

Your Employee Rights Under the Family and Medical Leave Act

What is FMLA leave?

The Family and Medical Leave Act (FMLA) is a federal law that provides eligible employees with **job-protected leave** for qualifying family and medical reasons. The U.S. Department of Labor's Wage and Hour Division (WHD) enforces the FMLA for most employees.

Eligible employees can take **up to 12 workweeks** of FMLA leave in a 12-month period for:

- The birth, adoption or foster placement of a child with you,
- Your serious mental or physical health condition that makes you unable to work,
- To care for your spouse, child or parent with a serious mental or physical health condition, and
- Certain qualifying reasons related to the foreign deployment of your spouse, child or parent who is a military servicemember.

An eligible employee who is the spouse, child, parent or next of kin of a covered servicemember with a serious injury or illness **may take up to 26 workweeks** of FMLA leave in a single 12-month period to care for the servicemember.

You have the right to use FMLA leave in **one block of time**. When it is medically necessary or otherwise permitted, you may take FMLA leave **intermittently in separate blocks of time, or on a reduced schedule** by working less hours each day or week. Read Fact Sheet #28M(c) for more information.

FMLA leave is **not paid leave**, but you may choose, or be required by your employer, to use any employer-provided paid leave if your employer's paid leave policy covers the reason for which you need FMLA leave.

Am I eligible to take FMLA leave?

You are an **eligible employee** if **all** of the following apply:

- You work for a covered employer,
- You have worked for your employer at least 12 months,
- You have at least 1,250 hours of service for your employer during the 12 months before your leave, and
- Your employer has at least 50 employees within 75 miles of your work location.

Airline flight crew employees have different "hours of service" requirements.

You work for a **covered employer** if **one** of the following applies:

- You work for a private employer that had at least 50 employees during at least 20 workweeks in the current or previous calendar year,
- You work for an elementary or public or private secondary school, or
- You work for a public agency, such as a local, state or federal government agency. Most federal employees are covered by Title II of the FMLA, administered by the Office of Personnel Management.

How do I request FMLA leave?

Generally, **to request FMLA leave you must:**

- Follow your employer's normal policies for requesting leave,
- Give notice at least 30 days before your need for FMLA leave, or
- If advance notice is not possible, give notice as soon as possible.

You **do not have to share a medical diagnosis** but must provide enough information to your employer so they can determine whether the leave qualifies for FMLA protection. You **must also inform your employer if FMLA leave was previously taken** or approved for the same reason when requesting additional leave.

Your **employer may request certification** from a health care provider to verify medical leave and may request certification of a qualifying exigency.

The FMLA does not affect any federal or state law prohibiting discrimination or supersede any state or local law or collective bargaining agreement that provides greater family or medical leave rights.

State employees may be subject to certain limitations in pursuit of direct lawsuits regarding leave for their own serious health conditions. Most federal and certain congressional employees are also covered by the law but are subject to the jurisdiction of the U.S. Office of Personnel Management or Congress.

What does my employer need to do?

If you are eligible for FMLA leave, your **employer must:**

- Allow you to take job-protected time off work for a qualifying reason,
- Continue your group health plan coverage while you are on leave on the same basis as if you had not taken leave, and
- Allow you to return to the same job, or a virtually identical job with the same pay, benefits and other working conditions, including shift and location, at the end of your leave.

Your **employer cannot interfere with your FMLA rights** or threaten or punish you for exercising your rights under the law. For example, your employer cannot retaliate against you for requesting FMLA leave or cooperating with a WHD investigation.

After becoming aware that your need for leave is for a reason that may qualify under the FMLA, your **employer must confirm whether you are eligible** or not eligible for FMLA leave. If your employer determines that you are eligible, your **employer must notify you in writing:**

- About your FMLA rights and responsibilities, and
- How much of your requested leave, if any, will be FMLA-protected leave.

Where can I find more information?

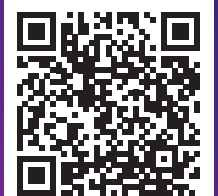
Call **1-866-487-9243** or visit **dol.gov/fmla** to learn more.

If you believe your rights under the FMLA have been violated, you may file a complaint with WHD or file a private lawsuit against your employer in court. **Scan the QR code to learn about our WHD complaint process.**



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

SCAN ME



OREGON FAMILY LEAVE

You can take time off for pregnancy disability, bereavement or to provide home care for your child under the Oregon Family Leave Act (OFLA).



