



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	EDUCATIONAL PROGRAM/EDUCATIONAL OBJECTIVES
Number	po2131
Status	
Adopted	June 9, 2008

2131 - EDUCATIONAL PROGRAM/EDUCATIONAL OBJECTIVES

~~The Board of Education recognizes that the Ashwaubenon School District has the responsibility for educating all students to their fullest potential. It is essential that educational objectives address students' intellectual, physical, social-emotional, and character development. The Board also recognizes that the home and community must share this responsibility.~~

~~The most important educational task assigned to the District, however, is students' intellectual development. Therefore, the board shall focus District resources toward carrying out this responsibility.~~

~~Educational objectives shall correlate with the Wisconsin Model Academic Standards, reflect the Ashwaubenon School District targets for learning, and be free of bias.~~

~~Learning objectives shall develop:~~

In fulfillment of the District's mission to provide a quality education for all of the students, the Board believes the mission is being accomplished when students confirm that they have achieved the following educational goals.

A. Academic sSkills and kKnowledge. ~~The District shall provide an instructional program designed to develop students':~~

- Basic skills including the ability to read, write, spell, perform basic arithmetical calculations, learn by reading and listening, and communicate by speaking and writing. ~~Basic skills, with a strong emphasis on literacy.~~
- Argue persuasively. Analytical skills, including the ability to think rationally, solve problems, use various learning methods, gather and analyze information, make critical and independent judgments, and persuade.
- Knowledge and understanding in curricular areas identified by the Wisconsin ~~Model~~ Academic Standards.
- The skill and attitudes that will further lifelong intellectual activity and learning. ~~Attitudes that shall further lifelong learning.~~
- Knowledge in computer science, including problem-solving, computer applications, and the social impact of computers. ~~Information and technology literacy skills, including problem-solving, computer applications, and the social impact of computers.~~

B. Vocational Skills of the workplace. ~~The District shall provide an instructional program designed to develop students':~~

- An understanding of the range and nature of available occupations and their required skills and abilities.
- Preparation to compete for entry-level jobs not requiring postsecondary school education. ~~Preparation for occupations not requiring post-secondary school education.~~
- Preparation to enter job-specific vocational training programs.
- Positive work attitudes and habits.

C. ~~Citizenship skills. The District shall provide an instructional program designed to develop students':~~

1. An understanding of the basic workings of all levels of government, including the duties and responsibilities of citizenship.
2. Commitment to the basic values and history of our government.
3. The skills to participate in political life.
4. An understanding of the function of organizations in society.
5. Knowledge of the role and importance of biological and physical resources.
6. Knowledge of State, National, and world history.
7. An appreciation and understanding of different value systems and cultures. ~~Appreciation and understanding of different value systems, cultures, and human relations.~~
8. An understanding, at all grade levels, of human relations, particularly with regard to American Indians, Black Americans, and Hispanics.

D. ~~Personal Development skills. The District shall provide an instructional program designed to develop students':~~

1. The skills needed to cope with social change. ~~Skills needed to understand and interact with social change.~~
2. Knowledge of the human body and the means to maintain lifelong health, including: ~~Knowledge of the human body, the human diet, physical education and fitness, and physiology and hygiene.~~
 1. knowledge of the theory and practice of physical education, including the development and maintenance of physical fitness.
 2. knowledge of the nutritive value of foods, as outlined in the Dietary Guidelines of Americans, and knowledge of the role of a nutritious diet in promoting health, preventing chronic disease, and maintaining a healthy weight
 3. knowledge of physiology and hygiene, the effects of controlled substances consistent with ch. 961 and alcohol upon the human system, symptoms of disease and the proper care of the body. No student may be required to take instruction in human growth and development, human sexuality, reproduction, contraception, if his/her parent files with the teacher or principal a written request that the student be exempted.
 4. awareness about drug abuse, including prescription drug abuse, and prevention.
3. An appreciation for artistic and creative expression and the capacity for self-expression.
4. The ability to construct personal ethics and goals.
5. Knowledge of the prevention of accidents and promotion of safety on the public highways, including instruction on the relationship between highway safety and the use of alcohol and controlled substances under ch. 961.
6. The skills needed to make sound decisions, knowledge of the conditions which may cause and the signs of suicidal tendencies, knowledge of the relationship between youth suicide and the use of alcohol and controlled substances consistent with chapter 961 and knowledge of the available community youth suicide prevention and intervention services. Instruction shall be designed to help prevent suicides by students by promoting the positive emotional development of students.
7. Knowledge of effective means by which students may recognize, avoid, prevent and halt physically or psychologically intrusive or abusive situations which may be harmful to students, including child abuse, sexual abuse, and child enticement. Instruction shall be designed to help students develop positive psychological, emotional, and problem-solving responses to such situations and avoid relying on negative, fearful, or solely reactive methods of dealing with such situations.

The Board believes that all students in this District will be able to demonstrate these learnings at a level that is commensurate with their age and capabilities.

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	HOMEBOUND INSTRUCTION PROGRAM
Number	po2412
Status	First Reading
Adopted	June 9, 2008

2412 - HOMEBOUND INSTRUCTION PROGRAM

Subject to applicable State and Federal law, the Board may of Education shall provide, pursuant to rules of the Department of Public Instruction or appropriate State agency and State/Federal law, individual instruction to students of legal school age who are unable not able to attend classes because they are temporarily not in proper physical or mental condition of a physical or emotional disability. In addition, subject to applicable State and Federal law, the District may provide a homebound study as part of a program or curriculum modification.

A request for homebound instruction should be placed in writing and include the following information Recommendations for homebound instruction shall be verified by a physician licensed to practice in this State and shall:

- A. certify the nature of the medical condition ~~disability~~;
- B. state the probable duration ~~of the confinement~~.
- C. present evidence of the student's inability to participate in an educational program;
- D. indicate whether the student is or will become a school-age parent;

Requests for homebound instruction will be considered by the Director of Pupil Services. The Director of Pupil Services will issue a decision within ninety (90) calendar days of the written request. If the student has been evaluated for special education but was not found to be eligible for special education, then the Director of Pupil Services will provide a written decision within thirty (30) calendar days of the written request.

If the request for homebound instruction is granted, a licensed teacher must provide the homebound instruction, and the homebound instruction will commence as soon as practicable after the date of notification for non-special education students. In the case of special education students or students with a Section 504 Plan, homebound instruction will commence as provided in the applicable Plan.

~~The District shall recommend that the instruction begin as soon as practicable after the date of notification for nonspecial education students. In the case of EEN students under an IEP, the instruction is to begin as soon as practicable after the IEP Committee has met to develop an appropriate IEP. The program of homebound instruction given each student shall be in accordance with rules of the Department of Instruction or other appropriate agency.~~

~~Where permitted by law, the District reserves the right to withhold recommendation for homebound instruction when:~~

- A. ~~the instructor's presence in the place of a student's confinement presents a hazard to the health of the teacher;~~
- B. ~~a parent or other adult in authority is not at home with the student during the hours of instruction;~~
- C. ~~the condition of the student is such as to preclude his/her benefit from such instruction.~~

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Legal

118.15(3)(a), Wis. Stats.

P.I. 11.31, Wis. Adm. Code

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	RECORDING OF IEP TEAM MEETINGS
Number	po2461
Status	First Reading
Adopted	October 24, 2011

2461 - RECORDING OF IEP TEAM MEETINGS

The recording of IEP Team meetings is permitted~~prohibited unless it is necessary~~ in order for a parent to understand the IEP process and/or his/her child's IEP, or otherwise necessary to implement other parental rights under the IDEA, Section 504 of the Rehabilitation Act of 1973, as amended, and/or the Americans with Disabilities Act, as amended.

- A. If a parent believes that audio recording an IEP Team meeting is necessary, s/he should notify the Director of Pupil Services in writing, preferably at least two (2) school days before the IEP Team meeting, of his/her desire to audio record the meeting and the reason the recording is required, along with documentation of a disability, if any. The Director of Pupil Services will notify the parent of the status of the request and the need for any clarification~~at least one (1) school day~~ before the meeting if s/he intends to deny the parent's request to record the meeting.
- B. If the District representative denies the request, s/he will state in writing the reasons for the denial, and alternative options or accommodations to permit the parents to understand the IEP, the IEP process or to implement the parents' rights. ~~Authorized exceptions to the general prohibition against the audio recording of IEP Team meetings will typically involve situations when a parent or other IEP Team member has a disability recognized under Section 504/ADA or a language barrier that would preclude the individual's ability to understand and/or meaningfully participate in the IEP process, and creating an audio recording of the meeting will remove the barriers to access to the IEP process. The District representative may ask for documentation of the existence of any such disability or language barrier. If a parent is permitted to audio record the meeting, s/he must use his/her own recording device and the District will similarly record the meeting.~~

Video recording an IEP Team meeting is prohibited, unless it is required to permit a parent to access the IEP process, ensure that the parent is able to understand the IEP or implement the IEP, it only video recording the IEP meeting will effectively remove a parent(s) barrier to access ~~to~~ the IEP process caused by a disability. Documentation of the parent's disability and need for accommodations is ~~A health care provider's verification of this necessity will be~~ required.

If the District records an IEP Team meeting, the resulting recording shall become a part of the student's educational record and will be maintained in accordance with State and Federal law.

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	EMPLOYMENT OF SUBSTITUTES
Number	po3120.04
Status	First Reading
Adopted	June 9, 2008

3120.04 - EMPLOYMENT OF SUBSTITUTES

The Board ~~of Education~~ recognizes the need to procure the services of substitutes in order to continue the operation of the schools as a result of the absence of regular personnel.

The Superintendent shall employ substitutes for assignment as services are required to replace temporarily-absent regular staff members and fill new positions. Such assignment of substitutes may be terminated, including permanent removal from the substitute teaching roster, when their services are no longer required or for other reasons as determined by the Superintendent that are not arbitrary, capricious, or discriminatory.

Substitutes must possess appropriate certification to teach as a substitute ~~valid Wisconsin professional certificate~~. The ~~Superintendent~~ District may determine what licensure is required and make allowances for the use of alternative forms of certification, emergency certification, and other such options as the Superintendent deems appropriate ~~declare that an emergency exists due to the lack of qualified available substitutes and permit the use of a substitute with a bachelor's degree but not a professional certificate~~. There must also be verification that a satisfactory background check has been conducted by the Department of Public Instruction or appropriate State agency.

In order to retain well-qualified substitutes for service in this District, the Board will offer competitive compensation at a rate set annually by the Board.

Employed sSubstitutes ~~may will~~ receive by June a letter of reasonable assurance of continued eligibility for assignment during the ensuing school year ~~employment~~.

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Legal 118.19, Wis. Stats.
P.I. 3.03(8), Wis. Adm. Code

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	STAFF DISCIPLINE
Number	po3139
Status	First Reading
Adopted	June 9, 2008
Last Revised	December 12, 2011

3139 - **STAFF DISCIPLINE**

The Board ~~of Education~~ retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary such action shall be consistent with the requirements of any applicable Board policy, and State and Federal law. The ~~Superintendent~~~~District Administrator~~ or designee may issue discipline, ~~short of termination,~~ including termination unless Board action is required by law, when she/he deems appropriate.

Investigation of Possible Criminal Activity

The District may be required to investigate potential wrongdoings on the part of its employees. Such investigations may require that the employee answer questions relating to the activity. Employees may be required to answer such questions, ~~consistent with any applicable collective bargaining agreement.~~ Failure to cooperate in an investigation may result in discipline, up to and including termination of the employee. In cases where this possible wrongdoing may involve criminal activity, the District shall inform the employee that answers to questions relating to the employee's conduct may be used by the District for determining appropriate discipline. Employees must also be informed that refusal to answer questions may be considered in determining discipline.

Staff may be disciplined for violations of Board policy or for other failure to meet the expectations and obligations of their position. No staff member may be subject to arbitrary or capricious disciplinary action.

