POLICY 405: FAMILY MEDICAL & MILITARY LEAVE (WISCONSIN & FEDERAL)

405.1 Statement of Policy. It is the policy of Clark County to comply with the Wisconsin Family and Medical Leave Act (WFMLA) and the federal Family and Medical Leave Act (FMLA). Eligible employees may be granted up to twelve (12) weeks of federal FMLA leave during a rolling twelve-month period measured backward from the date leave is used, and up to six (6) weeks of Wisconsin FMLA leave during a calendar year, in accordance with applicable law.

Family and medical leave may be paid, unpaid, or a combination of paid and unpaid leave, depending on the employee's eligibility for available leave benefits during the period of absence.

Because state and federal family and medical leave laws differ in certain respects, Clark County will comply with both. When an absence qualifies as family or medical leave under Wisconsin law, federal law, or both, the following rules apply:

- The leave will run concurrently under both state and federal law, to the extent permitted; and
- The provision of law that is most generous to the employee will apply.

Leave taken in accordance with this policy will not be considered in or used as a basis for any employment decision, including but not limited to promotions, discipline, compensation, or other terms and conditions of employment.

405.2 Eligibility. To be eligible for leave under this policy, an employee must have been employed by the County for a minimum amount of time and have worked a required number of hours as follows:

- Wisconsin Family and Medical Leave – Covered employees have worked for the employer for at least 52 consecutive weeks and have been paid for at least 1,000 hours in the preceding 52-week period.
- Federal FMLA – Covered employees have worked for the employer for at least 12 months (which need not be consecutive), and for 1,250 hours in the 12-month period immediately preceding the start of the leave.

405.3 Wisconsin Family and Medical Leave (WFMLA). Employees who have been employed by the County for more than fifty-two (52) consecutive weeks and have worked at least one thousand (1,000) paid hours during that period are eligible for unpaid leave under Wisconsin law, in accordance with Wis. Stat. § 103.10.

Employees may, but are not required to, substitute accrued paid leave (such as vacation or other eligible paid leave) for unpaid leave under WFMLA.

Available Leave Entitlement (Calendar Year):
<u>Medical Leave</u>
Up to two (2) weeks per twelve-month period for the employee's own serious health condition.

Family Leave
Up to six (6) weeks in a twelve-month period for the birth or adoption of a child. Leave may begin no earlier than sixteen (16) weeks before the anticipated birth or placement and no later than sixteen (16) weeks after the birth or placement.

Up to two (2) weeks in a twelve-month period to care for the employee's child, spouse, domestic partner, or parent ("parent" means a natural parent, foster parent, adoptive parent, stepparent, or legal guardian of an employee or of an employee's spouse or domestic partner) who has a serious health condition.

The combined maximum for family leave is eight (8) weeks per twelve-month period.

For purposes of WFMLA, a *serious health condition* means a disabling physical or mental illness, injury, impairment, or condition that involves either: inpatient care in a hospital, nursing home, or hospice (as defined by statute) or continuing treatment or supervision by a health care provider.

405.4 Federal Family and Medical Leave (FMLA)

Employees who have been employed by the County for at least twelve (12) months and have worked a minimum of one thousand two hundred fifty (1,250) hours during the preceding twelve months are eligible for unpaid leave under federal FMLA.

Employees are required to substitute applicable paid leave for unpaid FMLA leave, in accordance with County policy.

If both spouses are employed by Clark County, FMLA entitlement is cumulative to the extent allowed by law.

Federal FMLA provides up to twelve (12) weeks of unpaid leave during a rolling twelve-month period measured backward from the date leave is used. For exempt employees, a work week is generally considered forty (40) hours, and the application of FMLA does not affect exempt status.