- ▶ **This time is protected, but often unpaid unless you have vacation, sick, or other paid leave available.** However, while on OFLA leave, your employer must let you use any vacation, sick, or other paid leave you have accrued. OFLA leaves are separate from Paid Leave Oregon benefits.
- ▶ OFLA applies to employers with 25 or more employees.
- ▶ To be eligible, you must have worked an average of 25 hours per week for 180 days. A separation from employment or removal from the schedule for up to 180 days does not count against eligibility. (During a public health emergency, eligibility starts at just 30 days working 25 or more hours per week.)
- ▶ You can take up to 12 weeks of time off per year for:
 - » **Providing care to your child related to an illness, injury or conditions that requires home care** or when your child's school or child care provider is closed as a result of a public health emergency.
 - » **Bereavement** (up to two weeks) for the death of an individual related by blood or affinity.
 - » Through 2024, you can also take up to two additional weeks for the legal process required for foster child placement or adoption.
 - » **Pregnancy disability leave**
In addition to leave for the other reasons listed here, you can take up to 12 additional weeks of time off per year for pregnancy disability before or after the birth of child or for prenatal care.
- ▶ Your employer must keep giving you the same health insurance benefits as when you are working. When you come back you must be returned to your former job or a similar position if your old job no longer exists.
- ▶ Military family leave (up to 14 days) is also available if your spouse is a service member who has been called to active duty or is on leave from active duty.

CONTACT US

If your employer isn't following the law or something feels wrong, give us a call. The Bureau of Labor and Industries is here to enforce these laws and protect you.

Call: 971-245-3844

Email: BOLI_help@boli.oregon.gov

Web: oregon.gov/boli

Se habla español.



OREGON LAWS

Protect You At Work

July 2024 - June 2025

SICK TIME

All Oregon workers get protected sick time.
If you work for an employer with 10 or more employees (6 or more if they have a location in Portland), **you get paid sick time.**



- ▶ **Your employer must give you sick time.** You get at least 1 hour of protected sick time for every 30 hours you work up to at least 40 hours a year.
- ▶ **You can use sick time for many reasons** including if you (or a family member) are sick, injured, experiencing mental illness, or need to visit the doctor. Also covered: bereavement, parental leave, and leave to care for a child whose school or place of care is closed for a public health emergency.
- ▶ Your employer must pay you your regular wage when you take sick time if they have 10 or more employees (6 or more if they have a location in Portland). Otherwise, your sick time is protected but unpaid.
- ▶ You can start taking protected sick time after you've worked for at least 90 days. Your employer must regularly let you know how much sick time you have earned. (At least every three months.)

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What you need to know

Starting in September 2023, Paid Leave Oregon will serve most employees in Oregon by providing paid leave for the birth or adoption of a child, a serious illness of yours or a loved one, or if you experience sexual assault, domestic violence, harassment, or stalking.

What benefits are provided through Paid Leave Oregon and who is eligible?

Employees in Oregon that have earned at least \$1,000 in the prior year may qualify for up to 12 weeks of paid family, medical or safe leave in a benefit year. While on leave, Paid Leave Oregon pays employees a percentage of their wages. Benefit amounts depend on what an employee earned in the prior year.

Who pays for Paid Leave Oregon?

Starting on January 1, 2023, employees and employers contribute to Paid Leave Oregon through payroll taxes. Contributions are calculated as a percentage of wages and your employer will deduct your portion of the contribution rate from your paycheck.

When do I need to tell my employer about taking leave?

If your leave is foreseeable, you are required to give notice to your employer at least 30 days before starting paid family, medical or safe leave. If you do not give the required notice, Paid Leave Oregon may reduce your first weekly benefit by 25%.

How do I apply for Paid Leave?

In September 2023, you can apply for leave with Paid Leave Oregon online at **paidleave.oregon.gov** or request a paper application from the department. If your application is denied, you can appeal the decision with the Oregon Employment Department.

What are my rights?

If you are eligible for paid leave, your employer cannot prevent you from taking it. Your job is protected while you take paid leave if you have worked for your employer for at least 90 consecutive calendar days. You will not lose your pension rights while on leave and your employer must keep giving you the same health benefits as when you are working.

How is my information protected?

Any health information related to family, medical or safe leave that you choose to share with your employer is confidential and can only be released with your permission, unless the release is required by law.

What if I have questions about my rights?

It is unlawful for your employer to discriminate or retaliate against you because you asked about or claimed paid leave benefits. If your employer is not following the law, you have the right to bring a civil suit in court or to file a complaint with the Oregon Bureau of Labor & Industries (BOLI). You can file a complaint with BOLI online, via phone or email:

Web: www.oregon.gov/boli

Call: 971-245-3844

Email: help@boli.oregon.gov

Learn more about Paid Leave Oregon

Web: paidleave.oregon.gov

Call: 833-854-0166

Email: paidleave@oregon.gov

A new program that allows employees in Oregon to take paid time off for some of life's most important moments that impact our families, health, and safety.



