

# PROTECTED LEAVE HANDBOOK

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OFFICE OF UNIVERSITY HUMAN RESOURCES | PROTECTED LEAVES

Family & Medical Leave Act (FMLA)

Oregon Family Leave Act (OFLA)

Oregon Paid Family & Medical Leave (OPFML)

*This document provides general information regarding the University's administration of the Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA) and is not intended to be the sole source of information regarding FMLA, OFLA & OPFML. In all cases applicable state and federal laws, rules, policies, and collective bargaining agreements govern the employee's and the University's rights and responsibilities and obligations, not this document.*

*FMLA and OFLA are not optional. The law requires the agency to provide these entitlements.*

*Federal and state law prohibit retaliation against an employee with respect to hiring or any other term or condition of employment because the asked about, requested or used Family Medical Leave.*

*Due to the complexities of FMLA, OFLA & OPFML and their inter-relationship with the University's other leave policies, individuals are encouraged to consult with the OSU Protected Leave office within University Human Resources regarding employee and employer rights and responsibilities pertaining to FMLA, OFLA & OPFML.*

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## INTRODUCTION

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The Family and Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA) were enacted to assist employees and employers in balancing the demands of the workplace with the needs of employees and their families when leave is needed for serious health conditions.

Whether you need to take time off work because of your own serious health condition or because you need to care for an eligible family member with a serious health condition you may be eligible for unpaid, job-protected leave during the leave year. Leave may be taken all at once or intermittently as the medical condition requires. The leave laws define who is eligible, what absences qualify, and how much leave time you may take.

- The **Family and Medical Leave Act (FMLA)** was enacted by Congress in 1993 and requires covered employers to provide eligible employees job protection, job restoration, and continuation of medical and dental benefits under certain conditions. FMLA is regulated by the U.S. Department of Labor, Wage and Hour Division.
- The **Oregon Family Leave Act (OFLA)** was enacted by the State Legislature in 1995 and requires covered employers to provide eligible employees job protection, job restoration, and continuation of medical and dental benefits under certain conditions. OFLA is regulated by the State of Oregon, Bureau of Labor and Industries (BOLI).
- The **Oregon Paid Family & Medical Leave (OPFML)** program was enacted by State Legislature in 2023 and requires covered employers to provide eligible employees job protection & restoration (after 90 days of employment) and continuation of medical and dental benefits under certain conditions as well as provide some pay to employees utilizing the program. OPFML is regulated by the State of Oregon and is administered by The Standard.

## IS OSU A COVERED EMPLOYER?

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Oregon State University (OSU) qualifies as a covered employer under FMLA, OFLA & OPFML. As such, OSU must comply with and consistently provide the protections afforded under the law(s) to all eligible employees.

## HOW DOES OSU DEFINE THE LEAVE YEAR?

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Under all protected leave programs, an employer must designate its 12-month “leave year” by choosing one of four methods provided by the leave laws.

- *OSU has designated the “rolling forward” method to determine the leave year for University employees for FMLA, OFLA & OPFML.*

Under this method, an employee would be entitled to 12 weeks of leave during the year beginning on the first date protected leave is taken.

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

## WHAT CAN PROTECTED LEAVE DO FOR ME?

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FMLA and OFLA provide you with up to 12 weeks of job-protected time off for a qualifying reason for yourself or a qualifying family member. OPFML provides you with up to 12 weeks of job-protected (after 90 days of employment) time off for a qualifying reason for yourself or qualifying family member. OPFML also provides some pay. The time off you take under FMLA, OFLA & OPFML may not be held against you in employment actions such as hiring, promotions, or discipline. Your health insurance will also be continued while you are on FMLA, OFLA & OPFML leave as long as you continue to pay the same portion of the premiums you currently pay.

You may take time off as either a single block of time (**continuous**) or in multiple, smaller blocks of time (**intermittently**). You can also take leave on a part-time basis (**reduced work schedule**). If you need multiple periods of leave for planned medical treatments, you must try to schedule the treatment at a time that minimizes the disruption to OSU.

As a general rule, if you return from FMLA, OFLA and/or OPFML protected leave before your leave is exhausted, you are entitled to be returned to the same (or equivalent) position you held when your leave started, as long as that position still exists.

# WHAT ABSENCES QUALIFY FOR PROTECTED LEAVE?

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Serious Health Condition – FMLA and OPFML provide up to 12 weeks of protected leave when an eligible employee is unable to work because of their own serious health condition or to care for a covered family member who has a qualifying serious health condition. A qualifying serious health condition may include an illness, injury, impairment, physical or mental condition.

