



Federal and Oregon Family and Medical Leave

Manager/Supervisor Information Packet

For agency Managers and Supervisors use only

Oregon Military Department

- Family and medical leave follow the Federal Family Medical Leave Act of 1993 (FMLA), State of Oregon Family Medical Leave Act (OFLA), DAS Policy 60.000.15 “Family and Medical Leave” and any applicable Collective Bargaining Agreement (CBA).
- **FMLA and OFLA are not optional. The law requires the State of Oregon as an employer, to provide these entitlements.**

This packet provides Managers/Supervisors with more information about family and medical leave. This packet is intended as a summary of applicable FMLA and OFLA policies and procedures. In all cases, applicable policies, laws, and Collective Bargaining Agreements (CBAs) govern the employer’s and the employee’s rights and obligations; not this document.

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Family and Medical Leave Resources

- DAS Policy 60.000.15 “Family and Medical Leave”: <http://oregon.gov/DAS/HR/rules.shtml>
- Collective Bargaining Agreements: <http://oregon.gov/DAS/HR/CBAs.shtml>
- BOLI’s Family Leave Laws: www.boli.state.or.us
- Oregon Family Leave Act; ORS 656.005, ORS 659A.043, ORS 659A.046, ORS 659A.805, an ORS 659A.150-659A.186: <http://www.leg.state.or.us/ors/vol14.html>
- Oregon Administrative Rule (OAR); 839-009-0320, OAR 166-300-0010 through 166-300-0045 and OAR 101-040-0010: http://arcweb.sos.state.or.us/rules/number_index.html
- Federal Family and Medical Leave Act:
http://www.dol.gov/esa/regs/statutes/whd/fmla.htm#SEC_102_LEAVE_REQUIREMENT
- DAS Human Resource Management Consultation:
http://www.das.state.or.us/DAS/HR/hrmc.shtml#E_mail_HRMC_Staff
- DAS Labor Relations Unit, Bargaining and Contract Assignments:
http://egov.oregon.gov/DAS/HR/LRU.shtml#Staff_Assignments
- Public Employee Benefit Board (PEBB) FMLA-OFLA Benefit Matrix:
<http://egov.oregon.gov/DAS/HR/fmla.shtml>
- HRSD Policy 60.000.15 “Family and Medical Leave” Attachments and Toolkit:
<http://www.oregon.gov/DAS/HR/hrmc.shtml#Tools>
- Oregon Military Department FMLA/OFLA Coordinator (AGP) 503-584-3581
- Oregon Military Department Payroll Contact – 503-584-3880

What is Family and Medical Leave?

Family and medical leave is time off from work an employee may take to tend to their own serious health condition, the serious health condition of a family member, for parental leave and for sick child leave. This leave is better known as Federal Family and Medical Leave (FMLA) and Oregon Family Leave (OFLA).

Federal and state law determine if an employee is eligible for FMLA and OFLA leave, the reasons an employee may take this type of leave and how much leave an employee is allowed. FMLA or OFLA leave is protected time off. This means an employee generally has a right to their job or another job when they return from their leave. Circumstances affecting the employee's return rights are on Page 10.

Informing Employees About Family and Medical Leave

The agency has an obligation to inform its employees about FMLA and OFLA. To aid in doing this, the state and federal government each created a notification poster for employers to hang in worksites. These posters are called "[Bureau of Labor and Industries \(BOLI\), Oregon Family Leave Act, Notice to Employers and Employees](#)" and the "[US Department of Labor \(DOL\), Your Rights under the Family and Medical Leave Act of 1993](#)." For the convenience of the agency, the posters are located at the end of [Policy 60.000.15 "Family and Medical Leave."](#)

There is also an "Understanding Family and Medical Leave" brochure available. If you would like one, please contact your FMLA/OFLA Coordinator at 503-584-3581.

Eligibility for FMLA or OFLA Leave

The state uses a "rolling backward year" to determine an employee's FMLA and OFLA leave entitlement. This means the agency looks backward on the calendar for one year from the first day of the requested leave. This method tells the agency if an employee is eligible for FMLA or OFLA leave and how much FMLA and OFLA leave the employee has available to use.

