



# Human Resources

## Family and Medical Leave of Absence Manual

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## Introduction

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 and OFLA. 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 employer 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 variations of individual circumstances, and the complexities of FMLA and OFLA and their inter-relationship with the University's other leave policies, individuals are encouraged to consult with the Benefits Consultant in the Office of Human Resources (HR) regarding employee and employer rights and responsibilities pertaining to FMLA and OFLA.

The Family and Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA) were enacted and have been amended to assist in balancing the demands of the workplace with the needs of employees and their families.

The University recognizes there are times when you may require an extended or intermittent absence from work to care for yourself, children or other family members. Several specific reasons for absence qualify for job protection and benefit continuation under federal and state family leave laws. While these legal leaves are an unpaid benefit, you may be eligible to access Short Term Disability, and to use your paid leave accruals to continue your pay. In addition, you may be able to request hardship donations if you are a classified employee covered by the SEIU Collective Bargaining Agreement. Even if you deplete sick or vacation pay, the University paid health and life insurance coverage will continue in many cases.

## Is Oregon Tech a Covered Employer?

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

## How does Oregon Tech define the Leave Year?

Under both FMLA and OFLA, an employer must designate its 12-month "leave year" by choosing one of the methods provided by law.

Oregon Tech has designated the "rolling backward" method to determine the leave year for University employees.

This means that Oregon Tech will look backward on the calendar for one year from the first day of your requested leave to determine if you are eligible under FMLA or OFLA and how much leave you have available to use.

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

### Am I eligible for FMLA and OFLA leave?

EMPLOYEE ELIGIBILITY BY LEAVE TYPE	
FMLA	OFLA
Employee must have worked for Oregon Tech for a total of at least 12 months (if months are non-consecutive there can be no more than a seven-year break in service) <b>and</b> worked for at least 1250 hours during the 12-month period immediately preceding the leave	<b>To qualify for Parental leave</b> (leave to care for a newborn child or newly placed adopted or foster child) employee must have been employed by Oregon Tech for a period of 180 calendar days immediately preceding the date leave begins
	<b>To qualify for leave for a serious health condition or for Sick Child leave or Bereavement leave</b> , in addition to the 180-day requirement above, the employee must have worked an average of 25 hours per week
	<b>To qualify for OFLA Military Family leave</b> , employee must have worked an average of 20 hours per week (there is no 180 day requirement)

### What can the FMLA and OFLA do for me?

In most cases FMLA and OFLA provide you with up to 12 weeks of protected time off for a qualifying reason. In a few cases more protected leave time may be available as allowed under the specific provisions related to your case. The time off you take under a qualified FMLA/OFLA leave 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 and OFLA 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) if medically necessary. You can also take leave on a part-time basis (reduced work schedule) if medically necessary. If you need multiple periods of leave for planned medical treatments such as physical therapy appointments, you must try to schedule the treatment at a time that minimizes the disruption to Oregon Tech.

As a general rule, if you return from FMLA or OFLA 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 if I don't want to use FMLA and/or OFLA leave?

If you are an eligible employee who is absent from work for a reason that qualifies under FMLA or OFLA leave, Oregon Tech has no choice but to 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 must be applied as the need occurs.

## How much FMLA and OFLA am I eligible for?

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

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 or OFLA 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.

Additional leave entitlements under OFLA. You may be entitled to additional leave under the following circumstances:

- You are a woman and use pregnancy disability leave; you may take an additional 12 weeks of OFLA leave during the leave year for any OFLA qualifying purpose.
- You used a full 12 weeks of Parental leave under OFLA. You may take up to 12 additional weeks of OFLA leave in the same year for Sick Child leave (non-serious health condition).

Limitations to FMLA and OFLA leave may apply when two family members or both spouses work for the University. Contact the Benefits Consultant for more information.

## What absences qualify under FMLA and OFLA?

### Serious Health Condition

FMLA and OFLA provide up to 12 weeks of unpaid 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.

### Parental Leave

FMLA and OFLA 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. Men and women 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 and must be taken as a continuous block of leave unless the employer agrees to allow intermittent leave or a reduced work schedule. If both parents are employed by the University additional rules and provisions may apply.

### Sick Child Leave, Non-serious Health Condition

OFLA provides up to 12 weeks of protected unpaid leave to care for a child of the eligible employee who is suffering from an illness, injury, or condition that is not a serious health condition.

### Oregon Bereavement Leave Entitlement

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.

### Military Family Leave Entitlement (Service Member Care Leave)

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 service member or veteran with a serious injury or illness. A covered service member 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.

