



## Family and Medical Leave Frequently Asked Questions (FAQ)

*This document is intended to be a resource for frequently asked questions regarding Family and Medical Leaves and is not intended to be an all-inclusive list. As you consider your individual situation and needs, and for further information, please contact, Sarah Henderson, Benefits Consultant at [sarah.henderson@oit.edu](mailto:sarah.henderson@oit.edu) or at 541-885-1028.*

The Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA) provide employees with leave from work for their own or their family's medical needs, including time off to care for a new child. FMLA/OFLA laws provide job protection during leave and guarantee that your health benefits will continue while you are on leave.

### WHAT IS IT?

#### Q. What is the Family and Medical Leave Act?

A. The Family and Medical Leave Act of 1993 (FMLA) is a federal law designed to help you maintain your job and benefits when you need time off from work to take care of a new child or deal with serious health situations involving your family or yourself. FMLA can help you be assured of your decisions as you balance family needs and your work schedule. You can take time off to attend to such important life events without losing your employment and health insurance coverage.

#### Q. Who should I contact if I need time off for a family member or myself?

A. Human Resources encourages employees to call if they have questions about the basis for leaves and the procedures for requesting leave. The Benefits Consultant is available to discuss the specifics of your situation so we can best help you with your specific situation. You may contact *Sarah Henderson, Benefits Consultant* at [sarah.henderson@oit.edu](mailto:sarah.henderson@oit.edu) or at 541-885-1028.

### AM I ELIGIBLE?

#### Q. How do I know if I am eligible for FMLA?

A. You must have twelve (12) months of service with the University and you must have worked at least 1,250 hours during the twelve (12) months preceding the date your leave begins. Under the Oregon Family Leave Act (OFLA), you must be employed 180 calendar days and worked an average of 25 hours per week during the preceding 180 calendar days. (Exception: An employee working less than 25 hours per week may take leave to care for an infant or newly adopted child or foster child; and an employee must work an average of 20 hours per week to qualify for Military Family Leave).

#### Q. What reasons for leave qualify under FMLA?

A. Leave taken for the following reasons is designated as FMLA:

- Your own serious health condition;
- A family member's serious health condition (your spouse, child, or parent);
- Birth of your child and to care for your child after birth;
- Care for your child after adoption or foster care placement;
- Care for a service member or veteran (Service member care leave); or
- For qualifying military exigency of a covered family member.



**Q. How do I know if I have a serious health condition or a family member has a serious health condition?**

**A.** The definition of a serious health condition includes:

- Hospital care
- Absence from work of four days or more plus medical treatment two or more times (also includes one treatment and continuing medical supervision)
- Pregnancy
- Chronic conditions requiring medical treatments
- Permanent long-term conditions requiring medical supervision
- Multiple medical treatments (non-chronic conditions)

**Q. What is the definition of a family member under FMLA?**

**A.** A family member includes a child, spouse or parent. FMLA protections do not extend to domestic partners. OFLA includes grandparents, a parent-in-law and same sex domestic partners in its definition of a family member. For Service Member Care Leave a family member includes a spouse, son, daughter, parent, or next of kin.

**Q. How does FMLA define a son/daughter?**

**A.** A son/daughter is any child under 18 who is a biological, adopted, or foster child, a stepchild or a legal ward, or a child for whom you are financially responsible and supervise on a day-to-day basis.

**Q. How does FMLA define a parent?**

**A.** A parent is any individual who had day-to-day and financial responsibility for you when you were a child. A grandparent, aunt, uncle, etc. could be considered to be your parent under FMLA.

**Q. If I have an injury that qualifies under Worker's Compensation, does it qualify for FMLA?**

**A.** It depends. If the injury meets the definition of a serious health condition under FMLA, the employer must designate your time off as FMLA and you will be eligible for the protections of the Family and Medical Leave Act. Workers Compensation Leaves are not eligible for OFLA (Oregon Family Leave Act) entitlements.

## **HOW MUCH TIME CAN I TAKE?**

**Q. How much time am I eligible to take for an FMLA reason?**

**A.** You are eligible for up to 12 weeks of leave designated as FMLA during any 12-month period. The University uses the "rolling backward" method to calculate the 12-month period. This is the 12-month period measured back in time from the date you request any FMLA leave. You are eligible for a combined total of 12 weeks for the reasons listed above.

