

EMPLOYMENT LAW SUMMARY

Oregon: Employee Leave Laws— Overview



Because You're Different

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, Oregon employers must comply with state employment laws requiring employee leave for specific purposes.

Employers must also follow federal laws, such as the Family and Medical Leave Act (FMLA), that require employee leave.

Oregon has state laws that mandate:

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

The chart below provides a high-level overview of Oregon employee leave laws.

Overview of Oregon Employee Leave Laws

**TYPE OF
LEAVE**

REQUIREMENTS

TYPE OF LEAVE

REQUIREMENTS

Sick Time

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.

- For employers with 10 or more employees (six or more for Portland employers), this leave must be paid.
- For employers with fewer than 10 employees (six or more for Portland employers), sick leave may be unpaid.

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.

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. Sick time may be used:

- 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 or newly placed foster child;
- To care for a family member with a serious health condition (as defined by the Oregon Family Leave Act (OFLA))
- To recover from or seek treatment for the employee’s serious health condition (as defined by the OFLA) that prevents the employee from performing at least one of their essential job functions;
- For an employee to care for their own child who is suffering from an illness, injury or condition that is not a serious health condition under the OFLA, but that requires home care;
- 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;
- For the closure of the employee’s place of business, or the school or place of care of the employee’s child.
- Where an employee or the employee’s family member has a health condition requiring the employee to be away from the workplace due to public health concerns; and
- In the event of:
 - An emergency evacuation order of level 2 (SET) or level 3 (GO) issued by an authorized public official, if the area subject to the order includes either the employer’s place business or the employee’s home address; or
 - A determination by an authorized public official that the air quality index or heat index are at a level where continued exposure would jeopardize the health of the employee. (This leave is not available for workers employed as first responders.)

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. Some collective bargaining agreements providing for substantially similar sick time benefits are exempt. Special provisions apply for consumer employed home care workers and consumer employed personal support workers.

Oregon Family Leave Act (OFLA)

Employers with **25 or more employees** in Oregon are required to provide eligible employees with **unpaid** family and medical leave under the OFLA.

Employees who have worked for at least 180 days and worked an average of at least 25 hours per week during the 180 days prior to leave are eligible for leave. The 180-day requirement is reduced to 30 days during public health emergencies.

TYPE OF LEAVE

REQUIREMENTS

Employees are generally entitled to **12 weeks of family leave within any one-year period**, except in situations where shorter lengths of leave are outlined. *(Effective July 1, 2024, an employee's benefit year must start on the Sunday immediately preceding the day the employee takes OFLA leave, and then roll forward 52 consecutive weeks.)*

Eligible employees may take leave for the reasons listed below. Note that effective July 1, 2024, many of the reasons for OFLA leave no longer apply, to reduce duplication with the state's paid family and medical leave program. Other changes also take place at that time. OFLA leave may be taken to:

employees who have worked for at least 180 days and worked an average of at least 25 hours per week during the 180 days prior to leave are eligible for any other type of family leave. The 180-day requirement is reduced to 30 days during public health emergencies.

Eligible employees may take family leave for the reasons listed below. Note that effective July 1, 2024, many of the reasons for OFLA leave no longer apply, to reduce duplication with the state's paid family and medical leave program. Other changes also take place at that time.

- Care for an infant or newly adopted child under 18, 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. *(Effective July 1, 2024, this parental leave is no longer covered under the OFLA but is covered by paid family and medical leave);*
- *(Effective July 1, 2024)* Effectuate the adoption or foster child placement process. Two weeks are allowed in addition to the 12 standard weeks for this purpose (this provision expires Jan. 1, 2025, at which point paid family and medical leave covers this qualifying event);
- Care for a family member with a serious health condition *(effective July 1, 2024, this leave is no longer covered under the OFLA; however, it is covered as paid family and medical leave);*
- Recover from or seek treatment for a serious health condition that renders the employee unable to perform at least one essential function of their position *(effective July 1, 2024, this leave is no longer covered under the OFLA; however, it is covered by paid family and medical leave);*
- 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 *(effective July 1, 2024, home care for a child's serious health condition is also covered);*
- Care for the employee's child who requires home care due to the closure of their school or childcare provider as a result of a public health emergency declared by the governor; and
- Grieve the death of a family member, 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). Bereavement leave is limited to two weeks per family member, with a maximum of four weeks per year.

In addition to the leave permitted above, women may take a total of 12 weeks of OFLA leave per year for an illness, injury or condition related to a pregnancy or childbirth that disables them from performing any available job duties offered by the covered employer.

Notice and certification requirements apply.

Leave is **unpaid**; however, employees may request (or employers may require) the use of any accrued paid leave

TYPE OF LEAVE	REQUIREMENTS
Paid Family and Medical Leave	<p>before taking unpaid family leave. Employers may dictate the order in which the leave is to be used. Employees returning from leave must be restored to their former position (or equivalent position, if the former position has been eliminated), without loss of employment benefits accrued prior to the leave. The OFLA requires the continuation of group health coverage during leave on the same terms and conditions as if the employee were not on leave.</p> <p>OFLA leave runs concurrently with FMLA leave.</p> <p>Oregon’s paid family and medical leave program is funded by a mandatory payroll tax on employees and employers with more than 25 workers. The program is administered by the Oregon Employment Department.</p> <p>Virtually all employees working in Oregon are eligible if they have earned at least \$1,000 in wages during four of the last five calendar quarters—or, alternatively, the last four completed calendar quarters—preceding the benefit year.</p> <p>Workers receive up to 12 weeks of paid family and medical leave, up to 16 weeks of paid and unpaid family and medical leave combined, and up to 18 weeks of pregnancy disability leave. Leave may be used:</p> <ul style="list-style-type: none"> • To care for and bond with a child during the first year after the child’s birth, or during the first year after the child’s placement through foster care or adoption; • To care for a family member with a serious health condition; • Due to the employee’s serious health condition; or • To seek assistance, medical treatment, counseling or victim services, or to relocate, due to domestic violence, harassment, sexual assault or stalking (safe leave). <p>Workers whose average weekly wage is 65% or less of the state average weekly wage receive 100% of their weekly wage. Workers whose average weekly wage is greater than 65% of the state average weekly wage receive 65% of the average weekly wage plus 50% of that part of their average weekly wage that exceeds 65% of the state average weekly wage.</p> <p>60% of program funding comes from a payroll tax on employees and 40% from a payroll tax on employers with 25 workers or more. Employers with fewer than 25 employees are exempt from payments, although those who elect to pay into the program are eligible for grant funding. The contribution is set by the Oregon Employment Department but will not exceed 1% of the employee’s wages.</p>

TYPE OF LEAVE	REQUIREMENTS
Victim Leave	<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, stalking or bias. Eligible employees include victims of domestic violence, harassment, sexual assault, stalking or bias, 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, stalking or bias:</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, stalking or bias.</p>
Jury Duty Leave	<p>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.</p>
Search and Rescue Volunteer Leave	<p>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.</p>
Volunteer Firefighter Leave	<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>
State Active Service Leave	<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.

TYPE OF LEAVE	REQUIREMENTS
Oregon Military Family Leave Act (OMFLA)	<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 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>

SPECIAL NOTE: The information in this chart focuses on statewide laws. Employers are advised that cities, towns and counties across the country have also enacted ordinances that require employers to provide employee leave. Employers must generally comply with both the local ordinance and statewide law where they apply.

More Information

Contact Heffernan Insurance Brokers for more information on employee leave laws in Oregon.

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