

# Paid Leave Oregon

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Where are we now?

Presented 10/2023

# Agenda

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- Leaves
- Latest Updates
- Employers
- Employees
- Other Leaves
- Internal Policy



# Leaves

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# Paid Leave Oregon (Insurance)

- Legislated in 2019
- Oregon Revised Statue 657B. (revised by 2023 - SB 999)
- Oregon Administrative Rule Chapter 471.70 (still being revised)

The Legislative Assembly finds that:

(1) Employees experience a variety of caregiving obligations that interfere with work time.

(2) It is in the public interest to create a family and medical leave insurance program to provide to employees and certain other individuals compensated time off from work to care for and bond with a child during the first year after the child's birth or arrival through adoption or foster care, to provide care for a family member who has a serious health condition or to recover from an employee's or an individual's own serious health condition.

# Paid Leave Oregon

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- Applies to all employers with employees in Oregon
- Time is paid (in full or in portion) through the employers selected insurance carrier
- Employee are eligible for up to 12 weeks of leave every benefit year
- Employers cannot tell an employee “no” to a request for a qualifying leave when eligible.
- This is protected time. Employees cannot be separated or experience a disadvantage due to use of this leave.

# Oregon Sick Time

- Legislated in 2016 – Revised in 2021
- Oregon Revised Statute 653.601-653.661.  
(revised by 2021 - SB 588)
- Oregon Administrative Rule Chapter 839-007.

Effective January 1, 2023, signatory employers can still meet their obligations to such employees under the sick time law through a multi-employer-employee trust or benefit plan defined by a CBA, but the agreement must also provide a sick leave policy or other paid time off program that is substantially equivalent to or more generous than the minimum requirements of ORS 653.601 to 653.661.

# Oregon Sick Time

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- Applies to all employers with employees in Oregon
- Time is paid, if employer has 10 or more employees (6 or more in Portland)
- Employee must earn at least 1 hour of sick time for every 30 hours worked.
  - Unionized employers typically want to use an accrual method which also requires a rollover of unused hours from year to year
- Employers cannot tell an employee “no” to a request for a qualifying leave when leave has been earned
- This is protected time. Employees cannot be separated or experience a disadvantage due to use of this leave

# Oregon Family Leave Act (OFLA)

- Legislated in 1995
- [Oregon Revised Statute 659A.150 – 659A.186](#)  
(revised by 2023 - SB 999)
- [Oregon Administrative Rule Chapter 839-009-020 through 839-009-0320](#)

Provides Protected Leave time for employees in organizations with 25 or more employees. Employees are eligible once they have work and average of 20 hours per week for 180 days (no “hours worked: is required for Parental Leave). They are protected for up to 12 weeks, in some cases more, in each leave year.

Reasons for leave: Parental Leave, Serious Health Condition, Pregnancy Disability, Sick Child (not a serious health condition), Military Leave, and Bereavement Leave

# Oregon Family Leave Act (OFLA)

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- Time is not automatically paid. Employers have the discretion to choose optional or required use of other paid leave time
- Employers are required to notify employees of rights to protected within five (5) days of when they knew or should have known that a qualifying instance has occurred or will occur.
- Medical certification can be required and is best practice
- The leave must be tracked and can be taken intermittently or continuously.

# Family and Medical Leave Act (FMLA)

- Legislated in 1993
- [Federal 29CFR Part 825](#)

Provides Protected Leave time for employees in organizations with 50 or more employees.