The ~~Superintendent~~~~District Administrator~~ may issue discipline to staff members when she/he deems appropriate. The level of discipline may range from oral reprimands to suspension or termination consistent with Policy 3140. The level of discipline shall be consistent with the seriousness of the offense as determined by the District Administrator.

All instances of staff discipline are subject to the employee grievance procedure, set forth in Policy 3340.

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Legal 66.0509(1m)(a), Wis. Stats.
Franklin v. City of Evanston, 384 F.3d 838 (7th Cir. 2004)
Garrity v. New Jersey, 385 U.S. 493 (1967)

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	STAFF DISCIPLINE
Number	po4139
Status	First Reading
Adopted	June 9, 2008
Last Revised	December 12, 2011

4139 - **STAFF DISCIPLINE**

The Board ~~of Education~~ retains the right and the responsibility to manage the work force. When the discipline of a staff member becomes necessary such action shall be consistent with the requirements of any applicable Board policy, and State and Federal law. The ~~Superintendent~~~~District Administrator~~ may issue discipline (.) except termination, (X) including termination unless Board action is required by law when she/he deems appropriate.

Investigation of Possible Criminal Activity

The District may be required to investigate potential wrongdoings on the part of its employees. Such investigations may require that the employee answer questions relating to the activity. Employees may be required to answer such questions. Failure to cooperate in an investigation may result in discipline, up to and including termination of the employee. In cases where this possible wrongdoing may involve criminal activity, the District shall inform the employee that answers to questions relating to the employee's conduct may be used by the District for determining appropriate discipline, but will not be provided to law enforcement officials in the course of their independent criminal investigation, unless otherwise required by law. Employees must also be informed that refusal to answer questions may be considered in determining discipline.

Staff may be disciplined for violations of Board policy or for other failure to meet the expectations and obligations of their position. No staff member may be subject to arbitrary or capricious disciplinary action.

The ~~Superintendent~~~~District Administrator~~ may issue discipline to staff members when she/he deems appropriate. The level of discipline may range from oral reprimands to suspension or termination. The level of discipline shall be consistent with the seriousness of the offense as determined by the District Administrator.

All instances of staff discipline are subject to the employee grievance procedure, set forth in Policy 4340.

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Legal
 66.0509(1m)(a), Wis. Stats
 Franklin v. City of Evanston, 384 F.3d 838 (7th Cir. 2004)
 Garrity v. New Jersey, 385 U.S. 493 (1967)

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")
Number	po1630.01
Status	First Reading
Adopted	April 14, 2014

1630.01 - FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")

Introduction

In accordance with Federal and State law, the Board ~~of Education~~ will provide family and medical leave to administrative staff. The Board's Family and Medical Leave Act policy is intended to conform to and comply with, but not exceed, the requirements of the Federal Family and Medical Leave Act of 1993 ("FMLA") and the Wisconsin Family and Medical Leave Act ("WFMLA"). To the extent that this policy is ambiguous or conflicts with the FMLA or the WFMLA, the FMLA and the WFMLA will govern.

Family and medical leave taken under this policy may be covered by Federal law, State law, or both. When leave taken by a staff member under this policy is governed by both Federal and State law, the more generous provision will control in the event of a conflict. However, when leaves are governed by State or Federal law, but not both, the applicable law will control under this policy. In this regard, you should note that certain leaves may be covered by both State and Federal law for only a portion of the leave. To the extent permitted by law, leave under the FMLA, leave under the WFMLA and leave granted under the Board's other policies will run concurrently (at the same time).

Eligibility Requirements

To be eligible for leave under the FMLA, you must have been employed by the Board for at least twelve (12) months in the past seven (7) years **and** must have worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the requested leave. All full-time instructional staff members are deemed to meet the 1,250 hour requirement.

To be eligible for leave under the WFMLA, you must have been employed for more than fifty-two (52) consecutive weeks and have worked or been paid for at least 1,000 hours in the preceding fifty-two (52) weeks. The kind and amount of leave available to you under this policy, as well as your rights during leave, depend upon whether you satisfy the above requirements.

Qualifying Reasons for Leave

The Board provides family and medical leave for eligible staff members under the following circumstances:

- A. for the birth of the eligible staff member's child and to care for a newborn child
- B. for placement with the eligible staff member of a child for adoption or foster care
- C. to care for an eligible staff member's spouse, child or parent with a "serious health condition"

The term "child" generally includes a legal ward or a biological, adopted foster or stepchild. For leaves governed exclusively by the FMLA, the term also includes a son or daughter for whom you have assumed the day-to-day obligations of a parent. A child must be **either** under eighteen (18) years of age or unable to care for himself/herself due to a physical or mental disability or, for leave under State law only, unable to care for himself/herself due to a serious health condition.

"Parent" includes a staff member's spouse's legal guardian only if you are requesting leave under the WFMLA.

"Spouse" includes a qualified domestic partner for leaves governed by the WFMLA. Domestic partnerships must be registered with the county of residence and proof of such registration may be requested prior to approval of leave. Unregistered domestic partners must demonstrate that they are 1) both over age eighteen (18); 2) not in a domestic partnership or marriage with another individual; 3) they share a common residence; 4) they are not related in any way that would prohibit

marriage under Wisconsin law; 5) they consider each other to be immediate family members and agree to be responsible for the other's living expense.

- D. because of a serious health condition that makes the eligible staff member unable to perform the essential functions of his/her position
- E. because of a qualifying exigency resulting from active military service by the employee's spouse, son, daughter, or parent in covered active duty or call to covered active duty in the United States Armed Forces including the National Guard and Reserves

Qualifying exigencies, as defined by Federal regulations, include: 1) short- notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; (maximum fifteen (15) calendar days); 7) post- deployment activities; 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; and 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.

- F. to care for a service member who is the employee's parent, spouse, child or next of kin who, while on active military duty, sustains a serious injury or illness or aggravation of a pre-existing illness or injury while in the line of duty, while on covered active duty in the United States Armed Forces, including the National Guard and Reserves, in the line of duty which renders the service member medically unfit to perform the member's office, grade, rank, or rating

Covered active duty means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of the treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of fifty percent (50%) or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers. Leave is available for up to twenty-six (26) weeks in a twelve (12) month period. This type of leave is available for serious injury or illness which results in:

1. inpatient medical treatment, recuperation or therapy;
2. outpatient services at a military treatment facility or assignment to a unit established for the purpose of providing command and control of service members receiving outpatient medical services; or
3. assignment to the temporary disability retired list.

The maximum twenty-six (26) weeks of Federal leave to care for a service member includes, and is not in addition to, all other FMLA leave. In other words, employees may not take more than a total of twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for any qualifying reasons under the FMLA. For instance, if an employee takes the maximum twelve (12) weeks of Federal FMLA leave for his/her own serious health condition, the employee may then only take fourteen (14) weeks of FMLA leave within that same twelve (12) month period to care for a military family member injured in the line of duty.

See the Human Resources Coordinator to determine whether your request for leave qualifies under one (1) of the above categories.

Amount of Leave Available

Under the FMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to a total of twelve (12) work weeks of leave in a **calendar year** for any of the reasons stated above, with the exception of leave to care for an injured service member, which is provided as described in (F) above.

(X) Spouses who are both employed by the District may take a combined total of twelve (12) weeks of leave for the birth or placement of a child for adoption or foster care.

Under the WFMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to ten (10) work weeks of leave in a **calendar year** as follows:

- A. a total of six (6) weeks of leave for the birth of his/her natural child and/or the placement of a child with the staff member for, or as a precondition to, adoption;
- B. a total of two (2) weeks of leave to care for a covered family member with a serious health condition; and

C. a total of two (2) weeks of leave due to the staff member's serious health condition.

Board policy calls for concurrent Federal/State leave coverage whenever a staff member is eligible for leave under both the FMLA and WFMLA to the extent available under the law. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

Definitions of Serious Health Conditions

In conjunction with the certification provided by a healthcare provider, the Board reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling a staff member to family or medical leave under State or Federal law.

In general, a "serious health condition" under this policy means an illness, injury, impairment, or physical or mental condition that involves one (1) of the following:

A. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital or other care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

B. Absence Plus Treatment

A period of incapacity of more than three (3) consecutive calendar days* (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

1. treatment two (2) or more times by a healthcare provider, a nurse, physician's assistant or physical therapist under a healthcare provider's supervision, order or referral as appropriate within thirty (30) days of the first date of incapacity; or
2. treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the healthcare provider and occurs within seven (7) days of the first day of incapacity.

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

C. Pregnancy

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

D. Chronic Conditions Requiring Treatment

A chronic condition which:

1. requires periodic visits of at least two (2) times per year for treatment by a healthcare provider, or by a nurse or physician's assistant under a healthcare provider's supervision;
2. continues over an extended period of time (including recurring episodes of a single underlying condition); **and**
3. may cause episodic rather than continuing periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The staff member or his/her ~~You or your~~ family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease). The continued existence of such a chronic condition is subject to certification no more than once every six (6) months.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare 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)

consecutive calendar days in the absence of medical intervention or treatment, including: cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy); or kidney disease (dialysis).

Required Staff Member Notice

The staff member must provide the Human Resources Coordinator with notice in a reasonable and practicable manner before leave taken under this policy is to begin, if the need for leave is foreseeable (e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for ~~the staff member's~~^{your} own serious health condition or that of a family member). When requesting partial or intermittent leave in connection with childbirth or adoption under the WFMLA, the staff member must provide at least as much notice as required for taking other non-emergency or non-medical leave, as well as a definite schedule for the leave. Where advance notice is not practical due to uncertainty as to when leave will be required to begin, a change in circumstances or medical emergency, notice must be given as soon as practical. Leave will be accounted for in increments no greater than the smallest increment used for other similar leaves, but in no event greater than one (1) hour increments. Leave entitlement will not be reduced by more than the amount of leave actually taken.

~~Staff members~~^{Employees} must provide an explanation as to why proper advance notice was not provided in such cases and may be required to verify the explanation. Notice that was not provided timely without reasonable explanation may result in the denial of the leave request.

The staff member must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a FMLA leave request form to the Human Resources Coordinator (forms available from the Department of Labor).

When planning medical treatment, the staff member should consult with his/her supervisor and make a reasonable effort to schedule the leave so as not to disrupt unduly the District's operations, subject to the approval of the staff member's healthcare provider. The staff member is ordinarily expected to consult with his/her supervisor in order to work out a treatment schedule which best suits his/her needs, as well as the District's.

If a staff member must take more leave than originally anticipated, s/he must notify the Human Resources Coordinator within two (2) business days of learning of the circumstances necessitating the extension.

Certification By Healthcare Provider

If a staff member requests leave due to his/her own serious health condition or the serious health condition of his/her spouse, child or parent, the Board requires that the leave request be supported by certification issued and signed by the healthcare provider for the individual with a serious health condition. For service member leave, any certification permitted under 29 C.F.R. 825.310 shall be allowed. The Board reserves the right to certify all information permitted by law.

The staff member must provide the fully completed certification to the Human Resources Coordinator within fifteen (15) calendar days of the date that the certification is provided to the staff member, unless it is not practicable to do so despite the staff member's diligent, good faith efforts. If it is not practicable to return the certification within fifteen (15) calendar days, it must be returned to the Human Resources Coordinator as soon as practicable.

If the staff member fails to submit the certification, the leave or continuation of leave may be delayed until the certification is submitted. Further, any absence prior to the date the certification is furnished may be considered unauthorized. A staff member who is absent without authorization may be disciplined, up to and including termination.

The Human Resources Coordinator will give a staff member a reasonable opportunity to cure any deficiency in a certification, but not fewer than seven (7) calendar days. It is the responsibility of the staff member or family member with a serious health condition to use a healthcare provider who will complete and furnish an accurate certification in a timely manner.

A member of the administration, other than the staff member's direct supervisor, may contact the healthcare provider to obtain answers to unanswered questions on the form or to clarify illegible answers and to authenticate the certification.

