

Regular Board Meeting  
Wednesday, November 8, 2023 7:00 PM

Triangle Lake Charter School--Pioneer  
Building  
20264 Blachly Grange Rd.  
Blachly, OR 97412

## **Agenda**

1. **CALL TO ORDER**
2. **WELCOME GUESTS AND VISITORS**
3. **CHANGES OR ADDITIONS TO THE AGENDA**
4. **PUBLIC FORUM/COMMUNICATIONS**
5. **CONSENT AGENDA**
  - 5.1. **BOARD MINUTES**
  - 5.2. **FINANCIAL REPORT**
  - 5.3. **ENROLLMENT**
  - 5.4. **SECOND READ BOARD POLICIES**
  - 5.5. **RESIGNATION**
  - 5.6. **MOTION**
6. **REPORTS**
  - 6.1. **STUDENT BODY REPORT**
  - 6.2. **FACILITIES REPORT**
  - 6.3. **TRANSPORTATION & TECHNOLOGY REPORT**
  - 6.4. **STUDENT SERVICES REPORT**
  - 6.5. **PRINCIPAL'S REPORT**
  - 6.6. **SUPERINTENDENT'S REPORT**
7. **UNFINISHED BUSINESS**
8. **NEW BUSINESS**
  - 8.1. **WIBC PRESENTATION**
  - 8.2. **OSBA ELECTIONS**
  - 8.3. Superintendent Request
  - 8.4. Board Review/Information Share
9. **THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION**
10. **RECONVENE REGULAR SESSION**
11. **ANNOUNCEMENTS**
  - 11.1. **UPCOMING BOARD MEETING**
12. **ADJOURN THE REGULAR MEETING**
13. **DOCUMENTS FOR BOARD INFORMATION**

# Blachly School District #90

Code: BDDH  
Adopted: 12/13/93  
Revised/Readopted: 1/16/08; 11/19/08; 2/21/18;  
1/19/22

## Public Comment at Board Meetings

All Board meetings, with the exception of executive sessions, will be open to the public. The Board invites the district's community members to attend Board meetings to become acquainted with the program and operation of the district. The public has a right to attend public meetings held in open session, and may be invited to share comments, ideas and opinions with the Board during designated times on the agenda. The Board may conduct a meeting without public comment.

Individuals with hearing, vision or speech impairments will be given an equal opportunity to participate in Board meetings and submit written comments to the Board. Individuals requesting assistance, aids or accommodations are encouraged to notify the district at least 48 hours prior to the Board meeting with the request, consistent with Board policy BD/BDA – Board Meetings.

### Procedures for Oral Public Comment

The Board establishes the following procedures for public comment at Board meetings held in open session. The information will be accessible and available to all patrons accessing or attending such a Board meeting.

1. Public comment is limited to its designated place on the agenda and while time allows.
2. A person wishing to provide public comment, if an opportunity is provided by the Board during a meeting open to the public, will submit their request and name electronically prior to the Board meeting.<sup>1</sup> A request to give public comment in-person or electronically does not guarantee time will be available.
3. A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda.
4. A person speaking during the public comment portion of the meeting should state their name, whether they are a resident of the district, and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.
5. A person giving public comment is limited to an established time limit of three minutes. Statements should be brief and concise. The Board chair has discretion to waive time limits or extend the overall time allotted for public comment. Additional time will be allocated in a fair and equitable manner. If a person has more comments than time allows or is unable to comment due to time constraints, the

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<sup>1</sup> When in-person attendees are allowed to provide oral comment, virtual attendees will be afforded the same opportunity.

person is encouraged to submit additional written comments to the Board through the district office as directed.

6. Inquiries from the public during the designated portion of the agenda will not generally be responded to immediately by the Board chair, and may be referred to the superintendent for reply at a later date. The Board will not respond to inquiries that are expected to be addressed during another designated portion of the agenda.

The Board will not hear public comment at Board work sessions.

Topics raised during the public comment portion may be considered for inclusion as agenda items at future Board meetings.

### **Procedures for Written Comment**

Members of the public may submit written comments or materials to the Board at any time at the district office, by mail or by email to [comments@blachly.k12.or.us](mailto:comments@blachly.k12.or.us) . Materials or comments submitted at least 72 hours in advance of a Board meeting will be provided to the Board before the Board meeting. Written materials or comments submitted may not warrant action by the Board.

### **Comments Regarding Staff Members**

A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee's rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.

END OF POLICY

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### **Legal Reference(s):**

[ORS 165.535](#)  
[ORS 165.540](#)

[ORS 192.610 - 192.690](#)  
[ORS 332.057](#)

[ORS 332.107](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2020); 28 C.F.R. Part 35 (2020).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2018).

*Baca v. Moreno Valley Unified Sch. Dist.*, 936 F. Supp. 719 (C.D. Cal. 1996).

*Leventhal v. Vista Unified Sch. Dist.*, 973 F. Supp. 951 (S.D. Cal. 1997).

Oregon House Bill 2560 (2021).

### **Cross Reference(s):**

BDDC - Board Meeting Agenda

KC - Community Involvement in Decision Making

# Blachly School District #90

Code: BDDH-AR  
Revised/Reviewed: 2/21/18; 11/17/21

## Public Comment at Board Meetings

The Board requests that a public comment add information or a perspective that has not already been mentioned previously, and that the patron refrains from repeating a similar point.

To provide public comment in person, if the opportunity is available on the Board agenda, please submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to [comments@blachly.k12.or.us](mailto:comments@blachly.k12.or.us). Those attending virtually and want to provide public comment should submit the Intent to Speak request to the Superintendent, Monday of the week of the Board meeting to [comments@blachly.k12.or.us](mailto:comments@blachly.k12.or.us).

A person speaking during the public comment portion of the meeting may comment on a topic not on the published agenda. A person providing public comment will be allowed three minutes. Signing up to provide public comment does not guarantee time will be available.

Any person, who is allowed to speak to the Board during a meeting, should state their name, whether they are a resident of the district and, if speaking for an organization, the name of the organization. A spokesperson should be designated to represent a group with a common purpose.

Comments about a specific employee or group of employees should comply with Board policy BDDH - Public Comment at Board Meetings:

“A person speaking during the designated portion of the agenda for public comment may offer objective criticism of district operations and programs. The Board will not hear comments regarding any individual district staff member. The Board chair will direct the visitor to the procedures in Board policy KL - Public Complaints for consideration of a legitimate complaint involving a staff member. Any association contract governing the employee’s rights will be followed. A commendation involving a staff member should be sent to the superintendent, who will forward it to the employee, a supervisor and the Board.”

***SEE FORM ON REVERSE***

**INTENT TO SPEAK**

The Board welcomes input. To provide in-person public comment please complete the request at [comments@blachly.k12.or.us](mailto:comments@blachly.k12.or.us) that can be found on the District and School websites Monday the week of the Board meeting.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Name of organization (if applicable): \_\_\_\_\_

Address: \_\_\_\_\_

Email (optional): \_\_\_\_\_

Topic or comment to be presented (brief description): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A complaint brought before the Board shall be referred to the proper school authorities. A complaint shall be processed in accordance with Board policy KL - Public Complaints and KL-AR - Public Complaints Procedure. A hearing conducted by the Board regarding personnel may take place in an executive session.

**The Board requests that a topic or comment is limited to three minutes or less.**

Regular Board Meeting  
Wednesday, September 13, 2023 6:00 PM  
Pacific

Triangle Lake Charter School--Pioneer  
Building  
20264 Blachly Grange Rd.  
Blachly, OR 97412

Ciara Clark: Present  
Dwight Coon: Present  
Meleah Drago: Present  
Jeff Eastburn: Present  
Derek Pennel: Present  
Bev Schiesser: Present  
Lenae Sjostrom: Absent

Present: 6, Absent: 1.

Staff Attending: Shane Benscoter, Katherine Tripp, Lisa Wagner, Kelly Goodwin, Brittany Bottensek, Pat Rufo, Dennis Boyd

Lenae Sjostrom: Present

Present: 7.

Staff Attending: Shane Benscoter, Katherine Tripp, Lisa Wagner, Kelly Goodwin, Brittany Bottensek, Pat Rufo, Dennis Boyd

#### **1. CALL TO ORDER**

Board Chair Pennel called the meeting to order at 6:00 pm.

#### **2. WELCOME GUESTS AND VISITORS**

#### **3. CHANGES OR ADDITIONS TO THE AGENDA**

Superintendent Watkins asked that we add to the agenda. The addition will come in as 6.6: Board Trustees Report.

Note: during the meeting this item was not discussed and was left off the agenda because of that.

#### **4. PUBLIC FORUM/COMMUNICATIONS**

Ms. Lisa Wagner provided a comment. The topic was the Charter Board.

#### **5. CONSENT AGENDA**

##### **5.1. BOARD MINUTES**

There were no questions or changes to the board minutes.

