pay its premium share. This will occur whether the leave is paid or unpaid. The employee must pay their regular contribution in order to continue insurance coverage.
 2. If the majority of an employee's workdays are neither paid nor covered under FMLA or the Wisconsin Bone Marrow and Organ Donation Act, the employee will be offered COBRA continuation coverage. Continuation of coverage is available in accordance with the provisions set forth in Policies [1100 – Health Insurance](#), [400 – Dental Insurance](#), and [3400 – Vision Insurance](#).
 3. The County may recover its share of health, dental, and vision insurance premiums paid during a period of unpaid FMLA and Wisconsin Bone Marrow and Organ Donation Leave from an employee if the employee fails to return to work for a minimum of thirty (30) calendar days after the expiration of the leave. The County may not collect the premiums if the reason the employee does not return is due to continuation, recurrence or onset of a serious health condition that would entitle the employee to leave under FMLA, or other circumstances beyond the employee's control.
 - a. FMLA birth or placement of a child for adoption or, under the Federal FMLA, for foster care or a child of a person standing *in loco parentis*: The County may discontinue health, dental, and vision insurance benefits if the employee fails to make a premium payment within thirty (30) days of the due date/effective date after providing written notice to the employee of the cancellation of coverage for non-payment.
- D. Group Term Life, Supplemental Life, and Dependent Life Insurance
1. Extended Illness, FMLA, or Wisconsin Bone Marrow and Organ Donation Leave. If the unpaid leave extends to sixteen (16) calendar days, an employee on these types of approved leaves of absence may continue to participate in the Term Life, Supplemental Life, and/or Dependent Life Insurance plans for up to twelve (12) months at their own expense by paying the full premium to the County Treasurer's Office by the beginning of the month for which coverage is effective. Life insurance coverage is canceled after twelve (12) months on leave of absence.
 2. Non-Medical Leaves of Absence (Personal, Educational, and Conditional). An employee on a non-medical leave of absence, or on paid or unpaid statutory leaves of absence for non-medical purposes, may continue Term Life, Supplemental Life, and/or Dependent Life Insurance coverage for six (6) months. If the employee remains off work beyond six (6)

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

months on a non-medical leave of absence, the life insurance coverage is canceled and the conversion privilege set forth in Policy [1600 – Life Insurance](#) applies.

- E. Long Term Disability Income Insurance An employee on an Extended Illness, FMLA, or Wisconsin Bone Marrow and Organ Donation Leave may continue to participate in the Long Term Disability Plan by paying the monthly premium. The premium must be paid to the Human Resources Office no later than the beginning of the month in which coverage is to be effective. Coverage is not available during other leaves of absence.
- F. Retirement Health Savings Plan The County will cease making contributions into the employee's Retirement Health Savings Plan account when they are on an unpaid leave (including unpaid FMLA, or unpaid Wisconsin Bone Marrow and Organ Donation). Contributions will resume upon return to work.
- G. Wisconsin Retirement System Contributions continue during paid leaves of absence and resume upon return to work from unpaid leaves of absence.
- H. Merit Increases An employee does not earn merit increases during periods of leaves. The qualifying time for the next merit increase may be adjusted if the absence exceeds two (2) weeks.

1505.2 Benefits Upon Return to Work from a Non-Uniformed Services Leave of Absence

When an employee returns to work following a leave of absence, the following rules and procedures apply:

- A. Health, Dental, and Vision Insurance
 1. If health, dental, and vision insurance premiums were maintained during the leave, the insurance continues in effect upon return to work.
 2. While on FMLA or Wisconsin Bone Marrow or Organ Donation:
 - a. If an employee did not pay the health, dental, and vision insurance premiums during the leave, either because the employee chose not to continue the insurances, the insurances will be reinstated immediately upon return to work. The employee will not be required to serve a new waiting period. However, the employee must re-enroll in the insurance plans within thirty-one (31) days of returning to work.
 3. While on a Leave of Absence other than FMLA or Wisconsin Bone Marrow or Organ Donation:
 - a. If an employee did not pay the health, dental, and vision insurance premiums during the leave because the employee chose not to continue the insurance, the employee must re-enroll in the insurance plans within thirty-one (31) days of returning to work and must serve a new waiting period. The new waiting period is the same as that of a new employee.
 - b. If insurance lapsed due to non-payment of premiums by the employee, the employee may re-enroll in the plans. However, the applications will be treated as late enrollments and will be subject to the individual plan restrictions as outlined in Policies [1100 – Health Insurance](#), [400 – Dental Insurance](#), and [3400 – Vision Insurance](#).

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

B. Group Term Life, Supplemental Life, and Dependent Life Insurance

1. Extended Illness, FMLA, or Wisconsin Bone Marrow and Organ Donation Leave.

- a. If an employee maintained Term Life, Supplemental Life, and/or Dependent Life Insurance premiums during the leave and returns to work within twelve (12) months, there is no lapse in coverage.
- b. If the employee did not maintain Term Life, Supplemental Life, and/or Dependent Life Insurance but returned to work within twelve (12) months, the insurance will be reinstated immediately upon return to work.
- c. If the employee maintained Term Life, Supplemental Life, and/or Dependent Life Insurance coverage during the leave, but the leave extended beyond twelve (12) months, coverage is canceled. Upon return to work, the employee must re-enroll in the life insurance plan within thirty (30) days of returning to work and will be required to serve a new six (6) month waiting period.

2. Non-Medical Leaves of Absence (Personal, Educational, and Conditional).

- a. If an employee maintained Term Life, Supplemental Life, and/or Dependent Life Insurance premiums during the leave and returns to work within six (6) months, there is no lapse in coverage.
- b. If the employee did not maintain Term Life, Supplemental Life, and/or Dependent Life Insurance coverage but returned to work within six (6) months, the insurance will be reinstated immediately upon return to work.
- c. If the employee maintained Term Life, Supplemental Life, and/or Dependent Life Insurance coverage during the leave, but the leave extended beyond six (6) months, coverage is canceled. Upon return to work, the employee must re-enroll in the life insurance plan within thirty (30) days of returning to work and will be required to serve a new six (6) months waiting period.

C. Long Term Disability Income Insurance

1. Extended Illness, FMLA, or Wisconsin Bone Marrow and Organ Donation Leave. Long Term Disability Income Insurance remains in effect during the leave and continues in effect upon return to work. The employee must pay the full premium during the leave (See Policy [1700 – Long Term Disability Insurance](#)).
2. Non-Medical Leaves of Absence (Personal, Educational, and Conditional). Long Term Disability Income Insurance may not be continued. Coverage will be reinstated immediately upon return to work.

