



Washington County Consolidated Communications Agency
WCCCA

Family Medical Leave Act (FMLA) and
Oregon Family Leave Act (OFLA)

Employee Information Packet

Please Read This Statement

This packet is a summary of Family and Medical leave policy and procedures. In all cases, applicable state and federal laws, rules, policies and collective bargaining agreements govern the employee's and the agency's rights and obligations; not this document.

FMLA and OFLA are not optional. The law requires the agency to provide these entitlements.

Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used Family and Medical Leave.

Why am I receiving this information packet?

- It was requested by you, or
- HR was notified that you had an absence that may qualify under FMLA and/or OFLA

What happens next?

- Review the information in this packet carefully. This is information only and contains no forms. Forms can be obtained in the Forms Packet which is available from HR, the Intranet or on WCCCA.com.

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503-531-1306

What is family and medical leave?

The Family and Medical Leave Act (FMLA) and the Oregon Family and Medical Leave Act (OFLA) protect an eligible employee's absence from work under certain conditions. Federal and state laws determine if you are eligible and if your absence qualifies as FMLA and/or OFLA and how much leave time you may take.

Am I eligible for FMLA and OFLA leave?

WCCCA uses a "rolling backward year" to determine an employee's FMLA and OFLA leave eligibility. This means the agency looks backward on the calendar for one year from the first day of your requested leave. This method tells the agency if you are eligible for FMLA or OFLA leave and how much of this leave you have available to use.

To be eligible for FMLA or OFLA leave you must meet the following requirements:

Employees Eligible for FMLA	Employees Eligible for OFLA
Employee must have worked for WCCCA for a total of at least 12 months and worked for at least 1250 hours during the 12 months immediately preceding the leave.	For leave for a serious health condition, Sick Child leave or Bereavement leave employee must have worked for WCCCA for a period of 180 calendar days immediately preceding the date the leave begins and worked an average of 25 hours per week.
	For Parental leave employee must have been employed by WCCCA for a period of 180 calendar days immediately preceding the date the leave begins.
	For OFLA Military Family leave employee must have worked an average of 20 hours per week (there is no 180 day requirement).

What are qualifying purposes to take leave under FMLA and OFLA?

Qualifying Purpose under FMLA	Qualifying Purpose under OFLA
To recover from or seek treatment for your own serious health condition that renders you incapacitated. This includes pregnancy related disability and absence for prenatal care.	To recover from or seek treatment for your own serious health condition that renders you incapacitated. This includes pregnancy related disability and absence for prenatal care.
<p>To tend to the serious health condition of your:</p> <ul style="list-style-type: none"> • Spouse: husband or wife or same sex spouse if legally married. • Parent: your biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when you were a child • Child: your biological, adopted, foster or stepchild, a legal ward, or a child of whom you stand in loco parentis. The child must be 18 years of age or younger. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability. 	<p>To tend to the serious health condition of your:</p> <ul style="list-style-type: none"> • Spouse or same sex domestic partner as defined under Oregon state law • Parent: your biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when you were a child, and the parent of your spouse or same-sex domestic partner • Child: your biological, adopted, foster or stepchild, a legal ward, or a child of whom you stand in loco parentis, and the child of your same-sex domestic partner. • Grandparent or grandchild
Parental leave: to care for your newborn, newly adopted child or newly placed foster child	Parental leave: to care for your newborn, newly adopted child or newly placed foster child
Military leave: to care for a covered service-member.	Sick Child leave: to care for a child under 18 years of age who has a non-serious health condition and requires home care. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability.
	Bereavement leave: up to two weeks per family member in a one year time period to be taken within 60 days of notification of the death to deal with the death of a family member by: attending the funeral or alternative to a funeral, making arrangements necessitated by the death, or grieving.
	Military leave: up to 14 days taken by a spouse or same sex domestic partner of a service member who has been called to active duty, notified of impending call to active duty or on leave from active duty during military conflict.

What is considered a serious health condition?

In general, a serious health condition includes an injury, illness, impairment or physical or mental condition that involves either an overnight stay in a medical care facility and/or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

How much FMLA and OFLA leave do I get?

Under both FMLA and OFLA you are entitled to:

Up to 12 weeks of leave during a 12-month period if you meet eligibility and purpose requirements, measured using the rolling backward method. Some reasons for leave qualify under both leaves and some qualify only as one leave type. Leaves qualifying under both FMLA and OFLA are designated at the same time and run concurrently.

OFLA may entitle you to additional leave under the following circumstances:

1. 12 weeks of leave for an illness, injury or condition related to pregnancy or childbirth that disables the female employee
2. 12 weeks of Sick Child leave for those employees who take the full 12 weeks of parental leave.

More than one qualifying condition

You may need FMLA or OFLA leave for more than one qualifying condition or purpose at the same time or in the same leave year. Having more than one qualifying condition does not extend the amount of your leave entitlement.