##### **5.2. FINANCIAL REPORT**

Ms. Pat Rufo shares the check register from August with the board. She specifies that we have the elementary math curriculum listed, but this did come out of last year's expenses. You will also see our bill for the Charter Board Liability insurance.

##### **5.3. NEW HIRES**

Superintendent Watkins presents the new hires listed in the description. He reminds the board that Laura Nydigger was hired as a temp last year and is now filling the position. He shares our excitement about these new hires and appreciates our staff for the work put into these new

hires.

Board Chair Pennel asks what positions we are still looking to fill. Superintendent Watkins shares, Assistant HS football coach, Secondary Math Instructor and Spanish/Electives position are the current positions we have open.

#### **5.4. MOTION**

Director Eastburn moved to approve the consent agenda as presented/amended. This motion, made by Jeff Eastburn and seconded by Dwight Coon, Carried.

Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lenae Sjostrom: Yea  
Yea: 7, Nay: 0

### **6. REPORTS**

#### **6.1. FACILITIES REPORT**

Mr. Shane Benscoter provided a report for the board.

Director Pennel asks if we have re-done the back lawn. Mr. Benscoter states he has been working on adding dirt and seed to revive what is there.

#### **6.2. TRANSPORTATION & TECHNOLOGY REPORT**

Mr. Dennis Boyd submitted a report to the board.

Board Chair Pennel asks, once the new hires are trained, will we have a full bussing staff? Mr. Boyd answers yes, 4 route drivers with 1 sub.

Director Eastburn asks about the additional Chromebooks. Mr. Boyd answered we got about 40 new devices to get all students 1:1 with devices.

#### **6.3. STUDENT SERVICES REPORT**

Ms. Katherine Tripp presented the board with a report.

Director Drago asked if our hope was to get all the staff trained. Ms. Tripp answers, that would be ideal, but it's expensive training and is 2 days long. There is a possibility of her becoming a trainer down the road.

Superintendent Watkins shares that the way for our board to advocate for our school in the legislature would be to share how valuable MANDT is, as they have looked at taking away some training.

#### **6.4. PRINCIPAL'S REPORT**

Ms. Brittany Bottensek presented a report to the board.

Board Chair Pennel asks what we look to accomplish at the Welcome Back Night. Ms. Bottensek shares that it's an opportunity for students to share their classroom with their families, we will provide dinner, and there will be some community partners on the football field.

Board Chair Pennel asks how we decided to reach out to the community partners. Ms. Bottensek shares that from her COSA conference that herself and Ms. Tripp attended, there was a keynote speaker who they were very impressed with. They purchased her book and one of the things that Dr. Jay suggests bringing community partners in without asking for anything. So they made cold calls to some local businesses and were met with good responses.

Director Schiesser shares that she liked seeing the school schedule and it looks like there are more class electives offered.

Board Chair Pennel asked if the homecoming game competitor was dropped. Ms. Bottensek answers, another team had taken their schedule.

Director Eastburn asks about the HS Friday school. Ms. Bottensek answers, these are for students who we invite. Our counselor will reach out to families if we would like to invite their students to attend.

Ms. Bottensek shares that we are currently working with ParentSquare to work on getting new students or students moving to a new building to get communication during the summer. The way the system works now, they wouldn't get them until the first day of school. We are trying to post everything on our live feed on the website that we can.

Ms. Bottensek shares that we heard that we had some families that didn't receive our welcome back mailer, and we are trying to troubleshoot this. We are also trying to find additional ways to get information out to families other than just the mailers.

Ms. Bottensek wants to thank the board for approving AESOP and Frontline. The ability to use our phones to request and accept subs has been working so well. She also feels this whole process will make payroll easier as well. We have even had our subs say it works so well. Superintendent Watkins corrects her and says thanks to the board for providing us with the funding to better our systems.

#### **6.5. SUPERINTENDENT'S REPORT**

Superintendent Watkins would like to acknowledge our Principal and Assistant Principal for their work on the Welcome Back Night. They really were quick to put the new information they learned at the training into action. He also acknowledges the training for staff during our first week back and how smoothly it went. And thank our staff for the first week of school. Superintendent Watkins updates the board with regards to the Integrated Guidance data. We still do not have the grant agreement, like every district in our county. He thinks it might just be taking longer to combine all the multiple funding, we also have a complete new staff running ODE now. He hopes to have something next month. We do have some very clear steps we have to follow and timelines, but we can't do any of it without the grant agreement. One of the initiatives of the governor is early literacy. We still don't have any clear directives from ODE, especially for small districts. We are waiting for further guidance before moving forward.

Director Eastburn asks if it is a matching grant. Superintendent Watkins states yes, 25%. Superintendent Watkins shares that we did launch our new website last week. The Blachly90 website is gone. This website is a district website with navigation to both our on-campus program and our online program. They share this website with the board. He shares the calendar is set for live updates, so this will always be the most up-to-date information.

### **7. UNFINISHED BUSINESS**

#### **7.1. BOARD GOALS FOR THE 2023-2024 SCHOOL YEAR**

Board Chair Pennel asks if any of the board have suggestions for goals for the 2023-2024 school year.

Director Eastburn says that board development/ training is a good goal to continue as a top priority.

Director Schiesser says that she feels that tying in the strategic plan and how the board is hearing reports. We should try to make a plan about following up and seeing how goals are being met. Board Chair Pennel says that he feels he has some agreement with this and looks to Superintendent Watkins for timeframes or thoughts around this. Superintendent Watkins feels

the board was very involved in the process of creating the strategic plan. Next, he feels the board would live more in policy and make sure they align with the strategic plan, also with the budget process. Superintendent Watkins would like to have some work sessions this year to review some things in regards to funding/budgeting around the alignment of the strategic plan. He also says that sitting on committees is a big part of involvement. He asks that the board always reach out to him if they feel they are not knowledgeable on a topic that comes up to them. Director Schiesser asks for suggestions on how to be more involved in policy. Superintendent Watkins provides some examples. Board Chair Pennel suggests policy review. Director Schiesser talks about how our students are progressing out of covid. Superintendent Watkins shares that this should be a more direct conversation, not necessarily a goal.

Board Chair Pennel shares he feels these might be the areas for their goals:  
Training/development  
Policy Spring Cleaning  
Support Strategic Plan Implementation  
Board Chair Pennel will work on writing up the goals and presenting them at the next meeting.

## 8. NEW BUSINESS

### 8.1. DIVISION 22 STANDARDS

Board Chair Pennel moved to approve the Division 22 Standards for the 2022-23 school year as presented. This motion, made by Derek Pennel and seconded by Jeff Eastburn, Carried. Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lenae Sjostrom: Yea  
Yea: 7, Nay: 0

Superintendent Watkins shares the Division 22 Standards. They are what we are held accountable for by the state. These are what we have to meet to be in compliance with the state. We post these publicly on our website and the state posts these reports for all schools as well.

He explains the report to the board and the processes we do. There is funding tied to this. If you are not in compliance in some areas, the state can withhold funding. If we are ever not in compliance with something, we will share a plan with both the state and our board on how we are working to get back in compliance.

He shares rules that were waived this year and rules that are new. He shares some rules that he is proud that we were in compliance with and wanted to highlight.

Superintendent Watkins shares some requirements for next year, especially around MS PE requirements.

### 8.2. LANE ESD TRANSIT DOLLAR REQUEST

Director Eastburn moved to approve that Blachly SD approve the Lane ESD Transit Dollar Request for the 2024-25 school year not to exceed 50%. This motion, made by Jeff Eastburn and seconded by Bev Schiesser, Carried.

Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel:

Yea, Bev Schiesser: Yea, Lenae Sjostrom: Yea

Yea: 7, Nay: 0

Superintendent Watkins shares the board requirement for the Lane ESD Transit Dollar Request for the 2024-2025 school year. Traditionally we have voted for not more than 50%.

### **8.3. NON-RESIDENT STUDENT ADMISSION AND ATTENDANCE REQUIREMENTS**

Director Eastburn moved to approve the Admission & Attendance Requirements for Non-Resident Students. This motion, made by Jeff Eastburn and seconded by Meleah Drago, Carried.

Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lenae Sjostrom: Yea

Yea: 7, Nay: 0

Superintendent Watkins gives a little background on our enrollment acceptance based on our charter status. He shares that we also want to make sure that we are the right fit for students and families. Other districts, not charter, have an inter-district transfer form. But that does not apply to us, since we are a charter school. We wanted to share that there is still an expectation for our students who choose to attend our charter. This has been run by our legal council and they said that yes we can do this, and they reviewed this document.

We would like to ask the board to approve this document that we would like to have our out of district families and students sign.

This will also apply to our online families.

Director Coon asks if we know of other charters who are doing this. Superintendent Watkins shares that we were told yes, some other districts have similar processes in place.

### **8.4. TEACHER EVALUATION PROCESS**

Director Schiesser moved to approve the Teacher Evaluation process as presented. This motion, made by Bev Schiesser and seconded by Dwight Coon, Carried.

Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Jeff Eastburn: Yea, Derek Pennel: Yea, Bev Schiesser: Yea, Lenae Sjostrom: Yea

Yea: 7, Nay: 0

Superintendent Watkins shares that we are always looking to improve how we can share evaluation feedback with our staff. As an admin team, we took both the process for evaluation and timelines as well as what that looks like for all our teacher groups as well as a teacher who may need support. After we finished, we brought this to the TLEA union and had a good discussion about these tools. We were able to make adjustments that lead to this document that we would like to implement this year.

There will be another piece to go with this, a handbook, which we hope to be able to bring forward to share with the board in the future.

Director Schiesser asks if Superintendent Watkins can highlight some changes. He provides more information for the board.

## **9. THE BOARD MAY RECESS THE REGULAR MEETING AND CONVENE EXECUTIVE SESSION**

Board Chair Pennel recessed the regular session at 8:05 pm.

## **10. RECONVENE REGULAR SESSION**

Board Chair Pennel reconvened the regular session at 9:13 pm.

## **11. ANNOUNCEMENTS**

Board Chair Pennel asks the board to give their feedback in regards to the OSBA state or National conference.

### **11.1. UPCOMING BOARD MEETING**

### **11.2. UPCOMING DISTRICT & CHARTER BOARD WORK SESSION**

## **12. ADJOURN THE REGULAR MEETING**

Board Chair Pennel adjourns the the meeting at 9:20 pm.

## **13. DOCUMENTS FOR BOARD INFORMATION**

Regular Board Meeting  
Wednesday, October 11, 2023 7:00 PM Pacific

Triangle Lake Charter School--Pioneer  
Building  
20264 Blachly Grange Rd.  
Blachly, OR 97412

Ciara Clark: Present  
Dwight Coon: Present  
Meleah Drago: Present  
Jeff Eastburn: Absent  
Derek Pennel: Present  
Bev Schiesser: Present  
Lenae Sjostrom: Absent  
Present: 5, Absent: 2.  
Lisa Wagner  
Kelly Goodwin  
Katherine Tripp  
Brittany Bottensek

#### **1. CALL TO ORDER**

Board Chair Pennel called the meeting to order at 7pm.

#### **2. WELCOME GUESTS AND VISITORS**

#### **3. CHANGES OR ADDITIONS TO THE AGENDA**

Superintendent Watkins announced that the only addition to the agenda would be the retirement of Rebecca Brookins, added as 5.6 on the agenda.

#### **4. PUBLIC FORUM/COMMUNICATIONS**

A public comment was shared by Ms. Kelly Goodwin- On behalf of the Charter Board, she wanted to express sincere gratitude for the time put into the work session. The Charter board opening has been posted for the parent involvement position and they are happy to be going over how they can implement that within the Charter Board. They are looking forward to this position being filled.

#### **5. CONSENT AGENDA**

##### **5.1. BOARD MINUTES**

Work Session- 9/27 No comments or questions

Board Meeting 9/13- Not in the paper packet weren't able to review

##### **5.2. FINANCIAL REPORT**

Financial report from 9/3- Director Schiesser asked for clarification about what HR support is, Superintendent Watkins clarified it is the Monthly budget for Dustin's services.

Director Drago asked if the Amazon bill was a one-time bill. This would need to be clarified by Pat. She also asked what was Chromebooks vs Technology supplies. Wondering what the difference is. Superintendent Watkins explained we have had to purchase a lot more Chromebooks with our online family numbers increasing. We also approved a grant for

teachers receiving technology in the classroom. Board Chair Pennel was clarifying that Amazon will continue to be a high purchase- Adam confirmed this is correct due to we have chosen it as a supplier with benefits it offers.

Director Coon asked for clarity regarding the state school fund. The way the state funding works- if we get paid more for revenue, then we get paid from state. The two become a wash. Addressed in the letter\*

Director Schiesser asked for clarification regarding Flex service- related to Life School Student, which we decided to do in house also Nursing staff that they continue to hire and then pull back the next day. The other would be the speech pathologist- we have had to increase those services. Also, reduced the number of behavior support, Superintendent Watkins explained.

### **5.3. ENROLLMENT**

Superintendent Watkins has gone over what our goals would be- Online we are aiming for 210 We would like to sit at 430 for total enrollment. Director Schiesser mentioned she felt that numbers were more even in person. They discussed continuing to advertise and increasing the number of in-person enrollment.

### **5.4. FIRST READ BOARD POLICIES**

Policies were sent via email from Superintendent Watkins to review. He asked the board to review these and email back to him comments and suggestions before the next board meeting. When the agenda and minutes are posted the documents will be added for the community to see.

### **5.5. NEW HIRES**

Superintendent Watkins recognized that Mr. Mike Kaiser has not been presented. He is taking the position of head coach for the girls basketball team.

### **5.6. RETIREMENT**

Ms. Rebecca Brookins has submitted her retirement effective 1/1/2024. We wish nothing but well for Mr and Mrs Brookins. We will recognize Ms. Brookins at the end of the year for retirement.

### **5.7. MOTION**

Director Coon moved to approve the consent agenda as presented/amended. This motion, made by Dwight Coon and seconded by Bev Schiesser, Carried.

Jeff Eastburn: Absent, Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Derek Pennel: Yea, Bev Schiesser: Yea  
Yea: 5, Nay: 0, Absent: 2

## **6. REPORTS**

### **6.1. FACILITIES REPORT**

No Comments. Applauded Shane's work.

## **6.2. TRANSPORTATION & TECHNOLOGY REPORT**

Mr. Boyd shared that he received new chromebooks- for online students. He just got a new bus driver that had been tested and passed- she is now driving.

Another driver is in training now and one is training for a sub position.

## **6.3. STUDENT SERVICES REPORT**

Mrs. Tripp reported re: Senate bill 819 we are in full compliance.

## **6.4. PRINCIPAL'S REPORT**

Ms. Bottensek shares that we had someone from Lane ESD view the fire drill and said our students were the quietest drill he has ever seen and has worked in schools for 20 years.

The bus drill has been pushed back to Monday. It was supposed to be tomorrow but we have a lot of field trips happening.

The bonfire has been rescheduled for Friday at 4:30, thanks to the Booster club for supplying a table for it.

This year we will be hosting a fall Festival, our school used to have a lot of k-12 activities, so we are trying to implement this back to the district. Groups with their AVID class will work on getting their booth ready and there will be a trick-or-treat trail for the elementary classes.

If there is a board member or two that would like to help on October 31st, they can pass out trick or treats. Director Schiesser and Director Clark volunteered.

Parent conferences are zoom and in person again, on the 9th and 10th of November.

## **6.5. SUPERINTENDENT'S REPORT**

Superintendent Watkins reported that the integrated guidance has worked with HS Success, even though we do not have a grant agreement, we still have to meet the reporting date- he is meeting next week to see how to do that. After he meets, he will share with the board.

Superintendent Watkins met with the Grange leadership yesterday. It was a great meeting with plans being made to meet again soon. Everyone seemed on the same page. They will meet again in a few weeks.

Superintendent Watkins wanted to inform you that soon he would pull together a superintendent task force to see how we will be implementing a plan for the integrated guidance. Specifically, with student success (integrated guidance), will provide feedback to Superintendent Watkins and the board. We will pull together at the beginning of the month. Registration for the conference is confirmed for the first weekend of April. Ms. Simington will send out more information.

Behavior Matrix will be utilized for behavior this year- we are still gathering data, to see if we will make any changes for next year.

You have a copy of the Blachly Certified Evaluation Handbook- this is not the process, this is a living document, we are bringing this back with our admin team. This is the first document our district has ever had. Director Schiesser asked if the next thing to tackle would be the evaluation process for the classified staff. Superintendent Watkins discusses that there are so many variations to the classified staff's workload, so this may be looked at later, but for now there is just a document for this.

OSAA- Superintendent Watkins wanted to ensure the board our classification level did not go up. So we will make sure we don't go from 1A to 2A. There are many things that go into this. The cap to move is 74 students. When you hit 75 you are 2A (soph-sen). This is not based on yearly numbers. This is on a 3 year average. Our current average is at 54 students.

Superintendent Watkins has no concerns that we will continue to sit in the 1A group.

Last spring, girls wrestling was approved in the state of Oregon. Recognized now through OSAA.

An emerging activity has been adopted for boys volleyball. As of Monday, it is not yet funded by OSAA but they will operate under the rules and regulations under OSAA. There is now this opportunity across the state. This is a Spring sport. There is a possibility to co-op with another district. We will be working with our AD to open this.

Shot clocks are up- this goes into effect for varsity games in basketball. Only varsity. We have to find a shot clock operator.

## **7. UNFINISHED BUSINESS**

We centered around PD goal and clean up of the policy deck. We have several that have not been updated in years.

### **7.1. BOARD GOALS**

Director Schiesser moved to approve the board goals as presented/amended for the 2023/2024 school year. This motion, made by Bev Schiesser and seconded by Ciara Clark, Carried.