If the Human Resources Coordinator doubts the validity of a certification, it may require, at the Board's expense that the staff member obtain a second opinion from a Board-designated provider, not regularly employed by the Board. If the opinions of the staff member's and the Board's healthcare providers differ, a third, final and binding opinion may be obtained. The staff member must cooperate in obtaining a second or third opinion including facilitating the transfer of pertinent records to the subsequent healthcare providers.

The Human Resources Coordinator may request re-certifications on a periodic basis as permitted by law.

Designation of Leave

In all circumstances, it is the responsibility of the Human Resources Coordinator to designate leave, whether paid or unpaid, as FMLA leave and to give the staff member notice of the designation and his/her rights and responsibilities under this policy.

The Human Resources Coordinator will give the staff member the notice on each occasion that s/he notifies his/her supervisor of the need for leave that may be FMLA-qualifying, including, but not limited to, when the staff member requests another type of leave for an FMLA-qualifying reason. In the case of intermittent or reduced schedule leave, only one (1) notice will be provided unless the circumstances regarding the leave have changed.

Absent extenuating circumstances, the Human Resources Coordinator will, at a minimum, verbally notify the staff member whether leave is being designated as FMLA leave within two business days of the date the staff member provides information to the Human Resources Coordinator sufficient to enable him/her to determine that the leave is being taken for an FMLA-qualifying reason.

The Human Resources Coordinator will confirm the verbal notice with the written notice as soon as feasible, but no later than the first payday following the verbal notice (unless the payday is less than one (1) week after the verbal notice, in which case the notice must be no later than the subsequent payday).

Manner In Which Leave Can Be Taken

Leave available under this policy may be taken in full and, under certain circumstances, may also be taken intermittently or on a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. Reduced schedule leave is leave that reduces the usual number of working hours per day or week. The staff member must consult with his/her supervisor and make a reasonable effort to schedule intermittent or reduced schedule leave so it does not unduly disrupt the District's operations.

When leave is governed only by the FMLA, intermittent or reduced schedule leave to be with the employee's newborn child, or after the placement of a child with the employee for adoption or foster care, requires the District's agreement, unless the intermittent or reduced schedule leave is due to a serious health condition.

Intermittent or reduced schedule leave due to a serious health condition must be medically necessary. Medically necessary means there must be a medical need for the leave and the leave can be best accommodated through an intermittent or reduced leave schedule, as certified by the healthcare provider in the Certification.

When leave is governed only by the FMLA, the Human Resources Coordinator may offer a staff member a temporary transfer to another position for which s/he is qualified with equivalent pay and benefits that better accommodates the intermittent or reduced schedule leave when the need for leave is foreseeable based on planned medical treatment or the staff member takes such leave for the birth of a child or for placement of a child for adoption or foster care. The staff member may reject this offer in which case there will be no adverse effect on the leave or entitlement to return to the same or similar position following leave. Any time spent by the staff member in an alternative position will not count against the employee's FMLA leave entitlement.

Instructional staff members (i.e. individuals whose principal function is to teach and instruct students in a class, a small group, or an individual setting) who request intermittent leave or a reduced-leave schedule governed only by the FMLA, which would exceed twenty percent (20%) of the total number of working days over the period of anticipated leave, must elect either to:

- A. take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- B. transfer temporarily to an available alternative position offered by the Human Resources Coordinator for which the instructional staff member is qualified, and that has equivalent pay and benefits and that better accommodates the recurring periods of leave than the staff member's regular position.

The Human Resources Coordinator may require instructional staff members who take Federal leave near the end of an academic term to extend their leave through the end of the academic term if:

- A. the leave is commenced more than five (5) weeks from the end of the term but the employee intends to return during the final three (3) weeks of the term and the leave is longer than three (3) weeks in duration;
- B. the leave is commenced within five (5) weeks of the end of the term and the employee intends to return during the final two (2) weeks of the term and the leave period was at least two (2) weeks in duration; or
- C. the leave commences within three (3) weeks of the end of a term and the leave was at least five (5) working days in duration.

Staff members whose leave is extended at the end of an academic term under this section will be charged against their FMLA entitlement only the time that they required for purposes of their leave.

Coordinating Leaves - Substitution

Generally, leave taken under this policy is unpaid. However, for leave governed exclusively by the FMLA, the staff member must use the following leaves provided by the Board, if available:

- A. vacation or personal leave, if available, for any family or medical leave;
- B. accrued paid family leave (i.e., paid leave covering the particular circumstances for which the staff member is seeking leave), if available, for birth, adoption, or to care for a seriously ill family member; and
- C. accrued paid medical or sick leave, if available, to care for a seriously ill family member, or for the staff member's own serious health condition.

A staff member may not substitute paid leave for unpaid FMLA leave taken under this policy in any situation where the Board would not normally provide such paid leave.

For leaves governed by the WFMLA, a staff member may substitute paid or unpaid leave, which s/he have earned and accrued, for leave taken under this policy, if available. The Board reserves the right to deny substitution as permitted by law.

Any paid leave substituted for unpaid FMLA leave or WFMLA leave will decrease, in whole or in part, the staff member's FMLA and/or WFMLA leave entitlement.

Continuation of Benefits

A staff member will remain eligible for group health insurance benefits under the Board's group health plan during leave taken under this policy under the same conditions as coverage would have been provided if the staff member had been actively employed during the entire leave. However, the staff member has the option of choosing not to retain such coverage during family or medical leave.

During leave taken under this policy, the Board will continue to pay any portion of group health insurance premiums for coverage that it was responsible for paying immediately prior to the leave as required by law. The staff member will be responsible for paying his/her portion of health insurance premiums regardless of whether his/her family and medical leave is paid or unpaid. It is the staff member's responsibility to make arrangements with the Human Resources Coordinator for making premium payments for group health insurance during leaves.

To the extent permitted by law, the Board reserves the right to require the staff member to place up to eight (8) weeks of health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty (30) days late.

The staff member's entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the Board's policy regarding provision of such benefits when a staff member is on other types of leave.

If a staff member fails to return to work or fails to remain at work for a period provided under the law, the District may recover its portion of the premiums paid for medical benefit coverage during the leave, unless the reason for the staff member's failure to return to work is due to the continuation of the serious health condition or the onset of a new serious health condition.

Accrual of Benefits

The use of leave under this policy will not result in the loss of any employment benefit that accrued prior to the start of the staff member's leave. A staff member will not continue to accrue seniority or any other employment benefit during leave taken under this policy, except that such benefit shall accrue if the staff member elects to use other leaves provided by the Board, and if such benefits would normally accrue during such leave.

Employment Restoration

A staff member will generally be reinstated to the same position s/he held when leave began or a position with equivalent pay, benefits, and other terms and conditions of employment, if such position remains available, and the staff member possesses the ability to perform the essential functions of the job satisfactorily, with or without any accommodation that may be required by the Americans With Disabilities Act of 1990. The staff member, however, has no greater right to reinstatement or benefits than if s/he had been actively employed during the leave. Further, if the staff member gives unequivocal notice of intent not to return to work, s/he is not entitled to be reinstated.

A staff member who exceeds his/her FMLA/WFMLA leave, but remains off work under a non-FMLA/WFMLA leave policy, is not entitled to reinstatement to the same or a similar position under the FMLA/WFMLA; however, the staff member **may** be eligible to be reinstated under the non-FMLA/WFMLA leave policy.

A staff member who is able to return to work prior to the expiration of leave must notify his/her supervisor immediately. Upon such notice, the Human Resources Coordinator will promptly reinstate the staff member to active employment, provided s/he has the

present skill and ability to perform the essential functions of his/her job satisfactorily with or without accommodation. However, the reinstatement need not occur until the third business day following the staff member's notification of his/her ability to return to work.

Fitness For Duty Certification

If leave is due to the staff member's serious health condition, s/he must present certification to return to work to his/her supervisor upon returning to work. The staff member's principal attending physician must complete the certification. The certification must indicate that the staff member has been released to return to work. It must also specify any physical or other limitation on the staff member's ability to perform regular or other duties and the duration of the limitations. No certification will be required when the staff member returns from intermittent leave, except as otherwise permitted or required by the Americans With Disabilities Act of 1990.

The certification will be limited to the particular health condition that caused the staff member's need for leave, except as otherwise permitted by the Americans With Disabilities Act of 1990. If the staff member is an "individual with a disability" within the meaning of the ADA, any fitness-for-duty physical examination or inquiry by the District will be job related and consistent with business necessity.

Reinstatement may be delayed until the staff member submits the certification. Under such circumstances, if the staff member does not promptly provide a certification or qualify for another leave of absence, s/he may be disciplined, up to and including termination.

With the staff member's permission, the Board's healthcare provider may contact the staff member's healthcare provider to clarify and authenticate the certification, but no additional information may be requested or required, and the staff member's return to work may not be delayed while the contact is being made. No second or third fitness for duty certification may be required.

Confidentiality

All medical information relating to leave, whether written or verbal, shall be kept confidential to the maximum extent possible. All medical documents including, but not limited to, medical certifications and return-to-work statements must be maintained in confidential, secure files separate from personnel files.

No Discrimination

Leave under this policy will not be used as a negative factor in employment actions, such as hiring, promotions, disciplinary actions or under attendance policies.

Miscellaneous

A staff member who fraudulently obtains leave under this policy is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Human Resources Coordinator shall see that the policy is posted properly.

The Human Resources Coordinator shall provide a copy of the policy upon the request of a staff member.

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Revised 11/14/18

Legal	National Defense Authorization Act of 2010
	Wis. Admin. Department of Workforce Development (DWD) 225
	103.10, Wis. Stats.
	29 C.F.R. Part 825
	29 U.S.C. 2601 et. seq.

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")
Number	po3430.01
Status	First Reading
Adopted	June 9, 2008
Last Revised	April 14, 2014

3430.01 - FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")

Introduction

In accordance with Federal and State law, the Board ~~of Education~~ will provide family and medical leave to professional staff. The Board's Family and Medical Leave Act policy is intended to conform to and comply with, but not exceed, the requirements of the Federal Family and Medical Leave Act of 1993 ("FMLA") and the Wisconsin Family and Medical Leave Act ("WFMLA"). To the extent that this policy is ambiguous or conflicts with the FMLA or the WFMLA, the FMLA and the WFMLA will govern.

Family and medical leave taken under this policy may be covered by Federal law, State law, or both. When leave taken by a staff member under this policy is governed by both Federal and State law, the more generous provision will control in the event of a conflict. However, when leaves are governed by State or Federal law, but not both, the applicable law will control under this policy. In this regard, you should note that certain leaves may be covered by both State and Federal law for only a portion of the leave. To the extent permitted by law, leave under the FMLA, leave under the WFMLA and leave granted under the Board's other policies will run concurrently (at the same time).

Eligibility Requirements

To be eligible for leave under the FMLA, you must have been employed by the Board for at least twelve (12) months in the past seven (7) years **and** must have worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the requested leave. All full-time instructional staff members are deemed to meet the 1,250 hour requirement.

To be eligible for leave under the WFMLA, you must have been employed for more than fifty-two (52) consecutive weeks and have worked or been paid for at least 1,000 hours in the preceding fifty-two (52) weeks. The kind and amount of leave available to you under this policy, as well as your rights during leave, depend upon whether you satisfy the above requirements.

Qualifying Reasons for Leave

The Board provides family and medical leave for eligible staff members under the following circumstances:

- A. for the birth of the eligible staff member's child and to care for a newborn child
- B. for placement with the eligible staff member of a child for adoption or foster care
- C. to care for an eligible staff member's spouse, child or parent with a "serious health condition"

The term "child" generally includes a legal ward or a biological, adopted foster or stepchild. For leaves governed exclusively by the FMLA, the term also includes a son or daughter for whom you have assumed the day-to-day obligations of a parent. A child must be **either** under eighteen (18) years of age or unable to care for himself/herself due to a physical or mental disability or, for leave under State law only, unable to care for himself/herself due to a serious health condition.

"Parent" includes a staff member's spouse's legal guardian only if you are requesting leave under the WFMLA.