D. Vacation The employee maintains credit for the time earned for service completed prior to the leave.

E. Sick Leave The employee's balance of sick leave prior to the leave (less any time used) remains in effect.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1510 FAMILY AND MEDICAL LEAVE ACT (FMLA)

It is the policy of the County to grant up to twelve (12) workweeks of family and medical leave during any calendar year to eligible employees, in accordance with the Federal and Wisconsin Family and Medical Leave Acts (FMLA) and to grant up to twenty-six (26) workweeks of Military Caregiver Leave during any single twelve (12) month period in accordance with the Federal Family Medical Leave Act as amended by the National Defense Authorization Act. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this Policy.

1510.1 Eligibility

An employee is entitled to FMLA benefits if they:

- A. **Federal** Have been employed by the County in any status for at least twelve (12) months (not necessarily consecutive; based on a seven [7] year look-back) and have worked at least 1,250 hours during the twelve (12) months prior to the start of the FMLA Leave. Time spent on paid or unpaid leave does not count in determining the 1,250-hour eligibility.
- B. **Wisconsin** Have been employed by the County in any status for at least fifty-two (52) consecutive weeks and have worked for at least 1,000 hours during the fifty-two (52) weeks prior to the start of the FMLA Leave. Time spent on paid or unpaid leave counts in determining the 1,000-hour eligibility.

1510.2 Qualifying Event and Amount of Leave

- A. **Family and Medical Leave.** An eligible employee may take up to twelve (12) workweeks of unpaid FMLA Leave in a calendar year for the following qualifying events:
 1. The birth or placement of a child for adoption. Federal FMLA includes placement for foster care or for a child of a person standing in loco parentis.
 - a. Wisconsin provides for up to six (6) workweeks of unpaid leave for any one (1) child. (These six (6) workweeks of leave must begin within sixteen (16) weeks of birth, or after placement of the child for adoption or as a pre-condition for adoption; refer to [Section 1510.3.](#))
 - b. Federal requires that leave conclude within twelve (12) months after the birth; refer to [Section 1510.3.](#)
 - c. Refer to [Section 1510.8](#) for the definition of “in loco parentis”.
 2. To care for the employee’s spouse, child, or parent with a serious health condition. Wisconsin FMLA includes caring for a spouse’s parent, a domestic partner and a domestic partner’s parent. Federal FMLA includes standing “in loco parentis” to a child.
 - a. Wisconsin provides an eligible employee up to two (2) workweeks of FMLA family leave.
 - b. Refer to [Section 1510.8](#) for the definition of a domestic partner.
 3. For the employee’s own serious health condition that renders the employee unable to perform their job.
 - a. Wisconsin provides an eligible employee up to two (2) workweeks of FMLA medical leave.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

4. Under the Federal FMLA, if the employee experiences a qualifying exigency that arises out of the fact that a spouse, parent, or child in the armed forces (including members of the National Guard or Military Reserves) has been deployed or called to covered active military duty in a foreign country.
 - B. Federal Military Caregiver Leave. An eligible employee who is the spouse, parent, child, or next of kin of a current member of the armed forces/covered service member (including the regular armed forces, the National Guard and the Reserves), or a veteran who served in the military within the preceding five (5) years and whose discharge was not dishonorable, who was injured while on active duty, or whose pre-existing injury or illness was aggravated by service on active duty, may be eligible for up to twenty-six (26) workweeks of Federal FMLA Leave in a single twelve (12) month period to care for the service member/veteran who is undergoing medical treatment, recuperation, or therapy for a serious service-related injury or illness, or a service-related aggravation of a pre-existing injury or illness, incurred while in the line of duty. Leave to care for an injured or ill service member/veteran, when combined with other FMLA-qualifying leave, may not exceed twenty-six (26) workweeks in a single twelve (12) month period.
 - C. Leave qualifying for both Wisconsin and Federal FMLA Leave (including Military Caregiver Leave) will count against the employee's entitlement under both laws and will run concurrently. When the reasons(s) for qualified leave differ, the leave may not run concurrently under Wisconsin and Federal law, and an employee may be entitled to more than twelve (12) weeks of leave in a calendar year. This type of leave occurrence will be evaluated and reviewed. FMLA Leave will run concurrently with qualified sick leave. Qualified leave taken under Worker's Compensation may run concurrently with Federal FMLA Leave and, at the employee's request, with Wisconsin FMLA Leave.
 - D. Under Federal FMLA, spouses employed by the County are jointly entitled to a combined total of twelve (12) workweeks of family leave for the birth or placement of a child for adoption or foster care, and to care for a parent (but not a parent-in-law) who has a serious health condition. For Military Caregiver Leave, the employee and the employee's spouse may be limited to a combined total of twenty-six (26) workweeks of leave in a single twelve (12) month period.

Under normal conditions, an employee will generally be entitled to the following maximum amounts of leave for the birth or adoption of a child:

1. Birth of a Child

- a. Pregnancy is considered the same as any other illness or injury. Therefore, the mother is entitled to a period of medical disability immediately following the birth. The normal period of disability is considered six (6) weeks. If the mother uses continuous sick leave during the disability period, the Wisconsin Family & Medical Leave will start after the disability period. If the mother does not use continuous sick leave during the disability period, the Wisconsin Family & Medical Leave will begin when the continuous sick leave ends and will run concurrently with the disability period.

Under the Federal Family and Medical Leave Act, the mother is entitled to use up to twelve (12) workweeks of unpaid leave for these purposes. If the mother uses continuous sick leave during the disability period, the Federal Family Medical Leave will start after the six (6) weeks of disability. If the mother does not use continuous sick leave during the disability period, the Federal Family Medical Leave will begin when the continuous sick leave ends and will run concurrently with the disability period.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

- b. The father is entitled to use up to six (6) workweeks of Wisconsin Family Leave for the birth of the child. The father may also be eligible to use up to two (2) workweeks of Wisconsin Family Leave to care for his wife while she is medically disabled with a serious health condition.

Under the Federal Family and Medical Leave Act, the father is entitled to use up to twelve (12) workweeks of unpaid leave for these purposes, which will run concurrently with the eight (8) workweeks of Wisconsin Family Leave outlined above.

2. Adoption of a Child Both the father and the mother are entitled to use up to six (6) workweeks of Wisconsin Family Leave for the adoption of a child.

Under the Federal Family and Medical Leave Act, a parent may use up to twelve (12) workweeks of unpaid leave for adoption or foster placement of a child which will run concurrently with the six (6) workweeks of Wisconsin Family Leave outlined above.

