



Oregon Department of Corrections
Family Medical Leave Act (FMLA)
And
Oregon Family Leave Act (OFLA)

Forms Packet

Please read this statement before proceeding

This packet is a summary of Family and Medical Leave policy and procedures. In all cases applicable state and federal laws, rules, policies and collective bargaining agreements govern the employee's and the agency's rights and obligations; not this document.

FMLA and OFLA are not optional. The law requires the agency to provide these entitlements.

Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested or used Family and Medical Leave.

Fax Completed Forms to (503) 934-0283

Human Resources Division
1793 13th Street SE
Salem, OR 97302-2595

Kathy Martin (503) 934-1013	OSP, SRCI, Admin, HS Admin, Linn, Douglas, BPPPS
Christine Welter (503) 934-1036	CCCF, EOCI, OISC, TRCI
Serena Thompson (503) 934-1083	CRCI, DRCI, MCCF, OSCI, PRCF, SCCI, SFFC, WCCF, SCI



EMPLOYEE LEAVE REQUEST

- Employees subject to FLSA shall complete this form before leave is taken and ensure leave has been approved.
In the event of an unplanned absence, the employee shall complete the form immediately upon return to duty.
FLSA-exempt employees shall complete this form only for absences which are or may be FMLA/OFLA qualifying (see reverse for qualifying criteria).

Last Name (please print) First M.I.

Functional Unit / Institution:

Management/Executive Services Represented (Name of Labor Organization)

I request hours (total) leave from official duty for the following reason(s):

BEGINNING on at ENDING on at (Date) (Hour) (Circle: am/pm) (Date) (Hour) (Circle: am/pm)

I request that my leave be charged as follows: (Please indicate the number of hours for each type of leave requested in the space provided.)

Vacation Sick Leave Personal Leave Comp Time Military Leave

Leave Without Pay Funeral Leave (Relationship) Other (Specify Type of Other Leave)

If this leave is to care for a SERIOUS HEALTH CONDITION or a SICK CHILD, or for PARENTAL LEAVE, check the appropriate spaces in the boxed area below: (See reverse for explanation of a serious health condition and FMLA/OFLA leave.)

TM You must give 15 days advance notice unless an emergency exists.
Your serious health condition (see definition on back) FMLA, OFLA
Family member (son/daughter, parent, legal spouse) with a serious health condition (see definition on back) FMLA, OFLA
Parent-in-law, grandparent, grandchild or same-sex domestic partner with a serious health condition (see definition on back) OFLA
Sick child who does not have a serious health condition, but requires home care OFLA
Pregnancy (includes prenatal care, childbirth, and recovery) FMLA, OFLA
Care for a newborn, newly adopted, or newly placed foster child under age 18, unless incapable of self-care due to disability FMLA, OFLA.
Is this a previously approved FMLA/OFLA qualifying condition? Yes No
Do you have a spouse who works for the State of Oregon who is also requesting time off? Yes No
If yes, name of spouse and Agency where employed.
If approved for FMLA/OFLA, you must attempt to schedule leave to be as least disruptive to the employer.
Medical certification and/or fitness-for-duty certification may be required. (For sick child leave, medical certification may be required after three days of leave.)
FMLA/OFLA Coordinators approve FMLA/OFLA Leave. Supervisor signature does not guarantee FMLA/OFLA approval.

Employee Signature Date Supervisor Signature Date

APPROVED NOT APPROVED
Approval is contingent on staff having adequate leave accrual.

Section Head Signature Date Reason, if not approved:

Staff Deployment NOTES: Updated:

ATTENTION Supervisors/Managers: If the leave checked above is included in the boxed area, please immediately forward a copy of this leave request form to your assigned FMLA/OFLA Coordinator. The leave may qualify as FMLA leave which means the employee's medical-dental insurance may be paid while on leave without pay and the leave will be counted as part of the 12 weeks of FMLA leave eligibility.

