

Policy #: 532.41

SCHOOL DISTRICT OF WEBSTER

Date Adopted: September 17, 2018

Date Revised: January 15, 2024

Policy Title: Family and Medical Leave Under State and Federal Law

The District is obligated to provide eligible employees with leave from work, and certain associated rights and mandated benefits, as provided under the following laws:

- The federal Family and Medical Leave Act (FMLA)
- The Wisconsin Family and Medical Leave Act (WFMLA)
- The Wisconsin Bone Marrow and Organ Donation Leave law
- Uniformed Services Employment and Reemployment Rights Act (USERRA)

The District Administrator has primary responsibility for overseeing the implementation of the District's rights and obligations as an employer under these laws, including establishing leave-related administrative procedures and ensuring that all required notices are provided to employees. The District Administrator and Building Principal, or their administrative-level designee, are authorized to formally approve, deny, or otherwise designate particular leave as qualifying leave under these laws. Other individual supervisory-level staff should generally be informed of and have input regarding the administration of leave that is requested and taken by an employee who is under their area of supervision, but the District Administrator and Building Principal shall ensure that leave-processing procedures related to these laws incorporate central office involvement and oversight.

Employees shall adhere to applicable law and District-established procedures for requesting, using, and returning from a period of leave that may be for an eligible purpose under one or more of the laws addressed by this policy. No employee may approve or deny his/her own requests for leave that may be taken under the laws addressed in this policy. The duration and other terms and conditions of any approved leave will be as specified in the applicable laws, as expressly supplemented by District-established guidelines and procedures and by the notices that the District provides to an employee in a specific situation.

To the extent that the District's administration of any period of leave provided for under state or federal law requires or permits the District to make a discretionary decision that is not sufficiently addressed in established guidelines and procedures, the administration shall exercise such discretion without favoritism between similarly-situated employees and by avoiding any type of unlawful discrimination.

The FMLA and WFMLA offer leave entitlements to eligible employees related to the following circumstances:

- Leave for the employee's own serious health condition.
- Leave to care for certain individuals who have a serious health condition.
- Leave connected to the birth of a child, the adoption of a child, and certain foster placements.

The federal FMLA also provides for periods of leave and various related rights to eligible employees for the following:

- Certain qualifying exigencies that arise when an eligible employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty; and

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- To care for a covered service member with a serious injury or illness. The employee must be the spouse, son, daughter, parent, or next of kin of the covered service member.

Separate from the WFMLA and FMLA, state law also provides for work-related leave and certain related rights for eligible employees who serve as a bone marrow or organ donor.

Subject to the terms, conditions, and limitations specified in the Uniformed Services Employment and Reemployment Rights Act (USERRA) and in any applicable state law that may grant additional rights, qualifying individuals who voluntarily or involuntarily leave employment positions within the District to undertake qualifying military, uniformed, or other types of qualifying state or federal service are entitled to reemployment, health insurance protection, freedom from discrimination, and other rights and benefits as further provided in the applicable laws.

The District will provide a general notice to employees of their rights, benefits, and obligations under USERRA in a manner that is consistent with the requirements of federal law. Employees generally have an obligation to provide advance notice of their uniformed service and must meet other qualifying criteria in order to be eligible for job-protected leave. Employees can obtain additional information about their rights and obligations under the applicable laws as applicable: in the District's Employee Handbook or by contacting the Office of the District Administrator.

No official, employee, or authorized agent of the District may unlawfully discriminate or retaliate against an employee who (1) performs, has performed, applies to perform, or has an obligation to perform military/uniformed service; or (2) is or applies to be a member of the military/uniformed services, including the U.S. armed forces, the state defense force, the national guard of any state, any reserve component of the U.S. armed forces, certain types of service in the National Disaster Medical System, and any other legally-protected form of military or uniformed service.

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Legal References:

Wisconsin Statutes

[Section 103.10](#) [Wisconsin family and medical leave]

[Section 103.11](#) [Wisconsin bone marrow and organ donor leave]

Wisconsin Administrative Code

[DWD Ch. 225](#) [state regulations governing family and medical leave]

Federal Law

[29 U.S.C. Ch. 28](#) [federal FMLA statutes]

[29 C.F.R. Part 825](#) [federal FMLA regulations, including special regulations that apply only to

[Section 111.355](#) [employment discrimination prohibited; military service]

[Sections 321.63 to 321.66](#) [state statutes related to military service of employees and other officials; most provisions likely apply to school districts]

[38 U.S.C. 101\(10\)](#) [definition of “Armed Forces”]

[38 U.S.C. 4301 et seq.](#) [Uniformed Services Employment and Reemployment Rights Act (USERRA)]

[38 U.S.C. 4303](#) [USERRA definitions; including the definitions of “uniformed services” and “service in the uniformed services”]

[42 U.S.C. 300hh-11\(d\)\(3\)](#) [extending USERRA protections to members of the National Disaster Medical System]

[20 C.F.R. Part 1002](#) [federal regulations under USERRA; as of June 1, 2023, the regulations in Part 1002 do not reflect all current provisions of the USERRA statutes]

[29 C.F.R. §541.602\(b\)\(3\)](#) [federal Fair Labor Standards Act regulation regarding impermissible salary deductions for employees who are subject to the salary basis test]

[29 U.S.C. Chapter 28](#) [federal FMLA statutes, including provisions addressing leave for family members of covered servicemembers]

[29 C.F.R. Part 825](#) [federal FMLA regulations, including provisions addressing leave for family members of covered service member]