Covered Reasons for Federal FMLA Leave Include:

- The birth of a child or placement of a child with the employee for adoption or foster care;
- Care for a spouse, child, or parent with a serious health condition;
- The employee's own serious health condition that prevents the performance of job duties;
- Reasons related to a family member's service in the military, specifically:
    - Qualifying Exigency Leave -- Leave for up to twelve (12) weeks for certain reasons, called "qualifying exigencies" (e.g., attending certain military events, arranging childcare, making financial or legal arrangements to address a military member's absence, etc.) related to the fact that the employee's spouse, child, or parent is a military member on covered active duty or has been notified of an impending call to covered active-duty status; and
    - Military Caregiver Leave – Leave for up to twenty six (26) weeks during a single 12-month period to care for a covered service member (a current servicemember or veteran, as defined by law) with a serious injury or illness.

Federal law also provides up to twenty-six (26) weeks of unpaid leave during a single twelve-month period to care for a covered service member with a serious injury or illness. This twelve-month period begins on the first day leave is taken for this purpose.

For purposes of federal FMLA, a *serious health condition* includes an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider, as defined by federal regulation.

405.6 Intermittent and Reduced Schedule Leave

Intermittent leave or leave on a reduced work schedule may be permitted when medically necessary or as otherwise allowed by applicable federal or state law. In all cases, the total amount of family and medical leave taken during the applicable twelve (12)-month rolling period may not exceed the twelve (12) weeks of leave available under this policy.

When substitution of accrued paid benefit time is not available or required, an employee's compensation will be reduced in proportion to the number of hours the employee actually works.

When medically possible, intermittent or reduced schedule leave must be scheduled to minimize disruption to County operations. To the extent an employee has control over the timing of medical appointments or treatments related to a serious health condition, such appointments should be scheduled outside of working hours or at times that result in the least amount of time away from work. Employees are expected to provide advance notice of intermittent or reduced schedule leave when practicable.

The County may, in appropriate circumstances and as permitted by law, temporarily transfer an employee to an alternative position with equivalent pay and benefits to better accommodate foreseeable intermittent or reduced schedule leave.

Permissible Uses of Intermittent or Reduced Schedule Leave

Subject to applicable law, family and medical leave may be taken intermittently or on a reduced work schedule under the following circumstances:

- **Federal FMLA – Birth or Placement of a Child:** Leave may be taken intermittently only with County approval.
- **Wisconsin FMLA – Birth, Placement, or Care of a Covered Family Member:** Leave may be taken intermittently if scheduled so as not to unduly disrupt County operations.
- **Federal FMLA – Serious Health Condition:** Leave may be taken intermittently when medically necessary or as otherwise approved.
- **Federal FMLA – Qualifying Exigency:** Leave may be taken intermittently as needed.
- **Wisconsin FMLA – Employee's Own Serious Health Condition:** Leave may be taken in non-continuous increments as medically necessary.

Leave Accounting

Intermittent and reduced schedule leave will be charged in the smallest increment permitted under County policy or applicable labor agreements. Use of intermittent or reduced schedule leave does not extend the total amount of family and medical leave available under this policy.

405.7 Notifying the County of the Need for Family or Medical Leave

Generally, an application for leave must be completed for all leave taken under this policy. When the need for leave is foreseeable, the employee should provide notice at least **30 days** in advance. If this is not possible, notice should be provided as soon as the employee learns of the need for leave. In case of an emergency, verbal notice should be given as soon as possible (by the employee's representative if the employee is incapacitated), and the application form should be completed as soon as practicable. Failure to provide adequate notice may, in the case of foreseeable leave, result in a delay of the leave. Leave application forms are provided by Human Resources.

Calling in "sick" does not qualify as FMLA leave. An employee must provide sufficient information regarding the reason for the absence for the County to know that protection may exist under this policy. Failure to provide this information as requested will result in the employee forfeiting all rights under the policy. This means the absence may then be counted against the employee for purposes of discipline for attendance, etc.

405.8 Medical Certification of a Serious Health Condition

In accordance with state and federal law, the County may require an employee requesting FMLA leave to submit a complete and sufficient medical certification from a health care provider to support the need for leave due to a serious health condition of the employee or an eligible family member.

When medical certification is required, the County will provide the employee with the appropriate certification form and written notice of the deadline for submission. Failure to provide a timely, complete, and sufficient medical certification may result in a delay or denial of FMLA leave protection.

All medical information obtained in connection with FMLA leave will be maintained as confidential and kept in separate medical files in accordance with applicable federal and state laws.

