

Milton-Freewater School District 7

Code: GCBDA/GDBDA
Adopted: 7/16/96
Revised/Readopted: 6/23/09; 4/13/10; 1/09/17;
11/13/17

Family and Medical Leave *

When applicable, the district will comply with the provisions of the Family and Medical Leave Act (FMLA)^{1}, ~~of 1993~~, the Oregon Family Leave Act (OFLA)^{2}, ~~of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances)~~, the Oregon Military Family Leave Act (OMFLA), Paid Family and Medical Leave Insurance (PFMLI) ~~of 2009~~ and other applicable provisions of state and federal law, Board policies and collective bargaining agreements regarding family medical leave.

~~FMLA applies to districts with 50 or more employees within 75 miles of the employee's worksite, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50-employee test does not apply to educational institutions for determining employee eligibility.~~

~~OFLA and OMFLA applies to districts that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.~~

In order for an employee to be eligible for the benefits under FMLA, the employee ~~he/she~~ must have been employed by the district for at least 12 months, ~~and~~ have worked at least 1,250 hours during the past 12-month period and works at a worksite that employs 50 or more district employees within 75 miles of the worksite.

Generally, ~~in~~ order for an employee to be eligible for the benefits under OFLA, the employee ~~he/she~~ must work an average of 25 hours or more per week during the ~~and have been employed at least~~ 180 calendar days immediately prior to the first day of the start of the requested leave. ~~Special requirements apply during public health emergencies~~ family medical leave of absence. ~~For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.~~ Special requirements apply during public health emergencies.

¹ {Generally, FMLA applies only to entities with 50 or more employees, however, FMLA applies to all public elementary and secondary educational institutions. See 29 CFR 825.600(b). The rule regarding individual employee eligibility does apply: an employee is only eligible if the employee "is employed at a worksite where 50 or more employees are employed by the employer within 75 miles of that worksite." See 29 CFR 825.110(a)(3). Consequently, FMLA applies to districts with fewer than 50 employees, but individual employees will not be eligible to receive benefits.}

² {OFLA applies to employers with 25 or more employees in Oregon (ORS 659A.153) and OMFLA applies to all public-sector employers in Oregon. (ORS 659A.090(2)) (Oregon BOLI Leave Laws – 2023 Edition)}

OMFLA applies to employees who work an average of at least 20 hours per week; there is no minimum number of days worked when determining an employee's eligibility for OMFLA.

PFMLI is generally available to district employees who have earned \$1,000 in subject wages or taxable income during the alternate or base years³, contributed to the PFMLI fund in the alternate or base years and are otherwise eligible.⁴ PFMLI can be taken for family leave, medical leave or safe leave.⁵

Leave taken under OFLA is in addition to leave taken under PFMLI and cannot be taken concurrently; however, OFLA leave or PFMLI may run concurrently with leave available under ORS 653.601 - 653.661, FMLA, and other types of leave if provided by the district. Any leave taken under PFMLI must be taken concurrently with any leave taken under FMLA when for the same purpose.

~~Federal and state leave entitlements generally run concurrently.~~

The superintendent [or designee] will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 657B.010](#)
[ORS 657B.025](#)
[ORS 659A.090](#)
[ORS 659A.093](#)
[ORS 659A.096](#)
[ORS 659A.099](#)
[ORS 659A.150 - 659A.186](#)
[OAR 839-009-0210 - 0460](#)

³ The wages are not required to have been earned for work in the district.

⁴ See OAR 471-070-1010 for additional information.

⁵ Time to effectuate the legal process for the placement of a child in foster care or a child being adopted qualifies for PFMLI starting January 1, 2025. Until then, leave is available through OFLA. {See SB 1515 (2024) Sections 4, 13, 21 and 25.}

Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654; 5 U.S.C. §§ 6381-6387 (2018); Family and Medical Leave Act, 29 C.F.R. Part 825 (2023).
Americans with Disabilities Act, 42 U.S.C. §§ 12101-12133 (2018); 29 C.F.R. Part 1630 (2023); 28 C.F.R. Part 35 (2023).
Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).
Senate Bill 1515 (2024).