"Spouse" includes a qualified domestic partner for leaves governed by the WFMLA. Domestic partnerships must be registered with the county of residence and proof of such registration may be requested prior to approval of leave. Unregistered

domestic partners must demonstrate that they are 1) both over age eighteen (18); 2) not in a domestic partnership or marriage with another individual; 3) they share a common residence; 4) they are not related in any way that would prohibit marriage under Wisconsin law; 5) they consider each other to be immediate family members and agree to be responsible for the other's living expense.

- D. because of a serious health condition that makes the eligible staff member unable to perform the essential functions of his/her position
- E. because of a qualifying exigency resulting from active military service by the employee's spouse, son, daughter, or parent in covered active duty or call to covered active duty in the United States Armed Forces including the National Guard and Reserves

Qualifying exigencies, as defined by Federal regulations, include: 1) short- notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; (maximum fifteen (15) calendar days); 7) post- deployment activities; 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; and 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.

- F. to care for a service member who is the employee's parent, spouse, child or next of kin who, while on active military duty, sustains a serious injury or illness or aggravation of a pre-existing illness or injury while in the line of duty, while on covered active duty in the United States Armed Forces, including the National Guard and Reserves, in the line of duty which renders the service member medically unfit to perform the member's office, grade, rank, or rating.

Covered active duty means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of the treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of fifty percent (50%) or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers. Leave is available for up to twenty-six (26) weeks in a twelve (12) month period. This type of leave is available for serious injury or illness which results in:

1. inpatient medical treatment, recuperation or therapy;
2. outpatient services at a military treatment facility or assignment to a unit established for the purpose of providing command and control of service members receiving outpatient medical services; or
3. assignment to the temporary disability retired list.

The maximum twenty-six (26) weeks of Federal leave to care for a service member includes, and is not in addition to, all other FMLA leave. In other words, employees may not take more than a total of twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for any qualifying reasons under the FMLA. For instance, if an employee takes the maximum twelve (12) weeks of Federal FMLA leave for his/her own serious health condition, the employee may then only take fourteen (14) weeks of FMLA leave within that same twelve (12) month period to care for a military family member injured in the line of duty.

See the Human Resources Coordinator to determine whether your request for leave qualifies under one (1) of the above categories.

Amount of Leave Available

Under the FMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to a total of twelve (12) work weeks of leave in a **calendar year** for any of the reasons stated above, with the exception of leave to care for an injured service member, which is provided as described in (F) above.

(X) Spouses who are both employed by the District may take a combined total of twelve (12) weeks of leave for the birth or placement of a child for adoption or foster care.

Under the WFMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to ten (10) work weeks of leave in a **calendar year** as follows:

- A. a total of six (6) weeks of leave for the birth of his/her natural child and/or the placement of a child with the staff member for, or as a precondition to, adoption;

B. a total of two (2) weeks of leave to care for a covered family member with a serious health condition; and

C. a total of two (2) weeks of leave due to the staff member's serious health condition.

Board policy calls for concurrent Federal/State leave coverage whenever a staff member is eligible for leave under both the FMLA and WFMLA to the extent available under the law. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining an employee's eligibility for FMLA leave.

Definitions of Serious Health Conditions

In conjunction with the certification provided by a healthcare provider, the Board reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling a staff member to family or medical leave under State or Federal law.

In general, a "serious health condition" under this policy means an illness, injury, impairment, or physical or mental condition that involves one (1) of the following:

A. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital or other care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

B. Absence Plus Treatment

A period of incapacity of more than three (3) consecutive calendar days* (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

1. treatment two (2) or more times by a healthcare provider, a nurse, physician's assistant or physical therapist under a healthcare provider's supervision, order or referral as appropriate within thirty (30) days of the first date of incapacity; or
2. treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the healthcare provider and occurs within seven (7) days of the first day of incapacity.

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

C. Pregnancy

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

D. Chronic Conditions Requiring Treatment

A chronic condition which:

1. requires periodic visits of at least two (2) times per year for treatment by a healthcare provider, or by a nurse or physician's assistant under a healthcare provider's supervision;
2. continues over an extended period of time (including recurring episodes of a single underlying condition); **and**
3. may cause episodic rather than continuing periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The staff member or his/her~~You or your~~ family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease). The continued existence of such a chronic condition is subject to certification no more than once every six (6) months.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare 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) consecutive calendar days in the absence of medical intervention or treatment, including: cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy); or kidney disease (dialysis).

Required Staff Member Notice

The staff member must provide the Human Resources Coordinator with notice in a reasonable and practicable manner before leave taken under this policy is to begin, if the need for leave is foreseeable (e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for ~~the staff member's~~ your own serious health condition or that of a family member). When requesting partial or intermittent leave in connection with childbirth or adoption under the WFMLA, the staff member must provide at least as much notice as required for taking other non-emergency or non-medical leave, as well as a definite schedule for the leave. Where advance notice is not practical due to uncertainty as to when leave will be required to begin, a change in circumstances or medical emergency, notice must be given as soon as practical. Leave will be accounted for in increments no greater than the smallest increment used for other similar leaves, but in no event greater than one (1) hour increments. Leave entitlement will not be reduced by more than the amount of leave actually taken. Employees must provide an explanation as to why proper advance notice was not provided in such cases and may be required to verify the explanation. Notice that was not provided timely without reasonable explanation may result in the denial of the leave request.

The staff member must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a FMLA leave request form to the Superintendent (forms available from the U.S. Department of Labor).

When planning medical treatment, the staff member should consult with his/her supervisor and make a reasonable effort to schedule the leave so as not to disrupt unduly the District's operations, subject to the approval of the staff member's healthcare provider. The staff member is ordinarily expected to consult with his/her supervisor in order to work out a treatment schedule which best suits his/her needs, as well as the District's.

If a staff member must take more leave than originally anticipated, s/he must notify the Human Resources Coordinator within two (2) business days of learning of the circumstances necessitating the extension.

Certification By Healthcare Provider

If a staff member requests leave due to his/her own serious health condition or the serious health condition of his/her spouse, child or parent, the Board requires that the leave request be supported by certification issued and signed by the healthcare provider for the individual with a serious health condition. For service member leave, any certification permitted under 29 C.F.R. 825.310 shall be allowed. The Board reserves the right to certify all information permitted by law.

The staff member must provide the fully completed certification to the Human Resources Coordinator within fifteen (15) calendar days of the date that the certification is provided to the staff member, unless it is not practicable to do so despite the staff member's diligent, good faith efforts. If it is not practicable to return the certification within fifteen (15) calendar days, it must be returned to the Superintendent as soon as practicable.

If the staff member fails to submit the certification, the leave or continuation of leave may be delayed until the certification is submitted. Further, any absence prior to the date the certification is furnished may be considered unauthorized. A staff member who is absent without authorization may be disciplined, up to and including termination.

The Human Resources Coordinator will give a staff member a reasonable opportunity to cure any deficiency in a certification, but not fewer than seven (7) calendar days. It is the responsibility of the staff member or family member with a serious health condition to use a healthcare provider who will complete and furnish an accurate certification in a timely manner.

A member of the administration, other than the staff member's direct supervisor, may contact the healthcare provider to obtain answers to unanswered questions on the form or to clarify illegible answers and to authenticate the certification.

If the Human Resources Coordinator doubts the validity of a certification, it may require, at the Board's expense that the staff member obtain a second opinion from a Board-designated provider, not regularly employed by the Board. If the opinions of the staff member's and the Board's healthcare providers differ, a third, final and binding opinion may be obtained. The staff member must cooperate in obtaining a second or third opinion including facilitating the transfer of pertinent records to the subsequent healthcare providers.

The Human Resources Coordinator may request re-certifications on a periodic basis as permitted by law.

Designation of Leave

In all circumstances, it is the responsibility of the Human Resources Coordinator to designate leave, whether paid or unpaid, as FMLA leave and to give the staff member notice of the designation and his/her rights and responsibilities under this policy.

The Human Resources Coordinator will give the staff member the notice on each occasion that s/he notifies his/her supervisor of the need for leave that may be FMLA-qualifying, including, but not limited to, when the staff member requests another type of leave for an FMLA-qualifying reason. In the case of intermittent or reduced schedule leave, only one notice will be provided unless the circumstances regarding the leave have changed.

Absent extenuating circumstances, the Human Resources Coordinator will, at a minimum, verbally notify the staff member whether leave is being designated as FMLA leave within two (2) business days of the date the staff member provides information to the Human Resources Coordinator sufficient to enable him/her to determine that the leave is being taken for an FMLA-qualifying reason.

The Human Resources Coordinator will confirm the verbal notice with the written notice as soon as feasible, but no later than the first payday following the verbal notice (unless the payday is less than one (1) week after the verbal notice, in which case the notice must be no later than the subsequent payday).

Manner In Which Leave Can Be Taken

Leave available under this policy may be taken in full and, under certain circumstances, may also be taken intermittently or on a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. Reduced schedule leave is leave that reduces the usual number of working hours per day or week. The staff member must consult with his/her supervisor and make a reasonable effort to schedule intermittent or reduced schedule leave so it does not unduly disrupt the District's operations.

When leave is governed only by the FMLA, intermittent or reduced schedule leave to be with the employee's newborn child, or after the placement of a child with the employee for adoption or foster care, requires the District's agreement, unless the intermittent or reduced schedule leave is due to a serious health condition. Intermittent or reduced schedule leave due to a serious health condition must be medically necessary. Medically necessary means there must be a medical need for the leave and the leave can be best accommodated through an intermittent or reduced leave schedule, as certified by the healthcare provider in the Certification.

When leave is governed only by the FMLA, the Human Resources Coordinator may offer a staff member a temporary transfer to another position for which s/he is qualified with equivalent pay and benefits that better accommodates the intermittent or reduced schedule leave when the need for leave is foreseeable based on planned medical treatment or the staff member takes such leave for the birth of a child or for placement of a child for adoption or foster care. The staff member may reject this offer in which case there will be no adverse effect on the leave or entitlement to return to the same or similar position following leave. Any time spent by the staff member in an alternative position will not count against the employee's FMLA leave entitlement.

Instructional staff members (i.e. individuals whose principal function is to teach and instruct students in a class, a small group, or an individual setting) who request intermittent leave or a reduced-leave schedule governed only by the FMLA, which would exceed twenty percent (20%) of the total number of working days over the period of anticipated leave, must elect either to:

- A. take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- B. transfer temporarily to an available alternative position offered by the Human Resources Coordinator for which the instructional staff member is qualified, and that has equivalent pay and benefits and that better accommodates the recurring periods of leave than the staff member's regular position.

The Human Resources Coordinator may require instructional staff members who take Federal leave near the end of an academic term to extend their leave through the end of the academic term if:

- A. the leave is commenced more than five (5) weeks from the end of the term but the employee intends to return during the final three (3) weeks of the term and the leave is longer than three (3) weeks in duration;
- B. the leave is commenced within five (5) weeks of the end of the term and the employee intends to return during the final two (2) weeks of the term and the leave period was at least two (2) weeks in duration; or
- C. the leave commences within three (3) weeks of the end of a term and the leave was at least five (5) working days in duration.

Staff members whose leave is extended at the end of an academic term under this section will be charged against their FMLA entitlement only the time that they required for purposes of their leave.

Coordinating Leaves - Substitution

Generally, leave taken under this policy is unpaid. However, for leave governed exclusively by the FMLA, the staff member must use the following leaves provided by the Board, if available:

- A. vacation or personal leave, if available, for any family or medical leave;

- B. accrued paid family leave (i.e., paid leave covering the particular circumstances for which the staff member is seeking leave), if available, for birth, adoption, or to care for a seriously ill family member; and
- C. accrued paid medical or sick leave, if available, to care for a seriously ill family member, or for the staff member's own serious health condition.

A staff member may not substitute paid leave for unpaid FMLA leave taken under this policy in any situation where the Board would not normally provide such paid leave.

For leaves governed by the WFMLA, a staff member may substitute paid or unpaid leave, which s/he have earned and accrued, for leave taken under this policy, if available. The Board reserves the right to deny substitution as permitted by law.

