

OREGON

EMPLOYMENT LAW

Employee Leave Laws—Overview



Employers may provide their employees with various types of paid or unpaid leave as part of their overall compensation packages, including vacation time, personal leave and sick leave. Employers have some flexibility when it comes to establishing or negotiating employee leave policies. However, federal laws, such as the Family and Medical Leave Act (FMLA), require covered employers to provide employees with leave in certain situations.

In addition to federal leave laws, Oregon has employee leave laws regarding:

- Jury duty leave;
- Search and rescue volunteer leave;
- Volunteer firefighter leave;
- State military service leave;
- Domestic violence leave;
- Family leave;
- Military family leave; and
- Sick time.

This Employment Law Summary includes a chart that provides a high-level overview of Oregon’s employee leave laws and suggests compliance steps for employers.

OVERVIEW OF EMPLOYEE LEAVE LAWS

TYPE OF LEAVE	REQUIREMENTS
Jury Duty Leave	Employers must allow employees to take unpaid leave to respond to a summons for jury duty. An employer may not require an employee to use vacation, sick or annual leave for time spent responding to a jury summons. An employer may not discharge, threaten to discharge or intimidate any employee due to the employee’s service or scheduled service as a juror.
Search and Rescue Volunteer Leave	An employer must allow an employee who is a search and rescue volunteer to take unpaid leave from work to participate in search and rescue activities. The employee must be reinstated to his or her position or an equivalent position without loss of seniority, vacation, sick leave, service credits under a pension plan or any other benefits the employee had earned at the time of the leave.

STATE RESOURCES

Oregon Bureau of Labor and Industries (BOLI)

<http://www.oregon.gov/boli/Pages/index.aspx>

BOLI Technical Assistance

The BOLI provides [technical assistance on the OFLA](#) for employers.

FAQs

The BOLI provides answers to frequently asked questions regarding [jury duty](#).

Employee Notice

Employers can use [model notices](#) published by the BOLI to satisfy their notification requirements.

OREGON EMPLOYMENT LAW

Employee Leave Laws—Overview



<p>Volunteer Firefighter Leave</p>	<p>Employees who are volunteer firefighters must be granted unpaid time off from work to perform their volunteer duties. An employee returning from volunteer service must be reinstated to his or her position or an equivalent position without loss of seniority, vacation, sick leave, service credits under a pension plan or any other benefits he or she earned at the time of leave.</p>
<p>State Active Service Leave</p>	<p>An employer must grant an unpaid leave of absence to an employee who is called to active service as a member of the state organized militia or as a member of another state’s organized militia. At the end of the employee’s leave for active state service, the employee must:</p> <ul style="list-style-type: none"> • Resume regular employment within seven calendar days; and • Be reinstated to his or her position or an equivalent position without the loss of seniority, vacation, sick leave, service credits under a pension plan or any other benefits the employee earned at the time of the leave.
<p>Domestic Violence Leave</p>	<p>Employers with six or more employees in Oregon during 20 or more calendar workweeks in the year must grant eligible employees unpaid time off from work to address domestic violence, harassment, sexual assault or stalking. Eligible employees include victims of domestic violence, harassment, sexual assault or stalking, or the parent or guardian of a minor child who is a victim of those crimes.</p> <p>An employer must grant an eligible employee reasonable time off from work (including intermittent and reduced schedule leave) for the following purposes as a result of domestic violence, harassment, sexual assault or stalking:</p> <ul style="list-style-type: none"> • To seek legal or law enforcement assistance, including protective order proceedings or other legal proceedings; • To seek medical treatment for injuries to the employee or the employee’s minor child or dependent; • To obtain counseling from a licensed mental health professional; • To obtain services from a victim services provider; or • To relocate or take steps to secure an existing home to ensure the health and safety of the employee or the employee’s minor child or dependent. <p>Eligible employees must give their employer reasonable notice of the intention to take leave for this purpose, unless notice is not feasible. Employers may request documentation (police reports, protective orders, documentation from professionals, etc.) to verify employee leave.</p> <p>An eligible employee may substitute vacation, accrued sick leave or other available paid leave offered by the employer in lieu of the unpaid leave. However, when more than one type of paid leave is available, the employer may designate the order in which accrued paid leave may be used.</p> <p>An employer may not discharge, threaten to discharge, demote, suspend or discriminate, or retaliate in any manner against an eligible employee who takes leave for these purposes. An employer also cannot discriminate against a qualified individual in hiring practices because the individual is a victim of domestic violence, harassment, sexual assault or stalking.</p>

