



**Washington County Consolidated Communications Agency
WCCCA**

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

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.

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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).
	<p>Changes to the Oregon Family Leave Act (OFLA) effective January 1, 2022: Under amended OFLA, employees who are reemployed after a separation or who have returned to work after a temporary work cessation within 180 days are eligible to take leave.</p> <p>OFLA also expanded eligibility to take leave during public health emergencies which allows an employee of a covered employer to take leave for any qualifying reason during a period of public health emergency if:</p> <ul style="list-style-type: none"> • the employer has employed the worker for at least 30 days immediately before the leave begins, and • the worker worked an average of at least 25 hours per week during the 30 days immediately preceding the leave. <p>This means that under the current public health emergency declared in Oregon, individuals can qualify for OFLA at 30 days. However, this public emergency ends on April 1, 2022. Those who qualified during these last couple months under this relaxed standard, retain their OFLA eligibility, so long as it is for the same reason in which they qualified.</p>

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. This may also apply for school closures during a statewide public health emergency.
	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 deployed or has been notified of an impending deployment to a foreign country. 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.

How is a "week" determined?

The employee's actual workweek is the basis for determining the employee's FMLA/OFLA leave entitlement. The employee's regular workweek is considered a week for FMLA/OFLA purposes. For example, someone who works four days a week and is gone all four days of their normal workweek due to FMLA/OFLA has used

one week of FMLA/OFLA entitlement. As would someone who works five days a week, if they were gone all 5 days of the regular workweek due to FMLA/OFLA.

If an employee's regular workweek includes mandatory overtime, they may be entitled to more than the usual 40 hours of FMLA/OFLA leave per week entitlement (for a full-time employee regularly working 40 hours per week). How much additional time the employee is entitled to depends on the amount of mandatory overtime that employee is scheduled and works in a regular workweek. The amount of time an employee normally works during their regular workweek and how much leave they have used in the past 12 months during the lookback period, determines how much FMLA/OFLA time they are eligible to take. Voluntary overtime is not considered as voluntary overtime is not part of the employee's regular workweek.

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 or you are limited on the hours you are able to work. 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. Another example is if you are unable to work mandatory overtime that would be assigned to you due to a serious health condition.

Can I work part time or take my leave in short increments so I can spend time with my baby?

This request would fall under parental leave under FMLA and OFLA. It is possible, however intermittent parental leave is subject to approval by the agency and is not mandated by FMLA or OFLA. The agency will look at a number of factors such as workload, time of year, staffing, etc. to decide to approve or not. It is possible that your request could be denied or you may be asked to consider taking leave at a time that least impacts operations of your department.

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 OFLA leave, the agency has no choice but to designate the absence as OFLA. Under current federal law that applies to us, eligible employees may choose not to use their FMLA entitlement. Please recognize, however, that the agency will still provide you with the required notifications, and understand that the consequences of not using FMLA for a qualifying reason are that the time off will not be excused. FMLA and OFLA are not benefits; they are an entitlement that must be applied as the need occurs.

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 – sick accruals are used first, then when that is exhausted, comp time is used, then holiday and finally vacation. Any additional leave time taken after all accruals have been exhausted is taken as unpaid time.

Is there any way to NOT count against FMLA/OFLA entitlement?

No. As stated before, FMLA and OFLA are not benefits; they are an entitlement that must be applied as the need occurs. It is helpful to view FMLA/OFLA from two perspectives – 1) protected time off and 2) how that time off is paid.

When on FMLA/OFLA, the time away from work for FMLA/OFLA reasons (e.g. off for an appointment, reduced hours, restricted from working OT, off for 6 weeks due to surgery, etc.) is counted against your FMLA/OFLA 12-week entitlement, unless you choose not to be protected under FMLA.

FMLA/OFLA leave is unpaid, protected leave that allows employees to substitute employer provided paid leave accruals while on FMLA/OFLA (see above question). You access and utilize paid sick, then comp, holiday and finally vacation accruals to be paid during your FMLA/OFLA time off (which would otherwise be unpaid if you did not have accruals). For a dispatcher, a trade may preserve accruals, so it is a way to cover some of your pay and preserve accruals.

Any time that you use for a FMLA/OFLA purpose (including trade time), is still considered protected time off under the FMLA/OFLA and will count toward your 12-week entitlement.

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. Providing a note from your doctor (such as a note that indicates restricted hours or time off needed) is viewed as a request for FMLA/OFLA leave. 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.

If you incurred costs to obtain the medical certification that are not otherwise covered by your health insurance, the agency will reimburse you for those costs. A receipt from the medical provider indicating date of the service can be submitted to Human Resources. A copy of a debit receipt is not sufficient.

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 may be 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.

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 position 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.

What is Oregon Sick Leave?

Oregon Sick Leave is a law that first went into effect back in 2016. It provides 1 hour of paid sick leave for every 30 hours worked (up to 40 hours a year) that can be used when you need to miss work to take care of yourself or a family member who is sick or injured, experiencing mental illness or need to visit a doctor. WCCCA provides significantly more sick leave accruals than the law requires and our sick leave usage policies already provide for the provisions required under the law. If time off qualifies under Oregon sick, FMLA and/or OFLA, the time runs concurrently.

Do I have to provide a note when I miss work for a few days (not FMLA or OFLA related)?

Yes. If you are absent more than 3 consequentially scheduled workdays, you need to provide a doctor's note upon your return. To be considered missing "more than", the agency will look to see if you missed more than 50% of your shift. For example, you are out sick three full scheduled workdays, return to work on the 4th day but subsequently go home sick. If you worked less than 50% of your shift on the 4th day, you would need to provide a doctor's note upon returning to work. If you however, worked more than 50% of your shift on the 4th day, you would not be required to provide a doctors' note to return.