To be eligible for FMLA or OFLA leave the employee must meet the following requirements:

To be eligible for FMLA leave, the employee must meet two requirements.

1. The employee worked for the State of Oregon for 12 months (not necessarily consecutive months.)
2. The employee worked for the State of Oregon at least 1250 hours in the 12-month time-period just before their leave would begin. Note: If the employee works part time, they must still meet the 1250-hour requirement.

To be eligible for OFLA leave, the employee must have worked for the State of Oregon for 180 days (six months) just prior to their requested leave date. To qualify for OFLA serious health condition leave or OFLA sick child leave, the employee must also have worked an average of 25 or more hours per week in the 180 days prior to their requested leave date. The 25-hour per week minimum is not required for parental leave.

When counting the 1250 hours for FMLA or the 25 hours for OFLA to determine eligibility, count the actual hours the employee was at work, including overtime hours. (Overtime hours are not counted at time and one-half.) Do not count paid or unpaid leave time. If the employee worked as a limited duration or temporary employee for the State of Oregon, within the required time-period, those hours also count.

Exception: If an employee spent time on military leave, that time is counted as time worked under federal USSERA law and [Policy 60.000.25 “Military Leave.”](#)

FMLA and OFLA Eligibility Side-By-Side Comparison	
Employees Eligible for FMLA	Employees Eligible for OFLA
Employee must have worked for the State of Oregon for a total of at least 12 months (not necessarily consecutive); and	Employee must have worked for the State of Oregon for a period of 180 calendar days immediately preceding the date leave begins; and
Employee must have worked for at least 1250 hours during the 12 months period immediately preceding the leave.	Employee must have worked an average of 25 hours per week during the 180-day period, unless the leave is to care for a newborn child or newly placed adopted or foster child (“parental leave”)

Qualifying Reasons to Take FMLA or OFLA Leave

Under both FMLA and OFLA law, an employee may take leave for these reasons

1. To recover from or seek treatment for their own serious health condition that renders them incapacitated. This includes pregnancy-related disability and absence for prenatal care
2. To care for their spouse, their parent or their biological, adopted, step or foster child with a serious health condition. The employee’s child must be 17 years of age or younger or incapable of self-care due to a physical or mental disability
3. For parental leave, to care for the employee’s newborn child or for the adoption or placement of a foster child.

Under FMLA law, the employee may also take leave for this reason

To care for the employee’s spouse, parent, son, daughter or next of kin, who is a covered servicemember, with a serious injury or illness as a result of active duty.

Under OFLA law, the employee may also take leave for these reasons

1. To care for their biological, adopted, step or foster child of any age with a serious health condition. This also applies to a child of the employee’s spouse or same-sex domestic partner
2. To care for their parent-in-law with a serious health condition, or a same-sex domestic partner or their parent with a serious health condition
3. To care for their grandparent or grandchild with a serious health condition
4. For sick child leave, which is to provide home care for their sick child with a non-serious health condition, or a spouse’s or domestic partner’s child with a non-serious health condition. The child must be 17 years of age or younger or be incapable of self-care due to a physical or mental disability.

What is not a reason: Routine medical or dental visits are not a qualifying reason to take FMLA or OFLA leave. Common cold, flu, ear aches, upset stomach, routine headaches or sore throats generally do not qualify as a serious health condition. However, these illnesses may qualify as “sick child leave” under OFLA.

FMLA and OFLA Qualifying Reasons Side-By-Side Comparison	
FMLA Qualifying Circumstances	OFLA Qualifying Circumstances
Employee’s own serious health condition, including pregnancy related conditions	Employee’s own serious health condition, including pregnancy related conditions
Serious health condition of employee’s family member: 1. Spouse 2. Parent 3. Biological, adopted, step or foster child age 17 or under or incapable of self-care	Serious health condition of employee’s family member: 1. Spouse 2. Parent 3. Biological, adopted, step or foster child of any age 4. Parent-in-law 5. Same sex domestic partner 6. Parent of same sex domestic partner 7. Child of same sex domestic partner 8. Grandparent 9. Grandchild
Newborn, newly adopted or newly placed foster child (“parental leave”)	Newborn, newly adopted or newly placed foster child (“parental leave”)
Injured or ill servicemember who is the employee’s: 1. Spouse 2. Parent 3. Biological, adopted, step or foster child (no age limit) 4. Next of kin	Non-serious health condition of a child requiring home care (“sick child leave”) for a child 17 years of age or younger or incapable of self-care

