



SUBJECT: Family & Medical Leaves	EFFECTIVE: July 2003 REVIEWED: November 2007, December 2012, January 2014, September 2022 REVISED: November 2023
CATEGORY: 200 (Personnel) POLICY NUMBER: 200.20	CROSS REFERENCE: Sick Leave 200.51 Paid Leave Oregon 200.21

Purpose

To comply with both the Oregon and Federal Family and Medical Leave Acts which entitle eligible employees to job-protected leave for family and medical reasons. The intent of this policy and the law is to allow city employees to balance their work and family life by taking reasonable, paid and/or unpaid leave of absences for the reasons specified in this policy and the applicable laws.

The city's family and medical leave policy combines benefits required by the federal Family and Medical Leave Act (FMLA) and state law (OFLA). Additional leave and/or benefits may be available to employees through the state's paid leave program, Paid Leave Oregon (PLO; see policy 200.21).

Eligibility

Employees must have been employed by the city for at least 180 days for an average of 25 hours of work per week during the previous 180 days. Exception: The hourly prerequisite does not apply to parental leave and the minimum days of employment is reduced to 30 days during a public health emergency pursuant to ORS 433.441.

Eligibility for protected leave varies depending on the employee's length of service and qualifying reasons for leave. Human Resources will determine which leaves employees may access based on the law.

Employees must have worked an average of 20 hours per week for the city for at least 180 calendar days immediately preceding the date the employee takes Oregon Military Family Leave (OMFLA).

Qualifying Reasons for Leave

Parental Leave: Leave to care for a child born to or placed for adoption or foster care with the employee. Under OFLA, an employee who uses 12 weeks of parental leave is entitled to take up to 12 additional weeks of sick child leave.

Employee Leave: To recover from or seek treatment for a serious health condition of the employee when the employee is unable to perform at least one essential function of their regular position. Serious health conditions include on-the-job injuries (FMLA only), pregnancy-related disabilities, and prenatal care. (This type of leave is often referred to as "Serious Health Condition Leave".) Please refer to

“Certification of Health Care Provider” – US Department of Labor Form WH-380 – for the definition of a serious health condition.

Family Member Leave: To care for a family member (spouse, child, parent, and in Oregon, domestic partner, sibling, grandparent, grandchild, parent-in-law, sibling’s spouse or partner, parent or child of an employee’s domestic partner, or any individual related by blood or affinity whose close association is the equivalent of a family relationship) with a serious health condition. (This type of leave is often referred to as “Serious Health Condition Leave.”)

Military Caregiver Leave (FMLA Only): To care for a covered family member (spouse, child, parent, or next of kin) who has incurred an injury or illness in the line of duty while on active duty in the Armed Forces, National Guard, or Reserves provided that the injury or illness may render the family member medically unfit to perform duties of the member’s office, grade, rank, or rating and for a covered veteran undergoing medical treatment, recuperation, or therapy for a serious illness or injury sustained any time up to five years preceding the treatment (FMLA only).

Qualifying Exigency Military Leave (FMLA Only): For any qualifying exigency (short notice deployment, military events, and related activities, childcare and related activities, care of the military member’s parent, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, or any other event that the employee and the city agree is a qualifying exigency) arising out of the fact that the employee’s family member (spouse, child, or parent) is on active duty or has been notified of an impending call or order to active duty in the Armed Forces, National Guard, or Reserves in support of a contingency operation (FMLA only).

Under Oregon law, employees may also request family and medical leave for:

Sick Child Leave: To care for a minor child who suffers from an illness or injury that does not qualify as a serious health condition but that requires home care. If “Sick Child Leave” is requested to care for a child who does not have a serious health condition, the city has the right to deny the employee’s request for leave when another family member is willing and able to care for the child. “Sick Child Leave” does not include care of a grandchild.

Bereavement Leave: To grieve the death of a family member including attending the funeral or alternative to a funeral of the family member, and making arrangements necessitated by the death of the family member as defined under OFLA. This leave runs concurrently with paid bereavement leave outlined in collective bargaining agreements or other city policies.

Oregon Military Family Leave: To spend time with a spouse or domestic partner who is in the military and has been notified of an impending call to order or active duty or who has been deployed during a period of military conflict.

Duration of Leave

- Twelve work weeks (480 hours during a rolling 12-month period computed from the date the employee first uses OFLA/FMLA leave). Leave time is pro-rated for employees working

between 25 and 39 hours per week. Additional leave may be available for employees who access Paid Leave Oregon.