Military type leave:

Under FMLA, an eligible employee may use up to 12 weeks to address certain qualifying exigencies when a spouse, son, daughter or parent is on active duty or called to active duty. Such qualifying exigencies include attending certain military events, addressing financial and legal arrangements, etc. FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave in a single 12 month period (that includes leave for any other FMLA purpose) to care for a covered injured service member.

Under OFLA, an eligible employee can take up to 14 days of leave if their spouse or same sex domestic partner has been notified of an impending call or order to active duty and before deployment and when the military spouse/same sex domestic partner is on leave from deployment.

Do I have to take all my FMLA/OFLA leave at once?

There are three types of FMLA and OFLA leave schedules:

1. **Continuous leave:** leave taken in a block of time. For example, you take six weeks leave due to a serious health condition.
2. **Intermittent leave:** leave taken sporadically. For example, you miss four days of work a month due to a serious health condition.
3. **Reduced schedule leave:** leave taken where you are scheduled to work less than your normal work hours in a day or week. For example, you normally are scheduled to work 10 hours a day, instead you work six hours and take the remaining four off due to a serious health condition.

What if I don't want to use FMLA and OFLA?

If you are an eligible employee who is absent from work for a reason that qualifies as FMLA or OFLA leave, the agency has no choice but to designate the absence as FMLA, OFLA or both. The amount of paid accruals you have accrued or your desire to "save FMLA and OFLA until later" are not factors. FMLA and OFLA are not benefits; they are an entitlement that must be applied as the need occurs.

How do I request FMLA or OFLA leave?

You must give 30 calendar days' notice for planned absences related to FMLA/OFLA leave. Follow the agency's procedures for submitting a request for leave. If you are unable to request leave in advance due to an emergency or unforeseeable event, let the agency know as soon as possible.

You are not required to specifically state that the leave is for FMLA or OFLA, but you must provide enough information so the agency can determine if the leave may qualify. The agency is allowed to ask for more information if necessary.

Because FMLA and OFLA are not optional, the agency can designate leave as FMLA and OFLA without your agreement.

What happens after I request FMLA or OFLA leave?

Notice of Eligibility – After you make a request for FMLA or OFLA, the agency will generally let you know within five business days if you may be eligible for the leave entitlement and if the agency needs more information, such as a medical certification, to make a final determination. This is typically done via email.

Medical Certification – If you are required to provide a medical certification for your own or your family member's serious health condition, the agency will provide you with the certification form to take to your medical provider. You have 15 days to return a complete and sufficient medical certification form signed by your medical provider to the agency or your leave can be delayed or denied. The agency uses this information to determine if your reason for leave qualifies under FMLA or OFLA. Delayed or denied leave means you do not have job protection under FMLA and OFLA. You may be asked to provide another medical certification under certain circumstances. At times, the agency may have enough information to designate FMLA or OFLA leave without requesting medical certification.

Final Designation – The agency will inform you (typically via email and hard copy) once the agency has enough information to determine whether your absence qualifies as FMLA or OFLA. The agency will tell you how much FMLA and OFLA you have available, requirements to use your paid leave accruals, information about insurance if applicable, your reinstatement rights and if the agency will require you to provide a Fit for Duty medical certification before returning to work if you are absent for your own serious health condition.

Recertification – WCCCA can ask for recertification every six months, or more frequently under certain circumstances.

What if I need to be absent for OFLA Sick Child leave?

OFLA Sick Child leave is part of your 12-week OFLA entitlement. It is used intermittently. Follow normal call in procedures each time you need to be absent for OFLA Sick Child leave to care for your child under 18 years of age (or incapable of self-care due to mental or physical disability) who has a non-serious health condition (i.e. head cold, stomach ache, flu) and requires home care. You need to provide enough information when you call in so the agency can inform you whether you qualify for OFLA Sick Child leave. When you return to work, you must complete the "Sick Child Leave Notification" form and submit it to Human Resources for tracking purposes. This form can be found under Resources on the intranet under FMLA, requested from Human Resources or on WCCCA's website under HR Info. The agency may require you to provide a medical certification after the third time you take OFLA Sick Child leave in a leave year.

Am I paid during FMLA and OFLA?

FMLA and OFLA are unpaid leaves. However, while on FMLA or OFLA, you must use all your accrued paid leave, such as accrued sick and vacation leave, before the remainder of the leave is taken as unpaid time.

Will my insurance continue?

Employees on leave are entitled to continue health benefits on the same terms and conditions as active employees for up to 12 weeks in a leave year. If an employee has exhausted all of their accrued paid leave time and is therefore on unpaid leave time, the employee will be invoiced for their portion of items paid on their behalf (such as medical insurance cost share, AFLAC, Cigna, etc.)

What happens to my job?

Generally, employees returning from leave will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms, unless their former position has been eliminated for a bona fide business reason where the employee may have no reinstatement rights.