Jeff Eastburn: Absent, Lenae Sjostrom: Absent, Ciara Clark: Yea, Dwight Coon: Yea, Meleah Drago: Yea, Derek Pennel: Yea, Bev Schiesser: Yea

Yea: 5, Nay: 0, Absent: 2

The board will participate in training opportunities at the state and national levels. 85% 6/7 board members to improve the overall board. One has been approved for December. School boards play a role in improving student achievement. We have confirmation for the 13th of December- everyone would prefer 5pm.

The board goals are listed below: (AMB = 'As Measured By')

Board Goals 2023-2024

Blachly School District #90

1. The Board will demonstrate its commitment to professional development (PD) and continuous improvement- both individually and as a body- by participating in training opportunities at the local, state, and national levels.

AMB: - Participation in 2 intact team PD training sessions + the National School Board Conference (by 6/30/24)

AMB: - Director participation averages > 85% across the 3 activities

2. Complete comprehensive review of current District policy. Add, remove, and/or replace policies where necessary to ensure alignment with law, OSBA recommendations, and current practices,

AMB: Completion of policy review and alignment activity (by 6/30/24)

### **7.2. UPDATE ON BOARD & CHARTER BOARD WORK SESSION**

We have three applications for the charter board position for parent involvement. So we will review.

The Charter Board asked if they could speak to our legal counsel. Superintendent Watkins asked Hungerford and it would be inappropriate to discuss with our charter board since they are our legal council. They will not report. Director Schiesser asked if Ms. Wagner has questions, could Derek ask on her behalf? He said yes. Only if we had a mutually agreed on

question. They may still not answer.

## **8. NEW BUSINESS**

## **9. ANNOUNCEMENTS**

### **9.1. UPCOMING BOARD MEETING**

The December board meeting will be training. There will not be a regular board meeting.

## **10. ADJOURN THE REGULAR MEETING**

Board Chair Pennel adjourned the meeting at 8:05pm.

## **11. DOCUMENTS FOR BOARD INFORMATION**

# OSBA Model Sample Policy

Code: BD/BDA  
Adopted:

## Board Meetings

~~{Optional policy. School boards must follow public meeting law regardless of whether the board adopts this policy. This policy reflects public meeting law as amended by House Bill 2805 (2023).}~~

The Board has the authority to act only when a quorum is present at a duly called regular, special or emergency meeting. “Meeting” means the convening<sup>1</sup> of a quorum of the Board as the district’s governing body to make a decision<sup>2</sup> or to deliberate<sup>3</sup> toward a decision on any matter. This includes meeting for the purpose of gathering information to serve as the basis for a subsequent decision or recommendation by the Board, i.e. a work session. “Meeting” does not include any on-site inspection of any project or program the attendance of members of the Board at any national, regional or state association to which the Board or its members belong.

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The affirmative vote of the majority of members of the Board is required to transact any business.

All regular, special and emergency meetings of the Board will be open to the public except as provided by law. Access to and the ability to attend all meetings (excluding executive sessions) by telephone, video or other electronic or virtual means will be made available when reasonably possible. All meetings will be conducted in compliance with state and federal statutes. ~~{For information how to give or submit public comment it is outlined in Board policy BDDH - Public Comment at Board Meetings<sup>4</sup> {and/or} posted on the district’s website.}~~

All Board meetings, including Board retreats and work sessions, will be held within district boundaries, except as allowed by law<sup>5</sup>. The Board may attend training sessions outside the district boundaries but cannot deliberate or discuss district business. No meeting will be held at any place where discrimination

<sup>1</sup> “Convening” means: (a) Gathering in a physical location; (b) Using electronic, video or telephonic technology to be able to communicate contemporaneously among participants; (c) Using serial electronic written communications among participants; or (d) Using an intermediary to communicate among participants.

<sup>2</sup> “Decision” means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.

<sup>3</sup> “Deliberation” means discussion or communication that is part of a decision-making process.

~~{When telephone or other electronic means of communication is used during a meeting open to the public, the Board shall make at least one place available to the public where, or at least one electronic means by which, the public can listen during the meeting. At all meetings of the Board open to the public, the public will be provided an opportunity, to the extent reasonably possible, to access and attend the meeting by telephone, video or other electronic or virtual means. If in-person oral testimony (or public comment) is allowed, the public will be provided, to the extent reasonably possible, an opportunity to submit oral testimony during the meeting[, at the designated portion of the agenda,] by telephone, video or other electronic or other means. If in-person written testimony is allowed, the public will be provided, to the extent reasonably possible, an opportunity to submit written testimony including by email or other electronic means, so that the Board is able to consider the submitted testimony in a timely manner.}~~

<sup>5</sup> ORS 192.630(4). Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has jurisdiction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction if no deliberations toward a decision are involved.

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on the basis of disability, race, creed, color, sex, sexual orientation, gender identity, age or national origin is practiced.

The Board will give public notice reasonably calculated to give actual notice to interested persons, including the news media which have requested notice, of the time and place for all Board meetings and of the principal subjects to be considered. The Board may consider additional subjects at a meeting, even if they are not included in the notice.

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If requested to do so at least 48 hours before a meeting held in public, the Board shall make a good faith effort to provide an interpreter for hearing-impaired persons. If the meeting is being held upon less than 48 hours' notice and a request for an interpreter is made, the Board shall make a reasonable effort to have an interpreter present. Other appropriate auxiliary aids and services will be provided upon request and appropriate advance notice.

If requested to do so at least {72} hours before a meeting held in public, the Board will make a reasonable effort to provide translation services. {6}

All meetings held in public shall comply with the Oregon Indoor Clean Air Act.

The possession of dangerous or deadly weapons and firearms, as defined in law and Board policy, is prohibited on district property.

#### 1. Regular, Special and Emergency Meetings

Generally, a regular Board meeting will be held each month. The regular meeting schedule will be established at the annual organizational meeting and may be changed by the Board with proper notice. The purpose of each regular monthly meeting will be to conduct the regular Board business.

No later than the next regular meeting following July 1, the Board will hold the annual organizational meeting to elect Board officers for the coming year and to establish the year's schedule of Board meetings. In Board election years (odd numbered years), the first meeting will be held no later than July 31.

Special meetings can be convened by the Board chair, upon request of three Board members, or by common consent of the Board at any time to discuss any topic. [A special meeting may be scheduled if less than a quorum is present at a meeting, additional business still needs to be conducted at the ending time of a meeting, conducting business prior to the next regular meeting would be advantageous to the district or other reasons.] At least 24 hours' notice must be provided to all Board members, the news media, which have requested notice, and the general public for any special meeting.

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Emergency meetings can be called by the Board in the case of an actual emergency upon appropriate notice under the circumstances. The minutes of the emergency meeting must describe the emergency. Only topics necessitated by the emergency may be discussed or acted upon at the emergency meeting.

<sup>6</sup> Districts are encouraged to evaluate translation needs and resources prior to adding this language. A district may decide that translating the agenda, minutes or other documents, or public comment is sufficient.

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2. Communications Outside of Board Meetings

Communications, to, by and among a quorum of Board members outside of a legally called Board meeting, in their capacity as Board members, shall not be used for the purpose of discussing district business. This includes electronic, video or telephonic communications, serial electronic communications among participants and using an intermediary to communicate among participants. Such communications among Board members shall be limited to messages not involving deliberation, debate, decision-making or gathering of information on which to deliberate.

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Communications outside of a Board meeting may contain:

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a. Communications to, between or among members of a governing body that are:

- (1) Purely factual or educational in nature and that convey no deliberation or decision on any matter that might reasonably come before the Board (including agendas and information concerning agenda items);
- (2) Not related to any matter that, at any time, could reasonably be foreseen to come before the Board for deliberation and decision; or
- (3) Nonsubstantive in nature, such as communication relating to scheduling, leaves of absence and other similar matters; or

b. Individual responses to questions posed by community members, subject to other limitations in Board policy.

Deleted: <#>Agenda item suggestions;¶ Reminders regarding meeting times, dates and places;¶ Board meeting agendas or information concerning agenda items;¶ One-way information from Board members or the superintendent to each Board member (e.g., an article on student achievement or to share a report on district progress on goals);¶

E-mails sent to other Board members will have the following notice:

*Important: Please do not reply or forward this communication if this communication constitutes a decision or deliberation toward a decision between and among a quorum of a governing body which could be considered a public meeting. Electronic communications on district business are governed by public meetings law.*

3. Private or Social Meetings

Private or social meetings of a quorum of the Board for the purpose of making a decision or to deliberate toward a decision on any matter are prohibited by public meetings law.

4. Work Sessions

The Board may use regular or special meetings for the purpose of conducting work sessions to provide its members with opportunities for planning and thoughtful discussion. Work sessions will be conducted in accordance with state law on public meetings, including notice and minutes. The Board may make is discouraged from making official decisions during a work session. Generally, Boards do not take official action during work sessions, although there is no legal prohibition to do so.