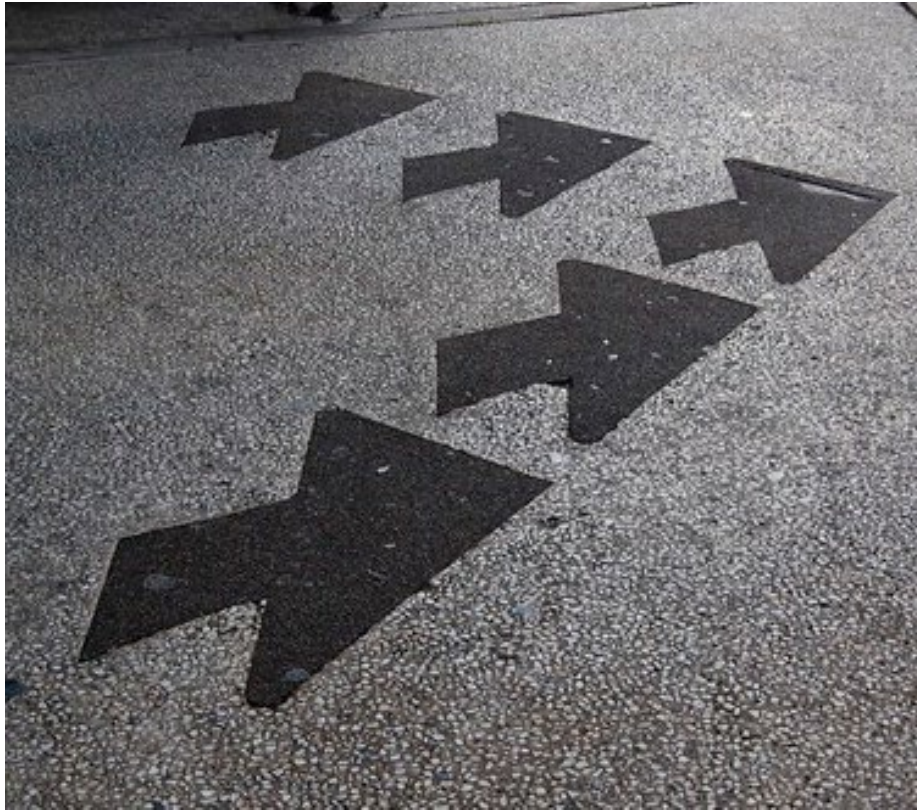
Employees are eligible once they have work for the employer for 12 months, at least 1,250 hours in the past 12 months, and works at a location where the company employees at least 50 employees within a 75-mile radius. They are protected for up to 12 weeks, in some cases more, in each leave year.

Reasons for leave: Birth or care of a newborn child, placement of a child through adoption or foster care, serious health condition of an immediate family member, or medical leave for their own serious health condition.

# Family and Medical Leave Act (FMLA)

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- Time is not automatically paid. Employers have the discretion to choose optional or required use of other paid leave time
- Employers are required to notify employees of rights to protected within five (5) days of when they knew or should have known that a qualifying instance has occurred or will occur.
- Medical certification can be required and is best practice
- The leave must be tracked and can be taken intermittently or continuously.



# Latest Updates

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# Employee Portal- Employment Department

- The employee portal opened 8/14 for initial claims

Note: If your organization is using a 3<sup>rd</sup> party insurer, they may be later to open their portal as their review process is more system drive.

# Legislative Updates

- SB 999
  - 52-week period – amendment to OFLA
    - May change now, must change by July 1, 2024 (don't forget the required a 60-day notice)
  - Definition of Family – requires alignment between PLO and OFLA
    - Expanding to the greater list of family members from PLO
    - Requires a joint definition for “affinity” and allows for the creation of an attestation form.
    - Adding “ a significant personal bond” as criteria for “family”.
  - Job Restoration
    - Equivalent position must be within 50 miles (rather than 20)
    - If multiple site are available – offer must be the closest site to their former job site.
  - Multi-protection qualification
    - If qualifying for multiple protections (OFLLA, FMLA, PLO) the leave will run concurrently. This assumes the employee has participated in the qualification process for each AND are determined eligible for multiple protections.

# Legislative Updates

- SB 999 - continued
  - Affirmative addition – Employees are required to continue payment of their contribution for health insurance premiums
    - If the employer pays the employee portion of any premium (during leave) they may deduct the amount from the employees pay upon return. The amount deducted cannot exceed 10% of the employee's gross pay per pay period.
- SB 913
  - Remove 100% cap – Employers may allow employees to use other leaves in addition to PLO benefits *without a cap*.
  - And much more...about confidentiality and hearings.

# Temporary Rule

- Clarifying the purpose of the chapter 471, division 70 administrative rules
- Defining affinity as relates to family relationship
- Defining claimant designated representative and clarifying responsibilities and the process for authorization
- Clarifying the first year after a child's birth, foster placement, or adoption
- Clarifying the requirements of job protection
- Clarifying the successor in interest responsibilities regarding assistance grants
- Defining confidentiality as relates to Paid Leave Oregon
- Clarifying the information that Paid Leave Oregon will collect and how Social Security Numbers and Individual Taxpayer Identification Numbers will be used
- Clarifying the responsibility of the Paid Leave Oregon staff to safeguard information
- Defining the conditions for disclosing information

# Definition of “Affinity”

(1) “Affinity,” as the term is used in ORS 657B.010, means a relationship that meets the following requirements:

(a) There is a significant personal bond that, when examined under the totality of the circumstances, is like a family relationship, and;

- (b) The bond under section (a) of this rule may be demonstrated by, but is not limited to the following factors, with no single factor being determinative:

(A) Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills, or beneficiary designations;

(B) Emergency contact designation of the claimant by the other individual in the relationship, or vice versa;

(C) The expectation to provide care because of the relationship or the prior provision of care;

(D) Cohabitation and its duration and purpose;

(E) Geographical proximity; and

(F) Any other factor that demonstrates the existence of a family-like relationship.





