



City of Eugene Family and Medical Leave Guide (FMLA / OFLA)

When you or a loved one experiences a serious health condition that requires you to take time off from work, the stress from worrying about keeping your job may add to an already difficult situation. The Family and Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA) may be able to help. Whether you are unable to work because of your own serious health condition, or because you need to care for an eligible family member with a serious health condition, the FMLA and OFLA provides unpaid, job-protected leave. Leave may be taken all at once or may be taken intermittently as the medical condition requires.

This guide is a summary of Family and Medical leave policy and procedures. In all cases applicable state and federal laws, rules, policies, and collective bargaining agreements govern the employee’s and the City’s rights and obligations, not this document. FMLA and OFLA are not optional. The law requires the City 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 employee asked about, requested, or used Family and Medical Leave.

For more information please contact the Benefits Leave Team at [COE Benefits Leave Team](#) or the through the main Employee Resource Center line at 541-682-5061.

WHAT IS FAMILY AND MEDICAL LEAVE?

The Family and Medical Leave Act (FMLA) and the Oregon Family and Medical Leave Act (OFLA) protect an eligible employee’s absence from work under certain conditions. Federal and state laws determine if you are eligible and if your absence qualifies as FMLA or OFLA and how much leave time you may take.

AM I ELIGIBLE FOR FMLA AND OFLA LEAVE?

The City uses a “rolling backward year” to determine an employee’s FMLA and OFLA leave entitlement. This means the City looks backward on the calendar for one year from the first day of your requested leave. This method tells the City if you are eligible for FMLA or OFLA leave and how much of this leave you have available to use.

To be eligible for FMLA or OFLA leave you must meet the following requirements:

Employees Eligible for FMLA	Employees Eligible for OFLA
Employee must have been employed by the City of Eugene 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); and	Employee must have been employed by the City of Eugene for a period of 180 calendar days immediately preceding the date leave begins; and
Employee must have worked at least 1250 hours during the 12-month period immediately preceding the leave.	Employee must have worked an average of 25 hours per week during the 180-day period unless the leave is to care for a newborn child or newly placed adopted or foster child (Parental leave).
Both above requirements apply to all types of FMLA leave	To qualify for OFLA Military Family leave, employee must have worked an average of 20 hours per week (there is no 180-day requirement).

When counting the number of hours worked to determine eligibility, the City counts all hours the employee was at work, employment as a state temporary worker, and qualifying absences for military leave. Paid or unpaid leave time does not count as hours worked, including hours coded to FMLA and OFLA.

Effective 01/01/22, employees are immediately eligible for OFLA leave upon their rehire or return to work if they are rehired or return within 180 days of their separation date and if they were eligible for OFLA leave at the time of their separation. Employees who were not eligible for OFLA at the time of separation will receive credit for time worked for the employer before the separation for the purpose of establishing OFLA eligibility as long as they are rehired or return to work within 180 days of their separation date.

Expanded Eligibility under OFLA During a Public Health Emergency – Effective 01/01/22, during a “public health emergency,” employee eligibility for any qualifying reason (including parental leave) is reduced from the usual 180 days to 30 days for employees who have (a) been employed for at least 30 days before the leave begins, and (b) worked an average of at least 25 hours per week during that same timeframe.

A “PUBLIC HEALTH EMERGENCY” MEANS (A) A PUBLIC HEALTH EMERGENCY DECLARED UNDER ORS 433.441, OR (B) AN EMERGENCY DECLARED UNDER ORS 401.165 IF RELATED TO A PUBLIC HEALTH EMERGENCY AS DEFINED IN ORS 433.442. WHAT ARE QUALIFYING REASONS TO TAKE FMLA AND OFLA LEAVE?

Under both FMLA and OFLA, you may take leave for these reasons

1. To seek treatment for or recover from your own serious health condition that renders you incapacitated. This includes pregnancy related disability and absences for prenatal care.
2. To care for your husband or wife, your parent or your biological, adopted, step or foster child with a serious health condition. Parent includes someone who stood “in loco parentis” (in place of a parent) when the employee was a child. Child includes someone to whom the employee stands “in loco parentis”.
3. For Parental leave, which is leave to care for your newborn, newly adopted or newly placed foster child in your home.