Any paid leave substituted for unpaid FMLA leave or WFMLA leave will decrease, in whole or in part, the staff member's FMLA and/or WFMLA leave entitlement.

Continuation of Benefits

A staff member will remain eligible for group health insurance benefits under the Board's group health plan during leave taken under this policy under the same conditions as coverage would have been provided if the staff member had been actively employed during the entire leave. However, the staff member has the option of choosing not to retain such coverage during family or medical leave.

During leave taken under this policy, the Board will continue to pay any portion of group health insurance premiums for coverage that it was responsible for paying immediately prior to the leave as required by law. The staff member will be responsible for paying his/her portion of health insurance premiums regardless of whether his/her family and medical leave is paid or unpaid. It is the staff member's responsibility to make arrangements with the Human Resources Coordinator for making premium payments for group health insurance during leaves.

To the extent permitted by law, the Board reserves the right to require the staff member to place up to eight (8) weeks of health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty (30) days late.

The staff member's entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the Board's policy regarding provision of such benefits when a staff member is on other types of leave.

If a staff member fails to return to work or fails to remain at work for a period provided under the law, the District may recover its portion of the premiums paid for medical benefit coverage during the leave, unless the reason for the staff member's failure to return to work is due to the continuation of the serious health condition or the onset of a new serious health condition.

Accrual of Benefits

The use of leave under this policy will not result in the loss of any employment benefit that accrued prior to the start of the staff member's leave. A staff member will not continue to accrue seniority or any other employment benefit during leave taken under this policy, except that such benefit shall accrue if the staff member elects to use other leaves provided by the Board, and if such benefits would normally accrue during such leave.

Employment Restoration

A staff member will generally be reinstated to the same position s/he held when leave began or a position with equivalent pay, benefits, and other terms and conditions of employment, if such position remains available, and the staff member possesses the ability to perform the essential functions of the job satisfactorily, with or without any accommodation that may be required by the Americans With Disabilities Act of 1990. The staff member, however, has no greater right to reinstatement or benefits than if s/he had been actively employed during the leave. Further, if the staff member gives unequivocal notice of intent not to return to work, s/he is not entitled to be reinstated.

A staff member who exceeds his/her FMLA/WFMLA leave, but remains off work under a non-FMLA/WFMLA leave policy, is not entitled to reinstatement to the same or a similar position under the FMLA/WFMLA; however, the staff member **may** be eligible to be reinstated under the non-FMLA/WFMLA leave policy.

A staff member who is able to return to work prior to the expiration of leave must notify his/her supervisor immediately. Upon such notice, the Human Resources Coordinator will promptly reinstate the staff member to active employment, provided s/he has the present skill and ability to perform the essential functions of his/her job satisfactorily with or without accommodation. However, the reinstatement need not occur until the third business day following the staff member's notification of his/her ability to return to work.

Fitness For Duty Certification

If leave is due to the staff member's serious health condition, s/he must present certification to return to work to his/her supervisor upon returning to work. The staff member's principal attending physician must complete the certification. The certification must indicate that the staff member has been released to return to work. It must also specify any physical or other limitation on the staff member's ability to perform regular or other duties and the duration of the limitations. No certification will be required when the staff member returns from intermittent leave, except as otherwise permitted or required by the Americans With Disabilities Act of 1990.

The certification will be limited to the particular health condition that caused the staff member's need for leave, except as otherwise permitted by the Americans With Disabilities Act of 1990. If the staff member is an "individual with a disability" within the meaning of the ADA, any fitness-for-duty physical examination or inquiry by the District will be job related and consistent with business necessity.

Reinstatement may be delayed until the staff member submits the certification. Under such circumstances, if the staff member does not promptly provide a certification or qualify for another leave of absence, s/he may be disciplined, up to and including termination.

With the staff member's permission, the Board's healthcare provider may contact the staff member's healthcare provider to clarify and authenticate the certification, but no additional information may be requested or required, and the staff member's return to work may not be delayed while the contact is being made. No second or third fitness for duty certification may be required.

Confidentiality

All medical information relating to leave, whether written or verbal, shall be kept confidential to the maximum extent possible. All medical documents including, but not limited to, medical certifications and return-to-work statements must be maintained in confidential, secure files separate from personnel files.

No Discrimination

Leave under this policy will not be used as a negative factor in employment actions, such as hiring, promotions, disciplinary actions or under attendance policies.

Miscellaneous

A staff member who fraudulently obtains leave under this policy is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Human Resources Coordinator shall see that the policy is posted properly.

The Human Resources Coordinator shall provide a copy of the policy upon the request of a staff member.

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Revised 11/14/18

Legal	29 U.S.C. 2601 et. seq.
	29 C.F.R. Part 825
	103.10, Wis. Stats.
	Wis. Admin. Department of Workforce Development (DWD) 225
	National Defense Authorization Act of 2010

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")
Number	po4430.01
Status	First Reading
Adopted	June 9, 2008
Last Revised	April 14, 2014

4430.01 - FAMILY & MEDICAL LEAVE OF ABSENCE ("FMLA")

Introduction

In accordance with Federal and State law, the Board ~~of Education~~ will provide family and medical leave to support staff. The Board's Family and Medical Leave Act policy is intended to conform to and comply with, but not exceed, the requirements of the Federal Family and Medical Leave Act of 1993 ("FMLA") and the Wisconsin Family and Medical Leave Act ("WFMLA"). To the extent that this policy is ambiguous or conflicts with the FMLA or the WFMLA, the FMLA and the WFMLA will govern.

Family and medical leave taken under this policy may be covered by Federal law, State law, or both. When leave taken by a staff member under this policy is governed by both Federal and State law, the more generous provision will control in the event of a conflict. However, when leaves are governed by State or Federal law, but not both, the applicable law will control under this policy. In this regard, you should note that certain leaves may be covered by both State and Federal law for only a portion of the leave. To the extent permitted by law, leave under the FMLA, leave under the WFMLA and leave granted under the Board's other policies will run concurrently (at the same time).

Eligibility Requirements

To be eligible for leave under the FMLA, you must have been employed by the Board for at least twelve (12) months in the past seven (7) years **and** must have worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of the requested leave. All full-time instructional staff members are deemed to meet the 1,250 hour requirement.

To be eligible for leave under the WFMLA, you must have been employed for more than fifty-two (52) consecutive weeks and have worked or been paid for at least 1,000 hours in the preceding fifty-two (52) weeks. The kind and amount of leave available to you under this policy, as well as your rights during leave, depend upon whether you satisfy the above requirements.

Qualifying Reasons for Leave

The Board provides family and medical leave for eligible staff members under the following circumstances:

- A. for the birth of the eligible staff member's child and to care for a newborn child
- B. for placement with the eligible staff member of a child for adoption or foster care
- C. to care for an eligible staff member's spouse, child or parent with a "serious health condition"

The term "child" generally includes a legal ward or a biological, adopted foster or stepchild. For leaves governed exclusively by the FMLA, the term also includes a son or daughter for whom you have assumed the day-to-day obligations of a parent. A child must be **either** under eighteen (18) years of age or unable to care for himself/herself due to a physical or mental disability or, for leave under State law only, unable to care for himself/herself due to a serious health condition.

"Parent" includes a staff member's spouse's legal guardian only if you are requesting leave under the WFMLA.

"Spouse" includes a qualified domestic partner for leaves governed by the WFMLA. Domestic partnerships must be registered with the county of residence and proof of such registration may be requested prior to approval of leave. Unregistered

domestic partners must demonstrate that they are 1) both over age eighteen (18); 2) not in a domestic partnership or marriage with another individual; 3) they share a common residence; 4) they are not related in any way that would prohibit marriage under Wisconsin law; 5) they consider each other to be immediate family members and agree to be responsible for the other's living expense.

- D. because of a serious health condition that makes the eligible staff member unable to perform the essential functions of his/her position
- E. because of a qualifying exigency resulting from active military service by the employee's spouse, son, daughter, or parent in covered active duty or call to covered active duty in the United States Armed Forces including the National Guard and Reserves

Qualifying exigencies, as defined by Federal regulations, include: 1) short- notice deployment; 2) military events and related activities; 3) childcare and school activities; 4) financial and legal arrangements; 5) counseling; 6) rest and recuperation; (maximum fifteen (15) calendar days); 7) post- deployment activities; 8) caring for a military member's parent who is incapable of self-care when the care is necessitated by the member's covered active duty; and 9) additional activities not encompassed in the other categories, but agreed to by the employer and employee. Covered active duty means deployment with the Armed Forces to a foreign country.

- F. to care for a service member who is the employee's parent, spouse, child or next of kin who, while on active military duty, sustains a serious injury or illness or aggravation of a pre-existing illness or injury while in the line of duty, while on covered active duty in the United States Armed Forces, including the National Guard and Reserves, which renders the service member medically unfit to perform the member's office, grade, rank, or rating.

Covered active duty means deployment with the Armed Forces to a foreign country. This leave is also available to care for veterans of the United States Armed Forces, including the National Guard and Reserves, provided the veteran was a service member at any time within the five (5) years prior to the start of the treatment, recuperation or therapy. In accordance with applicable regulations, a veteran's serious injury or illness incurred or aggravated in the line of active duty can also be manifested by: 1) a physical or mental condition with a VA Service Disability Rating of fifty percent (50%) or greater and is the condition precipitating the need for leave; or 2) a physical or mental condition that substantially impairs the ability to secure or substantially follow a gainful occupation, or would do so absent treatment; or 3) an injury, including psychological, for which the veteran has been enrolled in the Dept. of V.A. Program of Comprehensive Assistance for Family Care Givers. Leave is available for up to twenty-six (26) weeks in a twelve (12) month period. This type of leave is available for serious injury or illness which results in:

1. inpatient medical treatment, recuperation or therapy;
2. outpatient services at a military treatment facility or assignment to a unit established for the purpose of providing command and control of service members receiving outpatient medical services; or
3. assignment to the temporary disability retired list.

The maximum twenty-six (26) weeks of Federal leave to care for a service member includes, and is not in addition to, all other FMLA leave. In other words, employees may not take more than a total of twenty-six (26) weeks of FMLA leave during a single twelve (12) month period for any qualifying reasons under the FMLA. For instance, if an employee takes the maximum twelve (12) weeks of Federal FMLA leave for his/her own serious health condition, the employee may then only take fourteen (14) weeks of FMLA leave within that same twelve (12) month period to care for a military family member injured in the line of duty.

See the Human Resources Coordinator to determine whether your request for leave qualifies under one (1) of the above categories.

Amount of Leave Available

Under the FMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to a total of twelve (12) work weeks of leave in a **calendar year** for any of the reasons stated above, with the exception of leave to care for an injured service member, which is provided as described in (F) above.

(X) Spouses who are both employed by the District may take a combined total of twelve (12) weeks of leave for the birth or placement of a child for adoption or foster care.

Under the WFMLA, if the staff member satisfies the eligibility requirements set forth above, s/he is entitled to ten (10) work weeks of leave in a **calendar year** as follows:

- A. a total of six (6) weeks of leave for the birth of his/her natural child and/or the placement of a child with the staff member for, or as a precondition to, adoption;

B. a total of two (2) weeks of leave to care for a covered family member with a serious health condition; and

C. a total of two (2) weeks of leave due to the staff member's serious health condition.

Board policy calls for concurrent Federal/State leave coverage whenever a staff member is eligible for leave under both the FMLA and WFMLA to the extent available under the law. All periods of absence from work due to or necessitated by USERRA-covered service is counted in determining and employee's eligibility for FMLA leave.

Definitions of Serious Health Conditions

In conjunction with the certification provided by a healthcare provider, the Board reserves the right to determine whether an illness, injury, impairment or physical or mental condition constitutes a serious health condition entitling a staff member to family or medical leave under State or Federal law.

