

Federal Family and Medical Leave/State Family Medical Leave

The district will comply with all provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances), the Oregon Military Family Leave Act of 2009, and other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

Coverage

Federal law covers public agencies, including districts. In order for school employees to be eligible, however, they must be employed at a work site with 50 or more employees within 75 miles of the employee's work site for each working day during each of the 20 or more calendar workweeks in the year in which the leave is taken or in the preceding calendar year. State law covers districts that employ 25 or more part-time or full-time employees for each working day during 20 or more calendar workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

Eligibility

Federal law applies to employees who have worked for the district for at least 12 months and for at least 1250 hours during the year preceding the start of the leave. State law generally applies to employees who work an average of 25 hours or more per week for the district during the 180 days or more immediately prior to the first day of the start of the requested leave. Oregon Military Family Leave Act (OMFLA) applies to employees who work an average of at least 20 hours per week. For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

In determining that an employee has been employed for the preceding 180 calendar days, the employer must count the number of days an employee is maintained on the payroll, including all time paid or unpaid. If an employee continues to be employed by a successor in interest to the original employer, the number of days worked are counted as continuous employment by a single employer.

In determining 25 hours average workweek, the employer must count the actual hours worked using guidelines set out pursuant to the Fair Labor Standards Act.

Definitions

“Child,¹” for the purpose of taking parental and sick child leave under federal and state law, means a biological, adopted, foster child or stepchild of the employee or a child with whom the employee is or was in a relationship of “in loco parentis.” A legal or biological relationship is not required. The child must be under 18 years of age, or may be 18 years of age or older if incapable of self-care due to mental or physical disability.

“Contingency operation” is a military operation that:

1. Is designated by the Secretary of Defense as an operation in which members of the Armed Forces are, or may become involved in military actions, operations or hostilities against an enemy of the United States or against an opposing military force; or
2. Results in the call or order to, or retention on, active duty of members of the uniformed services under section 688, 12301(a), 12302, 12304, 12305 or 12406 of Title 10 of the United States Code, chapter 15 of Title 10 of the United States Code, or any other provision of law during a war or during a national emergency declared by the President or Congress.

“Covered active duty” means:

1. In the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and
2. In the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in section 101(a)(13)(B) of Title 10, United States Code.

“Covered servicemember” means:

1. A 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 is undergoing medical treatment, recuperation or therapy for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation or therapy.

“Family member,” for purposes of FMLA and OFLA leave, means a(n):

1. Spouse²;

¹For FMLA, the age of the son or daughter at the onset of a disability is not relevant in determining a parent’s entitlement to FMLA leave.

²“Spouse” means individuals in a marriage including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

2. Child of the employee (biological, adopted, foster or step child, a legal ward, or child of the employee standing in loco parentis);
3. Custodial parent;
4. Noncustodial parent;
5. Biological parent;
6. Adoptive parent;
7. Stepparent or foster parent;
8. Individual who was in loco parentis to the employee when the employee was a child.

Additionally, when defining “family member” under OFLA, this definition includes a:

9. Grandparent;
10. Grandchild; or
11. Parents-in-law or the parents of an employee’s registered domestic partner.

For OFLA purposes of a serious health condition, an employee’s child in any of these categories may be either a minor or an adult child at the time serious health condition leave is taken.

“Next of kin” means the nearest blood relative of the eligible employee.

“Serious health condition,” under federal law means an illness, injury, impairment or physical or mental condition that involves:

1. Any period of incapacity or treatment in connection with or consequent to inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility;
2. Any period of incapacity requiring absence from work, school or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider;
3. Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that if not treated would likely result in a period of incapacity of more than three calendar days; or for prenatal care;
4. Illness, disease or condition is terminal, requires constant care and poses an imminent danger of death; or
5. Disability due to pregnancy, childbirth or prenatal care.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three 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.

An employee is unable to perform the functions of the position when the health care provider finds that the employee is unable to work at all or is unable to perform any of the essential functions of the employee's position within the meaning of the Americans with Disabilities Act of 1990 and Americans with Disabilities Act Amendments Act of 2008 (ADA) federal regulations. The district has the option, in requiring medical verification from a health care provider, to provide a statement of the essential functions of the employee's position for the provider to review.

A "serious health condition," under state law, means an illness, injury, impairment or physical or mental condition of an employee or family member that:

1. Requires inpatient care in a hospital, hospice or residential medical care facility such as a nursing home. When a family member resides in a long-term residential care facility, leave shall apply only to:
 - a. Transition periods spent moving the family member from one home or facility to another, including time to make arrangements for such transitions;
 - b. Transportation or other assistance required for a family member to obtain care from a physician;
 - c. Serious health conditions as described in items 2-8 below.
2. The treating health care provider judges to pose an imminent danger of death or that is terminal in a prognosis with a reasonable possibility of death in the near future;
3. Requires constant or continuing care such as home care administered by a health care professional;
4. Involves a period of incapacity. "Incapacity" is the inability to perform at least one essential job function, to attend school or to perform regular daily activities for more than three consecutive calendar days and any subsequent required treatment or recovery period relating to the same condition. This incapacity must involve:
 - a. Two or more treatments by a health care provider;
 - b. One treatment plus a regimen of continuing care.
5. Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time and may cause episodic rather than a continuing period of incapacity such as asthma, diabetes or epilepsy;
6. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer's disease, a severe stroke or terminal stages of a disease;
7. Involves multiple treatments for restorative surgery or for a condition such as chemotherapy for cancer, physical therapy for arthritis or dialysis for kidney disease that if not treated would likely result in incapacity of more than three days; or

8. Involves any period of disability of a female due to pregnancy or childbirth or period of absence for prenatal care.

“Serious injury or illness,” for the purpose of caring for a covered servicemember, means:

1. In the case of a member of the Armed Forces, including a member of the National Guard or Reserves, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces, or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces, and that may render the member medically unfit to perform the duties of the member’s office, grade, rank or rating; and
2. In the case of a covered veteran, an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty, on active duty in the Armed Forces) and manifested itself before or after the member became a veteran, and is:
 - a. A continuation of a serious injury or illness that was incurred or aggravated when the covered veteran was a member of the Armed Forces and rendered the servicemember unable to perform the duties of the servicemember’s office, grade, rank or rating; or
 - b. A physical or mental condition for which the covered veteran has received a U.S. Department of Veterans Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and such VASRD rating is based, in whole or in part, on the condition precipitating the need for military caregiver leave; or
 - c. A physical or mental condition that substantially impairs the covered veteran’s ability to secure or follow a substantially gainful occupation by reason of a disability or disabilities related to military service, or would do so absent treatment; or
 - d. An injury, including a psychological injury, on the basis of which the covered veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

Purpose of Leave

Federal and state laws allow eligible employees to take FMLA or OFLA leave for the following purposes, commonly referred to as parental leave, serious health condition leave, pregnancy disability leave, injured servicemember leave, military family leave, leave for the death of a family member or sick child leave (sick child leave and death of a family member leave are OFLA only):

1. Birth of the employee’s child and for bonding with a newborn (eligibility expires 12 months after the birth);
2. Placement of a child with the employee for adoption or foster care or for bonding with a newly placed child, when the child is under 18 years of age (eligibility expires 12 months after placement), or when a child is older than 18 years of age if incapable of self-care because of mental or physical disability;
3. Care of a family member with a serious health condition;
4. Employee’s own serious health condition;

5. Eligible employees may take FMLA leave for a qualifying exigency while the employee's spouse, son, daughter or parent is on covered active duty or called to covered active duty status during the deployment of the member with the Armed Forces to a foreign country." (C.F.R. section 825.126(a)(1 and 2); Federal Register Vol. 78, No. 25, Page 8917);
6. Injured Service Member Leave allows an employee leave to care for a covered servicemember who is the employee's spouse, son, daughter, parent or next of kin who has been injured in the line of duty as a member of the Armed Forces;
7. State law allows employees to take leave for the care of a sick or injured child who requires home care but is not suffering from a serious health condition. The district is not required to grant leave for routine medical or dental appointments;
8. State law allows employees to take leave for the death of a family member³ to attend the funeral or alternative to a funeral of the family member, make arrangements necessitated by the death of the family member or grieve the death of the family member;
9. Military Family Leave allows leave for a spouse of a military personnel per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty or has been deployed or on leave from deployment (OFLA).

Length of Leave

An employee eligible for FMLA leave under federal law is entitled to a total of 12 work weeks of leave during any 12-month period for the purposes specified above. A husband and wife who are eligible and who both work for the district may only take a combined total of 12 workweeks of leave if the leave is taken to care for a parent with a serious health condition or if the leave is for the birth of a child or the placement of a child for adoption or foster care.

There will be occasions where a husband and wife employed by the same district will not have to share the 12-week allotment of leave. This situation arises where an employee is eligible for both FMLA and OFLA or just OFLA leave and the employee is taking leave to care for a newborn with a serious health condition.

An employee eligible for Military Caregiver Leave is entitled to a total of 26 work weeks of leave to care for a covered servicemember during a single 12-month period. The 12-month period begins when the Military Caregiver Leave begins.

An employee eligible for OFLA leave under state law is entitled to a total of 12 workweeks of leave during any 12-month period for the purposes specified above. The 14 days of leave provided by the OMFLA and the two weeks of leave provided for the death of a family member are part of the 12 weeks. Two or more family members who are eligible and who both work for the district may not take OFLA leave at the same time unless:

1. One employee needs to care for another employee who is a family member and who is suffering from a serious health condition;

³Must be completed within 60 days of the date on which the eligible employee receives notice of the death of the family member.

2. One employee needs to care for a child suffering from a serious health condition while another employee, who is a family member, is also suffering from a serious health condition; or
3. Both family members are suffering from a serious health condition; or
4. The employees are taking leave for the death of a family member; or
5. The concurrent leave in such an instance is permitted by the district.

In addition to the 12 workweeks of family leave authorized above, under state law a female eligible employee may take an additional 12 workweeks of leave within any one-year period for an illness, injury or condition related to pregnancy or childbirth that disables the employee from performing her work duties. An employee who takes 12 workweeks of OFLA leave for parental leave may also take up to an additional 12 workweeks of sick child leave within the same leave year. If the employee uses less than 12 weeks of parental leave, however, no additional sick child leave is available, except for the balance of the initial 12 weeks. The employee may also use this balance for any OFLA leave purpose.

A female employee may take up to 36 weeks of OFLA leave in one leave year, but only under the following circumstances:

1. The female employee takes 12 weeks of pregnancy disability leave; followed by
2. Twelve weeks of parental leave; followed by
3. Twelve weeks of sick child leave.

A male employee may take up to 24 weeks of OFLA leave in one year, but only under the following circumstances:

1. The male employee takes 12 weeks of parental leave; followed by
2. Twelve weeks of sick child leave.

Parental leave must be taken in one uninterrupted period – unless the employer approves otherwise – and must be completed within 12 months of the birth, adoption or placement of the child. An exception must be made to allow parental leave to effectuate adoption or foster placement of the child. Such leave need not be taken in one, uninterrupted period with any additional parental leave.

The birth, adoption or foster placement of multiple children at one time entitles the employee to take only one 12-week period of parental leave.