FMLA and OFLA Leave Entitlements

Under both FMLA and OFLA, an employee is entitled to up to 12 weeks of leave during a 12-month period if an employee meets the eligibility and purpose requirements. If an employee qualifies for both FMLA and OFLA leave, the two leaves are applied or designated at the same time.

FMLA also entitles the employee to additional leave under the following circumstances

An employee may take up to 26 weeks of FMLA leave to care for the employee’s son, daughter, parent, spouse, or next of kin who is an injured or ill covered servicemember, whose injury or illness is a result of active duty. Note: The 26 weeks is aggregate, not in addition to the usual 12-week FMLA entitlement. For example: An employee takes 12 weeks of FMLA leave for their own serious health condition. The employee has 14 weeks of FMLA leave that they can take to care for an injured or ill servicemember.

OFLA also entitles the employee to additional leave under the following circumstances

1. If an employee is female and takes any amount of leave for a pregnancy-related disability, she may take up to an additional 12 weeks of OFLA leave for any OFLA-qualifying purpose.

2. If an employee uses their full 12 weeks of parental leave under OFLA, the employee may take up to 12 additional weeks of OFLA leave in the same leave year to provide home care for their sick child with a non-serious health condition.

Length of FMLA and OFLA Leave Side-By-Side Comparison	
FMLA Amount of Leave	OFLA Amount of Leave
Up to 12 weeks per leave year	Up to 12 weeks per leave year
Exception: Up to 26 weeks to care for an injured or ill covered servicemember (includes the 12 weeks listed above)	Exception #1: A female who takes any amount of OFLA leave for a pregnancy related disability (including routine pre-natal care) may take up to an additional 12 weeks in the same leave year for any OFLA-qualifying purpose
	Exception #2: Male or female employees who use a full 12 weeks of parental leave may use up to 12 additional weeks in the same leave year for sick child leave.

Requesting Leave for FMLA or OFLA

An employee should give 30 days notice for planned absences (paid or unpaid) related to family and medical leave. The employee should follow procedures the agency has established for requesting family and medical leave. If an employee is unable to request leave in advance due to an emergency or unforeseeable event, the employee may let the agency know as soon as possible. In an emergency, a family member may contact the agency for the employee.

When requesting leave, the employee does not need to reference “FMLA” or “OFLA,” but does need to state the reason for their absence. The agency may ask questions or seek more information in order to determine if the absence qualifies under FMLA, OFLA or both. If the leave qualifies, the agency must let the employee know if the leave qualifies as FMLA, OFLA or both.

Because the designation of FMLA and OFLA are not optional, the agency can designate leave as FMLA and OFLA without the employee’s consent or agreement.

Approving or Denying Family and Medical Leave

An agency is obligated by law to approve leave that qualifies under FMLA or OFLA. Once a determination has been made, the agency must inform the employee of the decision. If approved, the employee must be notified of their rights and responsibilities.

Medical Certification

The agency may require an employee to provide medical certification. All agencies must use the "Health Care Provider Certification" form when requesting medical certification.

The agency must give the employee the "Health Care Provider Certification" form to take to their medical provider. The employee should return this form before beginning their leave or within 15 days after receiving the request for medical certification (whichever is later.) If the employee does not provide medical certification, the agency may deny their leave and the employee will not have the protection of FMLA and OFLA leave laws. If the employee has an absence that is not covered under a protected leave, the employee may be subject to discipline. If the medical certification from the health care provider is incomplete or unclear, the agency should not contact the health care provider, but should instead send the employee back to the provider to complete the form.

At times, the agency will have enough information to designate FMLA or OFLA leave without requesting medical certification. Medical certification should not be requested for parental leave. In addition, medical certification for sick child leave may be requested only after the first three instances of sick child leave in a leave year.