In general, a "serious health condition" under this policy means an illness, injury, impairment, or physical or mental condition that involves one (1) of the following:

A. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital or other care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

B. Absence Plus Treatment

A period of incapacity of more than three (3) consecutive calendar days* (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:

1. treatment two (2) or more times by a healthcare provider, a nurse, physician's assistant or physical therapist under a healthcare provider's supervision, order or referral as appropriate within thirty (30) days of the first date of incapacity; or
2. treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the healthcare provider and occurs within seven (7) days of the first day of incapacity.

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

C. Pregnancy

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

D. Chronic Conditions Requiring Treatment

A chronic condition which:

1. requires periodic visits of at least two (2) times per year for treatment by a healthcare provider, or by a nurse or physician's assistant under a healthcare provider's supervision;
2. continues over an extended period of time (including recurring episodes of a single underlying condition); **and**
3. may cause episodic rather than continuing periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

E. Permanent/Long-Term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. You or your family member must be under the continuing supervision of, but need not be receiving active treatment by, a healthcare provider (e.g., Alzheimer's disease, a severe stroke, or the terminal stages of a disease). The continued existence of such a chronic condition is subject to certification no more than once every six (6) months.

F. Multiple Treatments (Non-Chronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare 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) consecutive calendar days in the absence of medical intervention or treatment, including: cancer (chemotherapy, radiation, etc.); severe arthritis (physical therapy); or kidney disease (dialysis).

Required Staff Member Notice

The staff member must provide the Human Resources Coordinator with notice in a reasonable and practicable manner before leave taken under this policy is to begin, if the need for leave is foreseeable (e.g., an expected birth, placement or adoption or foster care, or planned medical treatment for your own serious health condition or that of a family member). When requesting partial or intermittent leave in connection with childbirth or adoption under the WFMLA, the staff member must provide at least as much notice as required for taking other non-emergency or non-medical leave, as well as a definite schedule for the leave. Where advance notice is not practical due to uncertainty as to when leave will be required to begin, a change in circumstances or medical emergency, notice must be given as soon as practical. Leave will be accounted for in increments no greater than the smallest increment used for other similar leaves, but in no event greater than one (1) hour increments. Leave entitlement will not be reduced by more than the amount of leave actually taken. Employees must provide an explanation as to why proper advance notice was not provided in such cases and may be required to verify the explanation. Notice that was not provided timely without reasonable explanation may result in the denial of the leave request.

The staff member must provide a written request for leave, the reasons for the requested leave, and the anticipated beginning date and duration of the leave by submitting a FMLA leave request form to the Human Resources Coordinator (forms available from the Department of Labor).

When planning medical treatment, the staff member should consult with his/her supervisor and make a reasonable effort to schedule the leave so as not to disrupt unduly the District's operations, subject to the approval of the staff member's healthcare provider. The staff member is ordinarily expected to consult with his/her supervisor in order to work out a treatment schedule which best suits his/her needs, as well as the District's.

If a staff member must take more leave than originally anticipated, s/he must notify the Human Resources Coordinator within two (2) business days of learning of the circumstances necessitating the extension.

Certification By Healthcare Provider

If a staff member requests leave due to his/her own serious health condition or the serious health condition of his/her spouse, child or parent, the Board requires that the leave request be supported by certification issued and signed by the healthcare provider for the individual with a serious health condition. For service member leave, any certification permitted under 29 C.F.R. 825.310 shall be allowed. The Board reserves the right to certify all information permitted by law.

The staff member must provide the fully completed certification to the Human Resources Coordinator within fifteen (15) calendar days of the date that the certification is provided to the staff member, unless it is not practicable to do so despite the staff member's diligent, good faith efforts. If it is not practicable to return the certification within fifteen (15) calendar days, it must be returned to the Human Resources Coordinator as soon as practicable.

If the staff member fails to submit the certification, the leave or continuation of leave may be delayed until the certification is submitted. Further, any absence prior to the date the certification is furnished may be considered unauthorized. A staff member who is absent without authorization may be disciplined, up to and including termination.

The Human Resources Coordinator will give a staff member a reasonable opportunity to cure any deficiency in a certification, but not fewer than seven (7) calendar days. It is the responsibility of the staff member or family member with a serious health condition to use a healthcare provider who will complete and furnish an accurate certification in a timely manner.

A member of the administration, other than the staff member's direct supervisor, may contact the healthcare provider to obtain answers to unanswered questions on the form or to clarify illegible answers and to authenticate the Certification.

If the Human Resources Coordinator doubts the validity of a Certification, it may require, at the Board's expense that the staff member obtain a second opinion from a Board-designated provider, not regularly employed by the Board. If the opinions of the staff member's and the Board's healthcare providers differ, a third, final and binding opinion may be obtained. The staff member must cooperate in obtaining a second or third opinion including facilitating the transfer of pertinent records to the subsequent healthcare providers.

The Human Resources Coordinator may request re-certifications on a periodic basis as permitted by law.

Designation of Leave

In all circumstances, it is the responsibility of the Human Resources Coordinator to designate leave, whether paid or unpaid, as FMLA leave and to give the staff member notice of the designation and his/her rights and responsibilities under this policy.

The Human Resources Coordinator will give the staff member the Notice on each occasion that s/he notifies his/her supervisor of the need for leave that may be FMLA-qualifying, including, but not limited to, when the staff member requests another type of leave for an FMLA-qualifying reason. In the case of intermittent or reduced schedule leave, only one notice will be provided unless the circumstances regarding the leave have changed.

Absent extenuating circumstances, the Human Resources Coordinator will, at a minimum, verbally notify the staff member whether leave is being designated as FMLA leave within two (2) business days of the date the staff member provides information to the Human Resources Coordinator sufficient to enable him/her to determine that the leave is being taken for an FMLA-qualifying reason.

The Human Resources Coordinator will confirm the verbal notice with the written notice as soon as feasible, but no later than the first payday following the verbal notice (unless the payday is less than one (1) week after the verbal notice, in which case the notice must be no later than the subsequent payday).

Manner In Which Leave Can Be Taken

Leave available under this policy may be taken in full and, under certain circumstances, may also be taken intermittently or on a reduced leave schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason. Reduced schedule leave is leave that reduces the usual number of working hours per day or week. The staff member must consult with his/her supervisor and make a reasonable effort to schedule intermittent or reduced schedule leave so it does not unduly disrupt the District's operations.

[When leave is governed only by the FMLA, intermittent or reduced schedule leave to be with the employee's newborn child, or after the placement of a child with the employee for adoption or foster care, requires the District's agreement, unless the intermittent or reduced schedule leave is due to a serious health condition.](#)

Intermittent or reduced schedule leave due to a serious health condition must be medically necessary. Medically necessary means there must be a medical need for the leave and the leave can be best accommodated through an intermittent or reduced leave schedule, as certified by the healthcare provider in the Certification.

When leave is governed only by the FMLA, the Human Resources Coordinator may offer a staff member a temporary transfer to another position for which s/he is qualified with equivalent pay and benefits that better accommodates the intermittent or reduced schedule leave when the need for leave is foreseeable based on planned medical treatment or the staff member takes such leave for the birth of a child or for placement of a child for adoption or foster care. The staff member may reject this offer in which case there will be no adverse effect on the leave or entitlement to return to the same or similar position following leave. Any time spent by the staff member in an alternative position will not count against the employee's FMLA leave entitlement.

Coordinating Leaves - Substitution

Generally, leave taken under this policy is unpaid. However, for leave governed exclusively by the FMLA, the staff member must use the following leaves provided by the Board, if available:

- A. vacation or personal leave, if available, for any family or medical leave;
- B. accrued paid family leave (i.e., paid leave covering the particular circumstances for which the staff member is seeking leave), if available, for birth, adoption, or to care for a seriously ill family member; and
- C. accrued paid medical or sick leave, if available, to care for a seriously ill family member, or for the staff member's own serious health condition.

A staff member may not substitute paid leave for unpaid FMLA leave taken under this policy in any situation where the Board would not normally provide such paid leave.

For leaves governed by the WFMLA, a staff member may substitute paid or unpaid leave, which s/he have earned and accrued, for leave taken under this policy, if available. The Board reserves the right to deny substitution as permitted by law.

Any paid leave substituted for unpaid FMLA leave or WFMLA leave will decrease, in whole or in part, the staff member's FMLA and/or WFMLA leave entitlement.

Continuation of Benefits

A staff member will remain eligible for group health insurance benefits under the Board's group health plan during leave taken under this policy under the same conditions as coverage would have been provided if the staff member had been actively employed during

the entire leave. However, the staff member has the option of choosing not to retain such coverage during family or medical leave.

During leave taken under this policy, the Board will continue to pay any portion of group health insurance premiums for coverage that it was responsible for paying immediately prior to the leave as required by law. The staff member will be responsible for paying his/her portion of health insurance premiums regardless of whether his/her family and medical leave is paid or unpaid. It is the staff member's responsibility to make arrangements with the Human Resources Coordinator for making premium payments for group health insurance during leaves.

To the extent permitted by law, the Board reserves the right to require the staff member to place up to eight (8) weeks of health insurance premiums in escrow prior to leave, or to discontinue coverage if such premiums are received more than thirty (30) days late.

The staff member's entitlement to benefits other than group health benefits during a period of family or medical leave is determined by the Board's policy regarding provision of such benefits when a staff member is on other types of leave.

If a staff member fails to return to work or fails to remain at work for a period provided under the law, the District may recover its portion of the premiums paid for medical benefit coverage during the leave, unless the reason for the staff member's failure to return to work is due to the continuation of the serious health condition or the onset of a new serious health condition.

Accrual of Benefits

The use of leave under this policy will not result in the loss of any employment benefit that accrued prior to the start of the staff member's leave. A staff member will not continue to accrue seniority or any other employment benefit during leave taken under this policy, except that such benefit shall accrue if the staff member elects to use other leaves provided by the Board, and if such benefits would normally accrue during such leave.

Employment Restoration

A staff member will generally be reinstated to the same position s/he held when leave began or a position with equivalent pay, benefits, and other terms and conditions of employment, if such position remains available, and the staff member possesses the ability to perform the essential functions of the job satisfactorily, with or without any accommodation that may be required by the Americans With Disabilities Act of 1990. The staff member, however, has no greater right to reinstatement or benefits than if s/he had been actively employed during the leave. Further, if the staff member gives unequivocal notice of intent not to return to work, s/he is not entitled to be reinstated.

A staff member who exceeds his/her FMLA/WFMLA leave, but remains off work under a non-FMLA/WFMLA leave policy, is not entitled to reinstatement to the same or a similar position under the FMLA/WFMLA; however, the staff member **may** be eligible to be reinstated under the non-FMLA/WFMLA leave policy.

A staff member who is able to return to work prior to the expiration of leave must notify his/her supervisor immediately. Upon such notice, the Human Resources Coordinator will promptly reinstate the staff member to active employment, provided s/he has the present skill and ability to perform the essential functions of his/her job satisfactorily with or without accommodation. However, the reinstatement need not occur until the third business day following the staff member's notification of his/her ability to return to work.

Fitness For Duty Certification

If leave is due to the staff member's serious health condition, s/he must present certification to return to work to his/her supervisor upon returning to work. The staff member's principal attending physician must complete the certification. The certification must indicate that the staff member has been released to return to work. It must also specify any physical or other limitation on the staff member's ability to perform regular or other duties and the duration of the limitations. No certification will be required when the staff member returns from intermittent leave, except as otherwise permitted or required by the Americans With Disabilities Act of 1990.

The certification will be limited to the particular health condition that caused the staff member's need for leave, except as otherwise permitted by the Americans With Disabilities Act of 1990. If the staff member is an "individual with a disability" within the meaning of the ADA, any fitness-for-duty physical examination or inquiry by the District will be job related and consistent with business necessity.

Reinstatement may be delayed until the staff member submits the certification. Under such circumstances, if the staff member does not promptly provide a certification or qualify for another leave of absence, s/he may be disciplined, up to and including termination.

With the staff member's permission, the Board's healthcare provider may contact the staff member's healthcare provider to clarify and authenticate the certification, but no additional information may be requested or required, and the staff member's return to work may not be delayed while the contact is being made. No second or third fitness for duty certification may be required.