Under FMLA, you may also take leave for these reasons

1. For FMLA Military Caregiver Leave, which is leave to care for your husband or wife, parent, child, or next of kin, who is a covered servicemember or covered veteran, with a serious injury or illness incurred in the line of duty on federal active duty.
2. For FMLA Qualifying Exigency Leave, which is leave to tend to exigencies resulting from your spouse, parent, or child being called into covered active duty.

If you need information about FMLA Military Caregiver Leave or FMLA Qualifying Exigency Leave, go to http://www.dol.gov/whd/fmla/2013rule/militaryFR_FAQs.htm or contact the Employee Resource Center at (541) 682-5061.

Under OFLA, you may also take leave for these reasons

1. To care for your same sex registered domestic partner with a serious health condition.
2. To care for your or your same sex registered domestic partner’s biological, adopted, step or foster child with a serious health condition.
3. To care for your parent-in-law or your same-sex registered domestic partner’s parent with a serious health condition.
4. To care for your grandparent or grandchild with a serious health condition.
5. To deal with the death of a family member as defined under OFLA by:
 - a. Attending the funeral (or alternative) of the family member;
 - b. Making arrangements necessitated by the death of a family member; or
 - c. Grieving the death of a family member.
6. For Sick Child leave, which is leave to provide care for your child or your spouse’s or same-sex registered domestic partner’s child with a non-serious health condition who needs home care. This does not include routine medical or dental appointments. The child must be 17 years of age or younger or be incapable of self-care due to a physical or mental disability. You can also take OFLA protected time if your child’s school or childcare provider is closed due to a statewide public health emergency, such as the COVID-19 pandemic school closures.
7. Because of a spouse or registered domestic partner being called to or on leave from active military duty (Oregon Military Family leave). If you need information about Oregon Military Family Leave Act (OMFLA) contact the Employee Resource Center.

WHAT IS A SERIOUS HEALTH CONDITION?

A “serious health condition” is defined as an illness, impairment, physical or mental condition that involves one of the following:

1. **Hospital care –**
Inpatient care (i.e., overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or as a consequence of inpatient care.
2. **Absence plus treatment –**
A period of incapacity of more than three consecutive calendar days (including any period of incapacity or subsequent treatment relating to the same condition), that also involves:
 - (a) Treatment received in person, two or more times within 30 days of the first day of incapacity unless extenuating circumstances exist, by a licensed healthcare provider, nurse, or physician’s assistant under direct supervision of a healthcare provider, or by a provider of healthcare services (e.g., physical therapist) under orders of, or on referral by, a healthcare provider and with the first (or only) in-person treatment visit taking place within seven days of the first day of incapacity, **or**;

(b) Treatment by a healthcare provider on at least one occasion which results in a regimen of continuing treatment under supervision of the healthcare provider.

(1) Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment DOES NOT include routine physical, dental, or eye examinations.

(2) A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment DOES NOT include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed-rest, drinking fluids, exercise, or any other similar activities that can be initiated without a visit to a healthcare provider.

3. Pregnancy –

Any period of incapacity due to pregnancy, pregnancy-related illness, or for prenatal care. The following absences related to pregnancy disability qualify:

- Part-day or full-day absences for severe morning sickness.
- Periods of bed rest ordered by the physician of the pregnant employee.
- A reduced work schedule because of pregnancy complications.
- Routine prenatal visits to the doctor.
- Leave following childbirth if the employee is incapacitated since the definition of pregnancy disability includes incapacity due to pregnancy or childbirth. Pregnancy is a temporary condition and not a covered disability that requires reasonable accommodation under the Americans with Disabilities Act Amendments Act (ADAAA).