Sick child leave need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

For the purpose of intermittent leave, leave entitlement is calculated for an employee by multiplying the number of hours the employee normally works per week by 12. (For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.) If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek. (For example, an employee working an average of 25 hours per week is entitled to 12

times 25 hours, or a total of 300 hours of leave.) If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

An employee, who has previously qualified for and taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. The employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy-disability leave need not requalify for 12 weeks in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave does not need to requalify to take an additional 12-weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

For situations where time off is covered by OFLA, but not covered by FMLA leave (e.g., the employer has 25 to 49 employees; or the leave taken is for a sick child or for serious health condition of a parents-in-law or the parents of the employee's registered domestic partner, grandparent or grandchild) the employer:

1. May allow an exempt employee with accrued paid leave to take OFLA leave in blocks of less than a full day. For these purposes, an exempt employee is a salaried executive, administrative or professional employee under the federal Fair Labor Standards Act or the state minimum wage and overtime laws;
2. May not reduce the salary of an employee who does not have or has run out of accrued paid leave and takes intermittent leave in blocks of less than a full day. To do so would result in the loss of exemption under state law.

The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

An employee, who has previously qualified for and taken some portion of FMLA leave, may request additional FMLA leave within the same leave year. The employee need not requalify as an eligible employee if the additional leave applied for is in the same leave year and for the same condition.

Intermittent Leave and Alternate Duty

An employer may transfer an employee on a foreseeable intermittent FMLA/OFLA leave or reduced work schedule into an alternate position with the same or different duties to accommodate the leave, provided the following exist:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary to accommodate the leave and has equivalent pay and benefits;

3. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825;
4. Transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
5. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

An employee transferred, as provided in 1.-5. above, to an alternate position for the purpose of a reduced work schedule, must be returned to the employee's former position.

FMLA/OFLA leave time for an employee on intermittent leave or a reduced work schedule is the difference between the number of hours the employee normally works and the number of hours the employee actually works during the intermittent leave or reduced work schedule. Holidays or days in which the district is not in operation are not counted toward intermittent or reduced work schedule FMLA/OFLA leave unless the employee was scheduled and expected to work on the holiday.

The district may transfer an employee recovering from a serious health condition to an alternate position that accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with applicable collective bargaining agreements, as well as with state and federal law, providing all the employee protections found in FMLA regulations 29 C.F.R. Part 825; and
4. The transfer is not used to discourage the employee from taking FMLA/OFLA leave for a serious health condition or to create a hardship for the employee.

An employee is not on FMLA/OFLA leave if the employee has been transferred, as provided in section 1.-3. above, to an alternate position for the purpose of alternate work duties that the employee is able to perform within the limitations of the employee's own serious health condition, but not requiring a reduced workweek. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA/OFLA leave taken in that leave year plus the period of time worked in the alternate position exceed 12 weeks.

An alternate position accommodating an employee's serious health condition may result in the employee working fewer hours than the employee worked in the original position. The employee's FMLA/OFLA leave is the difference between the number of hours the employee worked in the original position and the number of hours the employee actually works in the alternate position.

Intermittent leave for school teachers is subject to special rules.

The district recognizes that state law will not always reduce the employee's FMLA 12 workweek entitlement (i.e., leave to care for a parent-in-law or sick child leave).

Special Rules for Teachers

Special rules apply if leave is requested to be taken near the end of a semester.

1. Under OFLA leave, if a teacher:
 - a. Requests, in advance, leave for a serious health condition; and
 - b. The teacher will be absent more than 20 percent of the total number of working days during the period over which the leave would be taken; then
 - c. The employer may require the teacher to elect one of the following options:
 - (1) To take family leave for one uninterrupted period of time as necessary to complete medical treatment. (School holidays and school vacation days are not counted as family leave.);
 - (2) To transfer temporarily into an available alternative position which better accommodates periodic absences or recurring periods of leave.
2. Under FMLA leave, if a teacher begins leave more than five weeks before the end of the academic term because of the teacher's own serious health condition, the employer may require the teacher to remain on leave until the end of the term if:
 - a. The family leave is at least three weeks long; and
 - b. The teacher's return to work would occur within three weeks of the end of the term.
3. If a teacher begins FMLA or OFLA leave within five weeks of the end of the academic term because of parental leave, the serious health condition of a family member or to care for a covered servicemember, the employer may require the teacher to remain on family leave through the end of the term if:
 - a. The leave is more than two weeks long; and
 - b. The teacher's return would occur within the last two weeks of the term.
4. If a teacher begins FMLA or OFLA leave within three weeks of the end of the academic term because of parental leave, to care for a family member with a serious health condition or to care for a covered servicemember and the leave is greater than five working days, the employer may require the teacher to remain on family leave until the end of the term.
5. If a teacher takes FMLA/OFLA leave to the end of the school year and continues the leave at the beginning of the next school term, the leave is consecutive rather than intermittent leave.
 - a. The period between the end of the school term and the beginning of the next school term, when a teacher would not have been required to report for duty, is not counted against the teacher's FMLA or OFLA leave entitlements.
 - b. A teacher on FMLA/OFLA leave at the end of the school term must be provided with the same benefits during the period between school terms that the teacher would normally receive if no FMLA/OFLA leave were taken.
6. If a teacher is required by the employer to remain on leave to the end of the academic term, only the period of leave the teacher requested shall be charged against the teacher's FMLA/OFLA leave entitlement.

7. Nothing in FMLA/OFLA rules prohibits the employer from allowing the teacher to work as a substitute or in some other paid capacity during the weeks prior to the end of term under 3. or 4. above.
8. Full-time employees covered by OFLA rules, and who have been maintained on the payroll by a district during 180 consecutive calendar days, are thereafter deemed to have been employed by that district for an average of at least 25 hours per week during the 180 days immediately preceding the date any OFLA leave begins.