5. Executive Sessions

Executive sessions may be held as an agenda item during regular, special or emergency meetings for a reason permitted by law. (See Board policy BDC - Executive Sessions)

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Complaints regarding public meetings laws can be filed with the Board in accordance with Board Policy KL – Public Complaints. The Board will respond and provide a copy of the complaint and response to the Oregon Government Ethics Commission within 21 days in accordance with state law.<sup>7</sup>

<sup>{8}</sup> **Mandatory Training**

Every member of the Board shall attend or view a training on public meetings law prepared or approved by the Oregon Government Ethics Commission (OGEC) at least once during the Board member’s term of office and shall verify attendance in accordance with OGEC procedures.<sup>‡</sup>

END OF POLICY

**Legal Reference(s):**

[ORS Chapter 192](#) [ORS 255.335](#) [ORS 332.040 - 332.061](#) [ORS 433.835 - 433.875](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2020); 28 C.F.R. Part 35 (2020).  
Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. §§ 12101-12133 (2018).  
OR. ATTY. GEN. Public Records and Meetings Manual.  
[House Bill 2805](#) (2023).

Deleted: [ORS 174.100¶](#)  
[ORS 174.104¶](#)

Deleted: [ORS Chapter 193](#)

Deleted: Oregon House Bill 2560 (2021).¶  
Oregon House Bill 3041 (2021).

<sup>7</sup> See House Bill 2805 (2023) Section 5(2) for requirements of the response.

<sup>8</sup> {This is required for Board members in districts with total expenditures for a fiscal year of \$1 million or more. This number will be reviewed by OGEC at least once every five years. If the district has total expenditures of less than \$1 million, this language can be kept, but “shall” should be replaced with “is encouraged to.”}

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# OSBA Model Sample Policy

Code: BDC  
Adopted:

## Executive Sessions

{Optional policy. School boards can only meet in executive session when statute allows. This policy can be a helpful resource for Board members in determining whether executive session can be used.}

The Board may meet in executive session to discuss subjects allowed by statute but may not take final action except for the expulsion of a student and matters pertaining to or examination of the confidential records of the student.

An executive session may be included as an agenda item of an existing meeting [in accordance with Board policy BDDC - Board Meeting Agenda] or held as its own meeting. Proper notice is required.

If open session is held prior to the executive session, the presiding officer will announce the executive session by identifying the authorization under Oregon Revised Statute (ORS) 192.660 or ORS 332.061 for holding such session and by noting the subject of the executive session.

The Board may hold an executive session:

1. To consider the employment of a public officer, employee, staff member or individual agent.<sup>1</sup> (ORS 192.660(2)(a))
2. To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer<sup>2</sup>, employee, staff member or individual agent who does not request an open hearing. (ORS 192.660(2)(b))
3. To conduct deliberations with persons designated by the governing body to carry on labor negotiations. (ORS 192.660(2)(d))
4. To conduct deliberations with persons designated by the governing body to negotiate real property transactions. (ORS 192.660(2)(e))
5. To consider information or records that are exempt by law from public inspection. (ORS 192.660(2)(f))

<sup>1</sup> This provision does not apply to the filling of a vacancy in elective office or on any public committee, commission or other advisory group; or for the consideration of general employment policies. Prior to holding an executive session under ORS 192.660(2)(a), the Board must ensure

- a. The vacancy has been advertised;
- b. Regular hiring procedures have been adopted;
- c. If hiring an officer, the public has had the opportunity to comment on the employment of the officer; and
- d. If hiring a chief executive officer, the Board has adopted hiring standards, criteria and policy directives in meetings open to the public in which the public has had the opportunity to comment on the standards, criteria and policy directives.

<sup>2</sup> To determine whether the individual involved is considered a public officer, consult with legal counsel.

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Executive Sessions – BDC

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**Deleted:** convened by order of the Board chair, upon request of three Board members or by common consent of the Board for a purpose authorized under Oregon Revised Statute (ORS) 192.660 during a regular, special or emergency meeting. T

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6. To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed. (ORS 192.660(2)(h))
7. To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing. (ORS 192.660(2)(i))
8. To consider matters relating to school safety or a plan that responds to safety threats made toward a school. (ORS 192.660(2)(k))
9. To consider matters relating to the safety of the governing body and of public body staff and volunteers and the security of public body facilities and meeting spaces. (ORS 192.660(2)(o))
10. To consider matters relating to cyber security infrastructure and responses to cyber security threats. (ORS 192.660(2)(p))
11. To review the expulsion of a minor student from a public elementary or secondary school. (ORS 332.061(1)(a))
12. To review matters pertaining to or examination of the confidential records of a student. (ORS 332.061(1)(b))

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Members of the press may attend executive sessions except those matters pertaining to:

1. Deliberations with persons designated by the Board to carry on labor negotiations;
2. Hearings on the expulsion of a minor student or examination of the confidential records of a student; and
3. Current litigation or litigation likely to be filed if the member of the news media is a party to the litigation or is an employee, agent or contractor of a news media organization that is a party to the litigation.

If an executive session is held pursuant to ORS 332.061, the following shall not be made public: the name of the minor student; the issue, including the student's confidential records; the discussion; and each Board member's vote on the issue.

Minutes shall be kept for all executive sessions.

Content discussed in executive sessions is confidential except as provided by law. Board members and the media are instructed not to disclose information obtained in executive session except when specifically authorized to do so or as required by law.

END OF POLICY

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**Legal Reference(s):**

[ORS 192.660](#)

[ORS 332.045](#)

[ORS 332.061](#)

OR. ATTY. GEN. Public Records and Meetings Manual.

Oregon Government Ethics Commission, [Staff Advisory Opinion No. 22-106S](#)

[House Bill 2806](#) (2023)

| [8/30/23](#) | [SL](#)

Executive Sessions - BDC

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# OSBA Model Sample Policy

Code: EFA  
Adopted:

## Local Wellness

{Required. Title 7 C.F.R. 210.31(a) requires local education agencies to “establish a local school wellness policy for all schools participating in the National School Lunch Program and/or School Breakfast Program...”. The law describes the policy as “a written plan that includes” various components intended to improve student wellness. This policy is designed to meet the requirements for a wellness policy and provide the framework for the district’s plan. Previously these requirements were split between the policy and an administrative regulation (AR). All required and/or related content is now included in the model policy, therefore OSBA recommends deleting the AR if the district previously included it in the board’s policy manual. Districts should consult with stakeholders in the process of adoption and incorporate language that meets the unique needs of the district.}

The district is committed to the optimal development of every student and believes that a positive, safe and health-promoting learning environment is necessary for students to have the opportunity to achieve personal, academic, developmental and social success.

To help ensure students possess the knowledge and skills necessary to make healthy choices for a lifetime, the superintendent shall prepare and implement a comprehensive district nutrition program consistent with state and federal requirements for districts sponsoring the National School Lunch Program (NSLP) and/or the School Breakfast Program (SBP). The program shall reflect the Board’s commitment to providing adequate time for instruction that fosters healthy eating through nutrition education and promotion, serving healthy and appealing foods at district schools, developing food-use guidelines for staff and establishing liaisons with nutrition service providers, as appropriate.

~~[The district superintendent or designee shall establish a Wellness Advisory Committee to advise the district in the development, review and update of the local wellness policy.]~~

## POLICY IMPLEMENTATION, MONITORING, ACCOUNTABILITY AND COMMUNITY ENGAGEMENT

### Implementation

The district shall manage and coordinate the implementation of this local wellness policy.

Implementation will consist of, but not be limited to, the following:

1. Delineating roles, responsibilities, actions and timelines specific to each school;
2. Generating and disseminating information about who will be responsible to make what change, by how much, where and when;
3. Establishing standards for all foods and beverages provided (but not sold) to students during the school day on participating school campuses;
4. Establishing standards and nutrition guidelines for all foods and beverages sold to students during the school day on participating school campuses that meet state and federal nutrition standards for NSLP and SBP, competitive foods, permit marketing of same that meets the competitive food nutrition standards, and promotes student health and reduces child obesity; and

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5. Establishing specific goals for nutrition promotion and education, physical activity[, physical education] and other school-based activities that promote student wellness.

The Board designates the [superintendent] [principal(s)] to be responsible for ensuring each school meets the goals outlined and complies with this policy.

### **Record Keeping**

The district will retain the following records to document compliance with the local wellness policy requirements at the district's administrative offices:

1. The written local wellness policy;
2. Documentation to demonstrate the policy has been made available to the public;
3. Documentation of efforts to review and update the local wellness policy, including an indication of who participates in the update and the methods the district uses to make stakeholders aware of their ability to participate;
4. Documentation to demonstrate compliance with the annual public notification requirements;
5. Documentation of the district's most recent assessment on the implementation of the local wellness policy;
6. Documentation to demonstrate the most recent assessment on the implementation of the local wellness policy has been made available to the public.

### **Notification of Policy**

The district will inform the public about the content and implementation of the local wellness policy, and post the policy and any updates to the policy on the district website annually. Included will be, if available, the most recent assessment of the implementation, and a description of the progress being made in attaining the goals of the policy.