**Q. If my spouse also works for the University, can we both take 12 weeks to care for a new child?**

**A.** Yes, the University does allow for both you and your spouse to each take 12 weeks of FMLA leave to care for a new child.

**Q. Can I take intermittent or reduced-hour leave for a serious health condition?**

A. Yes. If your health care provider states you need to work an intermittent or reduced-hour schedule for a serious health condition, you can reduce your hours or use leave intermittently.

**Q. Can I take intermittent or reduced-hour leave to care for a new child?**

A. Yes, the law states that employees are required to take the leave all at once unless the employer chooses to grant intermittent and/or reduced hours leave. The University does allow these types of leaves. Your leave must be taken within 12 months after the birth or placement for adoption or foster care.

**WHAT HAPPENS TO MY PAY AND BENEFITS?****Q. Will I receive pay while I am on FMLA leave?**

A. You will receive pay only if you have paid leave time available to use. The University requires you to use your leave accruals before you go on leave without pay during your FMLA leave with an exception while employees are on Short and Long Term Disability.

**Q. Can I use all of my accrued paid leave before my time off is designated as FMLA leave?**

A. No. It runs concurrently. FMLA leave does not start after paid leave is exhausted. The FMLA designation is based on the reason you are taking the leave, not whether you are on paid leave or unpaid leave. The law gives you protection regardless of pay status. FMLA actually protects your job, unlike sick leave, because you cannot be disciplined for missing time for an FMLA reason.

**Q. What happens to my benefits while I am on unpaid FMLA leave?**

A. Your University provided health insurance continues during your leave even if you are on leave without pay provided that you pay your portion of the premium. We will let you know in writing when your benefits end.

While you are on unpaid leave no contributions will be made to PERS or ORP on your behalf. This contribution is based on gross wages, therefore, no contributions can be made while on unpaid leave.

**WHAT KIND OF NOTICE AND CERTIFICATION ARE REQUIRED?****Q. How do I request FMLA leave?**

A. The University requires 30-days advance notice of all foreseeable leaves. If your leave is not foreseeable the University requires that you provide us with the information as soon as practicable.

**Q. Do I have to request FMLA leave to receive job protection for my time off?**

A. No. You must provide enough information about the reason for your absence so the Benefits Consultant can determine if your leave is FMLA eligible.



**Q. Who is responsible for designating the leave as FMLA qualifying?**

**A.** FMLA states that, in all circumstances, it is the employer's responsibility. The Benefits Consultant is responsible for designating your leave as FMLA qualifying based on the reason for your leave and counting your leave toward your twelve-week entitlement.

**Q. Do I have to provide a medical certification for serious health conditions for myself and my family members?**

**A.** Yes. You have 15 days from the date that HR is notified of the leave to provide the Certification of Health Care Provider Form.

**Q. Is the information included in my medical certification confidential?**

**A.** Yes. All medical documentation is confidential and kept in a confidential medical file.

**WILL I BE REINSTATED TO MY PREVIOUS JOB?**

**Q. Can I return to my job when my leave ends?**

**A.** When you return from leave, you are entitled to return to the same, or an equivalent job at the same salary and your benefits will be reinstated. Remember, in order to receive this protection, you must qualify under FMLA for leave and return the day after the twelve-week period ends or earlier.

**AM I PROTECTED BY ANY OTHER FAMILY AND MEDICAL LEAVE LAWS?**

**Q. Does Oregon have a family and medical leave law?**

**A.** Yes. The state has the Oregon Family Leave Act (OFLA). However, in most cases, OFLA leave also qualifies as FMLA leave. If leave qualifies under both the FMLA and OFLA, its use is counted against both entitlements so employees are not eligible for more time off under OFLA.

**Q. Are the eligibility requirements the same under OFLA and FMLA?**

**A.** No, to qualify for OFLA, you must have been employed for at least 180 calendar days and have worked an average of 25 hours a week (except for parental leave which does not require a weekly average.) Under FMLA, you must have worked for at least 12 months (does not have to be consecutive) and have worked at least 1250 hours during the 12-month period immediately preceding the date the leave begins.

**Q. Is the definition for family member the same under the OFLA and the FMLA?**

**A.** They are very similar except OFLA includes a parent-in-law and same-gender domestic partners and FMLA does not. Neither OFLA nor FMLA includes opposite gender domestic partners in its definition.