4. Chronic conditions requiring treatments –

A chronic serious health condition is one which:

- Requires periodic in-person visits (defined as at least twice a year) for treatment by a healthcare provider, nurse, or physician's assistant under direct supervision of a healthcare provider;
- Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- May cause episodic rather than continuing periods of incapacity (e.g., asthma, diabetes, epilepsy, etc.)

5. Permanent/ long-term conditions requiring supervision –

A period of incapacity that 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 healthcare provider. Examples include Alzheimer's, a severe stroke, or the terminal states of a disease.

6. Multiple treatments (non-chronic conditions) –

Any period of absence to receive multiple treatments (including any period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by a health care provider for one or both of the following reasons:

- Restorative surgery after an accident or other injury.
- For a condition that in the absence of treatment or medical intervention, will likely result in a period of incapacity of more than three consecutive calendar days. For example: chemotherapy or radiation for cancer, physical therapy for severe arthritis, dialysis for kidney disease.

Some other definitions that are important for understanding what qualifies as a Serious Health Condition include:

- **Incapacity:** 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 for evaluations of the condition. The definition does not include routine physical examinations, eye examinations or dental examinations.

HOW MUCH FMLA AND OFLA LEAVE DO I GET?

Under both FMLA and OFLA you are entitled to:

Up to 12 weeks of leave during a 12-month period if you meet the eligibility and purpose requirements, measured using the rolling backward method. Some reasons qualify under both leaves and some qualify only as one leave type. Leave qualifying under both FMLA and OFLA are designated at the same time and run concurrently.

FMLA Military Caregiver Leave:

An eligible employee is entitled to a combined total of 26 workweeks of military caregiver leave and leave for any other FMLA-qualifying reason in a "single 12-month period," provided that the employee may not take more than 12 workweeks of leave for any other FMLA-qualifying reason during this period. The "single 12-month period" begins on the first day the eligible employee takes military caregiver leave and ends 12 months after that date, regardless of the method used by the employer to determine the employee's 12 workweeks of leave entitlement for other FMLA-qualifying reasons.

OFLA Bereavement Leave:

An OFLA eligible employee is entitled to take a maximum of two weeks of leave per death of a family member, up to a maximum of 12 weeks per leave year. The leave is counted against the employee's OFLA entitlement. The leave must be completed within 60 days after the date on which the employee receives notice of the death of the family member.

OFLA Military Family Leave:

Leave is limited to 14 working days per deployment and is counted against the employee's OFLA entitlement.

OFLA may entitle you to additional leave under the following circumstances:

1. If you are a female employee and you take any amount of leave for your own pregnancy-related disability, you may take up to an additional 12 weeks of OFLA leave for any OFLA-qualifying purpose.
2. If you are a male or female employee and use a full 12 weeks of Parental leave under OFLA, you may take up to 12 additional weeks of OFLA leave in the same leave year for Sick Child leave.

Leave entitlement for part-time employees and using FMLA and OFLA leave intermittently

If you are a part-time employee your leave entitlement is 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. Leave taken on an intermittent basis is calculated by the hour. If you are a full-time employee working 40 hours per week, you are entitled to up to 480 hours of leave. A part-time employee's hourly entitlement is prorated. For example, if you normally work 30 hours per week, your hourly entitlement is 360 hours.

More than one qualifying condition

You may need FMLA or OFLA leave for more than one qualifying condition or purpose at the same time or in the same leave year. Having more than one qualifying condition does not extend the amount of your entitlement.

Spouses and family members working for the City of Eugene

The City of Eugene is one employer for purposes of FMLA and OFLA.

If you and your spouse both work for the City of Eugene you can be required to share the 12-week FMLA entitlement for Parental leave (for the birth, adoption, or foster child placement) or to care for a parent with a serious health condition. Under special circumstances, the City may allow spouses to use both their full entitlements.

If you and a family member both work for the City of Eugene you may not take leave that qualifies under OFLA only at the same time except under one of the following circumstances: 1) one of you needs to care for the other who has a serious health condition; 2) one of you needs to care for a child with a serious health condition while the other is suffering from a serious health condition; 3) you both have a serious health condition; 4) you both take OFLA Bereavement Leave for the same family member at the same time or; 5) the City grants an exception under special circumstances.