The district will publicize the name and contact information of the district or school official(s) leading and coordinating the policy and information on how the public can get involved with the local wellness policy. This information will be published on the district's website and in district communications.

### **Triennial Progress Assessments**

At least once every three years, the district will evaluate the implementation of this policy and its progress with a triennial assessment and produce a progress report that will include:

1. The extent to which schools under the jurisdiction of the district are in compliance with the policy;
2. The extent to which the district's policy compares to model local school wellness policy<sup>{1}</sup>; and

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<sup>1</sup> {Model Wellness Policy resource published by the [Alliance for a Healthier Generation](#). OSBA makes no representation of its compliance by providing this resource.}

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3. A description of the progress made in attaining the goals of the district’s policy.

The district will publish the triennial progress report on the district website when available. The district will update or modify the policy based on results of the triennial assessment.

**Community Involvement, Outreach and Communications (Review of, and Updating Policy)<sup>{2}</sup>**

The district will actively communicate ways in which the community can participate in the development, implementation and periodic review and update of the local wellness policy. The district will communicate information about opportunities ~~in~~ in community news, on the district’s website, on school websites, and/or in district or school communications~~].~~ The district will ensure that communications are culturally and linguistically appropriate to the community.

Parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the Board, school administrators, and the general public will be solicited to participate in the periodic review and update of the local school wellness policy.

**~~Wellness Advisory Committee~~<sup>{3}</sup>**

The district supports a wellness advisory committee to assist the development, implementation, and periodic review and update of the local wellness policy. The superintendent or designee will be a member of this committee.

The district will publicize information about the wellness advisory committee [in community news, in communications to parents, and/or on websites operated by the district] to communicate to parents, students and the community at large to explain the committee’s purpose, process and an invitation to volunteer.

1. The wellness advisory committee membership will include, to the extent possible, but not be limited to:
- a. Parents, caregivers and students;
  - b. Representatives of the school nutrition program (e.g., school nutrition director);
  - c. Physical education and/or health education teachers;
  - d. School health professionals (e.g., school nurses, physicians, dentists, health educators and other allied health personnel who provide school health services);
  - e. Mental health and social services staff (e.g., school counselors, psychologists, social workers, or psychiatrists);
  - f. School administrators (e.g., superintendent, assistant superintendent, principal, vice principal);
  - g. Board members;
  - h. Supplemental Nutrition Assistance Program (SNAP) education coordinators;
  - i. Healthcare professionals and/or other health related professionals (e.g., dietitians, doctors, nurses, dentists); and

<sup>2</sup> {USDA Local school wellness policy [resource](#); CDC [resource](#); CDC Healthy Schools [resource](#); USDA Local school wellness policy [outreach toolkit](#) and communication resource from [Alliance for a Healthier Generation](#).}

<sup>3</sup> {A Wellness Advisory Committee is not required. If the district chooses to have a committee, the district should amend the language here to establish the membership and responsibilities of the committee. [School Wellness Committee Toolkit](#) published by the Alliance for a Healthier Generation}

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j. Members of the general public.

2. The committee, appointed by the superintendent or designee, will meet to organize and vote on a committee chair and a secretary prior to or at the beginning of the school year. The chair and secretary will serve for one year minimum and may be reappointed.
3. The wellness advisory committee will meet [four] times per year to review of the local wellness policy.
4. The committee will facilitate the development, review and update of the wellness policy, and evaluate each participating school's compliance with the policy.

The district will create building-level committees to establish school-specific goals and activities that implement this policy. A school coordinator will be designated to support compliance with this policy.}]

#### NUTRITION PROMOTION AND NUTRITION EDUCATION

Nutrition promotion and nutrition education positively influence lifelong eating behaviors by using evidence-based strategies and techniques and nutrition messages and by creating food environments that support healthy nutrition choices.

{Nutrition promotion and nutrition education shall be a sequential and integrated focus on improving students' eating behaviors, reflect evidence-based strategies and be consistent with state and local district health education standards.}]

To promote nutrition education in the schools, the principal is responsible for ensuring the following goals are implemented:

1. {<sup>4</sup>}Students and staff will receive consistent nutrition messages throughout the school environment;
2. Nutrition education is provided throughout the student's school years as part of the district's age-appropriate, comprehensive nutrition program{ (which includes the benefits of healthy eating, essential nutrients, nutritional deficiencies, principles of healthy weight management, the use and misuse of dietary supplements, safe food preparation, and handling and storage related to food and eating)}, and is aligned and coordinated with the Oregon Health Education Standards and school health education programs;
3. Nutrition education will include culturally relevant, participatory activities that include social learning strategies and activities that are aligned and coordinated with the Oregon Health Education Standards and school health education programs;
4. Teachers will receive curriculum-specific training;
5. Parents and families are encouraged through school communications to send healthy snacks/meals and {reusable} water bottles with their student to school;

<sup>4</sup> {The goals listed are examples; districts are required to include goals in the policy. Districts are encouraged to evaluate needs and resources and to develop specific goals. Districts are required to "review and consider evidence-based strategies and techniques" (7 CFR 210.31(c)(1)). Model Wellness Policy resource published by the [Alliance for a Healthier Generation](#). OSBA makes no representation of its compliance by providing this resource.}

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6. Families and community organizations are involved, to the extent practicable, in nutrition education;
7. Nutrition education homework that students can do with their families is assigned (e.g., reading and interpreting food labels, reading nutrition-related newsletters, preparing healthy recipes);
8. Materials on how to assess one’s personal eating habits, set goals for improvement and achieve those goals.}

Nutrition promotion, including marketing and advertising nutritious foods and beverages to students, will be implemented consistently through a comprehensive and multi-channel approach, (e.g., in the classroom, cafeteria and at home) by staff, teachers, parents, students and the community.

To ensure adequate nutrition promotion, the following goals will be implemented:

1. {<sup>5}</sup>}Information about available meal programs is distributed prior to or at the beginning of the school year and at other times throughout the school year;
2. Information about availability and location of a Summer Food Service Program (SFSP) is distributed;
3. Nutrition promotion materials are sent home with students, published on the district website, and distributed at parent-teacher conferences;
4. Families are invited to attend exhibitions of student nutrition projects or health fairs;
5. Physical activity is a planned part of all school-community events.}

### School Meals

{Schools within the district participate in U.S. Department of Agriculture (USDA) child nutrition program(s), administered through the Oregon Department of Education (ODE).} {which may include the NSLP,} {and} {the SBP,} {Fresh Fruit & Vegetable Program (FFVP),} [After School Snack Program (ASSP),] {Special Milk Program (SMP),} {Summer Food Service Program (SFSP),} {Supper programs} {or others}.} {The district also operates additional nutrition-related programs and activities including Farm-to-School programs, school gardens, Breakfast in the Classroom, Mobile Breakfast carts or Grab ‘n’ Go Breakfast.}

The district’s available meal program(s) will operate to meet meal pattern requirements and dietary specifications in accordance with the Healthy, Hunger-Free Kids Act and applicable federal laws and regulations.

The {principal(s)} will support nutrition and food services operation as addressed in Board policy EFAA – District Nutrition and Food Services and its accompanying administrative regulation EFAA-AR – Reimbursable Meals and Milk Programs.

<sup>5</sup> {The goals listed are examples; districts are required to include goals in the policy. Districts are encouraged to evaluate needs and resources and to develop specific goals. Districts are required to “review and consider evidence-based strategies and techniques” (7 CFR 210.31(c)(1)). Model Wellness Policy resource published by the [Alliance for a Healthier Generation](#). OSBA makes no representation of its compliance by providing this resource.}

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## **Water**

Free, safe, unflavored, drinking water will be available to all students throughout the school day and throughout every school campus. The district will make drinking water available where school meals are served during mealtimes.

## **Competitive Foods and Beverages**

The district controls the sale of all competitive foods. All foods and beverages outside the reimbursable school meal programs that are **sold** to students on the school campus during the school day will meet or exceed Smart Snacks Standards<sup>6</sup>.

## **Celebrations and Rewards/Incentives**

All foods and beverages offered on the school campus will meet or exceed ~~are encouraged to meet~~ the nutrition standards set by the USDA and the Oregon Smart Snacks Standards. This includes, but is not limited to, celebrations, parties, and classroom snacks brought by parents. Food will not be used as a reward or incentive. ~~This information will be conveyed to staff and parents.~~

## **Fund Raising**

Foods and beverages that meet or exceed the nutrition standards set by the USDA and the Oregon Smart Snacks Standards may be sold through fund raisers on the school campus during the school day. Such requests to conduct a fund raiser will be submitted to the ~~principal~~ for approval before starting.

## **Food and Beverage Marketing in Schools**

Any foods and beverages marketed or promoted to students on the school campus during the school day will meet or exceed the nutrition standards for competitive foods set by the USDA.