1510.3 Non-Continuous or Intermittent Leave

An employee is permitted to take leave on an intermittent (blocks of time) or reduced work schedule:

- when it is medically necessary to care for an eligible family member with a serious health condition or because of the employee's serious health condition;
- to care for a newborn, adopted or foster child; or,
- for Military Caregiver Leave.

Federal FMLA Leave for the birth or placement of a child for adoption or foster care may not be taken in non-continuous increments unless approved by the County; such leave must be completed within the twelve (12) month period beginning on the date of birth or placement of the child. Under Wisconsin FMLA, the last increment of leave for the birth or placement of a child for adoption must begin within sixteen (16) weeks of that birth or placement.

When scheduling intermittent or reduced schedule leave, an employee must make a reasonable effort to schedule the leave so as not to unduly disrupt the County's operations. An employee requesting non-continuous Federal FMLA Leave that is foreseeable based on planned medical treatment for purposes of providing care to an eligible family member with a serious health condition or for the employee's own serious health condition may be required to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than the regular employment position of the employee. An employee temporarily transferred will receive the same pay and benefits but may be assigned different duties.

An employee may not take, or be required to take, more leave than medically necessary to address the circumstances that caused the need for the leave.

An employee may be required to complete a personal certification by their supervisor/department for each intermittent leave occurrence to confirm the leave was for the reason provided (Appendix [HR-1500-H Personal Certification for Intermittent Leave Form](#)).

1510.4 Payments While on FMLA Leave

In general, both Wisconsin and Federal FMLA Leaves are unpaid; however, the County provides for substituting available accrued benefits. Available accrued benefits include vacation, sick leave, floating holidays, banked holiday time, and FLSA/compensatory time. Any such substituted accrued benefit will run concurrently with FMLA Leave.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

Under Wisconsin FMLA, an employee may choose to substitute available accrued leave (including use of sick leave for other than their own serious health condition), take the leave as unpaid, or use any combination of paid (substituting accrued benefits) or unpaid leave.

Under Federal FMLA, the County requires an employee to exhaust all accrued sick leave (allowed only for their own serious health condition), vacation, floating holidays, banked holiday time, or compensatory time as part of such leave prior to taking the leave as unpaid.

1510.5 FMLA Notice and How to Apply for FMLA Leave

- A. When an employee calls in seeking time off, in order to constitute FMLA notice, thereby triggering the County’s duty to treat the absence as a potential FMLA absence, the employee must provide sufficient information to their supervisor to make the County aware of the possible need for FMLA Leave and the anticipated timing and duration of the leave.
- B. When leave is foreseeable, the employee must submit a FMLA Leave of Absence Request Form (Appendix [HR-1500-B](#)) to their supervisor/department at least thirty (30) calendar days in advance of the leave or, when foreseeable but less than thirty (30) calendar days in advance, as soon as practicable.

When the need for leave is not foreseeable, the employee must notify their supervisor/department and thereafter submit the FMLA Leave of Absence Request Form as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, it is considered practicable for an employee to provide notice of unforeseeable leave within the time prescribed by the County’s usual and customary notice requirements applicable to the employee’s departmental leave procedures.

Failure to give timely notice and/or submit the FMLA Leave of Absence Request Form may result in the delay or denial of FMLA and may subject the employee to discipline under the County’s policies.

1. For Federal FMLA “*in loco parentis*” leaves, the employee is required to submit the Federal FMLA “*in loco parentis*” Affidavit Form (Appendix [HR-1500-F](#)) with the FMLA Leave of Absence Request Form; refer to [Section 1510.8](#) for the definition of “*in loco parentis*”.
 2. For Wisconsin FMLA domestic partner leaves, the employee is required to submit the Wisconsin FMLA Domestic Partnership Affidavit Form (Appendix [HR-1500-G](#)) with the FMLA Leave of Absence Request Form; refer to [Section 1510.8](#) for the definition of a domestic partner.
- C. If the leave is for an eligible family member’s, or the employee’s serious health condition, the employee must submit a FMLA Health Care Provider Certification Form (Appendix [HR-1500-C](#)) from the employee’s or the family member’s health care provider within fifteen (15) calendar days from the effective date of leave. This Certification Form is to be submitted to the employee’s supervisor/department along with the FMLA Leave of Absence Request Form and Federal FMLA “*in loco parentis*” Affidavit Form or Wisconsin FMLA Domestic Partnership Affidavit Form if applicable.
1. An employee’s own serious health condition leave. It is recommended the employee provide their treating health care provider a copy of their classification specification to assist the provider in completing the Medical Certification Form.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

- D. If the leave is for a Federal FMLA Qualifying Exigency or Military Caregiver Leave, the employee must submit the requisite Certification Form (i.e., Federal FMLA Certification for Military Qualifying Exigency Form (Appendix [HR-1500-D](#)); Federal FMLA Certification for Serious Injury or Illness of a Current Servicemember [Appendix ([HR-1500-E](#))) to support the request for such leave within fifteen (15) calendar days from the effective date of leave. The requisite Certification Form is to be submitted to the employee’s supervisor/department along with the FMLA Leave of Absence Request Form.
- E. The supervisor/department submits the completed paperwork to the Human Resources Division where it is reviewed for approval; FMLA Leaves require the approval of the Human Resources Manager. Barring any extenuating circumstances, which will be reviewed on a case-by-case basis, time off for FMLA may be approved up to fifteen (15) calendar days retroactive from the date of the supervisor/department’s signature.
- F. If the employee receives written notification the certification is incomplete, vague, and/or insufficient, the employee shall have seven (7) calendar days to cure the identified deficiencies. If the employee does not provide the required certification by the designated deadlines, or if the County determines the employee’s absence is not covered as FMLA Leave, the leave may not be designated as Wisconsin and/or Federal FMLA Leave.
- G. A second or third opinion by a health care provider of the County’s choice, and at the County’s expense, may be required under certain circumstances.
- H. Periodic recertifications at the employee’s expense may be required under certain circumstances.

Generally, an employer may request recertification for leave taken because of an employee's own serious health condition or the serious health condition of a family member no more than every thirty (30) days and only in connection with an absence by the employee.

1. More than thirty (30) Days If the medical certification indicates that the minimum duration of the condition is more than thirty (30) days, an employer must wait until that minimum duration expires before requesting a recertification, except that in all cases, an employer may request a recertification every six (6) months in connection with an absence by the employee. (For example, if the medical certification states that an employee will be unable to work, either continuously or intermittently, for forty (40) days, the employer must wait forty (40) days before requesting a recertification.)
2. Less than thirty (30) Days An employer may request recertification in less than thirty (30) days if:
 - a. The employee requests an extension of leave;
 - b. Circumstances described by the previous certification have changed significantly; or
 - c. The employer receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the certification.