Calculating the 12-Month Period for Leave

The district will use the same method for calculating the 12-month period in which the 12 workweek FMLA and OFLA leave entitlement occurs for all employees. The district will use a fixed 12-month “leave year”.

Leaves to care for covered servicemembers has its own 12-month year beginning on the first day of leave regardless of the district’s method of calculating the 12-month period for leave.

Paid/Unpaid Leave

Family leave under federal and state law is generally unpaid. The district requires the employee to use any accrued sick leave, vacation or personal leave days (or other paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking FMLA and/or OFLA leave without pay for the leave period.

The district will notify the employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district shall notify the employee of the intent to designate the leave as such regardless of whether a request has been made by the employee. Such notification will be given to the employee prior to the commencement of the leave or within two working days of the employee’s notice of an unanticipated or emergency leave.

When the district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Continuation of Health Insurance Benefits

Under federal and state law, group health insurance benefits and premium payments must be continued on the same basis as coverage would have been provided and premiums paid if the employee had been continuously employed during the leave period. The district will continue to pay the district’s contribution toward the employee’s premiums. The employee will continue to pay the employee’s share of premiums, if any. A 30-day grace period will be allowed for receipt of employee contributions. The district’s obligation to maintain the employee’s benefits will cease if the employee’s contribution is more than 30 days late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

In the event the district is required to pay or elects to pay any part of the costs of providing health, disability, life or other insurance coverage for an employee during the period of FMLA or OFLA leave that should have been paid by the employee, the district may deduct, on the employee's return to work, such amounts from the employee's pay as have been advanced.

In no event may the total deducted exceed 10 percent of the employee's gross pay each pay period.

Return to Work

After leave, granted under federal and state law, an employee is generally entitled to be returned to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment unless otherwise excepted by law.

Fitness-for-Duty Certification

If the leave was required for the employee's own serious health condition, including intermittent leave, the district may require the employee to obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA leave. The district is responsible for any co-pay or other out-of-pocket costs incurred by the employee in providing certification. Failure to provide the fitness-for-duty certification may result in a delay or denial of reinstatement.

Application

Under federal and state law, an employee requesting FMLA and/or OFLA leave shall provide at least 30 days notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. The employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

When an employee is able to give advance notice and requests leave, an employer may request additional information to determine that the leave qualifies for designation as FMLA/OFLA leave. The employer may designate the employee as provisionally on FMLA/OFLA leave until sufficient information is received to make a determination. An employee able to give advance notice of the need to take FMLA/OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

If advance notice is not possible, for example due to a change in circumstances or a medical emergency, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," under federal law means the employee generally must comply with the employer's normal call-in procedures.

An employee eligible for OFLA leave is required, under state law, to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time.

In either case, proper documentation must be submitted no later than three working days following the employee's return to work.

Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee's leave for up to 30 days after the notice is ultimately given.

Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

Medical Certification

When an employee provides 30 or more days notice when applying for FMLA and/or OFLA leave, other than for parental leave, the employer shall require the employee to provide medical documentation when appropriate to support the request for leave. The district will provide written notification to employees of this requirement within five working days of employee's request for leave. If the employee provides less than 30 days notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

The district may request re-certification of a condition when the minimum duration of a certification expires if the employee still needs leave. If the certification does not indicate a duration or indicates that it is ongoing, the district may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the district.

Under state law, if an employee requests OFLA leave because of a serious health condition, the district may require a second opinion and designate the health care provider. The provider may not be employed by the district. Should the two opinions conflict, the district may require a third opinion and that the two providers designate the third health care provider. The third opinion will be final. Second and third opinions and the actual travel expenses for the employee to obtain such opinions will be paid for by the district.

An employer may not delay the taking of an OFLA leave in the event that medical certification is not received prior to the commencement of a leave taken subject to the timelines set forth in this regulation. The employer may designate the leave as provisionally approved subject to medical certification. The employer shall provide the employee with written notice of any requirement to provide medical certification of the need for leave and the consequences for failure to do so. The employee must be allowed a minimum of 15 days to provide medical certification.

If the employee elects or the district requires substitution of accrued sick leave, vacation or other paid leave for unpaid leave pursuant to a collective bargaining agreement or other Board policy, the district will follow the medical documentation requirements of the applicable leave policy or contract provision whenever such requirements are more beneficial to the employee.

If an employee has taken sick child leave on all or any part of three separate days during a leave year, the employer may require medical certification on the fourth day or subsequent occurrence of sick child leave within that leave year. The employer must pay the cost of the medical certification not covered by insurance or other benefit plan. The opinion of the health care provider shall be binding. The employer may not require the employee to obtain a second opinion. The employer is not required to request medical certification for sick child leave exceeding three days and may make such requests at the employer's discretion.

Notification

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the superintendent/personnel director.

Record Keeping/Posted Notice

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of Federal Family and Medical Leave Act and Oregon Family Leave Act requirements.

Federal vs. State Law

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law and that state and federal leave entitlements run concurrently. State law requires that federal and state leave run concurrently when possible. For example, due to differences in regulations, an employee who takes leave after 180 days of employment but before one year, is still eligible to take a full 12 workweeks of federal leave after meeting the one-year work requirement. After the first work year, leave will run concurrently.

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 or 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 with a spouse, son, daughter, or parent 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 definition 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 over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

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 three 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. Regulations 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

Request for Family and Medical Leave

Employee Request for Family and Medical Leave (FMLA)
and/or Oregon Family Leave (OFLA)

PLEASE PRINT

Where the need for the leave may be anticipated, written request for family and medical leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin. Failure to request leave in a timely manner could result in either the leave being postponed or the amount of leave available reduced up to three weeks.