- Taking leave on an intermittent basis or on a reduced work schedule may be permitted by the city if necessary to take care of a seriously ill covered family member or because of the employee's own health condition. In either case, documentation by a medical professional is required. Leave of this nature must be approved in advance by the city and employees must make a reasonable effort to minimize disruption in the work unit. Intermittent leave will be calculated on an hourly basis which computes to 480 hours per year. Leave time is pro-rated for employees working between 25 and 39 hours per week.
- Parental leave must be taken within 12 months after the birth/placement of a child. Leave may be taken non-consecutively, with advance approval from the city based on operational need.
- Under the Oregon Family Leave law (OFLA), employees who take parental leave are also entitled to an additional 12 weeks of family leave to care for a sick child only if the full 12 weeks of parental leave has been exhausted during the parental leave year. Employees who do not use the full 12 weeks of parental leave are only entitled to the balance of their 12-week entitlement for the purposes of sick-child or any other type of OFLA leave.
- Employees who must take leave because of their own pregnancy-related disability which prevents the employee from performing any available job duties as documented by the employee's treating physician or health care provider, may take an additional 12 weeks for other purposes approved under the law.
- Eligible employees who are the spouse, child, parent, or next of kin of a covered service member is entitled to a total of 26 work weeks (1,040 hours) of leave during a 12-month period to care for the injured service member (FMLA only). Leave time is pro-rated for employees working between 25 and 39 hours per week.
- The amount of leave time varies based on the type of qualifying exigency arising out of the fact that the spouse, child, or parent of the employee is on active duty (or has been notified of impending call or order to active duty) in the Armed Forces, National Guard, or Reserves in support of a contingency operation. Contact Human Resources.
- Eligible employees may take up to two weeks per family member of bereavement leave (OFLA only). Leave must be completed within 60 days of the date on which the employee receives notices of the death of a covered family member.
- Eligible employees are entitled to 14 workdays of unpaid leave per deployment after the employee's military spouse or domestic partner has been notified of an impending call or order to active duty and before deployment and when then the military spouse/partner is on leave from deployment.

Notice

When leave is anticipated, written notice must be provided at least 30 calendar days prior to the start of leave. "Anticipated" refers to an employee having knowledge at least 30 calendar days in advance. Failure to comply with providing proper notice may result in delaying the leave until proper notice is received. Delay of leave will be based on a case-by-case basis and is contingent upon the workload needs of the department.

When leave is unexpected, verbal notice must be provided to the supervisor or Human Resources within 24 hours of starting leave plus a written notice must be forwarded to Human Resources within three (3) days after returning to work.

If an employee has been off work for more than three (3) workdays because of a family or medical-related event as defined in "Qualifying Purposes," the city will designate the leave as OFLA/FMLA and request the appropriate documentation from the employee. Employees should contact Human Resources for additional information regarding their OFLA/FMLA rights.

Employees are responsible and must provide sufficient information for the city to determine if the leave may qualify for family medical leave protection and the anticipated timing and duration of the leave. Employees must also inform the city if the request leave is for a reason for which FMLA and/or OFLA leave was previously taken or certified and follow the normal call-in procedure.

Employees must make reasonable efforts to schedule treatment for serious health conditions and/or leave for planned treatment in a manner that does not unduly disrupt business operations.

Rolling 12-Month Leave Period

The leave calculation year for family medical leave is 52 weeks beginning on the Sunday immediately preceding the date family leave commences. Each time the employee uses family leave, the employee's remaining entitlement is the balance of the 12 work weeks which has not been used since the leave started.

Paid and Other Leave to Run Concurrently

Unless accessing the state's paid leave program, employees must use accumulated sick leave during the FMLA/OFLA leave as provided by applicable city policies, bargaining agreements, state laws, and/or federal laws.

After sick leave has been exhausted, employees must use any other applicable, accumulated paid time (i.e., vacation, comp time, management leave, floating holiday, etc.) as provided by applicable city policies, bargaining agreements, state laws, and/or federal laws during their leave of absence before being placed on unpaid leave status.

Sometimes more than one type of leave may apply to a situation. As allowed by federal and/or state law, leaves will run concurrently. This means that workers' compensation leave (FMLA only), leave for a non-industrial injury or illness (including paid leave such as sick leave), leave as a reasonable accommodation for a qualified individual with a disability, paid vacation used for a family leave

qualifying reason, and federal family and medical leave (FMLA) as well as state family and medical leave (OFLA) may all run concurrently and be counted against the employee's annual family and medical leave entitlement. All applicable leave will be governed by city policies, bargaining agreements, state laws, and/or federal laws.

Leave granted under state workers' compensation laws will be treated in accordance with the above laws and will run concurrently with FMLA. It will only run concurrently with OFLA leave if the employee's workers' compensation claim is denied or the employee rejects a light-duty offer.

In the most common circumstances, FMLA leave runs concurrently OFLA leave.