Employers

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## Employer Responsibilities

- Withholdings & Contributions (may be done by a third-party Administrator)
- Tax Reporting (may be done by a third-party Administrator)
- Payments of total Contributions (may be done by a third-party administrator)
- Document your internal Paid Leave Oregon Policy and create a notice form

## Employer Responsibilities

- Give employees time off, if they are approved for benefits.
- Coordinate the other leave policies in your organization.
- Continue health insurance benefits while on leave (arrange for their portion to be paid)
- Continue other seniority-based benefits
- Return the employee at the end of the approved leave.
  
- KEEP LEARNING

## Small Employer Assistance Grant

- Under 25 employees and one employee has been approved for benefits.
- Two types of grants: \$3,000 to hire a worker to temporarily replace an employee on leave or \$1,000 to increase wages or provide training to an existing employee.
- Can apply for up to 10 grants each year, once per employee
- Not required to pay these back (unless OED finds your organization ineligible later)



## Employer ToolKit

- Model Notice Poster
- Frances Online Infor Page
- Small Employers fact sheet
- FMLA, OFLA, PLO Comparison Chart
- Employer guidebook
- Contact Us Form
- More....





Employees

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# Important Dates

- Claim window open 8/14
  - (for Oregon Employment Department)
- Benefits begin 9/3/2023

## NOTES:

1. Employees are responsible for their own application and application materials.
2. Insurers are responsible for claim determination including; length of time, intermittent or continuous, and amount of benefit.

# Types of Leave

Employees can take time off for three different kinds of life events:

- Family leave:
  - To care for a family member with a serious illness or injury
  - Birth of a child
  - Bonding with a child In the first year after birth, after adoption, when they're placed in your home through foster care
- Medical leave:
  - To care for yourself when you have a serious health condition
- Safe leave:
  - For survivors of sexual assault, domestic violence, harassment, or stalking.

# Employee Forms & Application

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# Employee Toolkit

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# Other Leaves

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# Consideration must be given...



## Sick Leave

- Paid and Unpaid

## OFLA

## FMLA

## Discretionary Leave

- Vacation
- PTO
- Administrative Leave
- Unpaid Time
- Donated Time

# Sick Time (2016 law)

- Employees may use up to 40 hours per year at their discretion. (prorated for PT employees if using an accrual method)
- If not allowing employees to use “other leaves” provide an exception for Sick Leave

# OFLA – Oregon Family Leave Act

- With the passing of SB 999, there is better alignment
- When alignment occurs (meaning the employee has chosen to apply for both PLO and OFLA and is qualified) the clocks will run concurrently.

NOTE: You cannot require an employee to apply/participate in either.

## Specific differences:

- 12 Week Clock: Until 7/1/2024 or when you organization chooses to make the change – whichever is sooner.
- Bonding time: OFLA allows an organization to choose/deny intermittent bonding. PLO allows either.

FMLA –  
Family  
Medical  
Leave Act  
(federal)

- The reason for leave are limited.
- The definition of family is narrower.
- The 12-week clock will not align.

# Discretionary Leaves

- Vacation
- PTO
- Administrative Leave
- Unpaid Time
- Donated Time

NOTE: Review your policy for each and ensure the intention to allow or exclude during use of PLO is identified.





# Paid Leave Oregon Policy

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# Contents of your Policy

- Notice of Benefit Offering
- Cost
- Eligibility
- Length of Leave
- Reasons for Leave
- Insurance Benefit While on Leave
- Notification of Need for Leave
- Filing a Claim
- Complaints Procedure

# Contents of your Notice

- First and Last name
- Type of leave
- Explanation of the need for leave (this may also trigger OFLA/FMLA processes)
- Anticipated start date
- Anticipated end date
- Anticipated return date, if different from end date
- Signature and date (employee and received by)
- Disclaimers about payment for insurance premiums and the use of leaves (if allowed)



# Contact us

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Thank  
You