

**An Officer and A Gentle Grandma**  
**by**  
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**My company is large enough that it has to follow the requirements of the Oregon Family Leave Act (OFLA) and the federal Family Medical Leave Act (FMLA). Sylvia has been working for my company full-time for almost thirty years. She is eligible for OFLA and FMLA. Her daughter, Melissa, has a newborn. Melissa's nanny wants to take one week vacation in September. In anticipating for the nanny's absence, Sylvia submits a leave request form for the purpose of babysitting her grandchild for that week. Is Sylvia's requested time off protected by the OFLA or FMLA?**

Under OFLA, an eligible employee may take up to 12 weeks of protected leave to care for a family member with a serious health condition. Grandchild is a family member defined under OFLA. In Sylvia's case, her grandchild does not have a serious health condition, therefore, she is not eligible to use OFLA for the stated purpose. Her requested time off is not protected. She may take personal time off per your company's policy. Under FMLA, a grandchild is not recognized as a family member in this situation. Sylvia's requested time off is not protected by FMLA.

**After receiving the leave denial notice, Sylvia mentions that Melissa is an officer in the U.S. Army and will be deployed to Afghanistan in August. Sylvia also brings up the Oregon Military Family Leave Act (OMFLA) and asks if I would reconsider the denial. Am I required to reconsider her request?**

Under OFLA, the answer has not changed. Sylvia is still not eligible under OFLA. Under OMFLA, during a period of military conflict, an employee who is a spouse or same gender domestic partner of a member of the Armed Forces of the U.S., including the National Guard and military reserve forces, who has been notified of an impending call or order to active duty, is entitled to a total of 14 working days of protected leave after the military spouse or same gender domestic partner has been notified of an impending call or order to active duty and before deployment and when the military spouse or same gender domestic partner is on leave from deployment. Melissa is not Sylvia's same gender domestic partner, therefore, she is not eligible for OMFLA leave. Under FMLA, an eligible employee may take leave while the employee's spouse, son, daughter or parent (who is a covered military service member) is on active duty or call to active duty status for a qualifying exigency. To arrange for alternative childcare when the active duty status of a covered military service member necessitates a change in the existing childcare arrangement for a child of a covered service member or to provide childcare on an urgent, immediate need basis is a qualifying exigency. In this case, Sylvia is a FMLA eligible employee. Melissa is Sylvia's daughter. Melissa is a covered military service member and has been called to active duty. The situation necessitates a

change in the existing childcare arrangement. Therefore, Sylvia is eligible to take qualifying exigency leave under FMLA. You must reconsider and grant Sylvia the FMLA leave.

In your family leave tracking records, this event may only be tracked under FMLA. The leave is not an OFLA qualifying event, and you may not deduct from Sylvia's OFLA entitlement.

If you would like to learn more about the Oregon Family Leave Act (OFLA) and federal Family and Medical Leave Act (FMLA), Technical Assistance for Employers will be conducting seminars on Leave Laws: September 22 (OFLA only) and November 2 & 3 in Portland. Please go to the following website <http://egov.oregon.gov/BOLI/> for registration information.