~~The district (i.e., school nutrition services, athletics department, PTA, PTO) will review existing contracts, new contracts and equipment, and product purchase or replacement to reflect the applicable food and beverage marketing guidelines.~~

## **PHYSICAL ACTIVITY AND PHYSICAL EDUCATION**

A quality physical education program is an essential component for all students to learn about and participate in physical activity. The district will develop and assess student performance standards and program minute requirements in order to meet ODE's physical education content standards and state law.

Physical activity should be included in the school's daily education program for grades [pre-]K through 12 and include regular, instructional physical education, as well as co-curricular activities and recess.

In order to ensure students are afforded the opportunity to engage in physical education and physical activity in the school setting, the following goals are established:

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<sup>6</sup> Oregon Department of Education, [Oregon Smart Snacks Standards](#)

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1. <sup>{7}</sup>Physical education will be a course of study that focuses on students’ physical literacy and development of motor skills;
2. Staff encourages and provides support for parental involvement in their children’s physical education;
3. Physical education courses will be the environment where students learn, practice and are assessed on developmentally appropriate knowledge, skills and confidence to become physically literate;
4. Instruction, provided by adequately prepared teachers, i.e., licensed or endorsed to teach physical education, will meet the state adopted academic content standards for physical education (Oregon Revised Statute (ORS) 329.045). Teachers of physical education shall regularly participate in professional development activities annually;
5. <sup>{8}</sup>Every public school student in [pre-]kindergarten through grade 8 shall participate in physical education for the entire school year. Students in kindergarten through grade ~~5~~~~6~~ shall participate for a least 150 minutes during each school week, and students in grades ~~6~~~~7~~ through 8 for at least an average of 150 minutes during each school week, as calculated over the duration of a school year;
6. Physical activity will be integrated across curricula and throughout the school day. Movement will be made a part of all classes or courses as part of a well-rounded education;
7. Physical activity during the school day (including, but not limited to, recess, classroom physical activity breaks or physical education) will not be used as a punishment or a reward;
8. <sup>{9}</sup>At least 50 percent of the weekly physical education class time in grades K through 8 shall be devoted to actual physical activity;
9. Physical activity is a planned part of all school-community events;
10. Materials promoting physical activity are sent home with students and published on the district website.

<sup>{10}</sup>A student with a disability shall have suitably adapted physical education incorporated as part of their individualized education program (IEP) developed under ORS 343.151. A student who does not have an IEP but has chronic health problems, other disabling conditions or other special needs that preclude them from participating in regular physical education instruction, shall have suitably adapted physical education incorporated as part of their individualized health plan, developed by the district.

<sup>7</sup> {The goals listed are examples; districts are required to include goals in the policy. Districts are encouraged to evaluate needs and resources and to develop specific goals. Districts are required to “review and consider evidence-based strategies and techniques” (7 CFR 210.31(c)(1)). Model Wellness Policy resource published by the [Alliance for a Healthier Generation](#). OSBA makes no representation of its compliance by providing this resource.}

<sup>8</sup> {Districts are required to provide the specified number of physical education minutes, but are not required to include them as goals or in this policy. If the district operates K-5 elementary schools, select “5” in the first bracket and “6” in the second bracket. If the district operates K-6 elementary schools, select “6” in the first bracket and “7” in the second bracket.}

<sup>9</sup> {This language is not required to be in policy, but this is a required action pursuant to ORS 329.496.}

<sup>10</sup> {This language is not required to be in policy, but this is a required action pursuant to ORS 329.496.}

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## Other Activities that Promote Student Wellness

The district will integrate wellness activities throughout the entire school environment (districtwide). The district will coordinate and integrate other initiatives related to physical activity, physical education, nutrition and other wellness components so all efforts are complementary, not duplicated and work toward the same set of goals promoting student well-being, optimal development and strong educational outcomes.

~~The district will provide the following activities and encourage the following practices which promote local wellness:~~

- ~~1. — Scoliosis screenings;~~
- ~~2. — Safe Routes to Schools Program;~~
- ~~3. — Physically active family and community engagement activities for families to learn about healthy eating or to practice being active together (e.g., skate night, fun run, dance night);~~
- ~~4. — Nonfood-related fund raisers;~~
- ~~5. — Physical activity energizers during transitions from one subject to another;~~
- ~~6. — Intramural sports;~~
- ~~7. — Monthly/Weekly school walks;~~
- ~~8. — Assemblies which focus on wellness issues such as the importance of breakfast, healthy beverages, and how students and staff can incorporate 60 minutes of physical activity into their day;~~
- ~~9. — Use of alternates to food as rewards in the classroom;~~
- ~~10. — Creation of connections between out of school time (OST) programs that involve staff members from OST programs, both school and community-based, in school initiatives that address healthy eating, such as school wellness teams or wellness committees;~~
- ~~11. — Integration of social, emotional and mental health supports into school programs (e.g., promote a positive school climate where respect is encouraged and students can seek help from trusted adults);~~
- ~~12. — Communication between classroom teachers and nutrition staff, so that menus and nutrition promotion can be tied into classroom learning and coursework;~~
- ~~13. — Include wellness as a standing agenda item for school-based meetings (e.g., staff meetings, site council meetings, PTO).}~~

~~{<sup>11</sup>} Employee Wellness {<sup>12</sup>}~~

<sup>11</sup> {This language is optional and is not required by state or federal law.}

<sup>12</sup> {CDC resources for [school employee wellness](#) and [workplace health promotion](#).}

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The district encourages staff to pursue a healthy lifestyle that contributes to their improved health status, improved morale and a greater personal commitment to the school's overall wellness program. Many actions and conditions that affect the health of staff may also influence the health and learning of students. The physical and mental health of staff is integral to promoting and protecting the health of students and helps foster their academic success. The district's Employee Wellness Program will promote health, reduce risky behaviors of employees and identify and correct conditions in the workplace that can compromise the health of staff, reduce their levels of productivity, impede student success and contribute to escalating health-related costs such as absenteeism.

The district will collaborate with community partners to identify programs, services and/or resources to compliment and enrich employee wellness endeavors.

The district's Employee Wellness Program may include the following:

1. Health education and health promoting activities that focus on skill development and lifestyle behavior that change along with awareness building, information dissemination, access to facilities, and are preferably tailored to employees' needs and interests;
2. Safe, supportive social and physical environments including organizational expectations about healthy behavior, and implementation of policy that promotes health and safety and reduces the risk of disease;
3. Linkage to related programs such as employee assistance programs, emergency care and programs that help employees balance work life and family life;
4. Education and resources to help employees make decisions about health care; and
5. Nutrition and fitness educational opportunities that may include but are not limited to, the distribution of educational and informational materials, and the arrangement of presentations and workshops that focus on healthy lifestyles, health assessments, fitness activities and other appropriate nutrition and physical activity related topics.

The district encourages participation from all employees. "Employees" are not limited to instructional staff (i.e., teachers and instructional assistants), but includes all administrators and support staff.

The following groups are seen as essential for establishing, implementing and sustaining an effective employee wellness program:

1. School personnel who implement existing wellness programs in the district (i.e., employee wellness committee);
2. District personnel who implement health programs for students (e.g., school health coordinator, school nurses, psychologist, health and physical educators, nutrition professionals, counselors and other staff); and
3. Decision makers who have the authority to approve policy and provide administrative support essential for a school wellness program (e.g., Board members, superintendents, human resource administrators, fiscal services administrators and principals).†

#### †DEFINITIONS

R8/30/23 | SL

Local Wellness = EFA  
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1. “Competitive food” means all food and beverages other than meals reimbursed under programs authorized by the Richard B. Russell National School Lunch Act and the Child Nutrition Act available for sale to students on the school campus during the school day.
2. “Food and beverage marketing”<sup>13</sup> is defined as advertising and other promotion in schools. Food and beverage marketing often includes an oral, written or graphic statement made for the purpose of promoting the sale of a food or beverage product made by the producer, manufacturer, seller or any other entity with a commercial interest in the product.
3. “Oregon Smart Snacks Standards”<sup>14</sup> means the State’s minimum nutrition standards for competitive foods and beverages (ORS 336.423).
4. “School day” means, for the purpose of competitive food standards implementation, the period from the midnight before, to 30 minutes after the end of the official school day<sup>5</sup>, i.e., at the conclusion of afternoon student activities, such as athletic, music or drama practices, clubs, academic support and enrichment activities].
5. “School campus” means, for the purpose of competitive food standards implementation, all areas of property under the jurisdiction of the school that are accessible to students during the school day.<sup>6</sup>

END OF POLICY

**Legal Reference(s):**

<a href="#">ORS 327.531</a>	<a href="#">ORS 336.423</a>	<a href="#">OAR 581-051-0306</a>
<a href="#">ORS 327.537</a>		<a href="#">OAR 581-051-0310</a>
<a href="#">ORS 329.496</a>	<a href="#">OAR 581-051-0100</a>	<a href="#">OAR 581-051-0400</a>
<a href="#">ORS 332.107</a>	<a href="#">OAR 581-051-0305</a>	

Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b (2018).  
 National School Lunch Program, 7 C.F.R. Part 210 (2022).  
 School Breakfast Program, 7 C.F.R. Part 220 (2022).  
[House Bill 3199](#) (2023).