Name _____ Effective Date of the Leave _____

Department _____ Title _____

Status: Full-time Part-time Temporary

Hire Date _____ Length of Service _____

Have you taken a family leave in the past 12 months? Yes No

If yes, how many work days? _____ Reason for leave _____

I request family or medical leave for one or more of the following reasons:⁴

1. Because of the birth of my child and in order to care for him or her. (District: Use GCBDA/GDBDA-AR(3)(A) Certification Form)
Expected date of birth _____ Actual date of birth _____
Leave to start _____ Expected return date _____
2. Because of the placement of a child with me for adoption or foster care. (District: Use GCBDA/GDBDA-AR(3)(A) Certification Form)
Age of child _____ Date of placement _____
Leave to start _____ Expected return date _____
3. In order to care for a family member⁵ with a serious health condition. (District: Use GCBDA/GDBDA-AR(3)(B) Certification Form)
Leave to start _____ Expected return date _____

Please check one: Spouse⁶ Child⁷ Parent Individual who was in *loco parentis* when the employee was a child Parent-in-law or the parent of the employee's registered domestic partner (OFLA leave only) Custodial parent Noncustodial parent Adoptive parent Stepparent Foster parent Grandparent (OFLA leave only) Grandchild (OFLA leave only).

⁴A physician's certification may be required to support a request for family and medical leave. In addition, a fitness-for-duty certification may be required before reinstatement following the leave.

⁵"Family member," for purposes of FMLA and OFLA leave, means the spouse, custodial parent, noncustodial parent, adoptive parent, stepparent or foster parent, biological parent, child of the employee (biological, adopted, foster or step child, a legal ward or child of the employee standing in loco parentis) or a person with whom the employee is or was in a relationship of "in loco parentis." Additionally, when defining "family member" under OFLA (but not FMLA leave), the definition includes a grandparent, grandchild, parents-in-law or the parents of the employee's registered domestic partner.

⁶"Spouse" means individuals in a marriage including "common law" marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

⁷For FMLA, the age of the son or daughter at the onset of disability is not relevant in determining a parent's entitlement to FMLA leave.

Please state name and address of relation:

Name _____ Address _____

Does the condition render the family member unable to perform daily activities?

- 4. For a serious health condition which prevents me from performing my job functions. (District: Use GCBDA/GDBDA-AR(3)(A) Certification Form)

Describe _____

Leave to start _____ Expected return date _____

Regarding 3 or 4 above, request intermittent (reduced workday hours) or reduced leave (fewer workdays each workweek) schedule or alternate duty (if applicable, subject to employer's approval). Please describe schedule of when you anticipate you will be unavailable to work:

- 5. In order to care for a child with a condition requiring home care which does not meet the definition of serious health condition and is not life threatening or terminal (OFLA leave only).
- 6. A qualifying exigency arising from an employee's spouse, son, daughter, or parent who is a covered servicemember as defined in GCBDA/GDBDA-AR(1), or leave for the spouse per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment. (District: Use GCBDA/GDBDA-AR(3)(C) Certification Form)
- 7. To care for a spouse, son, daughter, parent, or next of kin⁸ who is a covered servicemember with a serious illness or injury incurred in the line of duty or active duty in the armed forces. Has leave been taken for the same servicemember and the same injury? Yes No (District: Use GCBDA/GDBDA-AR(3)(D) Certification Form) If yes, when was the leave taken and for how many work days? _____
- 8. For the death of a family member (OFLA only).

I understand that the district requires me to use any accrued sick leave, vacation, personal leave days or other paid time established by Board policy(ies) and/or collective bargaining agreement in the order specified by the district, and before taking leave without pay, for the family and medical leave period.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the district may terminate my employment. (A fitness-for-duty statement may be required.)

I authorize the district to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state and/or federal law.

I have been provided a copy of the district's family and medical leave policy and a copy of my rights and responsibilities under the Family Medical Leave Act leave request form.

Signature of Employee: _____ Date: _____
--

Certification of Health Care Provider

Employee's Serious Health Condition

⁸“Next of kin” means the nearest blood relative of the eligible employee.

To be completed by health care provider:

Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Providers’s name and business address: _____

Type of practice/Medical specialty: _____

Telephone: (_____) _____ Fax:(_____) _____

Medical Facts

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?

Yes No If yes, dates of admission: _____

Dates(s) you treated the patient for condition _____

Was medication, other than over-the-counter medication, prescribed? Yes No

Will the patient need to have treatment visits at least twice per year due to the condition?

Yes No

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g. physical therapist)?

Yes No

If yes, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No

If yes, expected delivery date: _____

3. Use the information provided by the district in the “To be completed by the district” section to answer this question. If the district fails to provide a list of the employee’s essential functions or a job description, answer these questions based upon the employee’s own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition?

Yes No If yes, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of leave needed

1. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for the period of incapacity: _____

2. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? Yes No

If yes, are the treatments or the reduced number of hours of work medically necessary?

Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

3. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? Yes No

Is it medically necessary for the employee to be absent from work during the flare-ups?

Yes No If yes, explain: _____

Based upon the employee's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the employee may have over the next six months (e.g.; one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Additional Information – Identify the question number with your additional answer:

Signature of health care provider

Date

Certification of Health Care Provider

Family Member's Serious Health Condition

To be completed by the district:

The Family Medical Leave Act (FMLA) provides that a district may require an employee seeking FMLA leave protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Employees may not be asked to provide more information than allowed under the FMLA regulations. The district will maintain records and documents relating to medical certification, recertifications or medical histories of employee's family members, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Contact person: _____

To be completed by the employee:

Complete the information below before giving this form to your family member or his/her medical provider. The return of this form is required to obtain or retain the benefit for FMLA protections. Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request.