Family Leave – FMLA and OPFML provide an eligible employee to take leave for the birth of a child and to bond with the newborn child, or for the placement of a child for adoption or foster care, and to bond with that child. All eligible employees have the same right to take leave to bond with their child but it must be taken within one year of the child's birth or placement.

\*Additional OPFML leave (limited to two weeks) related to pregnancy issues for a birthing parent in addition to the 12 weeks provided for family, medical, and safe leave.

Oregon Bereavement Leave Entitlement – Effective January 2014, bereavement is a qualifying reason under OFLA. OFLA provides up to 2 weeks of leave to an eligible employee to deal with the death of a covered family member, including grieving the death of the family member, attending the funeral or alternative service, and making arrangements necessitated by the death of the family member. Bereavement leave is per covered family member and must be completed within 60 days of the date the eligible employee receives notice of the death of the covered family member. OFLA Bereavement is limited to 2 weeks per family member with a maximum of 4 weeks per leave year.

Military Family Leave Entitlement – FMLA provides a special leave entitlement that permits eligible employees (spouse, son, daughter, parent, or next of kin) to take up to 26 workweeks of unpaid leave to care for a covered servicemember or veteran with a serious injury or illness. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty for which he or she is undergoing medical treatment, recuperation, or therapy, which may cause him or her to be medically unfit to perform the duties of his or her office,

grade, rank, or rating. A covered veteran is a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves who was discharged or released under conditions other than dishonorable and was discharged within the five-year period before the eligible employee first requests FMLA military caregiver leave.

Qualifying Exigency Leave – FMLA provides unpaid protected time off for qualifying exigencies when a covered employee’s spouse, son, daughter, or parent is a member of the Armed Forces, National Guard, or Reserves and is deployed to a foreign country. A qualifying exigency includes: short notice deployment, military events and related activities, care of the military member’s parent, financial and legal arrangements, counseling, rest and recuperation (limited to 15 days), post-retirement activities (within 90 days), and any other event that the employee and employer agrees is a qualifying exigency.

Oregon Military Family Leave Entitlement – OFLA provides a special leave entitlement of up to 14 days of unpaid leave per deployment under OMFLA (Oregon Military Family Leave Act). OMFLA allows eligible employees to spend time with a spouse or registered same-sex domestic partner who is in the military (Armed Forces of the United States, the National Guard, or the military reserve forces of the United States) and has been notified of an impending call or order to active duty or who has been deployed during a period of military conflict.

Safe Leave (OPFML only): for survivors of sexual assault, domestic violence, harassment, or stalking to obtain legal or law enforcement assistance, seek medical treatment or recover from injuries, obtain counseling or support services, or relocate or take other steps to secure the health and safety of themselves or their dependent child.

## WHO CAN USE PROTECTED LEAVE?

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To be eligible to take protected leave, an employee must meet the following criteria:

	FMLA	OFLA	OPFML
Employed by OSU	One year	180 days* <i>Exception: Oregon Military Leave has no employment requirement</i>	Employees who have earned at least \$1,000 in wages in the last year in Oregon & have paid OPFML contributions
Hours Worked	1250 hours in past 12 months	Average of 25 hours per week <i>Exception: Oregon Military Leave average hours requirement is 20 hours per week</i>	N/A – see eligibility requirement above

When counting the number of hours worked, OSU counts all hours the employee actually worked, including hours worked during temporary employment and qualifying absences for military leave. Paid (e.g., vacation, sick leave, etc.) or unpaid leave time **does not** count as hours worked for eligibility purposes. **OFLA ONLY:** Protected Leave hours taken during the 180 day lookback period also count towards OFLA eligibility in addition to hours worked.

*\*As of January 1, 2022, OFLA allows employees who have a break in service due to termination, temporary furlough, or layoff of 180 days or less to retain their OFLA eligibility and count time prior to break in service to overall break in service. OFLA also expands eligibility during a public health emergency to employees working at least 30 days immediately preceding the leave (reduced from 180 days) and an average of 25 hours or more per week during those 30 days.*

## WHEN CAN I USE PROTECTED LEAVE?

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	Employee Serious Health Condition	Qualifying Family Member with Serious Health Condition	Parental Leave – bonding with newborn, newly adopted or placed foster child	Pregnancy Disability	Bereavement	Military Family Leave	Safe Leave	Leave to care for child during school/daycare closures due to declared public health emergency
<b>FMLA</b>	X	X	X	X		X		
<b>OFLA</b>				X	X	X		X
<b>OPFML</b>	X	X	X				X	

## WHO ARE CONSIDERED ELIGIBLE FAMILY MEMBERS?

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Eligible family members vary between FMLA, OFLA & OPFML. Refer to the chart below.