OREGON EMPLOYMENT LAW

Employee Leave Laws—Overview



<p>Oregon Family Leave Act (OFLA)</p>	<p>Employers with 25 or more employees in Oregon are required to provide eligible employees with family and medical leave. To be eligible for leave, an employee must have worked for a covered employer for at least 180 days and averaged at least 25 hours per week during the 180 days prior to the leave. An eligible employee may take family leave to:</p> <ul style="list-style-type: none"> • Care for an infant or newly adopted child under 18 years old, or for a newly placed foster child under 18 (or a child older than 18 if the child has a mental or physical disability) (leave must be taken within 12 months after the birth or placement of a child); • Care for a family member with a serious health condition; • Recover from or seek treatment for a serious health condition of the employee that renders the employee unable to perform at least one essential function of the employee’s position; • Care for the employee’s child who has an illness, injury or condition that is not a serious health condition, but does require home care; and/or • Grieve the death of a family member (two weeks of leave is offered), attend the funeral or alternative to a funeral, or make arrangements necessitated by the death (leave must be taken within 60 days of the employee being notified of a family member’s death). <p>Employees are generally entitled up to a total of 12 weeks of family leave within any one-year period, except in situations where shorter lengths of leave are outlined. Women taking any pregnancy disability leave are allowed an additional 12 weeks for any OFLA purpose. Either parent who has taken a full 12 weeks of parental leave is entitled to take an additional 12 weeks of leave to care for a child with a non-serious health condition requiring home care. Notice and certification requirements apply.</p> <p>Leave is unpaid; however, employees may request (or employers may require) the use of any accrued paid leave prior to taking some or all of the family leave as unpaid. Employers may dictate the order in which the leave is to be used. An employee returning from leave must be restored to his or her former position (or equivalent position, if the former position has been eliminated), without loss of any employment benefits accrued prior to the leave. The OFLA explicitly requires the continuation of group health coverage on the same terms and conditions while an employee is on family leave.</p> <p>Employers with 50 or more employees are also subject to the federal Family and Medical Leave Act (FMLA). When an employee leave is covered by just one law, either the FMLA or OFLA, then the provisions of the applicable law apply. When an employee leave is covered by both the FMLA and OFLA, employers must apply the provisions of federal or state law that are more generous to employees. Leave taken under the FMLA counts as OFLA leave (if employee is eligible for OFLA leave).</p>
<p>Oregon Military Family Leave Act (OMFLA)</p>	<p>Employers with 25 or more employees in Oregon must provide eligible employees with up to 14 days of unpaid protected military family leave when an employee’s spouse or same-sex domestic partner is called to active duty or has impending leave from deployment during a period of military conflict. To be eligible, an employee must have been employed for 180 days immediately preceding the leave and have worked at least an average of 25 hours per week during the 180-day period.</p> <p>An eligible employee is entitled to take OMFLA leave if his or her spouse is a member of the U.S. Armed Forces, National Guard or military reserves and has an impending call to active duty or impending leave from deployment. Leave must be granted per deployment</p>

OREGON EMPLOYMENT LAW

Employee Leave Laws—Overview



	<p>and may be used before and/or during leave from deployment.</p> <p>An employer may not deny leave or discriminate against a spouse for requesting leave under the OMFLA. An employee must provide his or her employer with notice of the intention to take leave within five business days of receiving official notice of an impending call to duty or leave from deployment. An employee may elect to substitute accrued paid leave in lieu of the unpaid leave under the OMFLA.</p> <p>Leave taken under the OMFLA may be included in the total amount of leave authorized under the OFLA if the employee is also eligible for OFLA leave. Employers with 50 or more employees are also subject to the FMLA. Where an employee's need for OMFLA leave is also covered by the FMLA's Qualifying Exigency entitlements, the employer may run OMFLA and FMLA leave concurrently.</p>
Sick Time	<p>Employers must allow employees to earn and use up to 40 hours of sick leave per year. Employees earn a minimum of one hour of sick time for every 30 hours worked (or 1 1/3 hours of sick time for every 40 hours worked), up to a maximum of 40 hours per year.</p> <ul style="list-style-type: none"> • For employers with 10 or more employees, this leave must be paid. • For employers with fewer than 10 employees, sick leave may be unpaid. <p>Employees must be able to carry over up to 40 hours of unused sick time from one year to the next. An employer may restrict the use of accrued sick time until an employee's 91st day of employment. In addition, an employer may limit employees' sick time accrual to 80 hours, and may restrict employee use of sick time to 40 hours per year.</p> <p>An employer may choose to front-load employees with the full 40 hours of sick time as soon as they are eligible to use leave. An employer who chooses to front-load employee sick time does not need to comply with the accrual and carry over requirements.</p> <p>Sick time may be used:</p> <ul style="list-style-type: none"> • For the employee's mental or physical illness, injury or health condition or the employee's need for medical diagnosis, care or treatment, or preventive medical care; • For the care of a family member with a mental or physical illness, injury or health condition or care for a family member who needs medical diagnosis, care or treatment, or preventive medical care; • To care for an infant or newly adopted child; • To deal with the death of a family member by attending the funeral, making arrangements or grieving; • To seek legal or law enforcement assistance to ensure the health and safety of the employee or the employee's minor child; • To obtain services from a victim services provider or to relocate because the employee or the employee's minor child are victims of domestic violence, harassment, sexual assault or stalking; and • For the closure of the employee's place of business, or the school or place of care of the employee's child. <p>In addition, an employee may use sick time for any reason allowed under the OFLA, even if the employer is not covered by the OFLA or the employee is not eligible for OFLA leave. Notice and certification requirements apply.</p>

OREGON EMPLOYMENT LAW

Employee Leave Laws—Overview



SPECIAL NOTE: The information in this chart focuses on statewide laws. Employers must be aware that numerous cities and counties across the country have enacted local ordinances that mandate employers to provide paid sick leave to employees. An employer that is located in a city or county with a local paid sick leave law must generally comply with the local ordinance and statewide law, if applicable.

COMPLIANCE STEPS

It is important for Oregon employers to understand when their employees are entitled to take time off from work, and the legal protections associated with these leaves. Employers that violate federal or state leave law requirements may be subject to government investigations, fines, employee lawsuits, and significant penalties, fees, and damage awards.

To minimize these risks, employers should review applicable federal and state leave law requirements and determine whether they have any compliance gaps to correct. This compliance review may be complex, especially in areas where federal and state leave laws overlap.

As part of the compliance review, employers should confirm that:

- Employee handbooks and written policies and procedures have been updated to accurately describe employee leaves;
- Human resources personnel, as well as managers and supervisors, are educated on how to administer employee leaves and receive ongoing training;
- Employee leaves are administered on a consistent basis, and employees are educated on leave rights and requirements;
- Recordkeeping systems accurately track and document employee leaves; and
- Required notices and posters regarding leave laws are provided.