A serious health condition under the FMLA means an illness, injury, impairment, or physical or mental condition that includes at least one of the following:

- **Inpatient care** in a hospital, hospice or residential medical-care facility, including any period of incapacity, or any subsequent treatment in connection with such inpatient care; OR
- **Continuing treatment** by a health care provider which includes one of the following:
 - Incapacity due to a serious health condition lasting more than three (3) consecutive calendar days; and subsequent treatment or incapacity relating to the same condition which includes either two or more treatments administered or supervised by a health care provider, or at least one treatment with a continuing regimen of treatment;
 - Incapacity due to pregnancy or absence for prenatal care;
 - Incapacity or treatment thereof due to a chronic serious health condition, which requires periodic treatment by a health care provider and continues over an extended period. (Incapacity may be episodic versus continuous, e.g., asthma, diabetes, epilepsy, etc.),
 - Incapacity which is permanent or long-term due to a condition for which treatment is not effective (e.g.; severe stroke, Alzheimer's, or the terminal stages of a disease); **OR**
 - Absence to receive multiple treatments from a health care provider for restorative surgery and recovery therefrom, following an injury or accident, or for a condition that would likely cause incapacity for at least three consecutive days if left untreated (e.g. chemotherapy or radiation for cancer, physical therapy for arthritis, and dialysis for kidney diseases.)

Incapacity means inability to work or perform other daily activities due to treatment or recovery from a serious health condition.

Purpose of Leave: To care for your own serious health condition; a family member's serious health condition; or following the birth, adoption or foster placement of a child under age 18, unless incapable of self-care due to disability.

Eligibility for Leave: You must have at least 12 months of employment with the State of Oregon (need not be consecutive service); during your last 12 months of employment prior to the leave request, you must have worked for at least 1,250 hours; AND leave must be for a qualifying event.

Maximum Leave: 12 weeks in a 12-month period. (If the State of Oregon employs both parents, their combined parental leave is limited to the 12 weeks.)

A serious health condition under OFLA means one of the following:

- An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice or residential medical care facility;
- An illness, disease or condition that poses imminent danger of death, is terminal with a reasonable possibility of death in the near future, or requires constant care; OR
- Disability due to pregnancy or absence for prenatal care.

Purpose of Leave: Parental Leave: To care for your newborn, newly adopted or newly placed foster child who is under the age of 18, unless incapable of self-care due to disability; Serious Health Condition Leave: To care for your own serious health condition if it prevents you from performing at least one essential function of your job, or to care for a family member's serious health condition; Sick Child Leave: To care for your own child due to an illness, injury or condition that is not a serious health condition, but requires home care.

Eligibility for Leave: For parental leave you must have been employed for at least the 180 days immediately preceding the start date of the leave; for all other leave you must also have worked an average of at least 25 hours per week during the 180 days; AND leave must be for a qualifying event.

Maximum Leave: 12 weeks in a one-year period. An additional 12 weeks is available for a disabling illness, injury or condition related to pregnancy or childbirth. An employee who takes the full 12 weeks of Parental Leave may also take 12 weeks of Sick Child Leave.

Medical certification may be required for leave due to a medical condition. Medical certification of fitness for duty may be required upon an employee's return from FMLA due to his/her own serious health condition.

If leave qualifies under the FMLA, OFLA, and/or contractual benefit provisions, its use is counted against applicable entitlements.

Employees may be required to exhaust all accrued leave in accordance with collective bargaining agreements and personnel policies prior to being placed on leave without pay during FMLA/OFLA leave.



HEALTH CARE PROVIDER CERTIFICATION

Family and Medical Leave (PD 615A)

Oregon Department of Corrections

This form is used to provide certification per FMLA and OFLA regulations and law.

Section I: Employee Completes this Section

Employee's name: _____

Patient's name: _____

The patient is my (Please check one):

- self spouse parent child (age _____) same sex domestic partner parent-in-law
 grandparent grandchild parent of domestic partner child of a domestic partner (age ____)

Section II: Health Care Provider Completes this Section

Please complete all sections in order for the agency to determine Family and Medical leave entitlement.