Medical Certification

The city requires a timely, complete, and sufficient written verification from the treating physician or health care provider at least 30 calendar days prior to the start of the leave for an anticipated serious health condition relating to the employee. A completed and signed "Certification of Health Care Provider for Employee's Serious Health Condition" (US Department of Labor Form WH-380-E) or documentation that provides the same information as required on Form WH-380-E will be considered acceptable written verification from the treating physician or health care provider. In cases where the serious health condition is unanticipated, the employee will be required to provide the certification within 15 calendar days of the request for leave. The city may require returning employees to provide a fitness-for-duty certification prior to the employee's return to work.

The city has the right to solicit a second and third opinion, and periodic re-certifications supporting the need for leave. Any out-of-pocket expenses will be at the city's expense. Under Oregon law, employees who use sick child leave on all or any part of three (3) separate workdays in a 12-month leave period may be required to provide medical documentation from the child's doctor to verify that the child was ill and required home care for all subsequent uses of sick child leave in the 12-month period.

When taking leave to care for a seriously ill family member, employees are required to complete and submit the "Certification for Health Care Provider for Family Member's Serious Health Condition" (US Department of Labor Form WH-380-F).

The consequences for failing to provide a timely, complete, and sufficient written verification supporting the need for the absence(s) are that the leave may be delayed or denied and not be protected by family medical leave laws.

Certification of Spousal/Domestic Partner Deployment, Qualifying Exigency, and Military Caregiver Leave

An employee requesting Qualifying Exigency Leave is required to complete a Certification of Qualifying Exigency for Military Leave (Department of Labor form WH-384) including written documentation confirming the military member's call to active duty within 15 calendar days of the request.

The city requires certification from an authorized health care provider of the covered service member to take leave to care for the covered service member within 15 calendar days of the request. Department of Labor WH-385, an “Invitational Travel Order” (ITO), or an “Invitational Travel Authorization” (ITA) is acceptable forms of documentation. Contact Human Resources for information.

Failure to provide a timely, complete, and sufficient certification may result in denial or delay of continuation of leave.

Intermittent/Reduced Schedule Leave When Medically Necessary

In situations where intermittent or reduced schedule leave is available and foreseeable, employees may be temporarily transferred to available alternative positions that better accommodate intermittent or reduced schedule leave. Any such transfer covered by OFLA will be with the employee’s consent.

Reinstatement

Upon return from leave, the city will make every effort to reinstate the employee in their former position. Reinstatement to the same position is not guaranteed.

If reinstatement to the employee’s former position is not possible due to the unanticipated elimination of the position during the time of the employee’s absence, the employee will be reinstated to an equivalent position if one exists. If the employee is covered by a collective bargaining agreement, reinstatement will comply with the terms of the agreement.

The right of reinstatement is also subject to federal and state law regarding disability and workers’ compensation.

Continuation of Benefits

During approved FMLA/OFLA/PLO leave, the city will maintain an employee’s health coverage under the city’s group health plan on the same terms as if the employee had continued to work. The city will recover premiums paid on behalf of the employee who does not return to work for reasons other than a serious health condition of the employee or family member, or other circumstances beyond the control of the employee.

Employees who exhaust their paid leave banks while on approved FMLA/OFLA will have the option of continuing other city-paid and voluntary benefits during their leave and the method in which they chose to pay the applicable premiums. Failure to reimburse the city for any premiums paid on the employee’s behalf during the approved absence will result in retroactive cancellation of the impacted benefit.

Status Report and Call-In

While on family medical leave, employees must provide the city with periodic status reports verbally or in writing to demonstrate intent to return to work. Employees should make arrangements with their supervisor to ensure compliance with this provision.

While taking intermittent family medical leave, employees must follow the normal call-in procedure as defined in their department.

Working for Another Employer

The city's policy prohibits employees on a paid or unpaid leave of absence, including a family medical leave of absence, from working for another employer, without prior written authorization.

Responsibilities

Employees:

- Notify the supervisor and HR when leave may potentially qualify for FMLA/OFLA/PLO.
- Obtain a completed medical certification form from the treating medical provider and return both to HR.
- Follow departmental call-in procedures and record leave as FMLA/OFLA in the payroll system.

Supervisors:

- Notify HR and the employee when an employee may be on a leave that would qualify as FMLA/OFLA/PLO.
- Avoid asking specific questions about the employee's health condition.
- Keep all information related to the employee's health condition confidential.

Human Resources:

- Provide an employee with Notice of FMLA Rights and Responsibilities and appropriate certification forms.
- Review medical certification to determine whether the situation qualifies under FMLA/OFLA/PLO.
- Notify employees nearing the end of protected leave.

Payroll:

- Track protected family medical leave hours used by employees.