Upon returning from FMLA or OFLA leave for an employee's own serious health condition, the agency may require the employee to provide a statement from the employee's medical provider verifying the employee is able to return to work, and whether the employee has any job-related medical restrictions, and the duration of those restrictions. Return to work certification may not be required for an employee returning from parental leave, leave to care for a family member with a serious health condition, or intermittent leave relating to the employee's own serious health condition.

The agency reimburses the employee for any out-of-pocket costs not covered by their insurance, related to obtaining required medical certification. The employee submits those bills following agency procedures for requesting reimbursement.

Pay During FMLA and OFLA Leave

FMLA and OFLA are unpaid leaves. While on FMLA or OFLA leave, an employee must use their accrued sick, vacation and personnel business leave and when applicable, their Governor's leave. The employee is not required to use their compensatory (comp) time leave unless they want to. Use of comp time while out on a FMLA or OFLA qualifying absence is not protected under the FMLA or OFLA laws. The time the employee is on comp time will not be counted as FMLA or OFLA time.

Some represented employees are allowed to reserve leave according to their Collective Bargaining Agreement (CBA). The employee should let the agency know if they wish to reserve leave, if their CBA allows.

Unrepresented and management service employees are allowed to reserve up to 40 hours of sick leave if they are using short-term disability insurance.

An employee may be eligible to receive donated leave. Statewide Policy 60.025.01 “Donated Leave”, an agency policy, or an applicable CBA will give details about receiving donated leave.

An employee may be entitled to short-term or long-term disability or PERS Disability benefits. It is the employee’s responsible to apply for these benefits. (Note: If an employee applies for these benefits they must report any accrued leave they have, donated leave they are expecting, or any disability payments or workers’ compensation payments the employee is receiving or expecting. All leaves and benefits will affect their eligibility for disability insurances and may put the employee in an overpayment situation that they might be required to repay.)

Timesheet codes are at the end of this manual. If the employee is unable to complete their timesheet, the supervisor should do so for the employee. It is important that timesheets accurately reflect the employee’s use of FMLA and OFLA leave. This ensures the employee is paid correctly, insurances are applied correctly and the employee is not put into an overpayment situation.

The Role of the Payroll in Administering FMLA and OFLA Leave

Payroll plays a critical role in Family and Medical Leave administration. Payroll must be informed when: FMLA or OFLA leave is designated; the employee has exhausted their leave entitlement; the employee is on leave without pay; the employee returns to work; and if the employee does not return from leave. Payroll relies on accurate timesheets and timely notification to do their job. See “Insurance” for more information about the duties of Payroll.

Insurance

If an employee is on FMLA leave, the agency continues to pay the employee’s medical, dental and employee-only basic life insurance premiums, even if the employee is on leave without pay. If an employee is using accrued paid leave while on FMLA, the employee’s optional insurances are covered. When an employee’s accrued paid leave is exhausted, the employee may pay the premiums for their optional insurances if they wish them to continue. If the employee normally pays a portion of the premiums of their health insurance, the employee must continue these payments during the period of leave. If payment is not made timely, the group health insurance may be canceled. Once an employee is on leave without pay, Payroll sends the employee a letter instructing the employee how to self-pay their optional insurances.

If an employee is on OFLA-only leave, as long as the employee uses sufficient accrued paid leave in a month, the employee’s premiums for medical, dental and basic employee-only life insurance continue to be paid by the agency. If an employee normally pays a portion of the premiums for their health insurance, the employee must continue these payments during the period of leave. If payment is not made timely, the group health insurance may be canceled. The employee should contact Payroll directly to self-pay these premiums. Once an employee is on leave without pay, Payroll sends the employee a letter instructing the employee how to self-pay their optional insurances.

If an employee’s FMLA leave ends, or the employee is on OFLA-only leave, and the employee is on leave without pay, Payroll sends notification to PEBB that the employee is on leave without pay. In turn, a third-party administrator, directly notifies the employee of their rights under COBRA and sends the employee information about how to continue their medical and dental insurance coverage. The employee has the option of continuing coverage under COBRA.