	Spouse	Domestic Partner	Child	Parent	Grandparent	Any individual related by blood or affinity whose associated with the covered individual is the equivalent of a family relationship
<b>FMLA</b>	X		X *under 18 or over 18 but incapable of self care due to mental or physical disability	X *could be an individual who stood <i>in loco parentis</i>		
<b>OFLA</b>	X	X	X	X	X	X
<b>OPFML</b>	X	X	X	X	X	X

## WHAT IF I DON'T WANT TO USE PROTECTED LEAVE?

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If you are an eligible employee who is absent from work for a reason that qualifies under FMLA or OFLA leave, OSU may designate the absence as FMLA, OFLA, or both. The amount of paid leave you have accrued (e.g., sick leave, vacation leave) or your desire to “save FMLA and OFLA until later” are not a factor. FMLA and OFLA leave are not benefits; they are an entitlement that are applied as the need occurs. OPFML provides a paid benefit and therefore must be applied for by the employee. OSU cannot designate or begin an OPFML claim on an employee’s behalf.

## WHAT IS A SERIOUS HEALTH CONDITION?

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A serious health condition is an illness, injury, impairment, physical or mental condition that incapacitates you or a family member for 3 consecutive days or longer, and involves at least one of the following:

- **Hospital Care** - Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.
- **Absence Plus Treatment** - A period of incapacity of more than three consecutive calendar days including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
  - Two or more treatments by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (e.g., physical therapist) under orders of, or on referral by, a health care provider; or
  - One treatment by a health care provider which results in a regimen of continuing treatment under the supervision of the health care provider.
- **Pregnancy** - Any period of incapacity due to pregnancy related disabilities, or for prenatal care.
- **Chronic Conditions Requiring Treatments** - A chronic condition exists when the condition:

- Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
  - Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
- **Permanent/Long-term Conditions Requiring Supervision** - A permanent or long-term condition(s) requiring supervision is defined as a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.
  - **Multiple Treatments (Non-Chronic Conditions)** - Any period of absence to receive multiple treatments (including any period of recovery time) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

Important definitions for understanding what qualifies as a Serious Health Condition:

- **Incapacity** is the inability to work, attend school, or perform other regular daily activities due to a serious health condition or treatment for, or recovery from a serious health condition.
- **Treatment** includes examinations to determine if a serious health condition exists and/or evaluations of the condition. It does not include routine physical, eye or dental examinations.

## WHAT IS NOT A SERIOUS HEALTH CONDITION?

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Examples of what would generally not be considered a serious health condition may include:

Common cold  
Flu  
Earaches

Treatment for acne  
Headache (other than migraines)  
Routine medical or dental visits

Sore throat  
COVID

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 calendar days.

## HOW MUCH PROTECTED LEAVE DO I GET?

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An eligible employee has up to 12 weeks of protected leave available during the 12-month “rolling forward” leave year. Some reasons for leave qualify under FMLA, OFLA & OPFML and some reasons may qualify only under one of the leave laws. Leaves qualifying under multiple leave laws are designated at the same time and run concurrently.

FMLA	12 weeks
OFLA	12 weeks
OPFML	12 weeks (additional 2 weeks available for limitations related to pregnancy)

**Leave entitlement for part-time employees.** If you are a part-time employee your leave entitlement will be pro-rated. For example, if you normally work 30 hours per week, you are entitled to up to 12 weeks of leave at 30 hours per week.

**More than one qualifying condition.** You may need FMLA, OFLA and/or OPFML leave for more than one qualifying condition at the same time or during the same leave year. Having more than one qualifying condition does not extend or increase your leave entitlement.

## WHEN CAN I TAKE INTERMITTENT LEAVE OR WORK A REDUCED SCHEDULE?

	Parental Leave	Pregnancy Disability	Serious Health Condition (Employee or covered family member)	Qualifying Exigency Leave	Military Caregiver Leave	Safe Leave
<b>FMLA</b>	<i>Employee must take leave in one continuous block unless the supervisor chooses to permit the use of intermittent leave or a reduced work schedule</i>	<i>As medically necessary</i>	<i>As medically necessary</i>	<i>Permitted as needed</i>	<i>As medically necessary</i>	<i>N/A</i>
<b>OFLA</b>	<i>N/A</i>	<i>As medically necessary</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>
<b>OPFML</b>	<i>Permitted as needed in <u>full day increments</u></i>	<i>As medically necessary in <u>full day increments</u></i>	<i>As medically necessary in <u>full day increments</u></i>	<i>N/A</i>	<i>N/A</i>	<i>Permitted as needed in <u>full day increments</u></i>

## WHAT ARE THE REQUIREMENTS FOR INTERMITTENT LEAVE OR REDUCED SCHEDULE?

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If you take time intermittently or work a reduced work schedule, you must be able to perform the essential functions of your job while you are at work. If you are unable to perform your job responsibilities while at work, you may be required to take continuous leave.

