



FAMILY AND MEDICAL LEAVE REQUEST - INFORMATION

Deschutes County Human Resources Department
Effective September 3, 2023

The Federal Family and Medical Leave Act (FMLA), the Oregon Family Leave Act (OFLA), and Paid Leave Oregon (PLO), 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 qualifying reasons. FMLA, OFLA and PLO often provide job and benefits protections. Leave may be taken all at once or on an intermittent basis as the need requires. To the extent permissible under the law, OFLA, FMLA, and PLO leave will run concurrently.

	<u>FMLA</u>	<u>OFLA</u>	<u>PLO</u>
Eligibility requirements for employees:	Worked 12 months and at least 1,250 hours in 12-month period preceding leave.	Worked average of 25 hours per week in 180-day period preceding leave. (For parental leave - only required to have worked 180 calendar days.)	Must have earned \$1,000 in wages in year prior to event and contributed to PLO through payroll deductions.

PLO is a paid leave benefit administered by the State of Oregon Employment Department. Employees applying for PLO benefits will apply directly through the state and will be required to request a leave of absence from the county as well. When an employee applies for PLO, the state will determine an employee's qualifications for the benefit and will approve or deny claims for PLO benefits.

More information and how to apply through the state for PLO benefits, visit:
<https://paidleave.oregon.gov/>

When the leave is foreseeable, the employee must apply for leave **at least thirty (30) calendar days** in advance of the leave by completing and providing to the county a "Protected Leave Request Form." Employees applying for PLO benefits must also notify the state within its established timeframes to avoid a possible reduction in the PLO benefit.

Use of Accrued Leave with PLO

Employees who take leave, and who apply for, and are approved for PLO by the state, may elect to retain their county accrued leave, or use a portion of their county accrued paid leave up to a maximum number of hours based on their regular work schedule, in accordance with applicable law. Employees must make their accrued paid leave election for each leave bank during the payroll period in which they

wish to use the hours. Any period of absence when the employee is not using any leave accruals will be considered an unpaid leave of absence.

The County may request documentation of PLO benefits received when an employee elects to supplement with their accrued paid leave so the appropriate amount of accrued leave to be used can be determined.

Employees planning on applying for PLO benefit should take note of the following:

Impact on Earning Paid Leave Accruals

If an employee is approved for PLO benefits, they will be on unpaid leave from Deschutes County for the period of time that they are not using their own paid leave accruals. Employees do not earn accrued leave on unpaid leave hours.

Expected Time Frame to Receive PLO Benefits

The Oregon Employment Department states that they will make a reasonable effort to issue the first payment of benefits within two weeks after approving the claim. An employee's regular salary will not be paid when on leave under PLO, even if their PLO benefit has not yet been received.

Impact on PERS Service Credit

PLO-provided benefits are not considered subject salary for PERS. This means that no contributions will be paid into an employee's Individual Account Program (IAP.) In addition, PERS will consider an employee on a leave of absence if they have unpaid leave "in the major fraction of a month," defined as unpaid leave for 11 or more business days in a month. If an employee is on unpaid leave for 11 or more business days, they will not receive PERS service credit for the month.

Impact on Taxability

PLO employee contributions are deducted after-tax and do not reduce an employee's taxable income. PLO benefits are taxable. Taxes will not be automatically withheld from PLO benefits.

Use of Accrued Leave when leave does not qualify for PLO

If an employee's leave does not qualify for PLO, but qualifies for other protected leaves, employees are required to use all available accrued paid leave before going into leave without pay. If the day before and after a holiday are leave without pay, the holiday will also be unpaid. An employee will not earn paid leave accruals on any time coded as unpaid leave for any reason.

Helpful definitions:

Bereavement Leave. OFLA allows eligible employees up to two weeks of leave per death of a qualifying family member. This leave is counted against the total 12-week OFLA protected leave entitlement. OFLA Bereavement Leave can be used to attend a funeral or service, to make arrangements necessitated by the death, or to grieve the death of the qualifying family member.

Employee shall use their own paid leave accruals before using unpaid leave in accordance with Deschutes County's Leave Policy HR-14, unless defined otherwise in a Collective Bargaining Agreement (CBA). Bereavement Leave must be completed within 60 days of the date on which the employee receives notice of the death.

Pregnancy Disability and Parental Leave Entitlements

To the extent permissible under the law, OFLA, FMLA, and PLO will run concurrently. This may affect the eligibility and length of leave as described below.

Paid Leave Oregon (PLO). For an employee who is pregnant, has given birth, or has health needs due to childbirth, employees may apply to PLO to receive:

- Up to 12 weeks of paid leave in a 52-week period, starting from the day your leave begins.
- 2 additional weeks if you are pregnant, have given birth, or have health needs due to childbirth.
- Four additional weeks of unpaid leave if eligible for OFLA.