If an employee’s absence qualifies under OFLA only and the employee is receiving donated leave, the donated leave is first put toward the employee’s insurance premiums for medical,

dental and basic employee-only life. The employee must pay premiums for any optional insurance they wish to continue.

If an employee is on approved FMLA leave, and returns to work during the 12-week entitlement period or the workday immediately after, there will be no break in insurance coverage. If the employee returns beyond the timeframe mentioned, they may be required to work a minimum 80 hours in the month in order to receive the employer contribution for the following month. The end of Policy 60.000.15 "Family and Medical Leave" contains the "Public Employees' Benefit Board FMLA-OFLA Benefit Matrix." This matrix outlines how to apply insurance when FMLA leave ends. The policy can be located at:

http://egov.oregon.gov/DAS/HR/fmla.shtml#Policy_Attachments.

If an employee does not return to work following family and medical leave, they may be required to reimburse the agency for the full premium cost of health care coverage paid on their behalf, unless there is a recurrence or continuation of a serious health condition or the reason for not returning is beyond the employee's control.

Reinstatement Rights at the End of FMLA and OFLA Leave

When an employee returns from OFLA leave or leave that qualified for both OFLA and FMLA, they have a right to be restored to the position they held prior to their leave. When an employee returns from FMLA-only leave, they have a right to be restored to the position they held prior to their leave or a position with equivalent pay and benefits. The following exceptions apply to both FMLA and OFLA:

If the position was eliminated through an agency layoff process, the employee must be treated as if they were not on FMLA or OFLA leave and will be treated the same as similarly situated employees in accordance with an agency policy or an applicable CBA.

If an employee can no longer perform the duties of their position, the agency must comply with the Americans with Disability Act (ADA) to determine if a reasonable accommodation is appropriate.

If an employee is unable to perform an essential function of their position and reasonable accommodations are not appropriate, the employee may be subject to termination under an applicable law, rule, policy or CBA. An agency should consult the Department of Justice (DOJ), General Counsel for guidance.

Extending Leave Beyond the FMLA and OFLA Entitlement

If an employee is unable to return to work following their FMLA or OFLA leave, the employee no longer has FMLA or OFLA job protection. The employee may request an extension of their absence. It is up to the discretion of the agency if the employee can extend their absence. The business needs of the agency will be a primary factor in the decision to extend leave. The agency needs to fulfill any obligation for accommodation through the Americans with Disabilities Act (ADA) if appropriate.

Additional Information About FMLA and OFLA Leave

FMLA and OFLA leave are usually designated at the same time when an employee is entitled to and eligible for both leaves.

FMLA leave only is designated when an employee is absent from work for a disabling compensable injury or has a pending determination of a workers' compensation claim. OFLA leave is not designated under these circumstances. However, if a pending workers'

compensation claim is denied, OFLA leave will be immediately designated if the employee meets eligibility and purpose requirements.

If the employee has a disabling compensable injury and refuses an offer of transitional work, OFLA leave will be immediately designated if the employee meets eligibility and purpose requirements.

An employee may need FMLA or OFLA leave for more than one qualifying condition or purpose at the same time or in the same leave year. Having more than one qualifying condition **does not extend** the amount of the employee's entitlement.

If an employee and their spouse both work for the State of Oregon and both are eligible for FMLA, they must share the FMLA entitlement (up to 12 weeks) for parental leave for the birth, adoption, or foster child placement or to care for a parent with a serious health condition. When an employee applies for the leave, the agency asks the employee if they have a spouse who works for the State of Oregon.

When two family members both work for the State of Oregon and both are eligible for OFLA leave, each have their full 12-week entitlement but may not take OFLA leave (including sick child leave) at the same time. There are four exceptions:

1. One of the employees needs to care for the other who has a serious health condition
2. One of the employees needs to care for a child with a serious health condition while the other is suffering from a serious health condition
3. Both employees have a serious health condition
4. The agency grants an exception under special circumstances.

