



FAMILY AND MILITARY LEAVE SUPPLEMENT

(Effective January 1, 2014)

FAMILY LEAVE

Family leave is available under the Oregon Family Leave Act (OFLA), the Oregon Military Family Leave Act (OMFLA) and federal law Family Medical Leave Act (FMLA). The leave rights under the three laws are similar, but vary in several details. Summaries of the laws requirements are set out hereafter. Provisions that apply to the laws as our policies on the particular topic are set out in Section B. If your leave qualifies under both laws, the time you are on leave will count as leave under both state and federal law.

Although we intend for these sections to accurately describe your leave rights, if any statements below are inconsistent with applicable law, either as it exists now or may be amended in the future, the provisions of the law will govern.

A. Oregon & Federal Family & Military Leave Act - Summary

see Oregon Family Leave Act poster information in Appendix or go to the web
http://www.oregon.gov/boli/TA/pages/t_tabooks.aspx#oregon_family_leave_act_poster

see Family and Medical Leave Act poster information in Appendix or go to the web
<http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>

B. Provisions Applicable to All Family Leave

Notification

You are required to give 30 days' written notice for anticipated leave. If unanticipated events make it impossible to provide advance notice, oral notice must be given within 24 hours of commencement of leave. We may reduce the leave by up to three weeks if an employee fails to give the required notice. If your leave is caused by planned medical treatment, you must make a reasonable effort to schedule the leave in order to avoid unduly disrupting our operations. Please use the Leave Request Form provided by us.

Certification

You will be required to provide certification:

- a. If requesting leave for your own or a covered family member's serious health condition you will be required to provide medical certification to substantiate your leave request. Such certification must be provided to us 30 days in advance of the leave request, or as far in advance of the leave as practicable.
- b. We reserve the right to have you or a covered family member examined by a health care provider of our choice for a second opinion at any time at our discretion. Any such second opinion examination shall be paid by us.
- c. In the event a conflict exists between the medical opinion of your or a covered family member's health care provider and ours in the second opinion examination, a third examination will be required to be performed by a health care provider mutually agreed

upon by you and us, and paid for by us. In such instances, the opinion of the third health care provider shall be final and binding on you and us.

d. We also have the right to ask for a recertification every 30 days or sooner.

Leave is Unpaid

All this leave will be unpaid. You may elect to use your unused sick or vacation time to the extent it has been vested. We may also require the use of such time. We will continue to pay the employer-paid portion of your medical and dental premiums as long as you pay your own portion if you are taking leave under the FMLA, but we may not do so if your leave is solely based on OFLA.

Use of Accrued Leave Time

a. Under FMLA and OFLA we may require you to use all accrued unused sick leave, vested vacation or family leave in the event of a leave for the birth or placement of a child for adoption or foster care. Under the OMFLA you are entitled to determine if you will use accrued paid leave and may dictate the order in which it is used.

b. Under FMLA and OFLA we may require you to use all accrued unused paid time off for leaves for your or a covered family member's serious health condition. Under OMFLA you are entitled to determine if you will use accrued paid leave and may dictate the order in which it is used.

c. With respect to leaves for your own serious health condition, you may also be eligible to receive statutory benefits such as short-term disability or workers' compensation, in accordance with applicable state law and the terms of each respective benefit plan.

d. Time during which you are receiving any such statutory benefits shall also be charged against your 12-workweek entitlement under FMLA but not OFLA.

Reinstatement after Leave

a. If taking leave under this policy you will be reinstated to your former position or to an equivalent position with equivalent benefits and other terms and conditions of employment. However, you are not entitled under this policy to any right, benefit, or position other than that to which you would have been entitled had you not taken leave. Thus, for example, if a layoff, elimination of your job or some other extenuating circumstance or business condition arises that affects your position, reinstatement may not be possible.

b. If you are a key employee, we reserve the right to deny reinstatement where such denial is necessary to prevent substantial and grievous economic injury to our operations.

c. In such above cases you will be notified of our intention in this regard as soon as a determination is made that such injury would occur.

d. In the event such notice is given when you are already on leave, you will be offered the opportunity to terminate your leave and immediately return to work.

e. Key employees notified while on leave who decide not to return to work will remain on leave for the balance of the leave period and then be terminated.

f. Key employees are defined as the highest paid 10 percent of the employees employed by us.