The use of intermittent leave or working a reduced work schedule requires you and your supervisor to work together to balance work and family. Conversations and exploring alternatives are the best way to resolve conflicts that might occur. If a situation arises that is not easily resolved between you and your supervisor, contact University Human Resources (UHR) before any action is taken.

If modifications to the job duties are requested, you or the supervisor must contact the Office of Equal Opportunity & Access or UHR's Employee & Labor Relations team before any action is taken.

**Remote Work:** A [Flexible Work Arrangement Agreement \(FWAA\)](#) is a document that defines the terms of the specific flexible work arrangement between an employee, their supervisor, and appropriate university leadership. FWAA's are required for situations where an employee performs assigned duties typically performed on-campus or at a university worksite during the standard work schedule of the employee's unit in an alternative manner. The FWAA defines the specific flexible working arrangement, fully remote, hybrid and/or irregular work schedule that has been authorized for the employee to work on a consistently scheduled basis, and how assigned duties will be completed.

*\*Protected Leave does not automatically allow an employee to work remotely - a FWAA must be on file and/or if remote work is medically required, an employee must work with the Office of Equal Opportunity & Access (EOA) to determine if remote work is a reasonable accommodation. EOA can be reached at:*

[equal.opportunity@oregonstate.edu](mailto:equal.opportunity@oregonstate.edu).

### Exceptions:

- A FWAA is not required for occasional and intermittent worksite flexibility considered mutually beneficial between an employee and their supervisor. This flexibility has always been available to professional faculty, in consultation with their supervisor, and it will continue to be so without a FWAA.

- Consistent with longstanding practice, academic faculty have the flexibility to choose the location where they do their work, aside from scheduled on-site classes, required on-site office hours, and required on-site staff meetings or other engagements. Academic faculty do not need a flexible work agreement to continue these customary work practices.
- A FWAA is not required for approved non-medical leaves of absence, including sabbaticals.

**Added Considerations:**

- The process and FWAA form used for creating and approving a FWAA differs depending on the employee’s work location. There can be additional safety regulations, minimum wage requirements, labor laws, payroll considerations, and operating costs involved when approving a FWAA involving a work location outside the state of Oregon.
- For employees working within the state of Oregon, please visit the [Working In-State \(Oregon\) webpage](#).
- Please visit the [Working Outside Oregon webpage](#) for employees working outside Oregon and within the United States.
- For employees working Internationally, please visit the [Working Internationally webpage](#).

For questions concerning Flexible Work Arrangement Agreements, contact the Employee Labor & Relations at: [employee.relations@oregonstate.edu](mailto:employee.relations@oregonstate.edu).

## **WILL I GET PAID DURING MY PROTECTED LEAVE?**

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FMLA and OFLA are unpaid protected leaves. However, OSU policy generally requires you to use your accrued paid leave while on FMLA and OFLA leave before going into leave without pay (LWOP), however there are a few exceptions.

### **Oregon Paid Family & Medical Leave (OPFML) Benefit Exception**

If you are on FMLA leave and are receiving OPFML benefits from The Standard, you are not required to use your paid leave while receiving OPFML benefits.

- You may elect to supplement your OPFML benefit with the use of your accrued leave (e.g., sick, vacation, etc) at either the percentage that will get you to 100% pay or 100% of your daily hours. Meaning, if you are receiving 75% pay from OPFML, you could supplement with 25% pay from your accrued leave at OSU or

you could choose to use 100% of your accrued leave from OSU while receiving the 75% pay from OPFML.

- For OPFML, the use of sick leave DOES NOT reduce your OPFML benefit.
- The election to supplement your OPFML benefit with accrued leave must be made prior to your first pay check while out on protected leave.
- If you do not make an election to supplement with your accrued leave from OSU, the default is LWOP from OSU while on OPFML.
- Once your OPFML benefits end, you must resume using your accrued leave in accordance with OSU policy.
- See Oregon Paid Family & Medical Leave flyer in the Appendices for how to initiate an OPFML claim.

### Disability Benefit Exception

If you are on FMLA leave only and are receiving disability benefits from your PEBB short-term disability plan, you are not required to use your paid leave while receiving disability benefits (*unless required under the plan*).

- You may elect to supplement your disability benefit with the use of your accrued leave (e.g., vacation) at either 40% or 100% of your daily hours.
- Use of sick leave will reduce your disability benefit dollar for dollar.
- The election to supplement your disability benefit with accrued leave must be made prior to going out on FMLA protected leave.
- Once your disability benefits end, you must resume using your accrued leave.