An employee has the same obligations to participate and cooperate in the recertification process as in the initial certification process. Refer to items [1510.5 A-D](#) above.

No second or third opinion on recertification may be required.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

I. Forms are available through the County’s Intranet (HR tab-Policies-Appendices Section) and/or Human Resources Division:

- [HR-1500-B](#) [FMLA Leave of Absence Request Form](#)
- [HR-1500-C](#) [FMLA Health Care Provider Certification Form](#)
- [HR-1500-D](#) [Federal FMLA Certification for Military Qualifying Exigency Form](#)
- [HR-1500-E](#) [Federal FMLA Certification for Serious Injury or Illness of a Current Servicemember \(Military Caregiver Leave\)](#)
- [HR-1500-F](#) [Federal FMLA “in loco parentis” Affidavit Form](#)
- [HR-1500-G](#) [Wisconsin FMLA Domestic Partnership Affidavit Form](#)
- [HR-1500-H](#) [Personal Certification for Intermittent Leave Form](#)

1510.6 Worker’s Compensation and Transitional Modified Duty

Federal FMLA Leave may run concurrent with Worker’s Compensation, as may Wisconsin FMLA Leave upon the employee’s request, provided that the injury meets the criteria for a “serious health condition,” as defined by law.

If an employee accepts a Transitional Modified Duty assignment while on Worker’s Compensation, or while recovering from a serious health condition, that time may not count against the employee’s FMLA leave entitlement. An employee who voluntarily accepts a Transitional Modified Duty assignment does not waive the right to job restoration; however, the employee’s right to job restoration ceases at the end of the FMLA calendar year. If the Transitional Modified Duty assignment is declined and the employee elects to stay on FMLA Leave, the employee may give up their Worker’s Compensation benefits.

1510.7 Complaint Procedure

An employee who believes their FMLA rights have been violated should contact the Human Resources Manager and attempt to resolve the matter internally. However, if the matter is not resolved within a reasonable period of time after contacting the Human Resources Manager, the employee may file a complaint with the Wisconsin Equal Rights Division (Wisconsin FMLA), the U.S. Department of Labor (Federal FMLA), or may bring a private lawsuit against the County.

1510.8 Definitions

- A. **Child** Biological, adopted, or foster child, stepchild (including, under Federal FMLA law, an employee’s stepchild that is the child of the employee’s same-sex or common law spouse), legal ward or, under the Federal FMLA, the child of a person having day-to-day care of the child, or a child of a person standing “in loco parentis,” who is under eighteen (18) years of age, or, under the Wisconsin FLMA a child who is eighteen (18) years of age or older and cannot care for himself or herself because of a serious health condition, or under the Federal FMLA who is eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability.
- B. **Domestic Partner** The Wisconsin FMLA provides certain benefits to an employee with a registered or unregistered domestic partner.
1. **Registered domestic partners** ([Wisconsin Statutes Chapter 770](#)) must be registered prior to April 1, 2018, with the Register of Deeds in their county of residence, and must demonstrate/attest: 1) Each individual is at least eighteen (18) years old and capable of consenting to the domestic partnership; 2) Neither individual is married or in a domestic partnership with another individual; 3) The two (2) individuals share a common residence; 4) The two (2) individuals are not nearer kin than second cousins; and 5) The individuals are members of the same sex.

Chapter 1 – Human Resources

Issued: November 2020
Revised: September 2024

LEAVES OF ABSENCE

Section 1500

2. Unregistered domestic partners ([Wisconsin Statutes 40.02\(21d\)](#)) those filed before September 23, 2017, must demonstrate/attest: 1) Each individual is at least eighteen (18) years old and otherwise competent to enter into a contract; 2) Neither individual is married or in a domestic partnership with another individual; 3) They share a common residence; 4) They are not related by blood in any way that would prohibit marriage under Wisconsin law; 5) They consider themselves to be members of each other's immediate family; and 6) They agree to be responsible for each other's basic living expenses.
- C. Health Care Provider Under Federal FMLA, a Doctor of Medicine, doctor of osteopathy, physician's assistant, podiatrist, dentist, clinical psychologist, optometrist, chiropractor, nurse practitioner, nurse midwife, and Christian Science Practitioner. Under the Wisconsin FMLA, a person described under [Wis. Stats. section 146.81 \(1\)](#), excluding a person described under section 146.81 (1) (hp).
- D. Incapable of Self-Care The individual requires active assistance or supervision to provide daily self-care in three (3) or more of the activities of daily living (e.g., grooming, hygiene, bathing, dressing, eating) or instrumental activities of daily living (e.g., cooking, cleaning, shopping, utilizing public transportation, paying bills, maintaining a residence, using telephones and directories, and using a post office).
- E. In Loco Parentis Under Federal law, a person who has put himself in the situation of a lawful parent by assuming the obligations incident to the parental relation without going through the formalities necessary to legal adoption. It embodies the two (2) ideas of assuming the parental status and discharging the parental duties. Either day-to-day care or financial support may establish an *in loco parentis* relationship where the employee intends to assume the responsibilities of a parent with regard to a child.
- F. Key Employee An employee who is among the highest paid ten percent (10%) of all County employees.
- G. Next of Kin A covered service member's "next of kin" is the service member's nearest blood relative, other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of Military Caregiver Leave under FMLA, in which case the designated individual shall be deemed to be the covered service member's next of kin.
- H. Parent Biological parent, foster parent, adoptive parent, stepparent, or legal guardian of an employee (and of an employee's spouse or domestic partner under Wisconsin FMLA). Under Federal FMLA, "parent" includes an individual who provided day-to-day care to the employee when the employee was a child (i.e., in loco parentis). Under Federal FMLA, the same-sex spouse of an employee's parent is included regardless of that individual's parental status or whether they provided day-to-day care or financial support for the employee as a child.
- I. Qualifying Exigency Qualifying exigencies, for purposes of the Federal FMLA, include:
 1. Short-notice Deployment: Addresses issues that arise when a covered military member is notified of an impending call or order, and deployment is within seven (7) calendar days of notification. Leave is limited to seven (7) calendar days beginning the date the covered military member is notified of an impending call or order to active duty.

