

OSBA Model Sample Policy

Code: GCBDF/GDBDF
Adopted:

Paid Family Medical Leave Insurance * (Version 1)

{Highly recommended policy. This version is designed for districts who are participating in Paid Leave Oregon (PLO). If the district is using an approved equivalent plan, the district should not adopt this version or use the accompanying administrative regulation. Contributions for PLO begin on January 1, 2023 with benefits available starting September 3, 2023. There is a possibility the Oregon Legislature or the Oregon Department of Employment will change laws prior to the September start date, so the district may choose to wait on adoption. If there are new laws, OSBA will update this sample prior to the effective date. Many districts are bargaining aspects of this leave: policy language should not conflict with language in collective bargaining agreements.}

The district participates in Paid Family and Medical Leave Insurance (PFMLI) and Paid Leave Oregon (PLO)¹. This includes submitting employee and employer contributions to the Employment Department (“Department”) as required by state law.² The district does not administer PFMLI or PLO. All applications and questions should be directed to the Department.

Definitions

1. “Family leave” means leave from work taken by a covered individual:
 - a. To care for and bond with a child during the first year after the child’s birth or during the first year after the placement of the child through foster care or adoption; or
 - b. To care for a family member with a serious health condition.
2. “Family leave” does not mean:
 - a. Leave described in Oregon Revised Statute (ORS) 659A.159 (1)(d) (non-serious health condition of child or school or child care provider closure due to public health emergency);
 - b. Leave described in ORS 659A.159 (1)(e) (death of a family member); or
 - c. Leave authorized under ORS 659A.093 (leave for spouses of members of the military upon deployment or call to active duty).
3. “Family member” means:

¹ Paid Leave Oregon is the program developed by the Oregon Department of Employment to administer Paid Family and Medical Leave Insurance.

² The overall contribution will be determined by the Department director, and is initially set at 1 percent (up to \$132,900). *{For districts with 25 or more employees:}* The employer contribution is 40 percent and the employee contribution is 60 percent of this amount. *{For districts with fewer than 25 employees:}* ~~The employee contribution is 60 percent of this amount and the employer contribution is waived.~~ The amount will be set annually by November 15. See ORS 657B.150. *{Districts may agree to pay the employee contribution, see any applicable employment agreements.}*

- a. The spouse of a covered individual;
 - b. A child of a covered individual or the child’s spouse or domestic partner;
 - c. A parent of a covered individual or the parent’s spouse or domestic partner;
 - d. A sibling or stepsibling of a covered individual or the sibling’s or stepsibling’s spouse or domestic partner;
 - e. A grandparent of a covered individual or the grandparent’s spouse or domestic partner;
 - f. A grandchild of a covered individual or the grandchild’s spouse or domestic partner;
 - g. The domestic partner of a covered individual; or
 - h. Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.
4. “Medical Leave” means leave from work taken by a covered individual that is made necessary by the individual’s own serious health condition.
5. “Safe leave” means related to domestic violence, harassment, sexual assault, stalking and relocation for health and safety reasons as provided in ORS 659A.272.
6. “Serious health condition” means an illness, injury, impairment, or physical or mental condition of a claimant or their family member that:
- a. Requires inpatient care in a medical care facility such as, but not limited to, a hospital, hospice, or residential facility such as, but not limited to, a nursing home or inpatient substance abuse treatment center;
 - b. In the medical judgment of the treating health care provider poses an imminent danger of death, or that is terminal in prognosis with a reasonable possibility of death in the near future;
 - c. Requires constant or continuing care, including home care administered by a health care professional;
 - d. Involves a period of incapacity. “Incapacity” is the inability to perform at least one essential job function, or to attend school or perform regular daily activities for more than three consecutive calendar days. A period of incapacity includes any subsequent required treatment or recovery period relating to the same condition. The incapacity must involve one of the following:
 - (1) Two or more treatments by a health care provider; or
 - (2) One treatment plus a regimen of continuing care.
 - e. Results in a period of incapacity or treatment for a chronic serious health condition that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity, such as, but not limited to, asthma, diabetes, or epilepsy;
 - f. Involves permanent or long-term incapacity due to a condition for which treatment may not be effective, such as, but not limited to, Alzheimer’s Disease, a severe stroke, or terminal stages of a disease. The employee or family member must be under the continuing care of a health care provider, but need not be receiving active treatment;
 - g. Involves multiple treatments for restorative surgery or for a condition such as, but not limited to, chemotherapy for cancer, physical therapy for arthritis, or dialysis for kidney disease that if not treated would likely result in incapacity of more than three calendar days;

- h. Involves any period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care; or
- i. Involves any period of absence from work for the donation of a body part, organ, or tissue, including preoperative or diagnostic services, surgery, post-operative treatment, and recovery.

Eligibility

- 1. To be eligible for PLO benefits, an individual must:
 - a. Be an employee of the district³;
 - b. Earn at least \$1,000 in the base or alternate base year⁴;
 - c. Contribute to the PLO in accordance with state law;
 - d. Experience an event qualifying the employee for:
 - (1) Family leave;
 - (2) Medical leave; or
 - (3) Safe leave.
 - e. Submit an application to ~~Department~~ *our third party administrator, American Fidelity (A.F.)*;
 - f. Have not exceeded maximum paid leave for the year; and
 - g. Have no current disqualifications⁵.

Leave

PLO can be used for family leave, medical leave or safe leave. Up to 12 weeks of paid leave can be taken per benefit year.⁶ Leave can be taken in one-day increments and can be consecutive or nonconsecutive.

Any family leave or medical leave taken under PLO must be taken concurrently with any leave taken by an eligible employee under ORS 659A.150 - 659A.186 (OFLA) or under the federal Family and Medical Leave Act of 1993 (P.L. 103-3, FMLA) for the same purposes.

The district will maintain an employee’s existing health benefits while the employee is using leave. The employee will be required to pay the employee’s contribution to premiums.

END OF POLICY

Legal Reference(s):

³ PFMLI is a state-wide benefit, and not unique to the district. An eligible individual does not need to be an employee of the district in order to be eligible for PFMLI, but this policy only applies to employees of the district.

⁴ Pay could come from another Oregon employer.

⁵ Disqualifications may include eligibility for Workers’ Compensation or Unemployment or determination of a willful false statement or failure to report a material fact in order to obtain benefits. See OAR 471-070-1010(1)(h).

⁶ In some pregnancy-related situations, employees may be able to take two additional weeks, for a total for 14 weeks.