If an employee is using FMLA or OFLA leave to care for a family member with a serious health condition and that person dies, FMLA and OFLA leave ends upon their death. The employee may be eligible for Bereavement leave in accordance with a CBA or Policy 60.000.10 "Special Leaves With Pay." The employee's ability to use Bereavement leave may depend upon their paid or unpaid status.

Meaning of Terms From Policy 60.000.15 "Family and Medical Leave"

(1) Family Member:

- (a) Parent: The biological or adoptive mother or father of an employee or an individual who stood in loco parentis (in place of a parent) to an employee when the employee was a child
- (b) Son or Daughter (Child): A biological, adopted, foster or stepchild, a legal ward, or a child of an employee standing in loco parentis. The child must be 17 years of age or younger or 18 years of age or older and incapable of self-care because of a mental or physical disability
- (c) Spouse: A husband or wife as defined under Oregon state law
- (d) Under OFLA only, the term "family member" additionally includes the employee's:
 - (A) Grandparent or grandchild
 - (B) Parent-in-law

- (C) Same-sex domestic partner
 - (D) Parent of a same-sex domestic partner
 - (E) For the purposes of parental leave and sick child leave, in addition to the individuals included in the definition above of “son or daughter”, the definition of “child” includes the biological, adopted, foster, or stepchild of a same-sex domestic partner. (For example, under OFLA, an employee may be absent to provide care for the child of their domestic partner who has a non-serious health condition, as long as the child is 17 years of age or younger or incapable of self care because of a mental or physical disability. FMLA does not extent parental leave or sick child leave to the child of a domestic partner.)
 - (F) For the purposes of serious health condition leave, the definition of “child” is not limited to children under age 18 or those who are incapable of self-care because of a mental or physical disability, as it is in FMLA. (For example, under OFLA only, an employee may be absent to care for their own, their spouse’s or their domestic partner’s adult child with a serious health condition.)
- (2) Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves one or more of the following:
- (a) Hospital care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to 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:
 - (i) Treatment two or more times by a health care provider, by a nurse, or by a physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of or referred by, a health care provider
 - (ii) Treatment by a health care provider on at least one occasion that results in a regimen of continuing treatment under the supervision of the health care provider.
 - (c) Any period of incapacity for pregnancy, pregnancy-related illness, or for prenatal care (pregnancy disability)
 - (d) Chronic conditions requiring treatment:
 - (i) A chronic condition that requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider
 - (ii) A chronic condition that continues over an extended period of time, including recurring episodes of a single underlying condition
 - (iii) A chronic condition that may cause episodic rather than a continuing period of incapacity. For example, asthma, diabetes and 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 potentially is not

effective. The employee or family member is under the continuing supervision of, but is not necessarily receiving active treatment by a health care provider. For example, Alzheimer's disease, a severe stroke, or 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 one or both of the following reasons:
 - i) Restorative surgery after an accident or other injury
 - ii) For a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment. For example: chemotherapy, radiation, etc. for cancer; physical therapy for severe arthritis; and dialysis for kidney disease.
 - (g) 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.
 - (h) Treatment: Includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations.
 - (i) Regimen of Continuing Treatment: Includes, for example, a course of prescription medication such as an antibiotic or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves, bed-rest, drinking fluids, exercise, and other similar activities that are initiated without a visit to a health care provider.
- (3) Parental Leave: Leave to care for a newborn child, a newly adopted child or a newly placed foster child in the employee's home.
- (a) The employee must complete parental leave within twelve months of the birth, adoption or placement of the child. An employee is entitled to take parental leave in increments prior to the adoption or placement of a child if the employee's absence from work is required for the placement for adoption or foster care to proceed.
- (4) Pregnancy Disability Leave: (Note: Because pregnancy is a temporary condition, it is generally not a covered disability that requires reasonable accommodation under the Americans with Disabilities Act (ADA).) The following absences related to pregnancy incapacity qualify:
- (a) Part-day or full-day absences for serious morning sickness
 - (b) Periods of bed rest ordered by the physician of the pregnant employee
 - (c) A reduced work schedule necessitated by pregnancy complications
 - (d) Routine prenatal visits to the doctor
 - (e) Leave following childbirth, when the employee is still incapacitated (since pregnancy disability is defined to include incapacity due to pregnancy or childbirth.)
- (5) Sick Child Leave (OFLA Only): Absences to provide care for a child with a non-serious health condition who requires home care. This type of leave is limited to care for a child who

is 17 years of age or younger or 18 years of age or older and incapable of self-care because of a mental or physical disability.