1. Please mark all that pertain to this patient (descriptions are on Page 2 of this certification):

- A. Requires hospital care (hospice, residential care facility)
 B. Requires absence from work plus treatment
 C. Pregnancy disability or requires prenatal care
 D. Chronic condition requiring treatment
 E. Permanent or long-term condition requiring supervision
 F. Requires multiple treatments for a non-chronic condition
 G. None of the above

Describe the medical facts that support your above certification. _____

2. Approximate date this condition began? _____

3. Probable duration of the patient's present incapacity? _____

4. Is this for either a chronic condition or for pregnancy? yes no If yes, is the patient presently incapacitated?
 yes no If yes, what is the expected duration of the incapacity? _____
What is the expected frequency of the incapacity? _____

5. Will it be necessary for the employee to take time off intermittently or work on a reduced schedule due to the patient's condition or treatment? yes no If yes, what is the expected frequency for the absence?
 _____ days per week, _____ days per month, reduce hours worked in a day to _____ for _____ days per week, other (describe) _____

6. Will the patient require a regimen of treatments? yes no If yes, describe the nature of the treatments, number of treatments needed and the intervals between treatments _____

7. If the patient is not the employee, will the patient need assistance for basic medical or personal needs, or safety or transportation? yes no n/a patient is the employee If no, would the employee's presence to provide psychological comfort be beneficial or assist in the patient's recovery? yes no

Please indicate the probable frequency and duration of this need: _____

Signature of Health Care Provider

Printed Name of Health Care Provider

Date Signed

Field of practice _____ Health care provider address: _____

Return form to the patient or FAX to the Department of Corrections FMLA/OFLA at (503) 934-0283.

DEFINITIONS

This page defines the various serious health condition categories listed in section 1, A-G on the front of this certification. **A “serious health condition” is defined as an illness, impairment, physical or mental condition that involves one or more of the following:**

- A. Hospital care:** Inpatient care (i.e. overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or as a consequence of such inpatient care.
- B. Absence plus treatment:** A period of incapacity of more than three consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves one or both of the following:
 - a. Treatment received in person, two or more times by a health care provider, a nurse, or a physician’s assistant under direct supervision of a health care provider, or a provider of health care services (e.g., physical therapist) under orders of or referred by a health care provider.
 - b. Treatment by a health care provider on at least one occasion resulting in a regimen of continuing treatment under the supervision of the health care provider.
 - c. Regimen of Continuing Treatment: Includes a course of prescription medication such as an antibiotic or physical therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include taking over-the-counter medications such as aspirin, antihistamines or salves, bed-rest, drinking fluids, exercise, and other similar activities that an individual can initiate without a visit to a health care provider.
- C. Pregnancy or pregnancy disability:** Any period of incapacity for pregnancy, pregnancy-related illness including severe morning sickness, or for prenatal care or post pregnancy recovery.
- D. Chronic conditions requiring treatments:** A chronic serious health condition is one which:
 - a. Requires periodic in-person treatments by a healthcare provider, nurse, or physician’s assistant under direct supervision of a healthcare provider.
 - b. Continues over an extended period of time, including recurring episodes of a single underlying condition.
 - c. May cause episodic rather than continuing periods of incapacity; for example, asthma, diabetes, epilepsy.
- E. Permanent or long-term conditions requiring supervision:** A period of incapacity that is permanent or long-term due to a condition for which treatment is potentially ineffective. The employee or family member is under supervision of a health care provider, not necessarily receiving active treatment. Examples are Alzheimer’s disease, a severe stroke, the terminal stages of a disease.
- F. Multiple treatments (non-chronic conditions):** Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider for restorative surgery after an accident or other injury, or for a condition that in the absence of treatment or medical intervention, will likely result in a period of incapacity of more than three consecutive calendar days. For example: chemotherapy or radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease.
- G. None of the above:** The patient does not have a serious health condition as described above.