Return this completed form on _____ (must be at least 15 days after employee is notified of this requirement).

Employees name: _____
First Middle Last

Relationship and name of family member for whom employee will provide care: _____
Relationship

First Middle Last

If family member is your son or daughter, date of birth _____

Describe the care you will provide to your family member and estimate leave needed to provide care:

Employee signature

Date

To be completed by health care provider:

The employee listed above has requested leave under the FMLA to care for your patient. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Providers's name and business address: _____

Type of practice/medical specialty: _____

Telephone: (_____) _____ Fax:(_____) _____

Medical Facts

1. Approximate date condition commenced: _____

Probable duration of condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?
 Yes No If yes, dates of admission: _____

Dates(s) you treated the patient for condition _____

Was medication, other than over-the-counter medication, prescribed? Yes No

Will the patient need to have treatment visits at least twice per year due to the condition?
 Yes No

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
 Yes No

If yes, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? Yes No

If yes, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of leave needed

When answering these questions, keep in mind that your patient's need for care by the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs or the provision of physical or psychological care:

1. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? Yes No

Explain the care needed by the patient and why such care is medically necessary:

2. Will the patient require follow-up treatments, including any time for recovery? Yes No

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: _____

Explain the care needed by the patient, and why such care is medically necessary: _____

3. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery?
 Yes No

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary: _____

4. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? Yes No

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next six months (e.g. one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups? Yes No

Explain the care needed by the patient, and why such care is medically necessary _____

Additional Information – Identify the question number with your additional answer:

Signature of health care provider

Date

Military Family Leave

Certification of Qualifying Exigency for Military Family Leave

Section 1: To be completed by the district:

The Family Medical Leave Act (FMLA) and the Oregon Military Family Leave Act (OMFLA) provide that a district may require an employee seeking FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment to submit a certification. Employees may not be asked to provide more information than allowed under the FMLA or OMFLA regulations.

District: _____

Superintendent or designee information: _____

Section 2: To be completed by the employee:

Complete the information below fully and completely. The FMLA or OMFLA permits the district to require that you submit a timely, complete and sufficient certification to support a request for FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as "lifetime," "unknown" or "indeterminate" may not be sufficient to determine FMLA or OMFLA coverage. Your response is required to obtain a benefit. While you are not required to provide this information, failure to do so may result in a denial of your request for qualifying leave. The district must give you at least 15 calendar days to return this form to the district.

Employee's name: _____
First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following:

- A copy of the covered military member's active duty orders is attached.
- Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty) in support of a contingency operation is attached.
- I have previously provided the district with sufficient written documentation confirming the covered military member's active duty or call to active duty status in support of a contingency operation.

Part A: Qualifying reason for leave

1. Describe the reason you are requesting qualifying leave due to a qualifying exigency (including the specific reason you are requesting leave):

2. Describe the reason you are requesting OMFLA (include specific reason below):

3. A complete and sufficient certification to support a request for qualifying leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for information briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs. Available written documentation supporting this request for leave is attached. Yes No None available

Part B: Amount of leave needed

1. Approximate date exigency/deployment commenced or will commence _____

Probable duration of exigency _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency/deployment? Yes No

If yes, estimate the beginning and ending dates for the period of absence _____

3. Will you need to be absent from work periodically to address this qualifying exigency/deployment?
 Yes No

If yes, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

4. Estimate the frequency and duration of each appointment, meeting or leave event, including any travel time (i.e., One deployment-related meeting every month lasting four hours) (FMLA only):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per event

Part C: Third party certification

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member’s representative before a federal, state or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address and appropriate contact information of the individual or entity with whom you are meeting (i.e., either the telephone or fax number or email address of the individual or entity). This information may be used by the district to verify that the information contained on this form is accurate (FMLA only).

Name of individual _____ Title _____

Organization _____

Address _____

Telephone (____) _____ Fax (____) _____

Email _____

Describe nature of meeting _____

Part D: Employee Signature

I certify that the information I provided above is true and correct. For OMFLA purposes notice must be given by the employee within five business days of receiving official notice.

Signature of employee

Date

Military Family Leave

Certification for Serious Injury or Illness of Covered Servicemember for Military Family Leave

Notice and instructions to the district:

The Family Medical Leave Act (FMLA) provides that a district may require an employee seeking FMLA leave due to a serious injury or illness of a covered servicemember to submit a certification providing sufficient facts to support the request for leave. Employees may not be asked to provide more information than allowed under the FMLA regulations. The district will maintain records and documents relating to medical certification, recertifications or medical histories of employees or employees' family member, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies.

Section 1

Part A: Employee information

Complete the employee and covered servicemember information below before giving this form to your family member or his/her medical provider.

District name and address

Name of employee requesting leave to care for covered servicemember:

First

Middle

Last

Name of covered servicemember for whom employee is requesting leave to care:

First

Middle

Last

Relationship of employee to covered servicemember requesting leave to care:

Spouse Parent Son Daughter Next of kin

Part B: Covered servicemember information

1. Is the covered servicemember a current member of the regular armed forces, the National Guard or Reserves, or a veteran? Yes No

If a current servicemember, please provide the covered servicemember's military branch, rank and unit currently assigned to:

If a veteran, when was the date of discharge? _____

Is the covered servicemember assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as medical hold or warrior transition unit)? Yes No

If yes, provide the name of the medical facility or unit:

2. Is the covered servicemember on the Temporary Disability Retired List (TDRL)? Yes No

Part C: Care to be provided to the covered servicemember

Describe the care to be provided to the covered servicemember and an estimate of the leave needed to provide the care:

Section 2:

To be completed by a health care provider as defined by FMLA regulations.

