

FAMILY & MEDICAL LEAVE

A. General Provisions

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

B. Eligibility

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

1. The employee must have worked for ECSD at least 12 months (these 12 months need not have been consecutive);
2. The employee must have been paid for at least 1,250 hours during the 12-month period immediately before the date when the leave would begin; (this calculation includes holiday, vacation, sick time, or other forms of paid leave) and
 - This calculation includes all periods of absence from work due to or necessitated by military service (active duty and reserve) under ECSD's Uniformed Services Leave Policy #529.5.
3. The employee must work in an office or worksite where 50 or more employees are employed within 75 miles of that office or worksite. (Remote employees with no fixed office or who work out of their home will be treated as though they work in the office to which they report.)

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

1. The employee must have worked for the ECSD for more than 52 consecutive weeks; and
2. The employee must have been paid for at least 1,000 hours during the 52-week period immediately before the date when the leave would begin (this calculation includes holiday, vacation, sick time, or other forms of paid leave).

C. Reasons for Leave

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

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

4. To care for a spouse, child or parent with a serious health condition; (*also qualifies for WFMLA leave, and additionally the WFMLA allows leave to care for an in-law or stepparent with a serious health condition*);
5. To care for a domestic partner (registered or unregistered) with a serious health condition; or to care for a domestic partner's parent with a serious health condition (*only permitted under the two-week family leave allotment under WFMLA*);
6. Due to a "qualifying exigency" for the spouse, children or parents of individuals who are on, or are about to be on, "covered active duty";
 - (A "qualifying exigency" includes attending certain military events, arranging for alternative child care, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings, and 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, as defined in applicable Department of Labor regulations)
 - ("*Covered active duty*" means members of either the regular or reserve components of the Armed Forces and National Guard who have been deployed to a foreign country)
7. To provide care for a "covered service member" with a serious injury or illness incurred or aggravated in the line of duty while on active duty (employees eligible to take caregiver leave include the spouse, children, parents and next of kin of military personnel).

Employees with questions about whether their leave needs may be covered under this policy are encouraged to consult with the Business Manager.

D. Duration of Leave

12 Weeks

Under the FMLA, eligible employees can take up to 12 weeks of leave under this policy during a 12-month calendar period (except for leaves taken to provide care for wounded military personnel). ECSD will use a calendar year as the 12-month period.

2 or 6 Weeks

Under the WFMLA, eligible employees can take up to 6 weeks of leave in a calendar year for the birth or adoption of a child, up to 2 weeks of leave in a calendar year for their own serious health condition, and up to 2 weeks of leave in a calendar year to care for a spouse, domestic partner (registered or unregistered), parent (including parents in-law or your domestic partner's parents) or child with a serious health condition.

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

26 Weeks

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

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

E. Employee Benefits During Leave

While an employee is on leave under this policy ECSD will continue the employee's health and dental benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on a paid leave, ECSD will continue to make payroll deductions as normal to collect the employee's share of the premiums.

ECSD will continue to provide health and dental insurance benefits until the employee ceases to be eligible under the terms, conditions, and limitations of the applicable plans. While on unpaid leave, employees will continue to be responsible for their share of the insurance premiums, and will be required to make monthly payments while out on leave. The premium payments must be received in the Accounting Department by the 1st day of each month. If the payment is more than 30 days late, the employee's health care coverage may be dropped for the duration of the leave.

If the employee chooses not to return to work, for reasons other than a continued serious health condition, ECSD may require the employee to reimburse ECSD the amount it paid for the employee's health insurance premium during the leave period.

F. Use and Accrual of Paid and Unpaid Leave

Both FMLA and WFMLA leaves under this policy are unpaid. However, employees may choose to use any available vacation, personal time, and/or sick time during any family and medical leave. Vacation, personal and sick leave is taken as part of the family and medical leave, not in addition to such leave. ECSD will require employees to use their vacation, personal time off and/or sick time during FMLA leave after any WFMLA leave has expired.

Leave that qualifies for workers' compensation, short-term disability, or other wage replacement benefits may still be covered by the FMLA and WFMLA (even though the leave is paid), and will count against the employee's overall FMLA balance.

Benefit accruals, such as holiday, personal time off, vacation and sick leave, will be suspended during the unpaid portions of the leave, and will resume upon return to active employment.

G. Intermittent Leave or a Reduced Work Schedule

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

1. The employee's serious health condition; (*also qualifies for intermittent leave under the WFMLA*);

2. The serious health condition of a spouse, parent or child; (*also qualifies for intermittent leave under the WFMLA*); To provide care for a “covered service member” with a serious injury or illness incurred or aggravated in the line of duty while on active duty; or
3. Due to a “qualifying exigency” for the spouses, children or parents of individuals who are on, or are about to be on, active military duty.

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

H. Certification of the Need for Leave

ECSD may ask for certification to verify the need for leave for the reason requested by the employee. The employee must respond to such a request within 15 days of the request, or provide a reasonable explanation for the delay. Failure to provide certification may result in a denial of the leave. ECSD may also require recertification during the leave to verify the status of the need for leave.

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

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

I. Returning From Leave

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

J. Procedure for Requesting Leave

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

All employees requesting leave under this policy must submit the request in writing to their immediate supervisors, with a copy to the Business Manager. Where the need for leave is not

foreseeable, employees must verbally notify their supervisors of the need for leave as soon possible, and follow ECSD's normal call-in procedures for unexpected absences. Failure to follow our normal call-in procedures under such circumstances will be treated like any other violation of our call-in procedures, and may result in discipline or termination, even though the leave itself would otherwise be covered by the FMLA. Employees may be required to confirm their need for FMLA leave in writing after giving verbal notice.

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

K. Rights, Remedies, and Additional Information

ECSD fully complies with the provisions of the FMLA. Accordingly, any employee who has questions regarding this policy is encouraged to contact the Business Manager. Further information on your rights and remedies under the FMLA can be located on the FMLA poster (which can be found on the employee bulletin board in each building) or on the District website.

Additional information about the WFMLA may be found at the following website:

http://www.dwd.state.wi.us/ER/family_and_medical_leave/default.htm.

Legal Ref.: Section 103.10 Wisconsin Statutes (Family or Medical Leave)
DWD 225, Wisconsin Administrative Code
Federal Family and Medical Leave Act (29 C.F.R. – Part 825)