Chapter 1 – Human Resources

Issued: November 2020
Revised: September 2024

LEAVES OF ABSENCE

Section 1500

2. Military Events and Related Activities Associated with the Call or Order to Active Duty: Attending official ceremonies, programs or events sponsored by the military; and attending family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross.
3. Childcare and School Activities: Arranging alternative childcare when the order/call to active duty necessitates a change in the existing childcare arrangement; providing childcare on an urgent, immediate need basis (but not on a routine, regular or everyday basis); enrolling in or transferring a child to a new school or day care facility as necessary; and attending meetings with staff at a school or day care when meetings are necessary due to circumstances arising out of the call or order to active duty (e.g. disciplinary meetings, parent-teacher conferences, school counselors). This provision applies to children of the covered military member under age eighteen (18) or over eighteen (18) if incapable of self-care because of physical or mental disability at the time the FMLA Leave commences.
4. Financial and Legal Arrangements: Making and updating financial and legal arrangements to address the covered military member's absence (e.g. preparing financial and health care powers of attorney, transferring bank account signature authority, enrolling in Defense Enrollment Eligibility Reporting System, obtaining military identification cards, or preparing or updating a will); acting as the covered military member's representative before Federal, state or local agencies for purposes of obtaining, arranging or appealing military benefits.
5. Counseling: Attending counseling, provided by someone other than a health care provider for oneself, the covered military member, or the child of the covered military member, the need for which arises from the active duty or call to active duty status of the covered military member. A "child" is the covered military member's own child under age eighteen (18) or over eighteen (18) if incapable of self-care because of a physical or mental disability.
6. Rest and Recuperation: To spend time with a covered military member who is on short-term, temporary rest and recuperation leave during a period of deployment. The employee may take up to fifteen (15) calendar days of leave to match the military member's Rest and Recuperation Leave Orders for each instance of rest and recuperation leave the covered military member receives.
7. Post-deployment Activities: Attending welcome home ceremonies, reintegration briefings and events, and other official ceremonies or programs sponsored by the military for a period of ninety (90) calendar days following the termination of the covered military member's active duty status; and addressing issues arising out of the death of a covered military member while on active duty.
8. Parental Care: Leave may be taken to care for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty. Such care may include arranging for alternative care, providing care on an urgent, immediate need basis, admitting or transferring the parent to a care facility, or attending meetings with staff at a care facility (e.g., meeting with hospice or social service providers).
9. Additional Activities: Includes events which arise out of the covered military member's active duty or call to active-duty status, provided the County and the employee agree that such leave shall qualify as an exigency, and agree to both the timing and duration of such leave.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

- J. Serious Health Condition An illness, injury, impairment or physical or mental condition that involves:
1. inpatient care in a hospital, hospice, or residential medical care facility; or
 2. under Wisconsin FMLA, outpatient care that requires continuing treatment or supervision by a health care provider (generally defined as requiring two (2) direct, continuous, and first-hand contacts by a health care provider); or
 3. under the Federal FMLA, continuing treatment by a health care provider including any one (1) or more of the following:
 - a. a period of incapacity of more than three (3) consecutive, full calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:
 - treatment two (2) or more times, within thirty (30) calendar days of the first (1st) day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provide; or,
 - treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of a health care provider.

Note: Under the above two (2) bullet points, the employee’s treatment must be an in-person visit to a health care provider and the first (1st) (or only) visit must take place within seven (7) calendar days of the first (1st) day of incapacity.
 - b. any period of incapacity due to pregnancy or for prenatal care;
 - c. chronic conditions requiring periodic treatment (at least twice a year) by or under the supervision of a health care provider that continue over an extended period of time and may cause an episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.);
 - d. permanent/long term conditions requiring supervision for which treatment may not be effective (e.g., Alzheimer’s, a severe stroke, or the terminal stages of a disease);
 - e. multiple treatments by or under the supervision of 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) calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy), severe arthritis (physical therapy), or kidney disease (dialysis).
 4. Examples of a serious health condition include, but are not limited to, heart attacks or other serious heart conditions, most cancers, strokes, appendicitis, pneumonia, and ongoing pregnancy and prenatal care.
- K. Single twelve (12) Month Period The “single twelve (12) month period” for purposes of Military Caregiver Leave is a period that commences on the date an employee first takes leave to care for a covered service member with a serious injury or illness and ends twelve (12) months after that date. This is a different period than the calendar year that is used by the County to determine an employee’s other FMLA Leave entitlements (e.g., referenced in [Section 1510.1](#)).

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

- L. Spouse Under Federal FMLA, effective March 27, 2015, “spouse” is defined to include an employee in same-sex marriages and common-law marriages entered into in a state where those statuses are legally recognized or entered into, validly, outside of the United States if they could have been entered into in at least one (1) state, regardless of the state in which the employee currently works or resides.

Under the Wisconsin FMLA, “spouse” means an employee’s legal husband or wife.

- M. Workweek The employee’s usual or normal schedule (hours/days per week) prior to the start of FMLA Leave.

1515 WISCONSIN BONE MARROW AND ORGAN DONATION LEAVE ACT

It is the policy of the County to grant up to six (6) workweeks of Wisconsin Bone Marrow or Organ Donation Leave during any calendar year to an eligible employee, in accordance with [Section 103.11](#) of the Wisconsin Statutes. The leave may be paid, unpaid, or a combination of paid and unpaid, depending on the circumstances and as specified in this Policy. This is a separate protected leave from FMLA.

- A. Eligibility An employee is entitled to the Wisconsin Bone Marrow and Organ Donation Leave benefits if they have been employed by the County for at least fifty-two (52) consecutive weeks and have worked for at least 1,000 hours during the fifty-two (52) weeks prior to the start of the leave.
- B. Amount of Leave An eligible employee may take up to a total of six (6) workweeks of unpaid leave in a twelve (12) month period only for the time necessary to undergo the bone marrow or organ transplant donation procedure and to recover from the procedure.
- C. Payments While on Leave An employee may substitute, for portions of the Wisconsin Bone Marrow and Organ Donation Leave, any accrued and unused paid leave provided to them by the County.
- D. Notice and Certification If an employee intends to take leave for the purpose of serving as a bone marrow or organ donor, the employee shall do all of the following:
 1. Give their supervisor advance notice of the bone marrow or organ donation and submit a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)) to their supervisor/department at least thirty (30) days in advance of the leave if foreseeable. When the need for leave is not foreseeable, the employee must notify their supervisor/department and thereafter submit the Non-FMLA Leave of Absence Request Form as soon as practicable under the facts and circumstances of the particular case. Absent unusual circumstances, it is considered practicable for an employee to provide notice of unforeseeable leave within the time prescribed by the County’s usual and customary notice requirements applicable to the employee’s departmental leave procedures. Failure to give timely notice and/or submit the Non-FMLA Leave of Absence Request Form may result in the delay or denial of the Wisconsin Bone Marrow or Organ Donation Leave and may subject the employee to discipline under the County’s policies.
 2. Make a reasonable effort to schedule the bone marrow or organ donation procedure and accompanying recovery period so it does not unduly disrupt the County’s operations, subject to the approval of the health care provider of the bone marrow or organ donee.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

