



ADMINISTRATIVE PROCEDURE

SECTION: 300 – Human Resources	PROCEDURE #: 304-A
TITLE: Family Medical Leave	IMPLEMENTS POLICY #: 304
SPONSORING DEPARTMENT/DIV: Human Resources	
EFFECTIVE DATE: 01/23/2018	REVIEWED: 08/24/2023

OBJECTIVE:

This policy provides protected leave for qualifying events in accordance with the Federal Family and Medical Leave Act of 1993 (FMLA), the Oregon Family Leave Act (OFLA) and the Paid Family Medical Leave Insurance (PMFLI) Act of 2019 (also known as Paid Leave Oregon or PLO)

PURPOSE:

The purpose of these laws is to secure the right of eligible employees to respond to serious health and safety needs for themselves and their qualified family members. This policy has been designed to consolidate provisions of both State and Federal laws in such a way as to allow employees the maximum leave available.

AUTHORITY:

The authority to issue or revise these procedures is reserved to the County Administrator. The County Administrator may authorize exceptions to these procedures when deemed appropriate.

GENERAL SUMMARY:

Generally, eligible employees may take up to 12 weeks off work for Family Medical Leave for themselves or covered family members.

ELIGIBILITY REQUIREMENTS:

To qualify for FMLA, the employee must have worked for a total of 12 months and 1,250 hours during the 12 months preceding the leave. To qualify for OFLA, the employee must have been employed for a period of 180 calendar days preceding the date of leave and worked an average of 25 hours (except for OFLA parental leave, which only has the 180 day work requirement). To qualify for PLO, the employee must have earned at least \$1,000 in wages in the 52 weeks prior to the qualifying event. Covered family members for each type of leave are outlined in the table below.

QUALIFYING LEAVES:

Examples of qualifying leaves include: parental leave, serious health condition leave,

pregnancy disability leave, safe leave, sick child leave, military family leave, and bereavement leave.

QUALIFYING FAMILY MEMBER:

Relation to Employee	OFLA	FMLA	PLO
Spouse	Covered	Covered	Covered
Registered Domestic Partner	Covered	Not covered	Covered
Parent — Includes a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee	Covered	Covered	Covered
Parent-in-Law (of spouse or registered domestic partner)	Covered	Not covered	Covered
Child - biological, adopted, or foster child, or stepchild	Covered	Covered, when the child is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence	Covered – plus child’s spouse or registered domestic partner
Child of the Employee’s Registered Domestic Partner	Covered	Not covered, unless in loco parentis to child who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence	Covered
Sibling, step-sibling, or their spouse or domestic partner	Covered	Not Covered	Covered
Grandchild	Covered	Not covered, unless in loco parentis to child who is either under age 18, or age 18 or older and “incapable of self-care because of a mental or physical disability” at the time that FMLA leave is to commence	Covered – plus grandchild’s spouse or registered domestic partner
Grandparent	Covered	Not covered, unless grandparent was in loco parentis to the employee	Covered – plus grandparent’s spouse or registered domestic partner

SERIOUS HEALTH CONDITION:

A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that falls into one or more categories which indicate the severity of the condition,

or the type of medical treatment involved. These categories are:

- Inpatient care
- Poses danger of death or possibility of death in the near future
- Continuing treatment by a Health Care Provider
- Conditions requiring multiple treatments
- Involves a period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care
- Any period of absence for the donation of a body part, organ or tissue, including preoperative or diagnostic services, surgery, post-operative treatment and recovery (PLO & OFLA)

SAFE LEAVE:

Safe leave is paid time off for survivors of:

- Sexual Assault
- Domestic Violence
- Harassment
- Stalking

PROCEDURES:

1. Notification to Washington County

1.1. Employees must notify Washington County Human Resources and Paid Leave Oregon, a division of the Employment Department, when they are requesting a leave potentially eligible under FMLA, OFLA and/or PLO. Failure to provide timely notice to either may result in loss of leave benefits.

1.1.1. When an employee receives a leave approval notice(s) from the Oregon Employment Department, the employee shall provide the County with a copy of each notice to facilitate the calculation of any accrual use.

1.2. Employees are required to provide written thirty (30) calendar days' notice before commencing a period of foreseeable family, medical, or safe leave, and providing oral notice within twenty-four (24) hours before the commencement of an emergency or unforeseeable period of family, medical, or safe leave, and providing written notice within three (3) calendar days after the commencement of the emergency leave.