(6) Health Care Provider: A person who is performing within the scope of their professional license or certification and has primary responsibility for providing health care to an eligible employee or their family member.

(a) Health Care Provider can include a doctor of medicine or osteopathy authorized to practice medicine or surgery, podiatrists, clinical social workers, optometrists, chiropractors (limited to manual manipulation of the spine to correct sublexation shown to exist by x-ray,) nurse practitioners, nurse midwives and Christian Science practitioners.

(b) For additional health care providers recognized by FMLA, see the Federal Family and Medical Leave Act 29 USC §§ 2601 through 2654 and Federal Regulations Part 825; 659.479 through 659.494.

(7) Types of Leave Schedules:

(a) Continuous Leave: FMLA or OFLA leave taken in a continuous block of time

(b) Intermittent Leave: FMLA or OFLA leave taken sporadically

(c) Reduced Schedule Leave: FMLA or OFLA leave taken where the employee works less than the employee's normal hours in a day or week.

(8) Rolling Backward Year: When determining an employee's FMLA and OFLA leave entitlement, a "rolling-backward" period is used. This means the agency looks backward on the calendar for one year from the first day of the requested leave to determine if the employee is eligible for FMLA or OFLA leave and how much leave the employee is entitled to use.

(9) Definitions Relating to Military Service Only

(a) Active Duty: Duty 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.

(b) Covered Servicemember: 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.

(c) Outpatient Status: The status of a member of the Armed Forces assigned to one of the following:

(d) A military medical treatment facility as an outpatient

(e) A unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

(e) Next of Kin: The nearest blood relative of the individual.

(f) Serious injury or illness: An injury or illness incurred by the service member in the 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. This includes 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.

(10) Injured Service member Family Leave: Leave given to an eligible employee to care for a spouse, son, daughter, parent, as defined above in (2)(a)-(c) (excluding the age requirement for a child), or next of kin, who is a covered servicemember with a serious injury or illness as defined above in (12)(f) .

Timesheet Coding

While an employee is on FMLA, OFLA or both leaves, their timesheet must accurately reflect their use of FMLA and OFLA time. All leave taken (paid or unpaid) for the employee’s FMLA or OFLA condition(s) must be designated as FMLA, OFLA or both and will count toward their leave entitlement. Note that there are separate codes to use if leave is due to a pending or approved Workers’ Compensation claim.

If the employee is unable to enter their own time, the agency must maintain the timesheet for them.

The following codes must be used when recording FMLA or OFLA time.

Leave Type	OFLA Only	FMLA and OFLA Combination	FMLA Only	FMLA and Workers’ Compensation
Sick Leave (SL)	SL1	SL2	SLF	SL3
Vacation Leave (VA)	VA1	VA2	VAF	VA3
Personal Business Leave (PB)	PB1	PB2	PBF	PB3
Leave Without Pay (LO)	LO1	LO2	LOF	LO3
Holiday (HO)	HO1	HO2	HOF	HO3
Governor’s Leave (GL)	GL1	GL2	GLF	GL3
Bereavement Leave (FL)	FL1	FL2	FLF	FL3
Discretionary Leave (DL)	DL1	DL2	DLF	DL3

Note: Once the employee’s FMLA or OFLA leave is exhausted, discontinue use of the “1, 2, F and 3” designations after the leave code time. If the employee is on leave without pay, use the LS (leave without pay, sick) code if they are continuing a medical absence. The employee must obtain the agency’s approval to continue their absence once the employee’s FMLA and OFLA leaves are exhausted.

Follow applicable policy or CBA to determine if an employee is eligible to use the “Holiday” or “Bereavement Leave” code.

Address questions about FMLA and OFLA time tracking to Payroll at: 503-584-3880.