Periodic recertification to verify that a condition is ongoing may be required as permitted by law.

The appropriate form should be obtained from the Human Resources Department and should be returned within 15 days. Failure to provide this certification may result in delay or denial of the leave.

405.9 Additional Certifications

If the County has reason to question the validity of a medical certification, an employee may be required to provide a second certification from a health-care provider selected and paid for by the County. If the second opinion differs from the first, a third opinion may be required. If a third opinion is deemed necessary, the County shall follow applicable state and federal law pertaining to the selection and payment of a third opinion.

For requests of military family leave, the employee shall submit evidence to the Human Resources Department of the military member's duty orders or other documentation issued by the military and written certification of any qualifying exigency.

405.10 Benefit Continuation During Leave

Coverage under group health insurance will continue while on leave, but the employees must continue to pay their portion of the premium. Other employee benefits, such as employer paid benefits, will also be continued during the leave, as long as the employee continues to pay any required contribution.

> Payment Arrangements During Leave. Employees must make arrangements with the Finance Department regarding benefit premium payments and any other required payments before leave begins or, if the need for leave is unforeseeable, as soon as practicable after the leave commences.

If an employee fails to return to work at the conclusion of the approved FMLA leave, the County may recover the employer-paid portion of the health insurance premiums paid during any unpaid FMLA leave period, to the extent permitted by law. Repayment will not be required if the employee does not return to work due to the continuation, recurrence, or onset of a serious health condition, or due to other circumstances beyond the employee's control, as determined by applicable state or federal law.

405.11 Rights Upon Return from Leave.
An employee who takes leave under this policy will be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist under the County policies, the Americans with Disabilities Act (ADA), and any applicable state disability laws. The law provides that an employee has no greater rights upon a return from leave than the individual would have had if s/he had continued to work. Therefore, an employee may be affected by a layoff or other job change if the action would have occurred had the employee remained actively at work. In such cases, the official date of the layoff will mean the end of FMLA leave for the employee. If the employee is recalled, if FMLA leave is still required, the leave may then continue.

405.12 Worker's Compensation Absences
When an employee is eligible for Wisconsin FMLA and/or FMLA, and absent due to a work-related illness or injury which meets the definition of a serious health condition, the absence will be counted against the employee's allotment of FMLA leave under federal FMLA and/or Wisconsin FMLA law.

405.13 Early Return from Leave
An employee who wishes to return to work earlier than originally anticipated should provide at least two days' notice of such request, and a fitness-for-duty certification may be required.

Employee Family, Medical, and Military Leave Request

Complete this form and submit it to Human Resources. All FML requests are reviewed and approved through the Human Resources office. Human Resources will review eligibility, request any required documentation, and provide written notice of the leave determination and applicable responsibilities.

Provide medical certifications directly to Human Resources. Do not include a diagnosis or detailed medical history on this request form. This form does not replace required certification or employer notices.

1 Employee information

Employee name: _____	Employee number: _____
Department: _____	Job title: _____
Date of hire: _____	Request date: _____
Preferred phone: _____	Personal email: _____

Employment status: ☐ Full time ☐ Part time ☐ Other: _____

2 Requested leave schedule

Request type: ☐ Initial request ☐ Extension ☐ Change to existing leave

Leave arrangement: ☐ Continuous ☐ Intermittent

First date of leave: _____ Last anticipated date of leave: _____

Anticipated first day back at work: _____

Usual workdays and shift hours: _____

For intermittent leave, provide your best estimate. Medical certification may be needed to support the frequency and duration.

Expected frequency of absences (for example, twice per month): _____

Expected duration of each absence (hours or days): _____

Known appointment dates: _____

3 Reason for leave

☐ Birth of a child and care or bonding Expected or actual birth date: _____

☐ Adoption or foster placement and care or bonding Placement date: _____

☐ My own serious health condition ☐ Related to a work injury or illness

☐ Care for a family member with a serious health condition

Relationship: ☐ Spouse ☐ Child ☐ Parent ☐ Parent-in-law ☐ Other: _____

☐ Qualifying military exigency ☐ Military caregiver leave

☐ Other reason for leave: _____

Human Resources will determine which leave provisions apply to the reason and family relationship identified above.