WHAT IF I AM ON TIME LOSS DUE TO WORKERS' COMPENSATION?

Only FMLA leave is applied when you are absent from work for a disabling compensable injury or you have a pending determination of a workers' compensation claim if you meet eligibility and purpose requirements.

If your pending workers' compensation claim is denied, OFLA leave will immediately begin if you meet eligibility and purpose requirements.

If you have an accepted disabling compensable injury and refuse an offer of a modified duty assignment, OFLA leave will immediately begin if you meet eligibility and purpose requirements.

WHAT IF I AM UNABLE TO WORK MY REGULAR SCHEDULE DUE TO AN FMLA/OFLA CONDITION?

If you are working less than your regular schedule due to Family & Medical Leave you will code the difference between your regularly scheduled hours and actual hours worked to Family & Medical Leave (FMLA/OFLA). If you will be coding one **full pay period** or more to **unpaid** Family & Medical Leave, your leave coordinator will change your status to the appropriate leave of absence (LOA) status.

If you are an AFSCME–represented employee on a mandatory reduced schedule you should code only the difference between your **regular mandatory reduced schedule** and your actual hours worked to Family & Medical Leave (FMLA/OFLA).

DO I HAVE TO TAKE ALL MY FMLA AND OFLA AT ONCE?

There are three types of FMLA and OFLA leave schedules.

1. Continuous leave: leave taken in a block of time. For example, an employee takes six weeks of leave due to a serious health condition.

2. Intermittent leave: Leave taken sporadically. For example, an employee misses five days of work a month due to a serious health condition.
3. Reduced schedule leave: Leave taken where the employee is scheduled to work less than the employee's normal work hours in a day or week. For example, an employee normally scheduled to work eight hours a day, instead works six hours and takes the remaining two hours as FMLA and OFLA due to a serious health condition.

WHAT IF I DON'T WANT TO USE FMLA AND OFLA LEAVE?

If you are an eligible employee who is absent from work for a reason that qualifies as FMLA or OFLA leave, the City has no choice but to designate the absence as FMLA, OFLA or both. The amount of paid leave an employee has accrued or the employee's desire to "save FMLA and OFLA until later" are not a factor. FMLA and OFLA are not benefits; they are an entitlement that must be applied as the need occurs.

HOW DO I REQUEST FMLA OR OFLA LEAVE?

You must generally give 30 calendar days' notice for planned absences (paid or unpaid) related to family and medical leave. If you are unable to request leave in advance due to an emergency or unforeseeable event, let your supervisor or the Employee Resource Center know as soon as possible. You are not required to specifically state the leave is for FMLA or OFLA, but you must provide enough information so the City can determine if the leave qualifies. The City may ask for more information if necessary.

Following is a link to the City's Family and Medical Leave request form: [Family and Medical Leave Information Form](#). Complete it (this can be done by the employee or the employee's supervisor) and deliver to the COE Benefits Leave Team by either dropping off, email, fax, or interoffice mail.

Because FMLA and OFLA are not optional, the City can designate leave as FMLA and OFLA without your agreement.

Approval for AFSCME-Represented **Domestic Partner Medical Leave (DPML)** is requested in the same manner as FMLA or OFLA.

WHAT HAPPENS AFTER I REQUEST FMLA OR OFLA LEAVE?

Notice of eligibility

After you make a request for FMLA or OFLA leave, the City will generally let you know within five business days if you are eligible for the leave entitlement and provide a provisional designation or request additional information if needed to be able to determine eligibility.

Medical Certification

Medical Certifications are required for all protected leaves, except the birth of a child and bereavement leave. The City uses the information provided to determine if your reason for leave qualifies under FMLA or OFLA. The Medical Certification must be returned within 30 days or your leave can be denied. Denied leave means you do not have job protection under FMLA and OFLA.