3. Submit a Non-FMLA Health Care Provider Certification Form (Appendix [HR-1500-I](#)) as completed by the health care provider, to their supervisor/department within fifteen (15) calendar days of commencing the leave if possible, or, when the employee cannot submit the Certification Form within fifteen (15) calendar days of commencing the leave, as soon as practicable, certifying:
 - The donee has a serious health condition that necessitates a bone marrow or organ transplant;
 - The employee is under the health care provider’s care, is eligible, and has agreed to serve as a bone marrow or organ donor for the donee; and,
 - The amount of time expected to be necessary for the employee to be off from work for the bone marrow or organ donation procedure and to recover from the procedure.
4. The supervisor/department submits the completed paperwork to the Human Resources Division where it is reviewed for approval; Wisconsin Bone Marrow and Organ Donation Leaves require the approval of the Human Resources Manager. Barring any extenuating circumstances, which will be reviewed on a case-by-case basis, time off for a Wisconsin Bone Marrow or Organ Donation Leave will be approved no more than fifteen (15) calendar days retroactive from the date of the supervisor/department’s signature.
5. If the employee receives written notification that the Non-FMLA Health Care Provider Certification Form is incomplete and/or insufficient, the employee shall have seven (7) calendar days to cure the identified deficiencies. If an employee does not provide the required certification by the designated deadlines, or if the County determines that an employee is not eligible for the leave, the leave may not be designated as a Wisconsin Bone Marrow and Organ Donation Leave.

E. Complaint Procedure and Administrative Proceeding An employee who believes their right to take Bone Marrow or Organ Donation Leave has been violated should contact the Human Resources Manager immediately and attempt to resolve the matter internally. Alternatively, or in the event the matter is not resolved following contact with the Human Resources Manager, the employee may, within thirty (30) days after the alleged violation occurs or the employee should reasonably have known that the violation occurred, whichever is later, file a complaint with the Department of Workforce Development alleging the violation.

F. Definitions

1. “Bone Marrow” has the meaning given in Wis. Stats. section [146.34\(1\)\(a\)](#).
2. “Health Care Provider” has the meaning given in Wis. Stats. section [103.10\(1\)\(e\)](#).
3. “Organ” has the meaning given for “human organ” in Wis. Stats. section [230.35\(2d\)\(a2\)](#).

1520 EXTENDED ILLNESS LEAVE

A regular full-time or regular part-time employee who is unable to return to work because of injury or illness and has exhausted all paid benefit time including the maximum amount of leave allowed under Wisconsin and/or Federal FMLA, and, if applicable, under WI Bone Marrow and Organ Donation Leave, may be eligible for an Extended Illness Leave of up to sixty (60) calendar days, provided that an acceptable doctor’s certificate is submitted by the employee. Leave will be reviewed on a case-by-case basis, shall not cause an undue hardship on departmental operations, and is subject to the approval of the department head and the Human Resources Manager. Extensions of time beyond the sixty (60) calendar day period may be granted at the discretion of the department and the Human Resources Manager, subject to individual circumstances.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1520.1 Request Process

- A. A request for an Extended Illness Leave requires completion of a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)) as soon as possible after the employee knows the leave will be necessary. Absent unusual circumstances, it is considered practicable for an employee to provide notice of an Extended Illness Leave within the time prescribed by the County's usual and customary notice requirements applicable to the employee's departmental leave procedures. Failure to give timely notice and/or submit the Non-FMLA Leave of Absence Request Form may result in the delay or denial of the leave. The Non-FMLA Leave of Absence Request Form must state the reason for the request and anticipated length of the leave; it is to be completed in its entirety by the employee and the employee's supervisor/department.
- B. The employee must submit a fully completed Non-FMLA Health Care Provider Certification Form (Appendix [HR-1500-I](#)) along with the Leave of Absence Request Form (Non-FMLA) to their supervisor/department. Both forms are to be timely filed with the Human Resources Division by the supervisor/department.
- C. Extended Illness Leaves require the approval of the department head and the Human Resources Manager. Failure of an employee to request a leave of absence shall result in the employee being considered absent without leave and may subject the employee to disciplinary action up to and including termination.

1525 PERSONAL LEAVE

Occasionally, a regular full-time or regular part-time employee may find it necessary to conduct personal business, extend a vacation, or absent themselves from work for personal reasons; it is not intended for an employee's own serious health condition. An employee who wishes to request an unpaid Personal Leave must obtain prior approval from their supervisor/department. Departments may grant up to five (5) workdays of leave per request subject to staffing and workload needs of the department. Personal Leaves of longer duration are given full consideration subject to the approval of the department and the Human Resources Manager.

- A. A department may require an employee to have exhausted all paid benefits prior to considering an unpaid Personal Leave request.
- B. Dependent upon the length of time an employee is on an unpaid leave may have a bearing on their insurance premiums. (The County contribution is paid by the County if an employee has worked the majority of the scheduled workdays in the calendar month. For the purpose of determining time worked, all time paid shall be considered as time worked; including vacation, sick leave, funeral leave, jury duty, witness pay, holidays, disability pay, and use of compensatory time.)
- C. Personal Leaves of greater than five (5) days require completion of a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)) as soon as possible after the employee knows the leave will be necessary. The Non-FMLA Leave of Absence Request Form must be completed in its entirety by the employee and the employee's supervisor/department and timely submitted by the supervisor/department to the Human Resources Division. Personal Leaves of greater than five (5) days require the approval of the department head and the Human Resources Manager. Failure of an employee to request a leave of absence shall result in the employee being considered absent without leave and may subject the employee to disciplinary action up to and including termination.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1530 UNIFORMED SERVICES LEAVE

1530.1 Uniformed Services Leaves of Absence are Granted in the Following Instances

- A. An employee who enlists or who is ordered into Uniformed Services service must be granted a leave for their initial tour of duty in accordance with the Uniformed Services Employment and Reemployment Rights Act ([USERRA](#)).
1. USERRA defines “uniformed services” as service in the U.S. Armed Forces (including active or reserve service in the Army, Navy, Marine Corps, Air Force or Coast Guard), the Army National Guard and the Air National Guard, the commissioned officer corps of the Public Health Service (PHS) and the National Oceanic and Atmospheric Administration (NOAA), members of the National Disaster Medical Service (NDMS), members of the National Urban Search and Rescue (USAR) System, FEMA Reservists, and any other category of persons designated by the President in time of war or emergency.
 2. “Service in the uniformed services” includes “the performance of duty on a voluntary or involuntary basis,” in time of peace or war including:
 - a. active duty;
 - b. active duty for training;
 - c. initial active duty for training;
 - d. inactive duty training;
 - e. full-time National Guard duty;
 - f. time necessary for a person to be absent from employment for an examination to determine their fitness to perform any of these duties; and,
 - g. a period for which a person is absent from employment to perform funeral honors duty authorized by law.
- B. An employee who is a member of the Reserve Units or the National Guard must be granted a leave if called to active duty or if they are performing short-term active training duty in accordance with Chapter 21 of the Wisconsin Statutes.
- C. An employee who is a FEMA Reservist must be granted a leave if called to active duty or if they are performing short-term active training duty in accordance with the federal Stafford Act.