Return to Work Examinations

Before being permitted to return to work from a leave for your own serious health condition, you will be required to provide certification from your health care provider that you are able to return to work and perform all essential functions of the job, with or without reasonable accommodation.

Periodic Notification During Leave

You will be required at least once every month while on leave to contact us to report on your status and intentions with respect to returning to work at the end of your leave period. If you fail, without prior notice and approval, to return to work on the day specified, you will be deemed to have voluntarily terminated your employment.

C. Military and Reservist Leave

Eligibility. You must be an employee working in a non-temporary position.

Basis for Leave. Your leave must be for the purpose of going into military service.

Length of Leave. You may take up to four years for military service, or if the military service is at the request of the government, five years. If you are a reservist, you may take reasonable leave.

Procedure for Obtaining Leave. If you are a reservist, the notice should be in writing and if anticipated, made at least 15 days in advance.

Benefits. There will be no loss of accrued benefits. We will maintain your employer paid benefits only to the end of the month in which the leave begins if you are going into the military. We will maintain your employer paid benefits for health insurance for the period of your reservist duties after your Initial Active Duty Training, but not to exceed two weeks. You may maintain such other benefits at your own expense during the leave period. Your payment must be made in advance at least five working days before the payments are due.

Return Date. You must notify us if you want to return to work within 90 days after you are released from active duty. If you are a reservist, you must notify us within 31 days of your release from Initial Active Duty Training.

D. Provisions that Apply under the OFLA

BEREVEMENT LEAVE

You may take leave for dealing with the death of a family member by:

- Attending the funeral (or alternative) of the family member;
- Making arrangements necessitated by the death of a family member; or
- Grieving the death of a family member.

"Family member" has the same meaning as for other types of OFLA leave.

To be eligible for bereavement leave you must have worked an average of 25 hours per week during the 180 days immediately preceding the date on which the bereavement leave is to begin.

Two Week Leave Entitlement

You are entitled to take a maximum of two weeks of leave per death of a family member, up to a maximum of 12 weeks per leave year. The leave is counted against your OFLA entitlement. We will not require the leave to be taken concurrently for multiple deaths. We will allow you take leave and another employee to take leave for the death of the same family member concurrently. Your leave must be completed within 60 days after the date on which you receive notice of the death of the family member.

Required Notice

You may commence leave without prior notice, but you are required to provide us oral notice within 24 hours of taking leave. Someone else may provide the notice on your behalf. However, you must provide us written notice within three days of returning to work.

APPENDIX

A. Oregon Family Leave Act

B. Family and Medical Leave Act – Federal



Oregon

Brad Avakian, 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?

Employees can take family leave for the following reasons:

- 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?

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.

Exception 1: For parental leave, workers are eligible after being employed for 180 calendar days, without regard to the number of hours worked.

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.

How much Leave can an Employee take?

- 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?

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.

Is Family Leave Paid or Unpaid?

Although Family Leave is unpaid, employees are entitled to use any accrued paid vacation, sick or other paid leave.

How is an Employee's job Protected?

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.

FOR ADDITIONAL INFORMATION:

Employer Assistance . . .971-673-0824
Portland971-673-0761
Eugene541-686-7623
Salem503-378-3292

BOLI
Civil Rights Division
800 NE Oregon, #1045
Portland, OR 97232

www.oregon.gov/BOLI

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

January 2015

THIS INFORMATION MUST BE POSTED IN A CONSPICUOUS LOCATION

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



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