OFLA/FMLA Pregnancy disability (a serious health condition). OFLA – Pregnant employees who are medically required to be off work due to their pregnancy and/or postpartum recovery qualify for pregnancy disability leave, a form of a serious health condition. The birthing parent is entitled to a total of 12 weeks pregnancy disability, typically the length of leave is 6 or 8 weeks postpartum depending on delivery type. The length of the disability period is determined by a Health Care Provider Certification Form. FMLA – Employees are entitled to a total of 12 weeks of leave for any qualifying reason.

Parental (baby bonding) Leave. When an employee requests OFLA/FMLA parental leave, no medical certification form is required. Additionally, if the full 12 weeks of OFLA parental leave is taken, an employee is eligible to take up to 12 weeks of OFLA Sick Child Leave. This is when a child under the age of 18 has a non-serious health condition and is unable to attend school or day care.

Child and Parent. The terms “child” and “parent” include *in loco parentis* relationships in which a person assumes the obligations of a parent to a child.

Affinity: As outlined in OAR 471-070-1000, “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.

This document is a summary of the protected leave entitlements. In all cases applicable state and federal laws, rules, policies, and collective bargaining agreements govern the employee's and the County's rights and obligations, not this document. In many instances these laws are not optional and require the County to provide these entitlements when they occur.



PROTECTED LEAVE REQUEST FORM

Deschutes County Human Resources Department

EMPLOYEE INFORMATION AND REQUEST

Employee Name: _____ Employee #: _____

E-mail address during leave: _____ Home/Cell Phone: _____

I am requesting leave of absence: **Continuous** **Intermittent**

Start Date (required): _____ End Date: _____

Start Date (required): _____ End Date: _____ *(Secondary Leave if applicable)*

I intend to apply for Paid Leave Oregon (PLO) benefits for this leave through the PLO division of the Oregon Employment Department.

Reason(s) for requesting protected leave under FMLA/OFLA/PLO:

- Your own serious health condition.
- Parental Leave. The birth of a child, or placement of a child with you for adoption or foster care, and to bond with the newborn or newly placed child.
- You are needed to care for your family member due to a serious health condition.

Qualifying family members under FMLA, OFLA, and PLO:

- Spouse
- Parent
- Child under age 18
- Child 18 years or older and incapable of self-care because of a mental or physical disability

Qualifying family members under OFLA and PLO only:

- Domestic Partner
- Child aged 18 or older, or their spouse or domestic partner
- Parent of your spouse or domestic partner
- Your parent's spouse or domestic partner
- Sibling or step sibling, or their spouse or domestic partner
- Grandparent, or their spouse or domestic partner
- Grandchild, or their spouse or domestic partner
- Any individual related by blood or affinity whose close association is the equivalent of a family relationship. *(See full definition on information sheet. Attestation Form may be required.)*

Reason(s) for requesting protected leave under FMLA or OFLA (not PLO eligible):

- Bereavement Leave. (OFLA only) Relationship of Family Member, see definitions above: _____
- Military Leave (FMLA or OFLA depending on leave reason and relationship to employee):
Name of Service Member: _____ Relationship of Service Member: _____

Reason for **Military Leave**:

By signing the below, I attest to the following:

- I understand that if my leave is for my own serious health condition or that of a family member, I must have the appropriate "Health Care Provider Certification" form completed by a health care provider and returned to Deschutes County within 15 days. I further understand that if I do not provide a completed Certification, Deschutes County may delay or deny my leave until such Certification is received.
- If applying for PLO benefits, I am responsible for providing timely medical documentation to the state in accordance with their claim process. The county will not supply medical documentation to the state on behalf of an employee or their family member.
- I understand that if I request to use paid accrued leave during a period of approved leave that is covered by PLO, the county will only pay the amount determined to bring me to approximately 100% of my average weekly wage after the PLO benefits amount has been determined. I understand that all other leave taken during a PLO benefits absence period will be considered an unpaid leave of absence from the county.
- If any leave taken is for my own serious health condition, I understand that I may not return to work until I provide a completed Release to Return to Work form.
- I understand that it will be my responsibility to notify my supervisor when my absences are due to reasons related to my approved protected leave.
- I agree that while I am on leave, I will continue to pay my share of benefit premiums, if applicable, unless I choose to discontinue coverage.
- I hereby request leave/approved absence from duty as indicated above and certify that such leave is requested for the purpose(s) indicated. I understand that I must comply with the county's procedures for requesting leave (and provide additional documentation, including medical certification, if required) and that falsification on this form may be grounds for disciplinary action.

Employee's Signature _____ Date _____

SUPERVISOR ACKNOWLEDGEMENT

I have reviewed this request and acknowledge the leave requiring time away from their position. I understand Deschutes County retains full authority in the determination of qualification of this request.

Supervisor's Name (PLEASE PRINT) _____

Supervisor's Signature _____ Date _____

Return completed form to HR@deschutes.org.