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). Please ensure that Section 1 above has been completed before completing this section. Please be sure to sign the form on the last page.

Part A: Health care provider information

Health care provider’s name and business address:

Type of practice/Medical specialty: _____

Telephone (_____) _____ Fax (_____) _____ Email _____

Part B: Medical status

1. Covered servicemember’s medical condition is classified as (check one of the appropriate boxes):
 - (VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at the bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD health care providers.)
 - (SI) Seriously Ill/Injured – Illness/Injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
 - Other Ill/Injured – A serious injury or illness that may render the servicemember medically unfit to perform the duties of the member’s office, grade, rank or rating.
 - None of the above. (Note to employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition.” If such leave is requested, you may be required to complete the form *Certification of Health Care Provider for Family Member’s Serious Health Condition.*)
2. Was the condition for which the covered servicemember is being treated incurred in the line of duty on active duty in the armed force? Yes No

If no, did the condition exist before the beginning of active duty and aggravated by service in the line of duty while on active duty? Yes No
3. Appropriate date condition commenced: _____
4. Probable duration of condition and/or need for care: _____

5. Is the covered servicemember undergoing medical treatment, recuperation or therapy? Yes No
If yes, please describe medical treatment, recuperation or therapy:

Part C: Covered servicemember's need for care by family member

1. Will the covered servicemember need care for a single continuous period of time, including any time for treatment and recovery? Yes No

If yes, estimate the beginning and ending dates for this period of time: _____

2. Will the covered servicemember require periodic follow-up treatment appointments? Yes No

If yes, estimate the treatment schedule: _____

3. Is there a medical necessity for the servicemember to have periodic care for these follow-up treatment appointment?
 Yes No

4. Is there a medical necessity for the covered servicemember to have periodic care for other than scheduled follow-up treatment appointments (e.g. episodic flare-ups of medical conditions)? Yes No
If yes, estimate the frequency and duration of the periodic care.

Signature of health care provider

Date

Sample Designation Letter to Employee - FMLA/OFLA Leave

The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for FMLA and/or OFLA leave (either paid or unpaid) that will reduce the employee's FMLA and/or OFLA leave entitlement. This letter, along with the Designation Notice form [GCBDA/GDBDA-AR(6), FMLA/OFLA or GCBDA/GDBDA-AR(4), OFLA only eligible], should be mailed to the employee within five working days after receiving enough information to determine whether the leave qualifies under FMLA or OFLA.

Dear Employee:

On _____ (date) you advised the district that you were requesting a leave under the Family and Medical Leave Act (FMLA) and/or Oregon Family Leave Act (OFLA). Under our policy, leaves of absence that qualify for family and medical leave under federal law (FMLA) run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave, OFLA and leave for a workers' compensation injury or illness. Leaves of absence that qualify for family and medical leave under state law (OFLA) can run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave but cannot run concurrently with leave for workers' compensatory injury or illness.

We understand the purpose of your requested leave qualifies as family medical leave under state and/or federal law. Accordingly, this letter is to notify you that the leave will be counted against your annual family and medical leave entitlement. Also attached is a form entitled Designation Notice which contains other information for you regarding federal and state family medical leave rights.

Sincerely,

Superintendent or Designee

Enclosure (FMLA and/or OFLA Designation Notice form)

FMLA/OFLA Eligibility Notice to Employee

DATE: _____

TO: _____
(Employee's name)

FROM: _____
(Name of appropriate employer representative)

SUBJECT: Request for FMLA and/or OFLA Leave

On _____ (date) you notified us of your need to take family/medical leave due to:

1. _____ The birth of your child, or the placement of a child with you for adoption or foster care;
2. _____ A serious health condition that makes you unable to perform the essential functions of your job;
3. _____ A serious health condition of your spouse⁹, child¹⁰ (including the biological, grandchild, adopted or foster child or stepchild of an employee or a child with whom the employee is or was in a relationship of "in loco parentis"), parent (biological parent of an employee or an individual who stood "in loco parentis" to an employee when the employee was a child), grandparent (OFLA leave only), parent-in-law or the parent of an employee's registered domestic partner (OFLA leave only), custodial parent, noncustodial parent, adoptive parent, foster parent for which you are needed to provide care;
4. _____ An illness or injury to your child which requires home care but is not a serious health condition (OFLA leave only);
5. _____ A qualifying exigency arising from a spouse, son, daughter or parent in the Armed Forces on covered active duty, or in the National Guard or Reserves on covered active duty;
6. _____ Your spouse has been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment;
7. _____ A serious illness or injury, incurred in the line of duty, of a covered service member who is your spouse, son, daughter, parent or next of kin;
8. _____ For the death of a family member (OFLA only).

⁹"Spouse" means individuals in a marriage including "common law" marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

¹⁰For FMLA, the age of the son or daughter at the onset of the disability is not relevant in determining a parent's entitlement to FMLA leave.

You notified us that you need this leave beginning on ____ (date) ____ and that you expect leave to continue until on or about ____ (date) ____ . The FMLA requires that you notify the district as soon as possible if dates of scheduled leave changes or are extended, or were initially unknown.

Except as explained below, you have a right under the FMLA and/or OFLA for up to 12 workweeks of unpaid leave in a 12-month period for the reasons listed above.¹¹ The district will use any fixed 12-month “leave year”. FMLA leave and OFLA leave generally run concurrently. In order to care for an injured service member, you are entitled to up to 26 weeks of leave in a single 12-month period to care for a qualifying service member.