Under Oregon law, reinstatement from an OFLA leave is generally to the employee's former position, unless the position has been eliminated, in which case the employee may be entitled to reinstatement to an available, equivalent job.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- for incapacity due to pregnancy, prenatal medical care or child birth;
- to care for the employee's child after birth, or placement for adoption or foster care;
- to care for the employee's spouse, son, daughter or parent, who has a serious health condition; or
- for a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.*

***The FMLA definitions of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service in the previous 12 months*, and if at least 50 employees are employed by the employer within 75 miles.

***Special hours of service eligibility requirements apply to airline flight crew employees.**

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and

a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulation 29 C.F.R. § 825.300(a) may require additional disclosures.



For additional information:
1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627
WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division



WHD Publication 1420 - Revised February 2013



Oregon

Brad Avaklan, Commissioner



FAMILY LEAVE ACT

NOTICE TO EMPLOYERS AND EMPLOYEES

The Oregon Family Leave Act (OFLA) requires employers of 25 or more employees to provide eligible workers with protected leave to care for themselves or family members in cases of death, illness, injury, childbirth, adoption and foster placement.

ORS 659A.150 to 659A.186

When can an Employee take Family Leave?	<p>Employees can take family leave for the following reasons:</p> <ul style="list-style-type: none"> ⇒ Parental Leave during the year following the birth of a child or adoption or foster placement of a child under 18, or a child 18 or older if incapable of self-care because of a mental or physical disability. Parental leave includes leave to effectuate the legal process required for foster placement or adoption. ⇒ Serious health condition leave for the employee's own serious health condition, or to care for a spouse, parent, child, parent-in-law, grandparent, grandchild or same gender domestic partner with a serious health condition. NOTE: Does not include an employee unable to work due to a compensable Workers Compensation injury. ⇒ Pregnancy disability leave (a form of serious health condition leave) taken by a female employee for an incapacity related to pregnancy or childbirth, occurring before or after the birth of the child, or for prenatal care. ⇒ Sick child leave taken to care for an employee's child with an illness or injury that requires home care but is not a serious health condition. ⇒ Bereavement leave to deal with the death of a family member. ⇒ Oregon Military Family Leave is taken by the spouse or same gender domestic partner of a service member who has been called to active duty or notified of an impending call to active duty or is on leave from active duty during a period of military conflict.
Who is Eligible?	<p>To be eligible for leave, workers must be employed for the 180 day calendar period immediately preceding the leave and have worked at least an average of 25 hours per week during the 180-day period.</p> <p>Exception 1: For parental leave, workers are eligible after being employed for 180 calendar days, without regard to the number of hours worked.</p> <p>Exception 2: For Oregon Military Family Leave, workers are eligible if they have worked at least an average of 20 hours per week, without regard to the duration of employment.</p>
How much Leave can an Employee take?	<ul style="list-style-type: none"> ⇒ Employees are generally entitled to a maximum of 12 weeks of family leave within the employer's 12-month leave year. ⇒ A woman using pregnancy disability leave is entitled to 12 additional weeks of leave in the same leave year for any qualifying OFLA purpose. ⇒ A man or woman using a full 12 weeks of parental leave is entitled to take up to 12 additional weeks for the purpose of sick child leave. ⇒ Employees are entitled to 2 weeks of bereavement leave to be taken within 60 days of the notice of the death of a covered family member. ⇒ A spouse or same gender domestic partner of a service member is entitled to a total of 14 days of leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.
What Notice is Required?	<p>Employees may be required to give 30 days notice in advance of leave, unless the leave is taken for an emergency. Employers may require that notice is given in writing. In an emergency, employees must give verbal notice within 24 hours of starting a leave.</p>
Is Family Leave Paid or Unpaid?	<p>Although Family Leave is unpaid, employees are entitled to use any accrued paid vacation, sick or other paid leave.</p>
How is an Employee's job Protected?	<p>Employers must return employees to their former jobs or to equivalent jobs if the former position no longer exists. However, employees on OFLA leave are still subject to nondiscriminatory employment actions such as layoff or discipline that would have been taken without regard to the employee's leave.</p>

FOR ADDITIONAL INFORMATION:

Employer Assistance . . . 971-673-0824	BOLI
Portland 971-673-0761	Civil Rights Division
Eugene 541-686-7623	800 NE Oregon, #1045
Salem 503-378-3292	Portland, OR 97232

www.oregon.gov/BOLI

This is a summary of laws relating to Oregon Family Leave Act. It is not a complete text of the law.

January 2015

Employees who have been denied available leave, disciplined or retaliated against for requesting or taking leave, or have been denied reinstatement to the same or equivalent position when they returned from leave, may file a complaint with BOLI's Civil Rights Division.

THIS INFORMATION MUST BE POSTED IN A CONSPICUOUS LOCATION