Benefit Time and Short-Term Disability

Employee name: _____

4 Choose how to use benefit time during approved STD

If your short-term disability (STD) claim is approved, STD pays 60% of your eligible pay. Choose ONE of the following options for the period covered by approved STD benefits.

Claim status: ☐ Not yet filed ☐ Pending ☐ Approved ☐ Denied

Approved or anticipated STD benefit dates: _____

The disability provider determines STD approval and benefit dates separately from leave approval.

Select one	Benefit time choice during approved STD
☐ Option A	Use benefit time to cover the remaining 40% of pay. This supplements the 60% STD benefit to make me whole at 100% of pay.
☐ Option B	Use only enough benefit time to cover my payroll deductions. Finance will determine the benefit hours needed to cover those deductions.
☐ Option C	Use no benefit time while receiving approved STD benefits. I must have a payment plan agreed upon with Finance BEFORE my leave start date to cover payroll deductions that cannot be collected from my pay.

5 Benefit time after STD ends or without STD

If I remain on leave after my approved STD benefit period ends, I must use ALL benefit time available to me to cover my continued absence. My choice of Option A, B, or C applies only during the approved STD benefit period.

☐ I am not applying for STD or will not receive STD benefits.

If I am not receiving STD, I must use ALL available benefit time once my applicable Wisconsin FML~~A~~ (WIFML~~A~~) time is exhausted and I remain on leave. This is the same benefit time requirement that applies after STD ends.

For either situation, list your preferred order of use below.

Available benefit time	Preferred order of use
Vacation or PTO	_____
Compensatory time	_____
Sick leave (if applicable)	_____
Other: _____	_____

6 Finance payment plan and employee acknowledgment

Complete the payment plan information below if you select Option C. Contact Finance before your leave begins to agree on the amount, payment schedule, and method of payment.

Finance contact: _____ Date plan agreed upon: _____

Payment amount and frequency: _____

Payment method: _____

☐ I understand that Option C requires an agreed payment plan before my leave starts.

☐ I understand that all available benefit time must be used after STD ends or, if I am not receiving STD, after applicable WIFML time is exhausted, subject to protected leave rights.

Employee Initials: _____ Date: _____

Acknowledgment and Administrative Review

Employee name: _____

7 Employee acknowledgment

By signing below, I acknowledge the following responsibilities:

☐ I have reviewed, or will request a copy of, Clark County's Family and Medical Leave Policy and the notices provided by Human Resources.

☐ I will provide requested certification and supporting documentation by the deadline stated in my notice. If I cannot meet the deadline despite diligent efforts, I will promptly contact Human Resources to explain the circumstances.

☐ I will follow applicable absence reporting procedures and promptly notify Human Resources of changes to the leave schedule, expected return date, or need for additional leave.

☐ I understand that use of benefit time and payment of insurance premiums will be administered according to applicable law, County policy, benefit plan terms, and the written instructions provided for my leave.

☐ For leave due to my own health condition, I will submit any required return-to-work certification identified in my leave notice before resuming work. Any restrictions must be documented by my treating provider and reviewed with Human Resources before work resumes.

☐ If I cannot return as scheduled, I will contact Human Resources promptly so additional leave or other available options can be reviewed. Failure to communicate or return may result in action consistent with applicable law and County policy.

☐ The information I have provided is accurate and complete to the best of my knowledge. Intentional misrepresentation may result in discipline, up to and including termination, consistent with applicable law and County policy.

Employee signature: _____ Date: _____

8 Human Resources use only

Status: ☐ Pending documentation ☐ Designated ☐ Not eligible or not qualifying

Applicable leave: ☐ Federal FMLA ☐ Wisconsin FMLA ☐ Other: _____

Leave dates or intermittent schedule: _____

Certification due: _____ Received: _____ Notice issued: _____

HR reviewer: _____ Review date: _____

Record the determination, any denial reason, approved entitlement, benefit time requirements, and return-to-work requirements in the separate written notice to the employee.