### Academic & Professional Faculty

- **Paid Family & Medical Leave** – 3 weeks of Paid Family & Medical Leave per OSU policy
- **Sick Leave** – must be used first, unless receiving disability benefits while on FMLA leave
- **Vacation Leave** – may elect to use vacation leave after exhausting sick leave. If vacation leave is elected not to be used, vacation leave will not be available until after returning from the FMLA/OFLA/OPFML leave (FMLA/OFLA/OPFML leave case is closed). If you elect not to use vacation leave, it must be made prior to going out on protected leave.
- **Compensatory Time** – may elect to use, but not required

### Classified Employees

All accrued leave must be used prior to going into LWOP, unless noted below:

- **Sick Leave** – must be used first, unless receiving disability benefits while on FMLA leave
- **Vacation Leave** – may elect to retain up to 40 hours of accrued vacation leave before being placed on LWOP (*OUS/SEIU Collective Bargaining Agreement, Article 47-Vacation Leave, Section 14, regarding an employee’s option to retain up to 40 hours of accrued vacation leave*)
- **Personal Leave Day**
- **Exchange Time** – may elect to use, but not required
- **Compensatory Time** – may elect to use compensatory time, but not required
- **Donated Hardship Leave** – must request Hardship Leave prior to going into leave without pay status.

The University may change a classified employee’s pay period to mid-month reporting (16<sup>th</sup> – 15<sup>th</sup>) for the following reasons:

- The employee is working an intermittent or otherwise modified schedule due to medical necessity; *or*
- The employee exhausts all forms of paid leave and is anticipated to have intermittent leave without pay; *or*
- The employee requests a change in his/her work schedule resulting in fluctuating work hours from one month to the next.

## WHAT IF I AM OFF DUE TO A WORKERS’ COMPENSATION CLAIM?

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When you are absent from work due to a disabling compensable injury or you have a pending determination of a workers’ compensation claim, FMLA leave will run concurrently if you meet eligibility requirements. Individuals on a workers’ compensation claim are not eligible for Oregon Paid Family & Medical Leave (OPFML).

You will work with the Workers’ Compensation Officer within Risk Management for your Workers’ Compensation case. They can be reached at: 541-737-2916.

## WILL MY INSURANCE CONTINUE WHILE I AM ON PROTECTED LEAVE?

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### While on FMLA, OFLA and/or OPFML Leave –

- Your health insurance (medical, vision, dental, basic life) is continued if you use any amount of FMLA, OFLA, or OPFML leave during the month.
- OSU will continue to pay the same employer contribution toward your coverage even if you go into leave without pay status.
- You must continue to pay your portion of the premiums to avoid cancellation of your coverage. *Refer to Self-paying your premiums below.*
- Your optional benefits (life, disability, FSAs) will continue as long as you work or use sufficient paid leave to continue your coverage; by self-paying your premiums; or by arranging to have the premiums taken out of your pre-tax compensation.

### Self-paying Your Premiums.

If you do not have sufficient hours (work or OSU paid leave) to continue benefits, you can self-pay your portion of your health and optional benefits by:

- Contacting [Employee Benefits](#) and arranging to have your portion of the premiums deducted from your pay before you go into leave without pay status

OR

- Or you will be invoiced for your portion of the health and optional premiums. You will be given instructions on how to submit your monthly payment for your share of the health insurance premium and any optional benefits you elect to continue to the University Payroll Office.

## DOES MY RETURN DATE FROM LEAVE IMPACT MY INSURANCE BENEFITS?

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When and if you return to work from your approved FMLA, OFLA and/or OPFML leave determines when and how your health insurance benefits are continued or reinstated.

**Direct Return** – is when you return to work the first day immediately following the end of your approved FMLA, OFLA and/or OPFML leave.

- **Example:** Your protected leave ends on Thursday, March 21<sup>st</sup>, and you return to work on Friday, March 22<sup>nd</sup>; you will be considered a direct return.
- You are not required to meet the hours requirement in the month you return to receive the employer insurance contribution for the following month.
- Your benefits continue with no break in coverage.
- Optional benefits, except for Flexible Spending Account(s) and long-term care, will be reinstated retroactively back the first of the month in which you returned to work. You must re-enroll in your Flexible Spending Account(s) and Long Term Care if you did not self-pay the premiums during your leave.

**Non-Direct Return** – is when you return to work on the second workday or thereafter following the end of your approved FMLA, OFLA and/or OPFML leave.