Family Leave – to care for a family member with a serious illness or injury; or to bond with a new child after birth, adoption, or foster care placement.



Medical Leave – during one's own serious health condition.



Safe Leave – for survivors of sexual assault, domestic violence, harassment, or stalking.

Can I use paid leave benefits if my family is sick or injured?

Yes. You are covered to care for a family member that is sick or injured.

Who is considered my family under the Paid Leave program?

Any person related by blood, or whose relationship with you is like family.

When can I apply for benefits?

September 2023

How much paid leave can I get?

12 weeks of paid leave per year, plus an additional two weeks for limitations related to pregnancy. You can use paid leave one work day at a time or consecutively.

How much money will I get?

Many employees will get 100% of their wages replaced. Your benefit amount is based on your average wages from the previous year. The minimum weekly amount is currently about \$61, and the maximum weekly amount is about \$1,469. Minimum and maximum amounts are based on the state average weekly wage, which is updated every year on July 1.

What are the requirements to collect paid leave benefits?

Employees requesting paid leave benefits must have:

- ➔ Experienced a qualifying event
- ➔ Completed an application
- ➔ Earned \$1,000 in wages in the past year
- ➔ Contributed to the paid leave trust fund through paycheck deductions

When should I notify my employer I intend to take paid leave?

If you know you will need to take paid leave, you must notify your employer at least 30 days before you take leave. If you need to take leave unexpectedly, you must give verbal notice within 24 hours of starting your leave and provide written notice within three days after the start of your leave.

Which employees are covered by Paid Leave Oregon?

Paid Leave Oregon covers most employees who work in Oregon, including those who are salaried, hourly, full-time, part-time, and seasonal.

Which employees are not covered by Paid Leave Oregon?

People who are not covered by paid leave are:

- ➔ Federal employees
- ➔ Tribal government employees
- ➔ People who are self-employed or independent contractors
- ➔ Employees that only work outside of Oregon

If I am not covered by Paid Leave Oregon, can I choose to join the program?

Tribal governments may choose to participate in the Paid Leave program, and their employees will be covered. People who are self-employed or independent contractors may also choose to join the Paid Leave program.

How is Oregon's Paid Leave program different from Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA)?

Each program has many rules and can be complex. A chart showing details is on the Paid Leave Oregon [website](#). Please work with your human resources representative to determine which program best fits your needs.

Program Comparison

- Paid Leave Oregon
- [Oregon Family Leave Act \(OFLA\)](#)
- [Family and Medical Leave Act \(FMLA\)](#)
- [Oregon Sick Leave](#)

Paid Leave Oregon and the Oregon Bureau of Labor & Industries created this chart as a general program comparison. It is not intended to provide legal or financial advice and does not cover all possible exceptions. Each program has different qualifications and factors that determine eligibility.

Contact each agency directly to determine eligibility for their programs.

ELIGIBILITY REQUIREMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Covered employers	All employers except federal or Tribal governments	Employers with 25 or more employees	Employers with 50 or more employees and all public employers	All employees are eligible for protected unpaid time ¹
Wages required to be eligible for leave	\$1,000 in wages during the base or alternate base year	n/a	n/a	n/a
Required time worked for employer before taking leave and before job protection applies	No work time requirement for Paid Leave benefits, but must have worked 90 days to have job protection	180 days ²	12 months	90 days ³

¹ Employers who employ 10 or more employees (or 6 or more if the employer is located in the city of Portland) must provide paid sick leave.

² 30 days during a declared public health emergency.

³ An employer may allow an employee to use sick leave prior to the 91st day of employment.

ELIGIBILITY REQUIREMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Required hours worked for employer to be eligible for leave	n/a	25 hors/week in past 180 days	12 months	1 sick time hour earned for every 30 hours worked
Geographic requirement	n/a	n/a	Location with 50 employees within 75 miles	n/a
Eligibility requirement				
Not a requirement				

QUALIFYING PURPOSES	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Family Leave				
Birth, adoption or foster placement (includes leave for the legal process before adoption or foster placement)	Yes (Leave for the legal process before a foster placement or adoption will be covered beginning Jan. 1, 2025)	Yes (Up to 2 weeks of leave for the legal processes for placement of a child through adoption or foster care will be covered between July 1, 2024, through Dec. 31, 2024.)	Yes	Yes
Family member's serious health condition (family member definitions vary)	Yes	Yes (only for the employee's child, see sick child below)	Yes	Yes
Medical Leave				
Person's own serious health condition	Yes	Yes (only for a pregnancy disability)	Yes	Yes
Safe Leave				