Also, your health benefits under FMLA must be maintained during any period of unpaid leave under the same conditions as if you continued to work. You must be reinstated to the same or in some cases, under state or federal law, to an equivalent job with the same pay, benefits and terms and conditions of employment on your return from leave. The district is not required to maintain benefits during OFLA unless provided otherwise by Board policy or collective bargaining agreement; however, all such benefits will be restored in full upon your return to the district.

If you do not return to work following FMLA and/or OFLA leave for a reason other than: (1) the continuation, recurrence or onset of a serious health condition which would entitle you to FMLA and/or OFLA; or (2) other circumstances beyond your control, you may be required to reimburse the district for health insurance premiums paid on your behalf during your FMLA/OFLA leave.

This is to inform you that (*check appropriate boxes, explain where indicated*):

1. You are eligible not eligible for leave under the FMLA, OFLA or both.
2. The requested leave may be counted against your annual FMLA leave entitlement, OFLA both.
3. You will will not be required to furnish medical certification of a serious health condition. If required, you must furnish certification by (date) (must be at least 15 days after you are notified of this requirement).
4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We will will not require that you substitute accrued paid leave for unpaid FMLA and/or OFLA leave. If paid leave will be used the following conditions will apply: (*Explain*)
- 5a. If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA/OFLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: (*Set forth dates, e.g., the 10th of each month, or pay periods, etc. that specifically cover the agreement with the employee.*)
- 5b. If the district pays any part of your share of disability, life or other insurance benefits while on OFLA or FMLA leave the district may deduct up to 10 percent of your gross pay each pay period after your return to work until the amount is repaid (OFLA leave only).

¹¹Oregon Military Family Leave Act allows for 14 days of leave per deployment.

- 5c. You have a minimum 30-day (*or, indicate longer period, if applicable*) grace period in which to make premium payments. If payment is not timely made, your group health insurance may be cancelled. We will notify you in writing at least 15 days before the date that your health coverage will lapse. At our option, we may also pay your share of the premiums during FMLA/OFLA leave as provided by Board policy and/or collective bargaining agreement, and recover these payments from you upon your return to work. We will will not pay your share of health insurance premiums while you are on FMLA and/or OFLA leave.
- 5d. We will will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA and/or OFLA leave. If we do pay your premiums for other benefits, when you return from leave you will will not be expected to reimburse us for the payments made on your behalf.
- 5e. Except as noted above, in the event you do not return to work for the district after your FMLA and/or, OFLA leave and the district has paid your share of benefit premiums, you will will not be responsible for reimbursing the district the amount paid on your behalf, with the exceptions noted in Section 104 (c)(2)(B) of the FMLA.
6. You will be required to present a fitness-for-duty certificate prior to being restored to employment following leave for your own serious health condition. If such certification is required but not received, your return to work may be delayed until the certification is provided. A list of essential functions for your position is attached. The fitness-for-duty certification must address your ability to perform these functions.
- You will not be required to present a fitness-for-duty certificate prior to being restored to employment following leave for your own serious health condition. If such certification is required but not received, your return to work may be delayed until the certification is provided.
- 7a. You are are not a “key employee” as described in Section 825.218 of the FMLA regulations. If you are a “key employee,” restoration to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to us. (FMLA leave only.)
- 7b. We have have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (FMLA leave only.) (*Explain (a) and/or (b) below.*)
8. While on FMLA and/or OFLA leave, you will will not be required to furnish us with periodic reports every (*indicate interval of periodic reports, as appropriate for the particular leave situation*) of your status and intent to return to work. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you will will not be required to notify us at least two workdays prior to the date you intend to report for work.
9. You will will not be required to furnish recertification relating to a serious health condition. (FMLA leave only.) (*Explain below, if necessary, including the interval between certifications as prescribed in Section 825.308 of the FMLA regulations.*)
10. You are notified that all leave taken for the purposes of the death of a family member, counts toward the total period of authorized family leave.

Designation Notice – FMLA/OFLA

Leave covered under the Family and Medical Leave Act (FMLA) must be designated as FMLA-protected and the district must inform the employee of the amount of leave that will be counted against the employee's FMLA. In order to determine whether leave is covered under the FMLA, the district may request that the leave be supported by a certification. If the certification is incomplete or insufficient, the employer must state in writing what additional information is necessary to make the certification complete and sufficient.

Employee _____

Date _____

We have reviewed your request for leave under the FMLA and any supporting documentation that you have provided. We received your most recent information on _____

and decided: _____

- Your request is approved for FMLA. All leave taken for this reason will be designated as FMLA leave.
- Your request is approved for FMLA and OFLA. This designation of leave will run concurrently.

The FMLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your entitlement:

- Provided there is no deviation from your anticipated leave schedule, the following number of hours, days or weeks will be counted against your leave entitlement:

- Because the leave you will need will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your FMLA entitlement at this time. You have the right request this information once in a 30-day period (if leave was taken in the 30 day period).

Please be advised (check if applicable):

- You have requested to use paid leave during your FMLA leave. Any paid leave taken for this reason will count against your FMLA leave entitlement.
- We are requiring you to substitute or use paid leave during your FMLA leave.
- You will be required to present a fitness-for-duty certificate to be restored to employment. If such certification is not timely received, your return to work may be delayed until certification is provided. A list of the essential functions of your position is is not attached.

If attached, the fitness-for-duty certifications must address your ability to perform these functions.

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- Additional information is needed to determine if your FMLA leave request can be approved.
 - The certification you have provided is not complete and sufficient to determine whether the FMLA applies to your leave procedures. You must provide the following information no later than _____ (at least 15 calendar days), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The information needed to make the certification complete and sufficient is:
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- We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

- Your FMLA leave request is NOT APPROVED.
- The FMLA does not apply to your leave request.
- You have exhausted your FMLA leave entitlement in the applicable 12-month period. (Note: Federal Military Family Leave is on a separate 12 month period.)