- **Example:** Your protected leave ends on Thursday, March 21<sup>st</sup>, and you return to work on Monday, March 25<sup>th</sup>; you will be considered a non-direct return.
- You must work or have sufficient paid leave in the month you return to receive the employer insurance contribution toward your health insurance for the following month (Classified employees = 80 hours; Unclassified employees = ½ of the available work hours in the month, hours range between 80-92 hours depending on the month).
- Benefits will be reinstated (except Flexible Spending Accounts and Long-term Care) effective the first of the following month once you meet the minimum hours. You must re-enroll in your Flexible Spending Account(s) and Long Term Care if you did not self-pay the premiums during your leave.

**Do NOT Return to Work** – if you do not return to work following family and medical leave, you may be required to reimburse the University for the full premium cost of health care coverage paid on your behalf during the entire leave period. You will not be required to reimburse the University if:

- You had sufficient paid leave to earn the employer insurance contribution during your leave; or
- You or your family member have a recurrence, continuation or onset of a serious health condition; or
- You cannot return for a reason that is beyond your control; or
- You are eligible for continued health care coverage under the Affordable Care Act (ACA).
- You will be considered as returning to work if you return to work for at least 30 calendar days.

## HOW DO I REQUEST PROTECTED LEAVE?

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Your initial notification can be provided by calling your supervisor or applying for protected leave in EmpCenter. You are not required to specifically ask for protected leave for your first leave request, but you do need to provide enough information so the University is aware your absence(s) may qualify under the family medical leave laws. For example: you do not have to tell your supervisor or the University your diagnosis, but you do need to provide information such as, I've been to the doctor and have been given antibiotics and told to stay home for 4 days.

**Step 1:** Request a protected leave case in EmpCenter (for all leave types, including OPFML) - The official process for initiating ALL TYPES of protected leave is via EmpCenter request.

- Logging into My Time website located at: [mytime.oregonstate.edu](https://mytime.oregonstate.edu)
- Click My Time Off
- Click Create new request
- Select Absences for FMLA, OFLA and military leave
- Answer the questions and submit the request

**Step 2:** Call The Standard to initiate OPFML claim (if you live and/or physically work in Oregon): Employees will call The Standard's phone number and speaking with a claims representative. They can be reached at: **1-800-242-1888 | Policy #762197**. Employees will go through an intake process with The Standard. The Standard will send e-mail or paper forms to complete the process. Online application is not an option currently. Hours of operation for the claim intake service center at The Standard are: Monday-Friday 5am-5pm, Pacific Time.

**Step 3:** Complete this [form](#) to let **OSU** know how you wish to be paid from **OSU** during your **OPFML** claim. Please do not complete this form if you do not live and/or physically work in Oregon – you will be sent next steps based upon your specific job location.

Once a condition has been approved for FMLA, OFLA and/or OPFML protected leave, if you have a need for additional leave relating to that condition, you must let the OSU Protected Leave office know of your additional leave needs.

## DO I NEED TO PROVIDE ADVANCE NOTICE OF MY NEED FOR PROTECTED LEAVE?

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You must provide the University with appropriate notice for your need for leave.

- You must generally give 30 calendar days advance notice for planned absences (paid or unpaid).
- If you learn of your need for leave less than 30 days in advance, you must give your notice as soon as you can. Generally, within two working days after you learn of the need for leave.
- If you need FMLA, OFLA leave, and/or OPFML unexpectedly (an emergency), you must inform your supervisor within 24 hours and give the OSU Protected Leave office written notice within three days of starting leave.

Unexpected events include, but are not limited to:

- A. An unexpected serious health condition of the employee or a family member of the employee.
- B. A premature birth, unexpected adoption, or unexpected foster placement by or with the employee.
- C. Safe leave.

If an employee does not provide the correct notice to their employer The Standard may reduce the employee's first weekly OPFML benefit amount by up to 25%.

Because FMLA and OFLA are entitlements the University, if given sufficient information, can designate leave as FMLA and OFLA without your agreement. The University will give you notice when FMLA and OFLA leave is invoked, specifying the reasons for such actions. OPFML has to be initiated by the employee – OSU cannot and will not initiate an OPFML claim on behalf of the employee.

## WHAT ARE THE CALL-IN PROCEDURES I MUST FOLLOW WHILE ON PROTECTED LEAVE?

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You must follow the University's and/or your department's usual notice and call-in procedures unless you are unable to do so (i.e., you are receiving emergency medical care).

If you are unable to submit your request due to the nature of your condition/emergency, contact the [OSU Protected Leave office](#).

You may also designate a personal representative to act on your behalf, if necessary, by submitting the designation in writing to the [OSU Protected Leave office](#).