1.3. Family members may give notice on an employee's behalf.

2. Medical Certification Requirements:

2.1. A licensed health care provider must complete the *Certification of Health Care Provider* form for leave to care for an employee's family member with a serious health condition, or the employee's own serious health condition, including disability for pregnancy and following childbirth. The health care provider must be performing within the scope of their professional license or certificate.

- 2.2. Medical certification for FMLA or OFLA may be requested even if not permitted by the Oregon Sick Leave statute. PLO required medical certification may be acceptable in some cases in place of the *Certification of Health Care Provider* for a concurrent leave event.
 - 2.3. The written certification must include satisfactory evidence that confirms the serious health condition of the employee, provide an estimate of when the employee will be able to return to work, state whether the employee's incapacity will require intermittent treatments, state the estimated frequency and duration of such treatments, and provide the estimated period for recovery, if known.
 - 2.4. *Certification of Health Care Provider* form must be submitted to Human Resources within fifteen (15) days of the request. Failure to provide the required certification may result in denial of the requested leave.
 - 2.5. If the serious health condition is related to a family member, the attending health care provider must indicate on the *Certification of Health Care Provider* form that the employee must provide care (which may include psychological comfort, basic medical, hygiene, nutritional needs, safety, transportation, arrangement for third party care).
 - 2.6. If a certification is incomplete or insufficient the employee may be provided up to seven (7) calendar days to submit clarifying information from their medical provider before a leave determination is made.
 - 2.7. The County will require that an employee who provides notice for PLO leave disclose whether that leave is for a family, medical, or safe leave purpose. If the PLO leave is for a family member, the County will also require that the employee disclose which family member the leave is for. The County will not require that the employee disclose confidential information, or any other specific information related to why or what the PLO leave is needed for except to determine whether other local, state, and federal leave protections must run concurrently.
 - 2.8. If validity of the medical certification is in doubt, the County may require the employee or family member to obtain a second opinion at the County's expense.
 - 2.9. Recertification may be requested every 30 days, or more frequently if 1) the employee requests an extension of leave, 2) circumstances described by the previous medical verifications have changed significantly, or 3) the employer receives information that casts doubt upon the employee's stated reason for the absence.
 - 2.10. Recertification for a chronic condition requiring an ongoing intermittent leave will be required every six (6) months.
 - 2.11. A medical verification may be required for leave taken for the non-serious health condition of a child requiring home care (sick child leave) after the third occurrence of sick child leave and every subsequent occasion during the leave year.
3. Intermittent or Reduced Work Schedule Leave:
- 3.1. Employees may take their FMLA/OFLA/PLO leave continuously or intermittently, subject to certification by the medical provider and requirements under the law. Under certain circumstances, employees may use their leave to reduce the work week. Intermittent leave or reduced work schedule leave may be requested by the employee to provide immediate and necessary care for the employee's own serious

- health condition, or for a serious health condition of a qualified family member.
- 3.2. It is the employee's responsibility to accurately report their time missed due to intermittent leave within the established County leave tracking system and on their county timesheet, such that the total hours must match. Failure to accurately report time missed may result in discipline up to and including termination of employment.
 - 3.2.1. An employee may request that bonding/ parental leave be taken intermittently. The employee's planned schedule is to be documented on "Intermittent Parental Leave Form A" prior to the start of the leave and shared with their Supervisor and Leave Administration.
 - 3.2.2. Parental leave must be completed within twelve (12) months of the birth, adoption, or placement of the child in foster care.
 - 3.3. Employees may be asked to schedule leave periods so that it does not unduly interfere with county operations.
 - 3.4. The county reserves the right to temporarily place an employee in an available, alternative position with equivalent pay and benefits if the alternative position would better accommodate the intermittent or reduced schedule. If leave is also OFLA qualifying, the County will seek the employee's permission for the alternative assignment.
 - 3.5. In the case of partial day intermittent or a reduced work schedule leave, the employee's position retains its designated FTE status (full-time or part-time). The difference between hours usually scheduled and actual hours worked must be covered by use of accrued leaves if available. If not available, then unpaid time will be used for hours missed until qualifying leave time is exhausted.
4. Use of Accrued Paid Leave:
- 4.1. If the employee is receiving paid leave benefits under PLO, they can use accrued leave to supplement their earnings from the Oregon Employment Department.
 - 4.2. If an employee's absence is approved for only FMLA/OFLA leave, the employee must use all accrued paid leave, including any paid leave accrued during the employee's qualified leave, prior to commencing any period of unpaid leave.
 - 4.3. Employees who are on unpaid leave will not be eligible to accrue vacation leave or seniority if they incur unqualified pay periods as defined by Washington County's Personnel Rules and Regulations.
 - 4.4. Under no circumstances will an employee be permitted to go back and forth between paid and unpaid leaves for the purpose of extending eligibility for County paid benefits or earning service accruals.
 - 4.5. An employee will have the option use leave accruals in order to attain 100% of the employee's County gross wages. The employee may designate the order of leave accruals, in writing, to the County. Use of accruals to supplement PLO benefits and any requested order of use must be communicated to the County Leave Administration team on an Accrual Use Request Form when the employee provides their PLO Benefit Statement. If the employee does not designate a specific order for leave accrual use, the County will use and deplete an employee's accrued leave(s) in the following order: sick leave,