If it is determined the information in the Medical Certification does not validate the necessity for Family & Medical Leave your time off will not be designated as FMLA/OFLA and therefore will not be protected under the leave laws.

The City does not require that you make an appointment to get the Medical Certification Form completed by your medical provider. In most cases you will be able to provide it to your medical provider during an appointment you already have scheduled, or your medical provider may allow you to fax the form to them or drop it off at the front desk. Please contact your medical provider's office for their specific policies and procedures. However, if you are required to see your medical provider **solely** for the purpose of providing them with the Medical Certification Form or having them fill it out, the City will reimburse you for any out-of-pocket costs that are not covered by your insurance. Reimbursement requests must be submitted to the Employee Resource Center within six months from the date of service, and must include proof of your out-of-pocket costs along with a note requesting to be reimbursed for expenses associated with obtaining a Medical Certification.

The City has the right to solicit a second and third opinion if necessary, to verify the information provided on a Medical Certification. The third opinion is final and binding.

You may also later be asked to provide Medical Re-certification under certain circumstances not more often than every 30 days and only in connection with an absence by the employee, unless the employee requests an extension of leave, circumstances described by the previous Certification have changed significantly (e.g., the duration or frequency of the absence, the nature or severity of the illness, complications), or the employer receives information that casts doubt upon the employee's stated reason for the absence or the continuing validity of the Certification.

Final Determination

The City will send out a final determination for Family and Medical Leave Notice to you once the medical certification has been received and it has been determined whether your absence qualifies as FMLA and/or OFLA leave. The Notice will contain detailed

information such as how much FMLA and OFLA leave time you have coded in the 12 months immediately preceding your leave, requirements to use your paid leave, information about insurance, your reinstatement rights, and if the agency will require you to provide a Fitness for Duty Certification before returning to work if you are absent for your own serious health condition.

WHAT ELSE DO I NEED TO KNOW ABOUT PARENTAL LEAVE?

Parental leave is time for you to bond with your child after the child's birth, adoption, or foster placement in your home. Parental leave must be completed within one year of the birth, adoption, or placement. You may take intermittent Parental leave prior to the adoption or placement of a foster child if your presence is required to affect the adoption or placement. In other situations, Parental leave must be taken in a continuous block unless the City agrees to allow you to take it on an intermittent or reduced schedule that is agreed to by the City and you.

If you are a Fire or EPD employee and will be taking your Parental leave intermittently, in addition to the Family & Medical Leave Information Form, you are **required** to fill out a Parental Leave Form.

- [EPD Parental Leave Form](#)
- [Fire Parental Leave Form](#)

WHAT IF I NEED TO BE ABSENT FOR OFLA SICK CHILD LEAVE?

OFLA Sick Child leave is part of your 12-week OFLA entitlement. It is used intermittently. Follow normal call in procedures each time you need to be absent for OFLA Sick Child leave to care for your child 17 years of age or younger (or incapable of self-care due to a mental or physical disability), who has a non-serious health condition (i.e. head cold, ear ache, flu), requiring home care. The City may require you to provide a Medical Certification after the third time you take OFLA Sick Child leave in the leave year.

AM I PAID DURING FMLA AND OFLA LEAVE?

FMLA and OFLA are unpaid leaves. However, while on FMLA or OFLA leave, you must use all your paid leaves (except compensatory time) before using leave without pay. You may choose whether to use your compensatory time. All paid and unpaid leave used for FMLA and OFLA purposes counts against your FMLA and OFLA entitlement. Exceptions to the requirement to use your paid leave are: (1) If you are also receiving worker's compensation time loss benefits or payments from your disability insurance, you are not required to use your paid leave except as required by the disability insurance contract; or (2) If you are allowed to code your FMLA-/OFLA-approved time off to voluntary furlough; or (3) In the case of OFLA Bereavement Leave, you may be eligible for some paid leave under the City's Compassionate Leave Policy (APM 11.6) or applicable labor agreements.

HOW DO I CODE MY TIMESHEET?