1530.2 Request Process

Proof of enlistment, induction, call to active duty, or training, which provides the name of the employee, must be given to the employee’s supervisor/department along with a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)). The Non-FMLA Leave of Absence Request Form is to be completed in its entirety by the employee and the employee’s supervisor/department. The supervisor/department timely submits the Uniformed Services documentation and Non-FMLA Leave of Absence Request Form to the Human Resources Division for processing.

1530.3 Reemployment

- A. An employee, other than a temporary employee who holds a brief or non-recurrent position and who has no reasonable expectation that their employment will continue indefinitely or for a significant period of time, are entitled to reemployment rights following uniformed service which has ended under eligible (i.e., honorable) circumstances, provided the employee:

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1. Gives their supervisor/department advance written or verbal notice of their service and submits appropriate documentation, unless giving such notice is impossible, unreasonable, or precluded by Uniformed Services necessity;
2. Has five (5) years or less of cumulative service in the uniformed services while with the County. The following does not count towards the five (5) year cap:
 - a. Additional service that is required to complete an initial period of obligated service (e.g., service under the Navy's nuclear power program);
 - b. Service from which a person, through no fault of their own, is unable to obtain orders of release before the five (5) year expiration (e.g., a member of the Navy or Marine Corps. whose obligated service expires while at sea);
 - c. Required training for reservists and National Guard members and service performed to fulfill additional training requirements determined and certified by proper Uniformed Services authority as necessary for the employee's professional development, or to complete skill training or retraining;
 - d. Service performed in a uniformed service if ordered to or retained on active duty (other than for training) because of war or national emergency declared by the President or Congress;
 - e. Service performed in a uniformed service if ordered to active duty (other than for training) in support of an operational mission for which personnel have been ordered to active duty as determined by proper Uniformed Services authority;
 - f. Service performed in a uniformed service if ordered to active duty in support of a critical mission or requirement of the uniformed services;
 - g. Service performed as a member of the National Guard if called to respond to an invasion, danger of invasion, rebellion, danger of rebellion, insurrection, or inability of the President with regular forces to execute US laws; and,
 - h. Service performed to mitigate economic harm where the employer is in violation of its employment or reemployment obligations.
3. Returns to work, or applies for reemployment, in a timely manner after conclusion of service; and,
4. Has not been separated from service
 - a. with a dishonorable or bad conduct discharge;
 - b. under other than honorable conditions;
 - c. dismissal of a commissioned officer in certain situations involving court martial or by order of the President in time of war; or,
 - d. an individual who is dropped from the rolls when the individual has been absent without authority for at least three (3) months or who is imprisoned by court-martial or in a Federal or State penitentiary or correctional institution.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

B. Upon completion and release from active duty under honorable conditions, an employee shall be reinstated within two (2) weeks of the employee’s application into the position held at the time of taking such leave, with the same seniority, pay, status, and benefit rights they would have had if they had worked continuously, or to a position of like seniority, status, pay, benefits and salary advancement; provided however, that they are still qualified to perform the duties of their position or similar position. If they are not so qualified, they shall be employed in such position for which they shall be qualified at seniority, status, pay, benefits, and salary advancement of the position held at the time of taking such leave. Any person occupying a probationary status upon commencing Uniformed Services Leave shall revert to such status upon reinstatement.

1. When a returning employee is not initially qualified for the position to which they are entitled for reemployment, the County will make reasonable efforts to refresh or update the employee’s skill.

C. Application for Reemployment

1. For leaves of more than one hundred eighty (180) calendar days, an employee must apply for reemployment within ninety (90) calendar days of discharge from the Uniformed Services.
2. For leaves of thirty-one (31) to one hundred eighty (180) calendar days, an employee must apply for reemployment within fourteen (14) calendar days of discharge, unless the deadline is impossible or unreasonable through no fault of the individual. If the original deadline is impossible or unreasonable, then the employee must reapply on the first full calendar day when submission becomes possible.
3. For leaves of less than thirty-one (31) calendar days, an employee must apply for reemployment the next full workday plus eight (8) hours for safe travel, unless the deadline is impossible or unreasonable through no fault of the individual. If the original deadline is impossible or unreasonable, then the employee must reapply on the first full calendar day when submission becomes possible.
4. Extensions: the reporting and application deadlines may be extended for up to two (2) years for an employee who is hospitalized or convalescing because of an illness or injury incurred or aggravated during a period of eligible Uniformed Services service. The extension under this provision shall be extended only by the minimum time required to accommodate the circumstances surrounding the employee’s situation.
5. An employee who fails to report for work within the prescribed time after completion of Uniformed Services service will be considered to have voluntarily terminated their employment.

D. Nothing contained herein shall be construed as limiting the authority of the County to terminate a reemployed individual for cause or require a person to provide proof of discharge under honorable conditions or any other pertinent administrative data.

1530.4 Wages and Benefits During Uniformed Services Leaves

Uniformed Services Leaves are handled in the same manner as non-medical leaves with several exceptions.

- A. An employee shall not be entitled to their regular wages while absent for Uniformed Services service (i.e., considered an unpaid leave of absence).