Confidentiality

All medical information relating to leave, whether written or verbal, shall be kept confidential to the maximum extent possible. All medical documents including, but not limited to, medical certifications and return-to-work statements must be maintained in confidential, secure files separate from personnel files.

No Discrimination

Leave under this policy will not be used as a negative factor in employment actions, such as hiring, promotions, disciplinary actions or under attendance policies.

Miscellaneous

The Human Resources Coordinator may designate another administrator to perform his/her duties under this policy.

A staff member who fraudulently obtains leave under this policy is not protected by this policy's job restoration or maintenance of health benefits provisions.

The Human Resources Coordinator shall see that the policy is posted properly.

The Human Resources Coordinator shall provide a copy of the policy upon the request of a staff member.

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Legal 29 U.S.C. 2601 et seq.
 29 C.F.R. Part 825
 103.10, Wis. Stats.
 Wis. Admin. Department of Workforce Development (DWD) 225
 National Defense Authorization Act of 2010

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	JOB-RELATED EXPENSES
Number	po4440
Status	First Reading
Adopted	June 9, 2008

4440 - **JOB-RELATED EXPENSES**

The Board ~~of Education~~ may provide for the payment of the actual and necessary expenses, including traveling expenses, of any support staff member of the District incurred in the course of performing services for the District, whether within or outside the District, under the direction of the Board and in accordance with the Superintendent's administrative guidelines.

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	ELIGIBILITY OF RESIDENT/NONRESIDENT STUDENTS
Number	po5111
Status	First Reading
Adopted	June 1, 2008
Last Revised	January 10, 2018
Last Reviewed	January 9, 2017

5111 - **ELIGIBILITY OF RESIDENT/NONRESIDENT STUDENTS**

The Board ~~of Education~~ establishes the following policy for determining the eligibility of students to attend the schools of this District.

- A. The Board will educate, tuition-free, students who are residents of the District. Proof of residency will be required for registration in the District. If residency is with individuals other than a parent, the living arrangement may not be solely for purposes of attending the District's schools. ~~it must be based on a reason other than educational purposes.~~
- B. The District shall not make residency determinations on the basis of an individual's alienage ~~provide a free education to those students who are considered by Federal law to be illegal aliens or considered to be homeless by State established criteria.~~
- C. The District shall consider those students who are homeless or in foster placement to be residents unless residency is determined to be in another district.
- D. Upon request of a student's parent, students who have gained twelfth grade status and who no longer reside within the District shall be permitted to complete their high school education tuition free.
- E. Resident students in grades 9-12 who attend a tribal school, private school, or home-based educational program shall be accepted into the District's educational programs for up to two (2) classes if the student satisfies the high school admission standards and sufficient space is available in the classes.
- F. A high school student who now resides in a different school district as a result of a reorganization under Chapter 117 and who has completed 9th and 10th grade at his/her former school district shall be allowed to complete his/her education at the former school district, provided the other district agrees. The school board of residence shall pay the student's tuition. The school of attendance shall count the student in its membership ~~for State Aid purposes under subchapter II.~~
- G. If a parent (or adult student) presents information to the District certifying that the parent (or adult student), his/her child, or a member of the parent's household is a participant in the Safe at Home/Address Confidentiality Program administered by the Wisconsin Department of Justice, the Board shall use the address designated by the Department of Justice to serve as the student's address for enrollment purposes. The District shall place a copy of any certification provided by the parent in the enrollment files.
- H. Children of joint custody orders may attend school without payment of tuition if one (1) parent resides in this District or the order designates as the residential parent the parent with legal residence in the District.
- I. Foreign students, participating in a bona fide, foreign-exchange program and living with a resident host family, may be admitted consistent with Federal law ~~tuition free.~~
- J. Students whose parents do not reside within the District, but who present evidence that they will move into the District within a short period of time, may enroll in the schools of this District as tuition students for the time not in residence. Tuition will be refunded in accordance with State law.
- K. Minor students residing in the District, but not living with a parent, may be required to provide information sufficient to allow the administration to properly determine resident status under law.

- L. Tuition students may be accepted in accordance with State law and the approval of the Superintendent.
- M. Nonresidents may be accepted into the District's Adult Education classes upon payment of the appropriate fees.
- N. Nonresident students may be accepted into the District's Summer or Interim Session School Program upon payment of appropriate fees.
- O. Nonresident students may be accepted into the District's program under the [Part-Time or Full-Time Open Enrollment Program](#).
- P. The Superintendent, at his/her discretion, may deny admission to a student who has been expelled from another Wisconsin public school district, for the period of the unexpired term of the expulsion. When the expulsion from the other district has expired, the student is to be admitted providing all other eligibility requirements have been met.
- Q. **Conditional Enrollment**
1. Within five (5) school days after the revocation of a student's conditional enrollment, the student or, if the student is a minor, the student's parent may request a conference with the Superintendent who shall be someone other than a principal, administrator, or teacher in the student's school. If a conference is requested, it shall be held within five (5) school days following the request. If, after the conference, the Superintendent finds that the student did not violate an enrollment condition or that the revocation was inappropriate, the student shall be enrolled in school under the same enrollment conditions under the order previously issued and the conditional enrollment revocation shall be expunged from the student's record. If the Superintendent finds that the student violated an enrollment condition and that the revocation was appropriate, s/he shall mail separate copies of the decision to the student and, if the student is a minor, to the student's parent. The decision of the Superintendent is final.
 2. If a student's conditional enrollment is revoked, the student's expulsion shall continue to the expiration of the term of the expulsion specified in the expulsion order unless the student or, if the student is a minor, the student's parent and the school board that expelled the student, or the independent hearing panel or independent hearing officer, or the out-of-state public school, agree, in writing, to modify the expulsion order.
 3. If a student granted conditional enrollment violates an enrollment condition that the student was required to meet after his/her conditional enrollment but before the expiration of the term of expulsion, the Superintendent may revoke the student's conditional enrollment. Before revoking the student's conditional enrollment, the Superintendent shall advise the student of the reason for the proposed revocation, including the enrollment condition alleged to have been violated, provide the student an opportunity to present his/her explanation of the alleged violation, and make a determination that the student violated the enrollment condition and that revocation of the student's conditional enrollment is appropriate. If the Superintendent revokes the student's conditional enrollment, the Superintendent shall give prompt written notice of the revocation and the reason for the revocation, including the enrollment condition violated, to the student and, if the student is a minor, to the student's parent.
 4. If the Superintendent determines that the student has met the enrollment conditions established in a written order, the Superintendent may grant the student conditional enrollment in a school in the District. The determination of the Superintendent is final.
 5. The Board may specify in a written order one (1) or more enrollment conditions instead of or in addition to any early reinstatement conditions, if any, imposed by the school board that expelled the student or instead of or in addition to any conditions imposed, if any, by the out-of-state public school that expelled the student. Any enrollment conditions must relate to the reasons for the student's expulsion and may not extend the term of expulsion specified in the expulsion order. The School District Clerk shall mail two (2) copies of the order to the student or, if the student is a minor, to the student's parent. The expelled student or, if the student is a minor, the student's parent shall sign and return one (1) copy of the order to the Board. Within fifteen (15) days after the date on which the order is issued, the expelled student or, if the student is a minor, the student's parent may appeal the determination regarding whether an enrollment condition specified in the order is related to the reasons for the student's expulsion to the Board. The decision of the Board regarding that determination is final and not subject to appeal.
- R. Students who have begun the school year as residents and who no longer reside in the District may be permitted to complete the school year tuition-free.
- S. Nonresident students may be accepted into the District's program under the [Part-Time Open Enrollment Course Options Program](#). Nonresident students accepted into the District's [Part-Time Open Enrollment Course Options Program](#) may attend no more than two courses at any time.

Revised 3/10/14

Revised 4/25/16

[Revised 11/14/18](#)

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Legal 121.78(2)(a), Wis. Stats.
 118.51, 118.52, Wis. Stats.
 120.13(1), 121.77 , 121.81, 121.84, Wis. Stats.
 42 U.S.C. 11431, et. seq.

Last Modified by Jennifer Bower on October 16, 2018



Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	USE OF TOBACCO BY STUDENTS
Number	po5512
Status	First Reading
Adopted	June 9, 2008
Last Revised	October 24, 2011

5512 - **USE OF TOBACCO BY STUDENTS**

The Board ~~of Education~~ is committed to providing students, staff, and visitors with a tobacco and smoke-free environment. The negative health effects of tobacco and nicotine use for both users and non-users, particularly in connection with second hand smoke, are well- established. In addition, students less than eighteen (18) years of age are generally prohibited by law from purchasing or possessing cigarettes and other tobacco products.

For purposes of this policy, "use of tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco, as well as all uses of tobacco, including cigars, cigarettes, pipe tobacco, chewing tobacco, snuff, any other matter or substances that contain tobacco, in addition to papers used to roll cigarettes and/or the smoking of electronic, "vapor," or other substitute or simulated forms of cigarettes, clove cigarettes and any other lighted smoking devices for burning tobacco or any other substance. This policy also prohibits the use of other products containing nicotine, including but not limited to nicotine patches and nicotine gum. Accordingly, the Board prohibits students from using or possessing tobacco or nicotine in any form on District premises, in District vehicles, within any indoor facility owned or while leased or contracted for by the District and used to provide education or library services to children, and at all District-sponsored events.

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Revised 11/14/18

Legal	120.12(20), Wis. Stats. 254.92, Wis. Stats. 20 U.S.C. 6081 et seq.
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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	STUDENT HAZING
Number	po5516
Status	First Reading
Adopted	June 9, 2008
Last Revised	March 23, 2015

5516 - **STUDENT HAZING**

The Board ~~of Education~~ believes that hazing activities of any type are inconsistent with the educational process and may in some circumstances be a violation of State law. It prohibits all such activities at any time in school facilities, on school property, and at any District-sponsored activity or event.

Hazing shall be defined for purposes of this policy as performing any act or coercing another, including the victim, to perform any act of initiation into any class, group, or organization that causes or creates a risk of causing mental, emotional, or physical harm. Permission, consent, or assumption of risk by an individual subjected to hazing shall not lessen the prohibitions contained in this policy.

Administrators, faculty members, and other employees of the District shall be alert to possible situations, circumstances, or events that might include hazing. If hazing or planned hazing is discovered, the students involved shall be informed by the discoverer of the prohibitions contained in this policy and shall be ordered to end all hazing activities or planned activities immediately. All hazing incidents shall be reported immediately to the Principal or to the Superintendent. The individual informed of the situation shall immediately do the following:

- A. Write all information concerning the reported activity or planned activity received from the person reporting the incident to create a complete record of the initial contact with administration.
- B. Determine if any potential criminal activity has occurred, and if so contact law enforcement immediately.
- C. Determine whether the information received illustrates hazing behavior that is based on the student's or any group of students sex (including transgender status, change of sex, or gender identity), race, color, national origin, religion, creed, ancestry, marital or parental status, sexual orientation or physical, mental, emotional or learning disability, or any other characteristic protected by Federal or State civil rights laws ("Protected Classes"). If the conduct reported appears to be based on one (1) or more Protected Class, the Administrator shall inform the District Compliance Officer and refer to Policy 5517 – Student Anti-Harassment and proceed accordingly.
- D. If the hazing or planned hazing does not appear to be based on any Protected Classes, then the Administrator shall proceed to conduct an investigation consistent with the procedures found in Policy 5517.01 - Bullying. If at any point, information surfaces indicating that hazing activity was based on one (1) or more Protected Class, the Administrator or designee conducting the investigation shall contact the Compliance Officer and consult Policy 5517 – Student Anti-Harassment.

Students, administrators, faculty members, and other employees who fail to abide by this policy may be subject to disciplinary action and may be held personally liable for civil or criminal penalties. Disciplinary action for students may include, but is not limited to, suspension and/or expulsion. Disciplinary action for staff members may be issued up to and including termination from employment. (See Policy 3139 – Staff Discipline or Policy 4139 – Staff Discipline).

