

Willamette Education Service District

Code: **GCBDA/GDBDA**
Adopted: 7/8/03
Readopted: 7/12/05; 6/22/10

Family Medical Leave

The ESD will comply with all provisions of the Family and Medical Leave Act of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Act of 2008 and for the fiscal year 2010 (which expands certain leave to military families and veterans for specific circumstances) and other applicable provisions of state leave laws, Board policies and collective bargaining agreements regarding family medical leaves.

In order for an employee to be eligible for the benefits under federal law, he/she must have been employed by the ESD for at least 12 months and have worked at least 1,250 hours during the past 12-month period.

In order to be eligible under state law, an employee must work an average of 25 hours per week and have been employed at least 180 days prior to the first day of the family medical leave of absence. However, 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.

Federal and state leave entitlements generally run concurrently.

The Superintendent or designee will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

Eligible employees are entitled to up to 12 weeks of unpaid leave during the fiscal year. Both women and men qualify equally for family and medical leave. They may be required to provide the employer with a medical certificate from a doctor. They may choose to use accrued paid vacation and sick leave as part of the leave, or the ESD may require them to. The ESD will maintain the employee health benefits during FMLA unpaid leave (up to 12 weeks). When the employee comes back from leave, they are entitled to return to the same or an equivalent job at the same salary. They may take FMLA leave for birth of a child, care of a child after birth, care of a child after adoption, care of a seriously ill close family member (spouse, child, parent), or serious personal illness.

Employees are legally required to give the ESD at least 30 days notice when the need for such leave is foreseeable. If an employee fails to give the ESD thirty (30) days notice (except in the case of an emergency or an unplanned surgery), the leave available is reduced to nine (9) weeks (OAR 839-07-800 to 839-07-875). When leave without pay is granted, all other benefits such as sick leave, vacation leave, and

other employee benefits (except health benefits) shall not accrue during the period of the leave (as per policy GCBC, “Associated Payroll Costs”). Requests for Family Medical Leave must be submitted in writing.

The FMLA accounting method of WESD is the fiscal year.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)

HB 2744 (2009)

[ORS 342.545](#)

[ORS 659A.150 - 659A.186](#)

[OAR 839-009-0200 to-0320](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2006); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2008).

National Defense Authorization Act of 2008, Public Law 110-181, Section 585(a).

National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84, Section 565.