QUALIFYING PURPOSES	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Domestic violence, sexual assault, harassment, bias, or stalking	Yes	No <i>Reasonable safety accommodations under ORS 659A may include leave.</i>	No	Yes
Other Leave Types				
Extended leave for a pregnancy* <i>*In addition to leave for serious health condition</i>	Yes	Yes	No	No
Sick child leave	Yes <i>(only for a serious health condition)</i>	Yes	No	Yes
Military family leave	No	Yes	Yes	No
Bereavement leave	No	Yes <i>Up to 2 weeks per occurrence, 4 weeks per year</i>	No	Yes
Public health emergency	No	Yes Active public health emergency allows for sick child leave for school or child care closures.	No	Yes
Covered				
Not Covered				

LEAVE LENGTH AND BENEFIT PAYMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Leave length <i>(most cases)</i>	12 weeks in a one-year period	12 weeks in a one-year period	12 weeks in a one-year period	40 hours in a one-year period

LEAVE LENGTH AND BENEFIT PAYMENTS	Paid Leave Oregon	OFLA	FMLA	Oregon Sick Leave
Maximum leave length <i>(for certain combinations of leave types)</i>	14 weeks in a one-year period	24 weeks in a one-year period	26 weeks in a one- year period	Employers may cap use at 40 hours per year
Payment	Paid leave	Unpaid leave	Unpaid leave	Paid leave for employers with 10 or more employees <i>(6 or more in Portland)</i>
Benefit amount	Varies based on employee's average weekly wage. Up to 100% for lower-income employees.	n/a	n/a	100% of regular wages

The Legislature passed Senate Bill (SB) 1515, which changed what qualifying life events [Paid Leave Oregon](#) and the [Oregon Family Leave Act \(OFLA\)](#) cover. The bill also changes how employees can use leave with each program. Beginning July 1, 2024, OFLA and Paid Leave have different qualifying purposes and employees cannot take OFLA and Paid Leave at the same time.

How does this change Paid Leave benefits?

- You cannot take Paid Leave and OFLA at the same time.
- Beginning Jan. 1, 2025, Paid Leave will include leave related to the legal processes required for the placement of a child through foster care or adoption.

How does this change OFLA?

The list of qualifying events for OFLA becomes shorter. Beginning July 1, 2024, OFLA will cover:

- Sick child leave for an employee to care for their child because of an illness, injury or condition (both serious and non-serious health conditions in addition to family leave for the child's serious health condition available through Paid Leave) and school and childcare closures for public health emergencies
- Bereavement (up to two weeks per occurrence, four weeks per year)
- Pregnancy disability (up to 12 additional weeks per year for pregnancy disability to the pregnant parent in addition to medical leave available through Paid Leave)
- Military family leave (up to 14 days per deployment – this will continue to count against available OFLA leave)

OFLA is capped at 12 weeks for sick child leave and bereavement. OFLA will no longer include most of the special provisions regarding teachers taking leave near the end of the term and will no longer provide additional sick child leave for employees who take 12 weeks of parental leave.

From July 1, 2024, to Dec. 31, 2024, OFLA will allow you to take an additional two weeks of leave related to the legal processes required for the placement of a child through foster care or adoption. This benefit will move to Paid Leave on Jan. 1, 2025.

What does this mean for employees?

Beginning July 1, 2024, employees who are currently taking leave under OFLA for one of the qualifying events no longer covered by OFLA (including serious health condition for yourself or a family member other than your child and family bonding leave) will need to apply for Paid Leave to continue job protection.

What does this mean for employers?

Employers will need to tell their employees about the upcoming changes created by SB 1515. This is important for those on leave under OFLA who will no longer have job protections for certain qualifying events after July 1, 2024 ([OAR 839-009-0201](#)). If the employee wants to continue their job protection, they must apply for Paid Leave benefits.

Paid Leave Oregon and the Oregon Bureau of Labor & Industries (BOLI) created this document as a general program comparison with the updates related to SB 1515 for [Paid Leave Oregon](#) and [Oregon Family Leave Act \(OFLA\)](#). It is not intended to provide legal or financial advice and does not cover all possible exceptions. Each program has different qualifications and factors (review the [OFLA/Paid Leave Comparison Chart](#) on Paid Leave's website).

Contact BOLI

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