

Family and Medical Leave of Absence Manual



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Introduction



You are entitled to use any balance (or number of hours) of the 12 workweek FMLA/OFLA leave period that has not been used during the preceding 12 months.

Am I eligible for FMLA and OFLA leave?





until late 2017 are not a factor. FMLA and OFLA leave are not benefits; they are an entitlement that must be applied as the need occurs.



Sick Child Leave, Non-serious Health Condition

OFLA provides up to 12 weeks of protected unpaid leave to care for a child of the eligible employee who



length based on individual circumstances from 18 weeks to 24 weeks. In very rare cases an additional sick child leave may extend the leave up to an additional 12 weeks.

[Leave for Victims of Domestic Violence, Harassment, Sexual Assault or Stalking \(DVHSAS\)/Oregon Victims of Certain Crimes Leave Act \(OVCCLA\)](#)

Oregon Law provides protected leave for an employee who is a victim, or is the parent or guardian of a victim of domestic violence, harassment, sexual assault or stalking. The protected leave covers time off to seek legal or law enforcement assistance, medical treatment, to obtain counseling, to relocate or take other steps to ensure health and safety.



What is NOT a Serious Health Condition?

Examples of what would generally not be considered a serious health condition may include: Common cold, treatment for acne, flu, headache (other than migraines), earaches, routine medical or dental visits, sore throat, and plastic surgery for cosmetic purposes.

Any of the above may become a serious health condition if medical treatment is sought and you or your family member are incapacitated for 3 or more



The checklist will request that you review the related informational notices on the leave type, and provide you with a Leave of Absence Request Form to complete and return electronically.

What happens after I request FMLA/OFLA leave?

Notice of Eligibility

After you make a request for FMLA or OFLA leave, HR will generally let you know within 5 business days if you are eligible for the leave entitlement and if additional information is needed such as the medical certification.



What are the expectations when I return from FMLA/OFLA leave?

Under the leave laws, you are expected to complete the essential functions of your position when not on FMLA and OFLA leave.

You need to work with your health care provider to determine the appropriate date of your return if your leave was for your own serious health condition. The University requires, you to provide a work release or status report prior to returning from FMLA and OFLA leave.

Restrictions to work duties are not protected under the leave laws. If you anticipate ongoing restrictions that may impact your job, you should work with the Office of Equity and Inclusion to determine if any protections can be afforded through their office.

Return to work

Absences related to your own serious health condition, excluding pregnancy, will require a release to return to work form will be required before you can report back to work and needs to be provided to HR.

What happens to my job when I take FMLA and OFLA leave?

Your reinstatement rights vary slightly depending on whether you are returning from FMLA or OFLA qualifying leave.

FMLA-only leave: You have the right to be restored to the position you held prior to your leave or to an equivalent position. An equivalent position is one that is nearly identical to your former position in terms of pay, benefits, and working conditions and involves the same or substantially similar duties and responsibilities.

OFLA-only or FMLA/OFLA leave: You have the right to be restored to the same position you held when your leave began.

Employees who are laid off or terminated during their leave are eligible for reinstatement to their original position or an equivalent position if the employee would have otherwise been laid off or terminated. The reinstated employee may be held to the same standards for performance, termination or layoff as other employees.

Exceptions to reinstatement rights upon return from FMLA and OFLA leave.

The University's obligation to restore you to the same or an equivalent position ceases:

- If and when the employment relationship would have terminated either through a termination or layoff action if you had not taken leave (e.g., contract ends);
- You inform the University of your intent not to return to work at the expiration of the leave;
- You fail to return to work at the expiration of the leave;
- You are unable to perform an essential function of your position and reasonable accommodations are not appropriate; or
- You continue on leave after exhausting your leave entitlement in the 12-month period.



If



Can I work outside of the University while I am on leave?

Oregon Tech prohibits unauthorized work for another employer while you are on FMLA or OFLA leave from Oregon Tech. If you are found to be working for another employer while on leave, you may be subject to disciplinary action.