### Military 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.

### Maternity Leave

Maternity leave is actually a combination of leave for the employee's own serious health condition and parental leave to bond with the newborn child. A female employee would take leave for their own serious health condition for the conditions related to pregnancy. This can include absences for morning sickness, prenatal care, delivery, and recovery from birth. The parental leave does not run concurrently with the leave for the employee's serious health condition. For this reason maternity leave varies in

length based on individual circumstances from 18 weeks to 24 weeks. In very rare cases an additional leave type "sick child leave" may extend the leave up to an additional 12 weeks.

### [Leave for Victims of Domestic Violence, Harassment, Sexual Assault or Stalking \(DVHSAS\)/Oregon Victims of Certain Crimes Leave Act \(OVCCLA\)](#)

Oregon Law provides protected leave for an employee who is a victim, or is the parent or guardian of a victim of domestic violence, harassment, sexual assault or stalking. The protected leave covers time off to seek legal or law enforcement assistance, medical treatment, to obtain counseling, to relocate or take other steps to ensure health and safety.

### What is a serious health condition?

A "Serious Health Condition" means an illness, injury, impairment, or physical or mental condition that involves one of the following:

1. Hospital Care: Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity of subsequent treatment in connection with or consequent to such inpatient care.
2. 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:
3. Treatment two or more times by a health care provider, or
4. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
5. Pregnancy: Any period of incapacity due to pregnancy, or for prenatal care.
6. Chronic Conditions Requiring Treatments: A chronic condition which:
  - a. Requires periodic visits for treatment by a health care provider;
  - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).
7. Permanent Long-term Conditions Requiring Supervision. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee/family member must be under the continuing supervision, and receiving treatment, from a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
8. Multiple Treatments (Non-Chronic Conditions): Any period of absence to receive multiple treatments 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) kidney disease (dialysis).



## What is NOT a Serious Health Condition?

Examples of what would generally not be considered a serious health condition may include: Common cold, treatment for acne, flu, headache (other than migraines), earaches, routine medical or dental visits, sore throat, and 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.

Absences covered under sick child leave are health conditions for an illness or injury that requires home care but is not a serious health condition. This protected leave is not intended for routine medical or dental appointments.

## Who is a covered family member?

Under FMLA, covered family members include: spouse or legally recognized same gender domestic partner, parent, child – biological or adopted, foster or step-child, legal ward, or child to whom the employee stands in loco parentis, normally under 18 years of age, or child over 18 and incapable to self-care because of a physical or mental disability. Caring for a qualifying military member or veteran who is the employee's spouse, child, parent, or next of kin. For exigency leave military member must be the employee's spouse, parent, or child (of any age).

Under OFLA, covered family members include: spouse, same-gender domestic partner, custodial parent, non-custodial parent, adoptive parent, foster parent, biological parent, parent-in-law, parent of same-gender domestic partner, grandparent or grandchild of the employee, or a person with whom the employee is or was in a relationship of in loco parentis. It also includes the biological, adopted, foster or stepchild of an employee or the child of an employee's same-gender domestic partner.

The table on the next page can be used as a quick reference for covered family members.

COVERED FAMILY MEMBERS BASED ON LEAVE TYPE	
FMLA	OFLA
<p><b>Serious health condition:</b></p> <ul style="list-style-type: none"> <li>• Self</li> <li>• Spouse: husband or wife or same sex spouse in a legally recognized marriage</li> <li>• Parent: your biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when you were a child</li> <li>• Child: your biological, adopted, foster or stepchild, a legal ward, or a child of whom you stand in loco parentis who is under 18 years of age or younger. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability</li> </ul>	<p><b>Serious health condition:</b></p> <ul style="list-style-type: none"> <li>• Self</li> <li>• Spouse or same-sex domestic partner as defined under Oregon state law</li> <li>• Parent: your biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when you were a child, and the parent of your spouse or same-sex domestic partner</li> <li>• Son or daughter (child) (of any age): your biological, adopted, foster or stepchild, a legal ward, or a child of whom you stand in loco parentis, and the child of your same-sex domestic partner</li> <li>• Grandparent or grandchild</li> </ul>
<p><b>Parental leave:</b></p> <ul style="list-style-type: none"> <li>• to care for your newborn, newly adopted child or newly placed foster child</li> </ul>	<p><b>Parental leave:</b></p> <ul style="list-style-type: none"> <li>• to care for your newborn, newly adopted child or newly placed foster child</li> </ul>
<p><b>Military exigency leave:</b></p> <ul style="list-style-type: none"> <li>• your spouse, parent, or child (of any age)</li> </ul>	<p><b>Military family leave:</b></p> <ul style="list-style-type: none"> <li>• your spouse or domestic partner</li> </ul>
<p><b>Military caregiver leave:</b></p> <ul style="list-style-type: none"> <li>• your spouse, parent, or child (of any age), or next of kin (nearest blood relative)  <i>Next of kin in this order:</i> <ol style="list-style-type: none"> <li>1. designated in writing for FMLA</li> <li>2. all blood relatives with legal custody</li> <li>3. all siblings</li> <li>4. all grandparents</li> <li>5. all aunts and uncles</li> <li>6. all first cousins</li> </ol> </li> </ul>	
	<p><b>Sick child leave:</b></p> <ul style="list-style-type: none"> <li>• to care for a child 17 years of age or younger who has a non-serious health condition and requires home care. The age limit does not apply if the child is incapable of self-care because of a mental or physical disability</li> </ul>
	<p><b>Bereavement leave:</b></p> <p>To deal with the death of your:</p> <ul style="list-style-type: none"> <li>• Spouse or same-sex domestic partner as defined under Oregon state law</li> <li>• Parent: your biological or adoptive mother or father, or an individual who stood in loco parentis (in place of a parent) when you were a child, and the parent of your spouse or same- sex domestic partner</li> <li>• Son or daughter (child) (of any age): your biological, adopted, foster or stepchild, a legal ward, or a child of whom you stand in loco parentis, and the child of your same-sex domestic partner</li> <li>• Grandparent or grandchild</li> </ul>