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1. When an employee is on a Uniformed Services Leave of less than thirty (30) calendar days, they may substitute paid benefits (e.g., vacation, floating holidays, banked holidays, comp time, FLSA comp time; sick leave excluded).
 2. When an employee is called up for active Uniformed Services duty exceeding thirty (30) calendar days, they may request payment of all earned and accrued vacation, holidays, and compensatory time. The employee also has the option to carryover unused vacation into the year they return to work and/or into the following year after return to work. Non-Represented regular full-time and regular part-time employees on an unpaid Uniformed Services Leave accrue vacation benefits while on such unpaid Uniformed Services Leave.
- B. Eligibility for vacation and sick leave accrual and for County contribution toward health, dental, and vision insurance are dependent upon the employee working the majority of workdays in a month.
- C. An employee on a Uniformed Services Leave exceeding thirty (30) calendar days may continue group health, dental, and vision insurance coverage for up to twenty-four (24) months. The County will pay the full monthly premium costs for the employee’s group health, dental, and vision insurance coverage for up to eighteen (18) months. The employee would be responsible for paying the full premium costs for the final six (6) months of the continuation period. An employee must submit the full premium to Human Resources, made payable to Waukesha County by the beginning of the month for which coverage is effective. Continuation of coverage is available in accordance with the provisions set forth in policies [1100 - Health Insurance](#), [400-Dental Insurance](#), and [3400 – Vision Insurance](#).
- For an employee who is on unpaid Uniformed Services Leave of thirty (30) calendar days or less, the County will pay the employers contribution toward health, dental, and vision insurance coverage.
- D. An employee may also maintain Term Life, Supplemental Life, and/or Dependent Life Insurance for up to six (6) months at their own expense. In the event an employee experiences reduced earnings during the calendar year of Uniformed Services service, the County will not reduce the amount of the employee’s life insurance benefit upon return to work. The employee’s life insurance benefit will remain at the level in effect prior to the start of the Uniformed Services Leave.
- E. During periods of Uniformed Services Leaves, an employee will receive creditable service under the Wisconsin Retirement System on the same basis they did prior to commencement of the Uniformed Services Leave. The County is required to report compensation at the rate it would have been paid if the leave had not occurred. The County is also required to pay all employer-required contributions payable under the WRS during the leave. Upon return to work, the employee has the option to pay some, all, or none of the employee share of the pension contribution. The County will contribute the employer portion on any amounts the employee elects to contribute after returning to active work. The payment period is up to three (3) times the period of Uniformed Services service, not to exceed five (5) years. The employee will receive WRS service credit for time spent on active Uniformed Services duty whether or not any make-up contributions are made. To apply for the credit, the employee and the County must submit a USERRA Certification Form to the WRS.
- F. When an employee is on a Uniformed Services Leave exceeding the majority of the workdays in the month, they will not be eligible for uniform or other allowances during such absence.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

- G. Additionally, if the unpaid Uniformed Services Leave is for short term active training duty (less than the majority of workdays in a month), an employee continues earning vacation and sick leave credits and floating holidays and are paid for any holidays that occur during the leave of absence.
- H. Merit Increases. When an employee is on a Uniformed Services Leave exceeding two (2) weeks, the qualifying time for the next merit increase may be adjusted.

1530.5 Wages and Benefits Upon Return from Uniformed Services Leave

- A. Health, Dental, Vision, Group Term Life/Supplemental/Dependent Life, and Long Term Disability Income Insurance These insurances will be reinstated immediately upon return to work. There will be no waiting period nor evidence of insurability required. This is the case whether or not the employee maintained these insurances during the leave.
- B. Salary Increases Merit increases, across the board increases, reclassifications, or equity adjustments that the employee would have been eligible for had they not been on Uniformed Services Leave will be granted to the employee immediately upon their return to work.
- C. Floating Holidays, Holidays, Sick Leave and Vacation See above [Section 1530.3](#).

1535 EDUCATIONAL LEAVE

An Educational Leave may be granted for a period of up to one (1) year to a regular full-time or regular part-time employee wishing to further their education and return to school provided the courses they enroll in are:

- A. Courses which are directly related to an employee's current job and will improve their skills on the job. This would include courses designated to update an employee in their occupation, trade, or profession.
- B. Courses which will prepare an employee for a promotion to an existing job in the County for which an adequate number of qualified employees are not available.
- C. Courses which are needed if the employee is given increased job duties and responsibilities requiring specialized training.
- D. Courses taken to complete the requirement for a high school diploma or General Education Development test (GED).

An employee returning from an Educational Leave is not guaranteed advancement in pay or job level.; however, they are provided the right to return to their classification and department.

A request for an Educational Leave requires completion of a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)); it must state the reason for the request and anticipated length of the leave. The Non-FMLA Leave of Absence Request Form is to be completed in its entirety by the employee and the employee's supervisor/department and submitted to the Human Resources Division.

Approval is granted and determined by the department head in conjunction with the Human Resources Manager on a case-by-case basis.

Chapter 1 – Human Resources		
Issued: November 2020 Revised: September 2024	LEAVES OF ABSENCE	Section 1500

1540 CONDITIONAL LEAVE

Conditional Leave provides that a regular full-time or regular part-time employee may request a leave of absence and be reinstated at the end of the leave period if a suitable job is available. Although this leave does not provide an employee with a right to return to any particular classification or department, it does allow an employee to be reinstated without loss of certain employee benefits.

Approval is granted and determined by the department head in conjunction with the Human Resources Manager on a case-by-case basis.

A request for Conditional Leave requires completion of a Non-FMLA Leave of Absence Request Form (Appendix [HR-1500-A](#)); it must state the reason for the request and anticipated length of the leave. The Leave of Absence Form is to be completed in its entirety by the employee and the employee's supervisor/department and submitted to the Human Resources Division.

1540.1 Certain Employment Conditions After a Conditional Leave

When an employee is successful in obtaining a County position at the expiration of the leave period, a Conditional Leave provides reinstatement of certain employee benefits. These conditions include:

- A. Orientation/Probationary Period The employee may be required to serve a new orientation/probationary period of up to six (6) or twelve (12) months depending upon the type of position the employee is placed in to and the length of the leave.
- B. Length of Service or Seniority After successful completion of the new orientation/probationary period, the employee is given credit for the time earned for service completed prior to the leave.

1545 CATASTROPHIC ILLNESS OR INJURY

An employee suffering from a catastrophic illness or injury may be eligible to participate in the County's Catastrophic Illness or Injury Donation Program. This Program is intended to provide financial assistance and support to regular full-time and regular part-time employees of the County who have exhausted all paid time off benefits and are unable to return to work due to a catastrophic illness or injury.

The details of this Program are found in HR policy [3300 - Catastrophic Illness or Injury Donation Program](#).

1550 PREGNANCY ACCOMMODATION

As required by the federal Pregnant Workers Fairness Act (PWFA), Waukesha County will provide reasonable accommodations to employees or applicants with known limitations (physical or mental) related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions, unless the accommodation will cause undue hardship to the County's operations.

For details, refer to HR Policy 4200 – Pregnant Workers Fairness Act, and HR policy [2500 – Salary Administration](#), Section 2580 Lunch Periods and Breaks (No 3.) as related to the federal Break Time for Nursing Mothers law of 2010 and the expanded Providing Urgent Maternal Protections for Nursing Mothers (PUMP) Act of 2022.