



FAMILY AND MEDICAL LEAVE REQUEST - INFORMATION

Deschutes County Human Resources Department

Effective July 1, 2024

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.	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. PLO may only be taken in full day increments in which no work is performed on that day.

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.

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. However, there is an option to have taxes withheld from the benefit payment.

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 or 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. Leave must be completed within 60 days of the date on which the employee receives notice of the death, not to exceed a total of four weeks within any one-year period.

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). Employees covered under a CBA which contains paid bereavement leave must apply for OFLA Bereavement Leave in order for HR to determine if both OFLA and contractual paid leave entitlements are applicable.

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.

OFLA/FMLA Pregnancy disability (a serious health condition).

OFLA – Birthing parents who are medically required to be off work due to their pregnancy and/or postpartum recovery may qualify for pregnancy disability leave, a serious health condition. If qualifying, the birthing parent is entitled up to a total of 12 weeks pregnancy disability. The standard medical leave for recovery from childbirth is 6 to 8 weeks postpartum, depending on delivery type. **The length of the disability period is determined via a completed Health Care Provider Certification Form.** If the employee qualifies for FMLA, OFLA pregnancy disability will run concurrently with FMLA, as this type of leave qualifies as a serious health condition under FMLA.

Parental (baby bonding) Leave. When an employee requests FMLA and/or PLO parental leave, no Health Care Provider Certification form is required.

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 839-009-210 “affinity”, means a relationship for which there is a significant personal bond that, when examined under the totality of the circumstances is like a family relationship.

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/PLO:

- ☐ Your own serious health condition. Health care provider certification (HCPC) required if applying for FMLA leave only.
- ☐ 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**. Health care provider certification (HCPC) required if applying for FMLA leave only.

Qualifying family members under FMLA , OFLA Bereavement Leave, 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 for OFLA Bereavement Leave 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. Affinity Relationship Form may be required.)*

Reason(s) for requesting other types of protected leave:

- ☐ OFLA Pregnancy Disability Leave. Runs concurrently with FMLA if employee is eligible as a serious health condition. Health Care Provider Certification required to substantiate disability and length of leave required. Start/End Dates of this type of leave: _____
- ☐ OFLA Bereavement Leave. Relationship of Family Member: _____
Date Employee Learned of Passing of Family Member: _____
State of residence of Family Member: _____
- ☐ 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 available accrued leave during a period of PLO approved leave that I am limited to use only up to my scheduled hours per day. I understand that leave taken during a PLO benefits absence period without use of accrued leave will be considered an unpaid leave of absence from the county, and I have read the impacts noted on page 2 of this document.
- 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 Benefits@deschutes.org