## Will I get paid during my FMLA and OFLA leave?

FMLA and OFLA are unpaid leaves. However, Oregon Tech policy generally requires you to use your accrued paid leave while on FMLA and OFLA leave before going into leave without pay (LWOP).

Faculty and Unclassified Administrative Staff are required to use sick and vacation leave while on approved FMLA/OFLA leave. Faculty and Unclassified Administrative staff are not required to use sick and vacation leave while receiving either Short Term Disability (STD) or Long Term Disability (LTD) benefits.

Classified employees on approved FMLA/OFLA leave may use accrued sick time and other forms of paid leave, but are not required to do so if receiving either Short Term Disability (STD) or Long Term Disability (LTD) benefits. Sick time and other accruals will be applied if not receiving STD/LTD benefits. You may retain up to 40 hours of vacation leave for FMLA/OFLA approved absences based on the provisions set forth in the SEIU Collective Bargaining Agreement, Article 47, Section 14 (C).

Classified employees who have exhausted all leave and who are projected to be on leave for at least 15 days following the exhaustion of leave, may request Hardship Leave based on the provisions set forth in the SEIU Collective Bargaining Agreement, Article 40, Section 8.

### Holiday Pay

All employees who are eligible for paid holidays, will receive holiday pay for the holidays which take place during a protected leave under FMLA or OFLA. The number of hours paid for the holiday will be based on your standard working hours prior to the leave. Therefore a full time employee who is eligible for paid holidays will receive 8 hours of pay for each holiday which occurs while they are on leave.

### Bereavement Leave

Classified employees are eligible for a maximum of four days of paid bereavement leave based on the provisions set forth in the SEIU Collective Bargaining Agreement, Article 41. Additional leave, other than sick leave, may be granted to provide additional time to a classified employee for bereavement purposes.

For OFLA protected bereavement leave, faculty and unclassified administrative staff are required to use sick and vacation leave.

For OFLA protected bereavement leave beyond 4 days in length, classified employees should contact HR regarding paid leave requirements.

### Disability Benefit Exception

If you are on FMLA leave and are receiving disability benefits from your PEBB short-term or long-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. Use of your accrued leave above 100% of earnings will reduce your disability benefit. The election to supplement your disability benefit with accrued leave must be made prior to going out on FMLA leave. Once your disability benefits end, you must resume using your accrued leave.

## What if I am off work due to a Workers' Compensation Claim?

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. OFLA leave will begin if your workers' compensation claim is denied or you refuse an offer of transitional work if you meet eligibility requirements.

If you are receiving time loss payments from SAIF, the time loss is to be recorded as LWOP on your timesheet. You can choose to supplement your workers' compensation payments by using your accrued leave.

## Short Term and Long Term Disability Coverage

Benefits eligible employees may elect at the time of initial benefits eligibility and annually during Open Enrollment optional Short Term Disability and/or Long Term Disability coverage. These coverages provide tax free wage replacement benefits to employees who cannot work due to a serious health condition, including illness and injury. The exact terms and conditions of each coverage are available online at: <https://www.standard.com/employer> or you can contact Customer Service at 888-937-4783.

Those employees who know about absences in advance are encouraged to contact The Standard and start their claim. The Standard allows you to set up your claim in advance and place it on "hold" so that once your absence begins you will only need to make one phone call and provide your claim number to activate the claim.

## Will my insurance continue while I am on FMLA or OFLA leave?

Your core benefits (medical, dental, vision, basic life) are continued if you use any amount of FMLA leave during the month. Oregon Tech 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.

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.