Incapacity: The inability to work, attend school or perform other regular daily activities due to a serious health condition or treatment for or recovery from a serious health condition.



Going out on leave And your benefits

We understand that you may be going out on medical/extended leave at this time. There are a few things surrounding your benefits and pay that we would like to bring to your attention.

Due to the benefits and protections attached, FMLA/OFLA coverage is not an optional choice and you will be covered if eligible.

1. Use of sick and vacation leave.

- a. You may keep sick leave on the books if going out under approved FMLA/OFLA leave while receiving short/long term disability. If you chose to use sick leave, Standard will pay \$25.00 per week. If you chose to not use sick leave, Standard will pay the full amount for each week, and you will be in leave without pay status on your timesheet.
- b. Once disability has ended, if you are still covered under FMLA, you may then use any available leave time if you wish.

2. Use of Short/Long Term Disability

- a. If using short term disability, you will want to file as soon as possible. DOC will complete their portion of the report.
- b. The first seven days are not paid; this is Standard's evaluation time. If the usage is due to an accident, Standard will pay from the first day. Once the claim has been accepted, they will pay on a weekly basis.
- c. What Standard pays you is based on what pay, if any, you receive from DOC.
 - i. If you are receiving wages from DOC for payment of sick leave, Standard will only pay \$25.00 per week.
 - ii. In order for Standard to pay you the full amount, you must either be using vacation time from DOC, or be in LWOP.
- d. Long Term Disability followings STD, if you have both. If you have chosen the 180 day waiting period for long term disability, you may have a 3 month gap before long term disability becomes affective.
- e. There is no need to complete separate forms or provide additional information. Standard will request specific information if they need any.

3. Hardship Donations

- a. Hardship donations are approved by Human Resources if you qualify. Other employees will donate vacation time, which will be converted to sick leave for you to use, or cover insurance premiums. There is no guarantee the full request may be met and all of the necessary time covered.
- b. You will need to remember that, once on LWOP, you cannot go back and use any leave time, unless covered under FMLA. Hardship can only be requested once all leave has been exhausted. If you are holding leave time to use after disability has exhausted, you will need to use it all before eligible for hardship.

4. Optional Insurance Benefits

- a. Continued payment and coverage for the following are handled the same
 - i. Accidental Death and Dismemberment
 - ii. Domestic Partner Tax (if continue to be covered for core benefits)
 - iii. UNUM, Long Term Care Insurance
 - iv. Fortis Insurance
 - v. Optional Life Insurance, self and spouse and/or partner
 - vi. Dependent Life
 - vii. Short Term and Long Term Disability – if you currently have an active claim, no premiums are paid.
- b. If you are receiving a check from DOC, and paid a minimum of 80 hours, your premium payments are automatically covered.
- c. If you are not receiving a check from DOC, a letter will be sent detailing out the optional coverage benefits you have, the amount necessary to maintain coverage, and how to make the necessary payments. Please contact payroll at the number above with questions.

5. Medical, Dental, and Vision Benefits

- a. These are considered your core benefits, those premiums covered by the state. Eligibility and coverage are determined by several factors
 - i. Must be an active employee
 - ii. Must be under protected leave, FMLA or SAIF
 - iii. Must have a minimum of 80 hours of protected leave in the current month, or 80 hours of paid leave in the previous month to be eligible.
- b. Once you have moved into protected leave, insurance coverage is based on the current month. Each month would need to meet the coverage requirements to maintain coverage for that month. Requirements are:
 - i. Maintain a minimum of 80 hours
 - ii. If on FMLA, must return to work on following the healthcare provider's release or before coverage is exhausted

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 active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation 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 a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list.

