



## **Employee Notice – Rights and Responsibilities under the Family Medical Leave Act (FMLA) and Oregon Family Leave Act (OFLA)**

Multnomah County is required to track any qualifying absences as FMLA and/or OFLA. This notice provides information about employee rights and responsibilities related to qualifying events, eligibility, continuation of benefits, and medical certification for FMLA and/or OFLA leave.

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### **Qualifying Events for FMLA/OFLA Leave**

An eligible employee is entitled to take FMLA/OFLA leave for the birth of a child, the placement of a child for adoption or foster care, or the serious health condition of the employee or the employee's family member. An OFLA family member means an individual related to an eligible employee by affinity or an individual who is an eligible employee's: (a) spouse or domestic partner; (b) child or the child's spouse or domestic partner; (c) parent or the parent's spouse or domestic partner; (d) sibling or stepsibling or the sibling's or stepsibling's spouse or domestic partner; (e) grandparent or the grandparent's spouse or domestic partner; or (f) grandchild or the grandchild's spouse or domestic partner. OFLA includes caring for a child under age 18 requiring home care who does not have a serious health condition (OFLA Sick Child Leave), or bereavement leave following the death of a qualifying family member. A FMLA family member is the employee's child, spouse, or parent. The County has elected to include domestic partners, domestic partners' parents and children as qualifying family members in both its FMLA and OFLA administration and protection; however it does not count against an employee's FMLA entitlement.

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### **Notice and Designation of Leave**

Employees are required to give at least 30 days advance notice if the need for leave is foreseeable. If the leave is not foreseeable, notice must be provided within 1 business day of beginning the leave. Employees may be required to furnish periodic reports of status, updated medical documentation and/or intent to return to work every 30 days while on FMLA/OFLA leave. It is the responsibility of the employer to designate leave as FMLA and/or OFLA qualifying, and to give notice to the employee.

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## **Length of Leave Available**

Employees are generally entitled to a maximum of 12 weeks of protected leave within an employer's 12-month leave year. Effective January 1, 2024, Multnomah County's FMLA/OFLA one-year calculation period is on a rolling forward year. Under these rolling forward years, the OFLA leave year is a 52-week period which will commence the Sunday prior to the date OFLA leave is first taken in a leave year, and the FMLA leave year is a 12-month period which will commence as of the date FMLA leave is first taken in that leave year. An employee using pregnancy disability leave may be entitled to additional weeks of leave in the same leave year for any other qualifying OFLA purpose. During a Paid Leave Oregon benefit year, an employee may be eligible for up to 16 weeks (or up to 18 weeks) of total leave - including both unpaid OFLA leave and paid leave taken under Paid Leave Oregon. Under OFLA, an employee using a full 12 weeks of Parental leave is entitled to take additional leave for the purpose of OFLA Sick Child leave. Any leave taken that qualifies as FMLA or OFLA will be counted against an employee's annual FMLA/OFLA entitlement.

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## **Medical Certification**

Medical certification is required for all FMLA/OFLA qualifying leave **except** those related to Parental leave or OFLA Bereavement. Employees have 25 days to provide required documentation or the leave may be delayed or denied. The County provides a standard form for medical certifications. While use of this form is not required, the information contained on the form is required from the medical provider to support the request for leave.

OFLA Sick Child Leave Verification: If sick child leave is taken on any part of 3 separate days during a leave year, the

County may require medical verification from a health care provider at the time of or after the 4th occurrence. Incurred Costs: if the employee incurred any out-of-pocket expenses directly associated with the provider completing the medical certification, they are entitled to reimbursement. Supporting documentation for reimbursement must be received by Leave Administration within 90 days of incurring the expense.

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## **Use of Leave**

The County requires employees to use accrued paid leave if available unless they have a Paid Leave Oregon claim pending or approved, in accordance with County policy and labor contracts. Both the paid and unpaid portion of the leave

is tracked as FMLA and/or OFLA time. Under FMLA/OFLA, employees may determine what order paid leave is used. By default, sick time will be used first unless stated otherwise.

If approved for appointments or scheduled leave, leave must be scheduled in advance and employees must notify their manager at the time of scheduling that leave is for FMLA/OFLA. Leave for appointments are typically not full day absences and will not be protected as full day under FMLA/OFLA unless the provider states otherwise. 30 days advanced notice is required for scheduled leave or as soon as leave needs are known. Less notice may be acceptable if permitted by department.

If approved for flare-ups, normal call-in procedures must be followed during any absence related to flare-ups. Employees must designate the time as FMLA/OFLA at the time of call in, otherwise absences may count against the attendance policy as listed in the Personnel Rules and/or Labor Contracts. Retroactive changes to time entry may not be permitted if the leave is not specified as FMLA/OFLA at the time of reporting inability to work.

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### **Timesheet coding**

Employees are responsible for true/accurate reporting of their time entry records. Time entry must be coded appropriately with FMLA and/or OFLA codes. If approved for more than one event, a comment must be specified in time entry for the event the leave is for. Employees may determine what order paid leave is used. By default, sick time will be used first unless stated otherwise. If employees have questions about what time off types to use, contact Leave Administration.

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### **Continuation of Benefits**

If enrolled in a County sponsored medical and/or dental plan, health plan coverage will continue during the FMLA/OFLA protected leave and if in paid status, medical and dental payroll deductions continue semimonthly, along with premiums for optional coverages. Unpaid premiums will be tracked and recovered from future checks upon the employee's return to work. If an employee Opts Out of health coverage, Opt Out payments will cease during any period that is unpaid. Other benefit programs may end even if an employee is in protected status, such as flexible spending accounts.

If on unpaid status without FMLA/OFLA protection. County-sponsored benefits may end. If health plan coverage terminates, employees are sent information

about continuing coverage on a self-pay basis under COBRA. If an employee does not return to work following FMLA/OFLA leave, they may be required to reimburse the County for health insurance premiums paid on their behalf during any unpaid leave as well as any unpaid employee cost- shares. Employees should contact Leave Administration to discuss when benefits will end or for personalized information about other benefit impacts.

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### **Disability Plan Information (STD and/or LTD)**

If an employee is on a leave for their own serious health condition and eligible for disability, Leave Administration will send short and/or long term disability claim information.

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### **Catastrophic Leave**

If an employee's paid accruals (sick time, vacation time, etc) are not sufficient to cover the leave, employees may be eligible to participate in the County's Catastrophic Leave program. Employee must apply for catastrophic leave before returning to work. Medical certification submitted for FMLA/OFLA approval is used for Catastrophic Leave eligibility review. Please review the catastrophic leave personnel rule for more information.

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### **Release to Return to Work and Reinstatement from Leave**

If an employee is on a continuous leave of absence due to their own condition or for certain intermittent leave situations, they will be required to present a release prior to being restored to employment. If such documentation is not received, the return to work may be delayed until such certification is provided. If released to modified duty, employees must provide that release prior to return in order to determine if the County can accommodate the restrictions.

FMLA regulations require that upon return from leave the employee be reinstated to an equivalent position. OFLA is more generous and requires the employer to return the employee to the employee's former position if the job still exists even if it has been filled during the employee's leave unless the employee would have been bumped or displaced if the employee had not taken leave. The County will follow the provision which provides greater benefit to the employee.