Leave requested under the Federal Family and Medical Leave Act (FMLA) or Oregon Family Leave Act (OFLA) must be approved by the Employee Resource Center prior to coding FMLA or OFLA codes on timesheets. Once approved your FMLA and OFLA leave needs to be entered correctly using the appropriate timesheet code. Please refer to the Family & Medical Leave (FMLA/OFLA) link in the Employee Benefits section of the City's Web site and click on the [Family & Medical Leave Timesheet Codes](#) link.

If you are unable to enter your own time (i.e. you are out of the office for an entire pay period or longer), your supervisor will do it for you. As soon as an employee has exhausted their FMLA/OFLA entitlement(s) please have them stop coding their time off to FMLA and/or OFLA and have them seek approval from their supervisor to use other leave or leave without pay, as outlined in the APM or applicable union contracts.

WILL MY INSURANCE CONTINUE?

Under FMLA and OFLA, if you use any amount of FMLA or OFLA leave in a month, the City pays its share of premiums for your medical, dental and employee-only basic life insurance for that month, provided you pay the employee share of the premium. If you are on unpaid FMLA or OFLA leave, you may submit personal payment for your premium in a timely manner.

Your optional insurances continue under both FMLA and OFLA if you use sufficient hours or use sufficient paid leave. When you are on leave without pay you may continue some of your optional insurances by paying the premiums. You must continue timely payments of your portion of the premiums for your health insurance during the period of leave to avoid cancellation.

If you return from FMLA or OFLA leave, your insurance may resume retroactively back to the first of the month in which you return to a regular schedule meeting the minimum hours required for health insurance coverage under City policy or the applicable union contract.

If you do not return to work following family and medical leave, you may be required to reimburse the City for the full premium cost of health care coverage paid on your behalf, unless a recurrence, continuation, or onset of a serious health condition (or a serious illness or injury of a covered servicemember) occurs or the reason for not returning is beyond your control.

WHAT HAPPENS TO MY JOB WHEN I TAKE FMLA AND OFLA LEAVE?

Before you return from FMLA or OFLA leave for your own serious health condition, the City may require you to provide a statement from your medical provider verifying you are able to return to work, and if you have any limitations.

If you are returning from OFLA leave, or leave that qualifies for both FMLA and OFLA, you have a right to be restored to the position you held prior to your leave. If you are returning from FMLA-only leave, you have a right to be restored to the position you held prior to your leave or a position with equivalent pay and benefits. The following exceptions apply to both FMLA and OFLA:

If your position was eliminated through a City layoff process, you must be treated as if you were not on FMLA or OFLA leave and will be treated the same as similarly situated employees in accordance with a City policy or an applicable collective bargaining agreement.

If you are a temporary or limited duration employee, the City will return you to your position to the extent the placement or position still exists.

If you are unable to perform an essential function of your position and reasonable accommodations are not appropriate, FMLA and OFLA job protection ends. You may be subject to termination under an applicable law, rule, policy, or collective bargaining agreement.

WHAT IF I NEED TO EXTEND MY LEAVE BEYOND MY FMLA OR OFLA ENTITLEMENT?

If you are unable to return to work following your FMLA or OFLA leave or cannot perform all essential functions of your job, you may request an extension of your absence. The City may grant an extension when continuing your leave does not impose undue hardship for the City and continuing your leave complies with law, policy, an applicable collective bargaining agreement, and reasonable accommodation provisions of the Americans with Disabilities Act Amendments Act (ADAAA).

COMMUNICATION WHILE ON LEAVE

Ongoing communication between you, your supervisor, and the COE Benefits Leave Team may make the leave process run much more smoothly. If your need for FMLA/OFLA leave changes while you are out (for example, if your doctor determines that you can return to work earlier than expected or if your need for leave changes and is not supported by your current medical certification), communicate this to both your supervisor and the COE Benefits Leave Team. Your supervisor may also require you to provide periodic updates on your status and your intent to return to work, but you do not have to divulge any medical information to your supervisor.