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 one year, for 1,250 hours 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 3 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;
- 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





Oregon



FAMILY LEAVE ACT

NOTICE TO EMPLOYERS AND EMPLOYEES

The Oregon Family Leave Act, passed by the 1995 Legislature, requires employers of 25 or more employees to provide their workers with job protected leave to care for themselves or family members in cases of illness, injury, childbirth and adoption.

When Can an Employee Take Family Leave?

Employees can take family leave for the following reasons:

- ▶ **Parental Leave** during the year following the birth of a child or adoption or foster placement of a child under 18, or a child 18 or older if incapable of self-care because of a mental or physical disability. Parental leave includes leave to effectuate the legal process required for foster placement or adoption.
- ▶ **Serious health condition leave** for the employee's own serious health condition, or to care for a spouse, parent, child, parent-in-law, grandparent, grandchild or same gender domestic partner with a serious health condition. NOTE: Does not include an employee unable to work due to a compensable Workers Compensation injury.
- ▶ **Pregnancy disability leave** (a form of serious health condition leave) taken by a female employee for an incapacity related to pregnancy or childbirth, occurring before or after the birth of the child, or for prenatal care.
- ▶ **Sick child leave** taken to care for an employee's child with an illness or injury that requires home care but is not a serious health condition.
- ▶ **Oregon Military Family Leave** is taken by the spouse or same gender domestic partner of a service member who has been called to active duty or notified of an impending call to active duty or is on leave from active duty during a period of military conflict.

Who is Eligible?

- ▶ To be eligible for leave, workers must be employed for the 180 day calendar period immediately preceding the leave and have worked at least an average of 25 hours per week during the 180-day period.
Exception 1: For parental leave, workers are eligible after being employed for 180 calendar days, without regard to the number of hours worked.
Exception 2: For Oregon Military Family Leave, eligible workers must work for an employer an average of at least 20 hours per week.

How Much Leave Can an Employee Take?

- ▶ Employees are generally entitled to a maximum of 12 weeks of family leave within the employer's 12-month leave year.
- ▶ A woman using pregnancy disability leave is entitled to 12 additional weeks of leave in the same leave year for any qualifying OFLA purpose.
- ▶ A man or woman using a full 12 weeks of parental leave is entitled to take up to 12 additional weeks for the purpose of sick child leave.
- ▶ A spouse or same gender domestic partner of a service member is entitled to a total of 14 days of unpaid leave per deployment after the military spouse has been notified of an impending call or order to active duty and before deployment and when the military spouse is on leave from deployment.

What Notice Is Required?

- ▶ Employees are required to give 30 days notice in advance of leave, unless the leave is taken for an emergency. Employers may require that notice is given in writing. In an emergency, employees must give verbal notice within 24 hours of starting a leave.

Is Family Leave Paid or Unpaid?

- ▶ Although Family Leave is unpaid, employees are entitled to use any accrued paid vacation, sick or other paid leave.

How is an Employee's Job Protected During a Leave?

- ▶ Employers must return employees to their former jobs or to equivalent jobs if the former position no longer exists. However, employees on OFLA leave are still subject to nondiscriminatory employment actions such as layoff or discipline that would have been taken without regard to the employee's leave.

for Additional Information:

Call the nearest office of the Bureau of Labor & Industries:		Or Write:
Eugene541-686-7623	Portland971-673-0761	Bureau of Labor and Industries
Salem503-378-3292		Civil Rights Division
		800 NE Oregon, Ste. 1045
		Portland, Oregon 97232
Web Site: www.oregon.gov/boli	Employer Assistance.....971-673-0824	

Eligible employees who have been denied leave, disciplined or retaliated against for requesting or taking leave, or have been denied reinstatement to the same or equivalent position when they returned from a leave or requested leave may file a complaint with the Bureau of Labor & Industries, Civil Rights Division.

This is a summary of Oregon's laws relating to Family Leave Act. It is not a complete text of the law.

March 2010

THIS INFORMATION MUST BE POSTED IN A CONSPICUOUS LOCATION