## WHAT HAPPENS AFTER I REQUEST PROTECTED LEAVE?

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**Notice of Eligibility.** After you make a request for FMLA or OFLA leave, UHR 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. If your leave request is submitted prior to 30 days before your leave is set to begin, the OSU Protected Leave office will run your eligibility on that 30 day mark.

**Medical Certification.** You may be required to submit the Medical Certification form for your own or your family member's serious health condition. The form is taken to your medical provider and provides the University with information to determine if your reason for the leave qualifies under FMLA and/or OFLA. At times, the University may have enough information to designate FMLA and/or OFLA leave without requesting medical certification.

The medical certification form must be returned within 15 days or your leave can be denied. If your leave is denied it means that you do not have job protection under FMLA and/or OFLA.

If the length of your request for family medical leave is for:

- 14 calendar days or less – the University generally will not require you to submit the medical certification form. If your leave extends beyond the originally anticipated 14 calendar days, you will need to submit a medical certification form at that time.
- More than 14 calendar days – the University requires the medical certification form to be submitted.

Medical documentation required for OPFML will be requested directly from The Standard and be returned directly to The Standard.

**Final Determination for FMLA and/or OFLA:** Once the University has enough information, you will be informed whether your absences qualify as FMLA and/or OFLA. You will also receive information on how much FMLA and/or OFLA leave time you have available, requirements to use your paid leave, information about your insurance, your reinstatement rights, and if you will be required to provide a Fitness for Duty Certification or status report before returning to work if you are absent for your own serious health condition.

All eligibility determinations and approvals for Oregon Paid Family & Medical Leave will come directly from The Standard Insurance Company, OSU's third party administrator once sufficient medical documentation is submitted and they have reviewed your claim.

**Medical Re-certification.** For pregnancy-related leave or chronic or long-term health conditions, recertification may be requested by the University no more often than every 30 days unless:

- An employee requests an extension of leave;
- The duration or nature of the condition has changed significantly; or
- The University receives information casting doubt on the employee's reason for the absences.

## HOW DO I REPORT PROTECTED LEAVE ON MY TIMESHEET?

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You are to accurately report your absences on your timesheet in EmpCenter (online time and attendance system) and account for all hours in your regular workday with either paid and/or unpaid leave as appropriate. This applies to both salaried and hourly employees.

When you request FMLA/OFLA leave, you will be assigned a case number typically within 5 business days (or 30 days before leave is set to begin if requested in advance). This case number is to be associated with all leave (paid or unpaid) reported on your timesheet that is for your FMLA, OFLA and OPFML absences. All requested and approved protected leave will be counted toward your FMLA/OFLA leave entitlement regardless of your pay status (paid or unpaid). If you also have an OPFML claim, it will be counted toward your entitlement concurrently with your FMLA/OFLA protected leave.

If you are on **Continuous leave**, your timesheet in EmpCenter:

- Will prepopulate with “Leave of Absence” and the associated case number; and
- You **MUST** report the type of paid or unpaid leave you will be using for those absences by entering the leave type (sick, vacation, etc.) directly on your timesheet or by submitting a pre-approved leave request.

If you are using **intermittent leave**, record your absences on your timesheet in EmpCenter by:

- Submitting a pre-approved request for leave and associate the case number with the request when you have advance notice of the need for leave; or
- Enter the type of leave (paid or unpaid) and the protected leave case number directly on your timesheet for your FMLA/OFLA/OPFML absences.

For additional information on how to record protected leave on your monthly timesheet, refer to Appendix B, How Protected Leave looks on your timesheet. You will want to work with your Protected Leave Officer directly for timesheet guidance if you are on an approved OPFML claim and plan to “top-up” with accrued leave to bring your pay to 100%.

## WHAT ARE THE EXPECTATIONS WHEN I RETURN FROM PROTECTED LEAVE?

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Under the leave laws, you are expected to complete the essential functions of your position when not on FMLA, OFLA and/or OPFML 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 may request, but generally does not require, you to provide a work release or status report prior to returning from FMLA, OFLA and/or OPFML 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 Equal Opportunity & Access to determine if any protections can be afforded through their office.

**Fitness for Duty Certification** – you may be required to provide a statement from your medical provider verifying you are able to return to work and if you have any limitations if you were absent because of your own serious health condition.

## WHAT HAPPENS TO MY JOB IF I TAKE PROTECTED LEAVE?

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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.
- **OPFML-only or FMLA/OFLA/OPFML leave:** As long as you have been employed by OSU for at least 90 days, you are entitled to return to the position you held before the start of leave, if that position still exists. If the position no longer exists, you are entitled to a position equal to your previous position before you took leave, with equal employment benefits, pay and other terms and conditions of employment.