The Principal shall distribute this policy to all students and District employees, and shall incorporate it into building, staff, and student handbooks. It shall also be the subject of discussion at employee staff meetings or in-service programs.

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Legal

20 U.S.C. 1415

20 U.S.C. 1701 et seq., Equal Educational Opportunities Act of 1974

29 U.S.C. 794, Rehabilitation Act of 1973

42 U.S.C. 12101 et seq., The Americans with Disabilities Act of 1990

42 U.S.C. 2000 et seq., Civil Rights Act of 1964

Vocational Education Program Guidelines for Eliminating Discrimination and Denial of Services, Department of Education, Office of Civil Rights, 1979

118.13 Wis. Stats.

120.13 Wis. Stats

948.51 Wis. Stats

P.I. 9, 41 Wis. Admin. Code

Fourteenth Amendment, U.S. Constitution

20 U.S.C. 1681 et seq., Title IX of Education Amendments Act

42 U.S.C. 1983

42 U.S.C. 2000d et seq.

34 C.F.R. Sec. 300.600-300.662

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	ASD version of 5530 - ALCOHOL AND OTHER DRUG ABUSE (AODA)
Number	po5530
Status	First Reading
Adopted	June 9, 2008

5530 - **ALCOHOL AND OTHER DRUG ABUSE (AODA)**

The Board ~~of Education~~ recognizes the need to maintain a safe, healthy, drug and alcohol free environment for all students. Student chemical use impairs healthy physical, mental, intellectual, and emotional development and interferes with the learning process.

A. Consequences for the Use of, Possession of (a) Intoxicants, (b) Mood Altering Drugs Used for Purposes Other than those Prescribed by a Physician, and (c) Drug Paraphernalia:

Any student or the Ashwaubenon Schools using, in possession of, or under the influence of intoxicants or mood altering drugs used for purposes other than those prescribed by a physician, or in possession of related drug paraphernalia at any time (twenty-four (24) hours per day - 365 days per year) on school premises or at a school related activity will be subject to the following:

1. First Violation

Any student found to be in violation of this policy for the first time during his/her tenure in the Ashwaubenon Schools will receive an automatic three (3) day suspension. In addition, the student and/ or his/her parents will be required and his/her parents may be requested to seek counseling and provide written evidence of this counseling to the Superintendent within one (1) month of the first day of suspension. Acceptable sources of counseling are as follows:

- a. AODA Program Coordinator
- b. A non-school counselor mutually agreed upon with the Superintendent prior to the onset of the counseling experience.

2. Second Violation

Any student found to be in violation of this policy for the second time during his/her tenure in the Ashwaubenon Schools will be subject to suspension procedures of the District and a pre-expulsion hearing with the Superintendent of Schools or designee. At the hearing the student and his/her parents will select one (1) of two (2) possible actions.

- a. As a result of the second violation the student must:
 1. seek and complete an AODA assessment by a bona fide AODA treatment center;
 2. demonstrate compliance with the treatment program as recommended by said treatment center;
 3. successfully complete the treatment program; and
 4. agree to behavioral contract between the student, school administration, and a representative of the AODA treatment center as a condition of readmittance to the school.
- b. As a result of the second violation the student will be recommended to the Board of Education for expulsion from the Ashwaubenon Schools pursuant to Section 120.13(1)(c) of the Wisconsin Statutes for the remainder

of the term or trimester during which offense occurs and the next full term or trimester. The student may, if expelled, receive no credits toward graduation for said term or trimester. The District may provide a continuation of educational services during the duration of the expulsion, for which credit may be earned. In addition, the student will be required and his/her parents may be requested to seek additional counseling and provide written evidence of this counseling to the Superintendent prior to the conclusion of the period for which the student is expelled. Acceptable sources of counseling are as noted above.

3. Third Violation

Any student found to be in violation of this policy for a third time will be recommended to the Board of Education for expulsion from the Ashwaubenon Schools for a minimum of the remainder of the semester/trimester during which the offense occurs and the next full semester/trimester.

The student may, if expelled, receive no credit toward graduation for said semesters/trimesters. The District may provide a continuation of educational services during the duration of the expulsion, for which credit may be earned. Readmission will be subject to the provisions of Part C (below).

Students found to be in violation of this policy as described in Part B (below) will be subject to the penalty normally associated with a third violation even if it is their first or second violation.

B. Consequences for Selling, Dealing, Exchanging, Purchasing, or Giving Away Intoxicants or Mood Altering Drugs and Drug Paraphernalia

Irrespective of the procedures set forth herein, any student found to be exchanging, distributing, selling, purchasing, receiving, or giving away of intoxicants or mood altering drugs, or paraphernalia on school premises, or while participating in or attending any school related activity, will be subject to the same penalty normally provided for a third violation as indicated above.

Any student found to be exchanging, distributing, selling, purchasing, receiving or giving away another substance, regardless of the true nature, which such student has represented in any manner to be an intoxicating or mood altering drug, on school premises or while attending a school related activity, will be subject to the same penalty normally provided for a third violation as indicated above.

Wisconsin law shall control when determining intent.

C. Readmission to School

Any student who has been expelled in accordance with Section A(2)(b) and Section A(3) above under the provisions set forth in this policy may request re-entry into the Ashwaubenon Public School System via the building principal after expulsion for the balance of the semester/trimester and the next full semester/trimester. If such a request is made, the student will be required to display evidence that s/he has developed an attitude which clearly indicates that the individual will not again violate the Alcohol and Other Drug Abuse Policy as set forth herein. Administratively the re-entry process must be initiated by the building principal through the Superintendent to the Board.

In accordance with 120.13(1)(L)(h), the Board may reinstate the expelled student before the expiration of the term of the expulsion.

If re-entry is approved after a third violation, it will be understood that any subsequent offense will result in immediate expulsion without the privilege of re-entry under this policy.

D. Student Enrollment in Non-Public Education During the Period of Rules Enforcement

Any student who elects to enroll in any non-public education during the period of time affected by these rules and then chooses to re-enroll in the Ashwaubenon Public Schools will be enrolled only under conditions specified by the Board of Education upon consideration of recommendations by the school principal.

E. Use of Intoxicants or Mood Altering Drugs Used for Purposes Other than those Prescribed by a Physician in a Student Owned/Operated Vehicle

Any student who owns or operates a vehicle for attendance at school or school-related activities must accept responsibility for the behavior of others who use that vehicle on school premises or at any school-related activity.

This responsibility subjects the owner or operator student to the full ramifications of this policy.

F. Administrative **Guidelines** **Rules**

~~The Superintendent will provide for the development of administrative rules relating to this policy to include all relevant definitions.~~

The Superintendent shall prepare guidelines for the identification, amelioration, and regulation of drug use in the schools, including education, prevention and standards of conduct. Education shall be intended to develop awareness of: drug abuse, including prescription drug abuse, and prevention; the relationship between highway safety and the use of alcohol and controlled substances, including prescription drugs; and the relationship between youth suicide and the use of alcohol and controlled substances, including prescription drugs.

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Legal

20 U.S.C. 3224A

20 U.S.C. 3171 et seq.

118.24(2)(f), 118.257, 125.09(2), Wis. Stats.

Drug-Free Schools and Communities Act of 1986,

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Book	Policy Manual
Section	Policies Adopted by the Board 11-14-18
Title	THE SCHOOLS AND GOVERNMENTAL AGENCIES
Number	po5540
Status	First Reading
Adopted	January 11, 2010
Last Revised	December 13, 2017

5540 - **THE SCHOOLS AND GOVERNMENTAL AGENCIES**

The Board ~~of Education~~ is committed to maintaining the educational atmosphere of the schools and restricting access by individuals not part of the school system but also recognizes its responsibility to cooperate with law enforcement agencies and its need for assistance from law enforcement in certain circumstances.

When law enforcement requests permission to interview a student at school, the Superintendent or building administrator shall be contacted prior to any further action by law enforcement. The administrator shall determine whether it is appropriate to provide access to the student based on the officer's purpose, whether the officer has stated that there is an emergency involving imminent threat, or that the officer is in possession of a valid warrant. A warrant shall be deemed valid if executed by a judicial officer and describes the school premises.

If law enforcement is contacted by the administration for assistance, administration shall maintain the lead role in the investigation and shall be present or contact a parent to be present for any interview to the extent reasonable.

When an agency requests permission to remove a student, or does remove a student without prior permission, the building administrator shall notify the Superintendent.

Law enforcement investigations on school premises fall into two (2) primary categories. First, some investigations will occur at the request of school administration due to suspicion of a violation of school policy that may also be criminal. Second, law enforcement investigations may occur without the initiation of school officials and may or may not involve activity on school grounds.

Different procedures are to be followed in each instance as outlined below:

A. By law enforcement personnel, on request of school authorities

1. An administrator may exercise his/her discretion in determining whether to request assistance of law enforcement in investigating a crime, or allegation of a crime, committed in his/her school building or school grounds during school hours. If assistance is so requested, it shall be directed to the local law enforcement agency and the administration shall remain the primary investigator with assistance from law enforcement. When determining whether to contact law enforcement, a school administrator shall consider the mandatory reporting requirements of Section 48.981 in the event the allegations involve suspected child abuse or neglect.
2. If the administrator requests assistance, a law enforcement officer may conduct an investigation within the school building and interview students as witnesses in school during the school day. Administrators shall take steps to assure that students are not removed from classes if at all possible. The administrator shall be present during the interview unless the law enforcement officer, student or his/her parent requests that the school official not be present. The student may request other representation such as legal counsel. If a student requests legal counsel, the administrator will make an effort to contact the parent(s) and the student will be put in custody of the law enforcement agency. The administrator shall attempt to contact the parent(s) of any student prior to questioning by law enforcement. A decision whether to take a student into custody is the decision of the law enforcement.
3. If the investigation focuses on a particular student as a prime suspect of crime, the administrator and the law enforcement officer shall abide by the guidelines with respect to any interrogation, search and arrest. Once law

enforcement is involved in an investigation of possible criminal activity on school grounds, assuring that the constitutionally protected rights are respected during the investigation process is the law enforcement officers' responsibility.

4. School officials shall assist and cooperate in investigations as requested by law enforcement and consistent with District responsibility to maintain the confidentiality of student records under State and Federal law.

B. By law enforcement personnel without request of school authorities

1. Law enforcement officers will make every effort to interview students outside of the school hours and outside of the school setting in those cases where assistance has not been requested by school authorities. This procedure will not apply to circumstances where a serious crime may be involved, or where imminent threats to persons or property may be involved or where law enforcement states that it is not feasible to interview the student outside of school due to the nature of the investigation and that they are not able to provide specific information substantiating the need to immediately interview the student.
2. If law enforcement deem it absolutely necessary to interview a student at school, the law enforcement personnel shall first contact the administrator regarding the planned visit and inform the administrator of the circumstances that require him/her to investigate within the school and obtain his/her approval to interview a student during school hours. The police officer shall not commence his/her investigation until such approval is obtained. The law enforcement personnel may appeal to the Superintendent if it is deemed that approval was unreasonably withheld.

The administrator shall make every effort to maintain the privacy of the student.

3. Accordingly, the administrator shall do the following:
 - a. Request that every attempt be made to schedule questioning during a time the student is not in class.
 - b. Request that the student be pulled out of class by a school administrator, rather than a police officer, if necessary.
 - c. Notify the law enforcement officer that the school official will be attempting to contacting the student's parent(s) or guardian(s) prior to questioning, unless specifically requested not to because such contact would unduly impede the investigation.
4. If law enforcement officer is in possession of a **valid warrant**, school officials shall in no way interfere with the officer's execution of the warrant. A warrant shall be considered "valid" if it accurately describes the school facility and is executed by an authorized judicial official. District officials shall not attempt to evaluate the sufficiency of probable cause upon which the warrant is based.

The Superintendent shall prepare guidelines to promote understanding and cooperation between staff members and students and these agencies.

Revised 12/13/10

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Legal 118.13(35), Wis. Stats.
 118.257, Wis. Stats.

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