MAPPS, holiday leave or (ILH), and vacation leave, and comp time. If the employee designates a specific order of leave, the County will use that order for the remainder of the leave, or until the employee provides timely written notice (prior to the end of the pay period) requesting to change the order and/or number of hours used.

- 4.6. If an employee begins a leave of absence prior to FMLA or OFLA approval, use of accruals is required per the County Personnel Rules and Regulations and applicable bargaining agreements. Once approval is received by PLO an employee may begin using accruals to supplement PLO benefits per 4.5. Any accruals used prior to PLO approval will not be retroactively reinstated.

5. Benefits Continuation during Leave

- 5.1. During an approved leave, the County will continue its contribution to employer paid benefits for leave periods that qualify under FMLA/OFLA/PLO at the same level and under the same conditions in place when working. Employees will be responsible for their share of the premiums, and these will be collected during the leave or upon return if the County is unable to collect due to the employee entering unpaid status.

6. Return to Work after Leave

It is the employee's responsibility to provide a timely Release to Work form from a healthcare provider. The employee should upload the release to their leave profile in the County leave administration software, provide it to their supervisor or send it to the Human Resources Department's HRLeaveAdministration@washingtontybor.gov email box to review for any continuing restrictions that may impact the employee's return to full duty. Once received, the Leaves Administration team will notify the supervisor of the full medical release, or discuss any limitations noted on the Release form that may impact the employee's ability to perform the essential functions of the position.

7. FMLA/OFLA Military Leaves:

7.1. FMLA Military Caregiver Leave for an Injured Servicemember

- 7.1.1. An eligible employee who is the spouse, son, daughter, parent, or next of kin (defined as the closest blood relative) of a covered servicemember shall be entitled to a total of twenty-six (26) workweeks of leave during a 12-month period to care for the servicemember.
- 7.1.2. A covered servicemember is 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; or a veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness, and who was discharged within the previous 5 years before the eligible employee takes FMLA military caregiver leave to care for the veteran.

7.2. FMLA/OFLA Family Leave Due to a Qualifying Exigency or Call to Active Duty

- 7.2.1. An eligible employee may use up to twelve (12) weeks of FMLA leave for any qualifying exigency as defined by the Department of Labor arising from a spouse, son, daughter, or parent who is either on active duty in the Armed Forces, or who has been notified of an impending call or order to active duty in the Armed Forces.
- 7.2.2. FMLA leave for a qualifying exigency is not in addition to the standard FMLA 12-week entitlement; rather, it constitutes an additional qualifying reason for seeking FMLA leave.
- 7.2.3. An eligible employee who is a spouse or registered domestic partner of a member of the Armed Forces, the National Guard, or the military reserve forces of the United States may use up to fourteen (14) days of OFLA leave per deployment or leave from deployment. The employee must notify the County of their intention to take such leave within five (5) business days of receiving notice of an impending call or order to active duty or of a leave from deployment, or as soon as is practicable when official notice is provided fewer than 5 days before commencement of the leave.
- 7.2.4. OFLA leave taken for deployment or leave from deployment of an employee's spouse or registered domestic partner is not in addition to the standard OFLA 12-week entitlement; rather, it constitutes an additional qualifying reason for seeking OFLA leave.
- 7.2.5. Employees utilizing OFLA leave pursuant to this subsection may use any accrued leave they have earned for any part of the qualified leave.
- 7.2.6. The use of OFLA leave by an employee pursuant to this subsection shall run concurrently with their FMLA leave entitlement under this subsection which may not be taken separately or consecutively.

8. Training.

The County will make available and encourage Staff to attend training that is designed to inform Staff about Family Medical Leave provisions. The Family Medical Leave Policy and corresponding Administrative Procedures will be covered in the training sessions.