

Gresham-Barlow SD 10

Code: **GCBDA/GDBDA-AR(6)**
Revised/Reviewed: 3/15/10; 4/14/15; 6/08/17

Designation Notice – FMLA/OFLA

Leave covered under the Family and Medical Leave Act (FMLA) and/or Oregon Family Leave Act (OFLA) must be designated as FMLA-protected and/or OFLA-protected, and the district must inform the employee of the amount of leave that will be counted against the employee's FMLA and/or OFLA leave entitlement.

In order to determine whether leave is covered under the FMLA and/or OFLA, the district may request that the leave be supported by a physician's certification. If the certification is incomplete or insufficient, the district will state in writing what additional information is necessary to make the certification complete and sufficient.

The attached form will be used by the district to notify employees about their leave request and to give the employee their rights under the law.

TO: _____ **DATE:** _____

The human resources department has reviewed your request for leave under the FMLA and/or OFLA and any supporting documentation that you have provided. We received your most recent information on _____ (date).

Please be advised:

- Your FMLA leave request is approved. 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.
- Your request is approved for OFLA. All leave taken for this reason will be designated as OFLA leave.

The FMLA and/or OFLA 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 leave 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 requested will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your FMLA/OFLA entitlement at this time. You have the right to 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 and/or OFLA leave. Any paid leave taken for this reason will count against your FMLA and/or OFLA leave entitlement.
- We are requiring you to substitute or use paid leave during your FMLA and/or OFLA leave.
- You will be required to present a fitness-for-duty certification to be reinstated to your position. If such certification is not timely received, your return to work may be delayed until certification is provided. The Fitness-for-Duty Certification form is attached, please have your medical provider complete this form prior to the termination of your leave. A list of essential functions of your position is is not attached. If attached, the fitness-for-duty certification must address your ability to perform these functions:
- Additional information is needed to determine if your FMLA and/or OFLA leave request can be approved:

- The certification you have provided is incomplete and insufficient to determine whether the FMLA and/or OFLA applies to your leave procedures. You must provide the following information no later than _____, (date) (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 is¹:
- 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 in 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.)
- Your OFLA leave request is NOT APPROVED.
- The OFLA does not apply to your leave request.
- You have exhausted your OFLA leave entitlement in the applicable 12-month period.

If your leave does qualify as FMLA leave you will have the following **responsibilities** while on FMLA leave (only checked blanks apply):

- Contact _____ at _____ to make arrangements to continue to make your share of the premium payments on your health insurance to maintain health benefits while you are on leave. You have a minimum 30-day grace period in which to make premium payments. If payment is not made timely, your group health insurance may be cancelled, provided we notify you in writing at least 15 days before the date that your health coverage will lapse, or, at our option, we may pay your share of the premiums during FMLA leave, and recover these payments from you upon your return to work.
- You will be required to use your available paid sick, vacation, and/or other leave during your FMLA absence. This means that you will receive your paid leave and the leave will also be considered protected FMLA leave and counted against your FMLA leave entitlement.
- Due to your status within the district, you are considered a “key employee” as defined in the FMLA. As 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. 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.

¹If you fail to provide a complete and sufficient certification by the due date, we may (a) delay the commencement of your leave; or (b) withdraw any designation of FMLA leave, in which case your leave of absence may be unauthorized and subject to discipline, up to and including termination.

- While on leave you will be required to furnish us with periodic reports of your status and intent to return to work every (indicate interval of periodic reports, as appropriate for the particular leave situation).

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 need to give us at least two workdays notice.

If your leave does qualify as FMLA leave you will have the following **rights** while on FMLA leave:

1. You have the right under FMLA for up to 12 weeks of unpaid leave in a 12-month period calculated as a “rolling” 12-month period measured backward from the date of any FMLA leave usage.
2. You have a right under the FMLA for up to 26 weeks of unpaid leave in a single 12-month period to care for a covered service member with a serious injury or illness. This single 12-month period commenced on _____ (date).
3. Your health benefits must be maintained during any period of unpaid leave under the same conditions as if you continued work.
4. You must be reinstated to the same or an equivalent job with the same pay, benefits, and terms and conditions of employment on your return from FMLA-protected leave. (If your leave extends beyond the end of your FMLA entitlement, you do not have return rights under FMLA.)
5. If you do not return to work following FMLA leave for a reason other than:
 - a. The continuation, recurrence, or onset of a serious health condition which would entitle you to FMLA leave;
 - b. The continuation, recurrence, or onset of a covered service member’s serious injury or illness which would entitle you to FMLA leave; or
 - c. Other circumstances beyond your control, you may be required to reimburse us for our share of health insurance premiums paid on your behalf during your FMLA leave.
6. If we have not informed you above that you must use accrued paid leave while taking your unpaid FMLA leave entitlement, you have the right to have sick, vacation and/or other leave run concurrently with your unpaid leave entitlement, provided you meet any applicable requirements of the leave policy. Applicable conditions related to the substitution of paid leave are referenced or set forth below. If you do not meet the requirements for taking paid leave, you remain entitled to take unpaid FMLA leave.
7. For a copy of conditions applicable to sick/vacation/other leave usage please refer to:
_____ available at _____
8. Applicable conditions for use of paid leave:

Once we obtain the information from you as specified above, we will inform you, within 5 business days, whether your leave will be designated as FMLA leave and count towards your FMLA leave entitlement. If you have any questions, please do not hesitate to contact Tom Richards at 503-618-2636 and/or tom_richards@gbsd.gresham.k12.or.us