

Federal Family and Medical Leave/State Family Medical Leave

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. 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.

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

Definitions

“Child” - For the purpose of taking parental and sick child leave under federal and state law, means a biological, adopted, foster child or a stepchild of the employee, for whom the employee has parental rights and duties as defined by law 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 impairment.

“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 service member” means 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.

“Family Member” means the spouse, same-sex domestic partner, custodial parent, noncustodial parent, adoptive parent, foster parent, biological parent, parent-in-law or a person with whom the employee is or was in a relationship of “in loco parentis.” Under OFLA, family member also includes the grandparent or grandchild of the employee. Eligibility under FMLA and OFLA also includes the biological, adopted or foster child, or stepchild of an employee.

“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 conditions 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; or
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;
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 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 of 2008 (ADA) and 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 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, or to attend school or 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.
5. 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;
6. 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
7. 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 service member, means an injury or illness incurred by the member in line of duty on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

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 and sick child leave:

1. Birth of the employee's child (eligibility expires 12 months after the birth);
2. Placement of a child for adoption or foster care when the child is under 18 years of age or older than 18 if incapable of self-care (eligibility expires 12 months after placement);
3. Care of a family member with a serious health condition;
4. Employee's own serious health condition;
5. Qualifying Exigency Leave: Allowing family members time to deal with any qualifying exigency arising out of the fact that the spouse, son, daughter, or parent of the employee is a covered military member on active duty, or has been notified of an impending call to active duty status in support of a contingency operation;
6. Injured Service Member Leave: Allowing an employee leave to care for a covered service member who is the employees 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. Additionally, state law also 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.

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 work weeks 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.

An employee eligible for OFLA leave under state law is entitled to a total of 12 work weeks of leave during any 12-month period for the purposes specified above. Two family members who are eligible and who both work for the district may not take OFLA leave at the same time unless one employee needs to care for the other employee who is suffering from a serious health condition or one employee needs to care for a child suffering from a serious health condition while the other employee is also suffering from a serious health condition or both family members are suffering from a serious health condition or if the concurrent leave in such instances is permitted by the district.

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 service member during a single 12 month period. The 12 month period begins when the Military Caregiver Leave begins.

In addition to the 12 work weeks of leave authorized above, under state law a female employee may take an additional 12 work weeks 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 work weeks of OFLA leave for parental leave may also take up to an additional 12 work weeks 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 and must be completed within 12 months of the birth, adoption or placement of the child. An exception will 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 work week. (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 OFLA 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 same level 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 (the leave taken is for a sick child or for serious health condition of a same-sex domestic partner, parent-in-law or parent of the same-sex 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 otherwise would result in the loss of exemption under state law.

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

The district may transfer an employee on a foreseeable intermittent FMLA/OFLA leave or a 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 CFR 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's business 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 CFR 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 sections 1. through 3. immediately 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 work week. 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 work week 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 FMLA and OFLA leave, if a teacher requests, in advance, leave for a serious health condition and 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 the employer may require the teacher to elect one of the following options:
 - a. 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.);
 - b. 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 district 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 or the serious health condition of a family member, or to care for a covered service member, the district 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 or to care for a family member with a serious health condition, or to care for a covered service member and the leave is greater than five working days, the district 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 entitlement.
 - 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 district 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 district 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 school district during 180 consecutive calendar days, are thereafter deemed to have been employed by that school 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 work week FMLA and OFLA leave entitlement occurs for all employees. The district will use a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave.

Leaves to care for covered service members 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 of 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 requires the employee to use any accrued leaves before taking FMLA and/or OFLA leave without pay for the leave period. The employer will select the order in which the paid leave is used.

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. 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 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.

Under state law, benefits are not required to continue or accrue.

If an employee gives unequivocal notice of intent not to return to work from OFLA leave, the employee is entitled to complete the approved OFLA leave, providing that the original need for OFLA leave still exists. The district's obligations under OFLA - to restore benefits (subject to COBRA requirements) and to restore the employee to his/her position at the end of the leave - cease and the district is not required to hold a position vacant or available for the employee giving unequivocal notice of intent not to return.

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, the district may request additional information to determine that the leave qualifies for designation as FMLA/OFLA leave. The district 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 district 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 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 district may 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.

The district 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 district may designate the leave as provisionally approved subject to medical certification. The district 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 district may require medical certification on the fourth day or subsequent occurrence of sick child leave within that leave year. The district 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 district may not require the employee to obtain a second opinion. The district is not required to request medical certification for sick child leave exceeding three days and may make such requests at the district'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 human resources department.

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 work weeks of federal leave after meeting the one-year work requirement. After the first work year, leave will run concurrently.