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

- Contacting Payroll to have your portion of the premiums deducted from your pay before you go into leave without pay status; or
- Contacting Payroll for the dollar amount of your portion of the health and optional premiums. Submit your monthly payment for your share of the health insurance premium and any optional benefits you elect to continue to Payroll by the 15<sup>th</sup> of the preceding month (by October 15<sup>th</sup> for November premiums).

## Does my return date from FMLA or OFLA leave impact my insurance benefits?

When and/or if you return to work from your approved FMLA and/or OFLA 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 and OFLA leave.

Example: Your normal work schedule is Monday through Friday. FMLA/OFLA 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.

If you are returning from FMLA leave or paid OFLA leave, your benefits will 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 and OFLA leave.

Example: Your normal work schedule is Monday through Friday. Your FMLA/OFLA 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.

If you had sufficient paid leave to earn the employer insurance contribution during your leave, you will not be required to reimburse the University.

If you have a recurrence, continuation or onset of a serious health condition or you cannot return for a reason that is beyond your control, you will not be required to reimburse the University.

You will be considered as returning to work if you return to work for at least 30 calendar days.

## How do I request FMLA/OFLA leave?

Contact the Benefits Consultant and request a leave packet for the type of leave you are requesting. You will then be sent an electronic leave of absence checklist related to your particular need(s).

The checklist will request that you review the related informational notices on the leave type, and provide you with a Leave of Absence Request Form to complete and return electronically.

## What happens after I request FMLA/OFLA leave?

### Notice of Eligibility

After you make a request for FMLA or OFLA leave, HR 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.

### Certification

You will 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 or the medical provider of the family member you are taking leave for. It provides the University with information to determine if your reason for the leave qualifies under FMLA and OFLA. Some leave types require other documentation for certification, the Benefits Consultant will advise you on what paperwork is appropriate for your case.

The certification documentation needs to be submitted to HR within 15 days or your leave can be denied.

### Final Determination

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.

### 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, but at least annually, 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.

Under OFLA, the University may not request certification for sick child leave on the first three occasions during the leave year, but may do so beginning with the fourth incident, day, or occurrence and every subsequent occasion thereafter during the leave year. A doctor's note serves as medical certification.

## How do I report my leave?

Employees on an approved leave of absence need to complete, obtain supervisor signature, and submit a FMLA/OFLA Leave Tracking Form to the Benefits Consultant. Additionally, as with any absence, an Employee Leave Request report is due to your department payroll coordinator. Both are due on the first of the month or the business day immediately following the first of the month, whichever is later. Both documents are essential to ensure your leave is tracked accurately and that your time off is paid according to your intent.

## What are the expectations when I return from FMLA/OFLA leave?

Under the leave laws, you are expected to complete the essential functions of your position when not on FMLA and OFLA 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 requires, you to provide a work release or status report prior to returning from FMLA and OFLA 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 Equity and Inclusion to determine if any protections can be afforded through their office.

### Return to work

Absences related to your own serious health condition, excluding pregnancy, will require a release to return to work form will be required before you can report back to work and needs to be provided to HR.

## What happens to my job when I take FMLA and OFLA leave?

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.

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 and OFLA 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 leave and remain off work, your right to reinstatement will be governed by the non-FMLA/OFLA leave policy, or other applicable laws, such as those relating to workers' compensation for workplace injuries.

### How do I add or remove a dependent from my health insurance?

If you lose and/or gain a dependent while on FMLA/OFLA leave, you will need to complete the Midyear Change Form within 30 days of the event. This form is used to either remove or add that dependent to your health insurance coverage.

Midyear Change Form can be downloaded at: <http://www.oregon.gov/DAS/PEBB/pages/forms.aspx>

### How is my leave information handled?

Medical information relating to FMLA and OFLA 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 HR.

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. Additionally, the supervisor should not be verifying or reviewing any of the medical documentation. This information is not accessible to them.

Should HR question the adequacy or the completeness of a medical certification provided by an employee's health care provider., requests for clarification will go through the employee, should the employee not follow through, the employee's absence may not qualify as FMLA/OFLA leave.

Should the authenticity be questioned or need to be validated, the Benefits Consultant or the HR director will be the only employees from Oregon Tech requesting verification that the document is true and correct. If the employee declines to give HR permission to inquire, through the University's health care provider, the employee's absence may not qualify as FMLA/OFLA leave.

### GINA Protections

The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we ask that you not provide any genetic information when responding to any request for medical information. "Genetic information," as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or individual's family member or an embryo lawfully held be an individual or family member receiving assistive reproductive services.



## Can I work outside of the University while I am on leave?

Oregon Tech prohibits unauthorized work for another employer while you are on FMLA or OFLA leave from Oregon Tech. If you are found to be working for another employer, Oregon Tech may not reinstate you to the position you held or an equivalent position following leave covered by FMLA or OFLA.

## Where do I go with questions and/or additional information?

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