Once the employee has been reinstated, the University may not be required to continue the employee's employment 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, OFLA and/or OPFML 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 you exhaust your FMLA/OFLA/OPFML leave and remain off work, your right to reinstatement will be governed by the non-FMLA/OFLA/OPFML leave policy, or other applicable laws, such as those relating to worker's compensation for workplace injuries.

## **WHAT IF I AM UNABLE TO RETURN TO WORK AFTER MY PROTECTED LEAVE ENDS?**

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If you are unable to return to work for your own serious health condition, you will be referred to the Office of Equal Opportunity & Access (EOA) for any protections that may be afforded to you under the American with Disabilities Act (ADA).

If you do not return to work after your protected leave, you may be required to reimburse the University for the full premium cost of health care coverage paid on your behalf during the entire leave period. You will not be required to reimburse the University if:

- You had sufficient paid leave to earn the employer insurance contribution during your leave; or
- You or your family member have a recurrence, continuation or onset of a serious health condition; or
- You cannot return for a reason that is beyond your control; or
- You were eligible for continued health care coverage under the Affordable Care Act (ACA).

## HOW DO I ADD OR REMOVE A DEPENDENT FROM MY HEALTH INSURANCE?

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If you lose and/or gain a dependent while on protected leave, you will need to complete the Midyear Change form to either remove or add that dependent to your health insurance coverage. Please contact Employee Benefits at [employee.pebbbenefits@oregonstate.edu](mailto:employee.pebbbenefits@oregonstate.edu) or by phone at (541) 737-2805 for assistance.

## RESTRICTED ACCESS TO MEDICAL INFORMATION

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Medical information relating to all protected leaves, whether verbal or written, will be kept confidential to the extent possible. Information will be shared on a need-to-know basis only. All medical documents including, but not limited to, medical certifications will be maintained in restricted access files separate from personnel files within the UHR Protected Leave Office.

The employee's supervisor is not to have any contact with the employee's health care provider regarding the employee's leave or medical condition while the employee is on FMLA/OFLA authorized leave.

Should UHR question the adequacy or the completeness of a medical certification provided by an employee's health care provider, a health care provider representing the University may contact the employee's health care provider for purposes of clarification and authenticity with the employee's permission. If the employee declines to give UHR permission to inquire, through the University's health care provider, the employee's absence may not qualify as FMLA/OFLA leave.

## **OUTSIDE OR SUPPLEMENTAL EMPLOYMENT**

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Oregon State University prohibits unauthorized work for another employer while you are on FMLA, OFLA and/or OPFML leave from Oregon State University. If you violate this policy, Oregon State University may not reinstate you to the position you held or an equivalent position following leave covered by FMLA, OFLA and/or OPFML.

## **FOR QUESTIONS OR ADDITIONAL INFORMATION:**

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University Human Resources | Protected Leaves

Mailing: 236 Kerr Administration Building, Corvallis OR 97331-2132

Phone: (541) 737-5946

Fax: (541) 737-0553

Email: [medical.leave@oregonstate.edu](mailto:medical.leave@oregonstate.edu)

## **RESOURCES**

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**University Human Resources: Family and Medical Leave**

<http://hr.oregonstate.edu/benefits/leaves/family-and-medical-leave-act-fmla>

## **U.S. Department of Labor: Family and Medical Leave Act (FMLA)**

<http://www.dol.gov/whd/fmla/index.htm>

## **Oregon Bureau of Labor and Industries**

- Oregon Family Leave Act (OFLA) - FAQs

<https://www.oregon.gov/boli/workers/pages/oregon-family-leave.aspx>

## **OSU MyTime (EmpCenter) – Time & Leave Reporting**

- How to Request Protected Leave  
<https://hr.oregonstate.edu/sites/hr.oregonstate.edu/files/benefits/fmla/fmla-ofla-quick-facts-how-to-request-leave.pdf>
- Protected Leave Guide  
<https://mytime.oregonstate.edu/sites/mytime.oregonstate.edu/files/protected-leave-19-1.pdf>
- EmpCenter Training Center  
<http://mytime.oregonstate.edu/empcenter-training>

## **Short Term Disability**

- General Information - <https://www.oregon.gov/oha/PEBB/Pages/Short-Term-Disability.aspx>
- PEBB Plan Document: <https://sites.standard.com/mybenefits/pebb2>
- Policy/Certificate - [https://www.standard.com/eforms/16066\\_442210.pdf](https://www.standard.com/eforms/16066_442210.pdf)

## **Employee Benefits – PEBB Midyear Changes**

<http://hr.oregonstate.edu/benefits/insurance/how-enroll-how-make-changes-during-year/midyear-changes-health-optional-benefits>

## **Worker’s Compensation Resources**

<https://risk.oregonstate.edu/workers-compensation>