

RESOLUTION 25-012 – Approval of New Board Policy-GCBDF/GDBDF-Paid Family and Medical Leave Insurance

Background: There continues to be significant changes in Oregon law regarding leave. This includes changes from SB 1515 (2024) and numerous rule changes to match.

The biggest change governs what conditions qualify for leave taken through the Oregon Family Leave Act (OFLA) and Paid Family and Medical Leave Insurance (PFMLI). While these leave allotments used to run concurrently in many situations, they now cannot be taken concurrently.

WHEREAS, the Multnomah Education Service District Board of Directors Policy Committee reviewed and discussed Board Policy GCBDF/GDBDF-Paid Family and Medical Leave Insurance;

WHEREAS, the Multnomah Education Service District Board of Directors Policy Committee recommends the Board adopt amended Board Policy GCBDF/GDBDF-Paid Family and Medical Leave Insurance;

NOW THEREFORE BE IT RESOLVED, that Board Policy GCBDF/GDBDF-Paid Family and Medical Leave Insurance is approved as written or as further modified.

BE IT FURTHER RESOLVED, that if no further discussion is required, Board GCBDF/GDBDF-Paid Family and Medical Leave Insurance is approved as proposed and does not require a second reading.

Paid Family and Medical Leave Insurance

The MESD participates in Paid Family and Medical Leave Insurance (PFMLI) and Paid Leave Oregon (PLO)¹. This includes submitting employee and employer contributions to the Oregon Employment Department (“Department”) as required by state law.² The MESD does not administer PFMLI or PLO Paid Leave Oregon. 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 effectuate the legal process required for placement of a foster child or the adoption of a child³; or
 - c. 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)(da) (~~non-serious health condition of child or school or child care provider closure due to public health emergency~~); (i.e., care for a child who is suffering from an illness, injury or condition that requires home care or who requires home care due to closure of the child’s school or child care provider as a result of a public health emergency) except for leave to care for a child who requires home care due to an illness, injury or condition that is a serious health condition;
 - b. Leave described in ORS 659A.159 (1)(eb) (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:
 - a. The spouse of a covered individual;
 - b. A child of a covered individual or the child’s spouse or domestic partner;

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 ESDs with 25 or more employees:*] The employer contribution is 40 percent and the employee contribution is 60 percent of this amount. [*For ESDs 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. [*ESDs may agree to pay the employee contribution, see any applicable employment agreements.*]

³ This process becomes effective on January 1, 2025.

- 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, **bias, or** 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.~~

7. “Serious health condition” means:

- a. An illness, injury, impairment or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility;
- b. An illness, disease or condition that in the medical judgement of the treating health care provider poses an imminent danger of death, is terminal in prognosis with a reasonable possibility of death in the near future, or requires constant care;
- c. Any period of disability due to pregnancy, or period of absence for prenatal care; or
- d. Any period of absence 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 ~~PL~~ Paid Leave Oregon benefits, an individual must:
 - a. Be an employee of the MESD⁴;
 - b. Earn at least \$1,000 in the base or alternate base year⁵;
 - c. Contribute to the ~~PL~~ Paid Leave Oregon 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~~ third party program administrator;
 - f. Have not exceeded maximum paid leave ~~for~~ in the active benefit year; and
 - g. Have no current disqualifications⁶.

Leave

~~PL~~ Paid Leave Oregon can be used for family leave, medical leave or safe leave. Up to 12 weeks of paid leave can be taken per benefit year.⁷ Leave can be taken in one-day increments and can be consecutive or nonconsecutive.

⁴ PFMLI is a state-wide benefit, and not unique to the ESD. An eligible individual does not need to be an employee of the ESD in order to be eligible for PFMLI, but this policy only applies to employees of the ESD.

⁵ Pay could come from another Oregon employer.

⁶ 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).

⁷ In some pregnancy-related situations, (e.g., pregnancy, childbirth, or a related medical condition), employees may be able to take two additional weeks, for a total of 14 weeks per benefit year.

Any family leave or medical leave taken under ~~PLO~~ **Paid Leave Oregon** 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. **Leave taken under Paid Leave Oregon is in addition to, and may not be taken concurrently with, any leave taken pursuant to ORS 659A.150 - 659A.186 (Oregon Family Leave Act (OFLA)).**

The MESD 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):

[ORS 657B](#)

[ORS 659A.162](#)

[OAR 471-070](#)

~~[Senate Bill 912 \(2023\)](#)~~

~~[Senate Bill 913 \(2023\)](#)~~

~~[Senate Bill 999 \(2023\)](#)~~

[Senate Bill 1515 \(2024\)](#)