<sup>13</sup> [This term includes, but is not limited to, the following: brand names, trademarks, logos or tags, except when placed on a physically present food or beverage product or its container; displays, such as on vending machine exteriors; corporate brand, logo, name or trademark on school equipment, such as marquees, message boards, scoreboards or backboards (Note: Immediate replacement of these items is not required; however, districts will replace or update scoreboards or other durable equipment when existing contracts are up for renewal or to the extent that is financially possible over time so that items are in compliance.); corporate brand, logo, name or trademark on cups used for beverage dispensing, menu boards, coolers, trash cans and other food service equipment; as well as on posters, book covers, student assignment books or school supplies displayed, distributed, offered or sold by the district; advertisements in school publications or school mailings; free product samples, taste tests or coupons of a product, or free samples displaying advertising of a product.]

<sup>14</sup> Oregon Department of Education, [Oregon Smart Snacks Standards](#)

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# OSBA Model Sample Policy

Code: GCBDA/GDBDA  
Adopted:

## Family Medical Leave \* (Version 1)

{Highly recommended policy. The law does not require districts to have a board-adopted policy, but the district is required to follow the law. Having policy and an administrative regulation in place can assist with compliance. Policy is intended for districts with 50 or more employees as counted in accordance with ORS 659A.153. If the district has between 25 and 50 employees, the district should use version 2 of GCBDA/GDBDA – Family Medical Leave \*. If the district does not have 25 employees, the district should not adopt this policy.}

When applicable, the district will comply with the provisions of the Family and Medical Leave Act (FMLA)<sup>{1}</sup>, the Oregon Family Leave Act (OFLA)<sup>{2}</sup>, the Oregon Military Family Leave Act (OMFLA), Paid Family Medical Leave Insurance (PFMLI) and other applicable provisions of state and federal law, Board policies and collective bargaining agreements regarding family medical leave.

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

Generally, in order for an employee to be eligible for the benefits under OFLA, the employee must work an average of 25 hours or more per week during the 180 calendar days immediately prior to the first day of the start of the requested leave. 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. Special requirements apply during public health emergencies.

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.

PMFLI is generally available to district employees who have earned \$1,000 in subject wages or taxable income during the alternate or base years<sup>3</sup>, contributed to the PMFLI fund in the alternate or base years and are otherwise eligible.<sup>4</sup>

Federal and state leave entitlements generally run concurrently.

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<sup>{1}</sup> 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.}

<sup>{2}</sup> 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)}

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

<sup>4</sup> See OAR 471-070-1010 for additional information.

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

**P**  
END OF POLICY

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**Legal Reference(s):**

[ORS 332.507](#)  
[ORS 659A.090](#)  
[ORS 659A.093](#)

**R**

[ORS 659A.096](#)  
[ORS 659A.099](#)  
[ORS 659A.150 - 659A.186](#)

[ORS 659B.010](#)  
[OAR 839-009-0200 - 0320](#)

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).  
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654; 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).  
Americans with Disabilities Act, 42 U.S.C. §§ 12101-12133 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).  
Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9<sup>th</sup> Cir. 2014).  
Senate Bill 999 (2023).

**P**

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# OSBA Model Sample Policy

Code: GCBDA/GDBDA  
Adopted:

D

## Family Medical Leave \*

When applicable, the district will comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) 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) of 2009 and other applicable provisions of 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 apply 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 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.

In order for an employee to be eligible for the benefits under OFLA, the employee must work an average of 25 hours per week and have been employed at least 180 calendar days prior to the first day of the 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.

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.

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

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### Legal Reference(s):

[ORS 332.507](#)

[ORS 342.545](#)

[ORS 659A.090](#)

R4/13/17 | RS

Family Medical Leave \* – GCBDA/GDBDA

[ORS 659A.093](#)  
[ORS 659A.096](#)

[ORS 659A.099](#)  
[ORS 659A.150 to -659A.186](#)

[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).  
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).  
Americans with Disabilities Act Amendments Act of 2008.  
Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9<sup>th</sup> Cir. 2014).

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# OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)

Revised/Reviewed:

D

## Oregon Family Leave \*

(Version 2)

(For employers that offer OFLA or employers with 25 to 49 employees)

### Coverage

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) covers 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 workweeks 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.

### Eligibility

An eligible employee is an employee employed in the state of Oregon on the date OFLA leave begins. OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.<sup>1</sup> 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.

An employee of a covered employer is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or
2. An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of a covered employer is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the covered employer:
  - a. Is eligible to take leave OFLA at the time the employee separates; and
  - b. Is reemployed by the covered employer within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:
  - a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
  - b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a

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<sup>1</sup> The requirements of OFLA do not apply to an employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options, employee leave at least as generous as leave required by OFLA.

temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason, unless the reason is no longer qualifying.

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 employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days (e.g. paid or unpaid) an employee is maintained on payroll for any part of a workweek. Full-time public school teachers who have been maintained on payroll by a district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

### **Qualifying Reasons**

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
  - a. Inpatient care;
  - b. Continuing treatment;
  - c. Chronic conditions;
  - d. Permanent, long-term or terminal conditions;
  - e. Multiple treatments;
  - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
  - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.

3. Sick Child Leave: leave for non-serious health conditions of the employee’s child. Sick child leave includes absence to care for an employee’s child whose school or child care provider has been closed<sup>2</sup> in conjunction with a statewide public health emergency declared by a public health official.<sup>3</sup>
4. Bereavement Leave: leave related to the death of a covered family member.<sup>4</sup>
5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty or who has been deployed during a period of military conflict.
6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed at the start of each qualified leave requested.

## Definitions

1. Family member:

For the purposes of OFLA, “family member” means:

- a. Spouse<sup>5</sup>;
- b. Same-gender domestic partner;
- c. Parent;
- d. Parent-in-law;
- e. Parent of employee’s same-gender domestic partner;
- f. Child;
- g. Child of employee’s same-gender domestic partner;
- h. Grandchild;
- i. Grandparent;
- j. Persons who are “in loco parentis”.

2. Child:

- a. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- b. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

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<sup>2</sup> “Closure” for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child’s school or child care provider. OAR 839-009-0210(4).

<sup>3</sup> The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
  2. The name of the school or child care provider that has closed or become unavailable; and
  3. A statement from the employee that no other family member of the child is willing and able to care for the child.
- With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

<sup>4</sup> Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

<sup>5</sup> “Spouse” means individuals in a marriage, including “common law” marriage, same-sex marriage or same sex individuals with a Certificate of Registered Domestic Partnership.

3. In loco parentis:

For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Public health emergency:

For OFLA a public health emergency means;

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

### Leave Period

For the purposes of calculating an employee’s leave period, the district will use [the calendar year] [any fixed 12-month “leave year”] [the 12-month period measured forward from the date the employee’s leave begins] [a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave]. The same method for calculating the 12-month period for OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA shall be dependent on the start of any such regardless of the district’s designated 12-month leave period described above.

### Leave Duration

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district’s designated leave period. However, an eligible employee is entitled to an additional full 12 weeks of parental leave during the district’s designated leave period following the birth of a child, regardless of how much OFLA qualified leave the employee has taken prior to the birth of such child during the district’s designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the district’s designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.<sup>6</sup> OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.<sup>7</sup>

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee’s leave entitlement during the district’s designated leave period.

Except as otherwise noted above, qualified leave under OFLA for an eligible employee will run concurrently during the district’s designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee’s leave, leave entitlement is calculated by multiplying the number of

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<sup>6</sup> Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

<sup>7</sup> Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family members want to take bereavement leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

hours the eligible employee normally works per week by 12<sup>8</sup>. If an employee's schedule varies from week to week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek<sup>19</sup>. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

## **Intermittent Leave**

With the exception of parental leave, which must be taken in one continuous block of time, an eligible employee is permitted under OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule. For OFLA this includes but is not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child's school or child care provider due to a statewide public health emergency declared by a public health official.

When an employee is eligible for OFLA leave the employer:

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day, but;
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation are not counted against the eligible employee's intermittent leave period unless the employee was scheduled and expected to work on any such day.

## **Alternate Work Assignment**

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in OFLA; and
5. The transfer is not used to discourage the employee from taking OFLA leave for a serious health condition or to create a hardship for the employee.

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<sup>8</sup> For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

<sup>9</sup> For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

The district may transfer an eligible employee who is on a foreseeable intermittent OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state law, including but not limited to the protections provided for in OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to an alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

### **Special Rules for School Employees**

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

#### **1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days**

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family members with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

#### **2. Limitation on Leave near the End of the School Year**

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- D**
- a. When the qualified leave begins more than five weeks before the end of the school year:
    - (1) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year provided:
      - (a) The leave will last at least three weeks; and
      - (b) The employee's return to work would occur within three weeks of the end of the school year.
  - b. For the purposes of OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
    - (1) The leave will last more than two weeks; and
    - (2) The employee would return to work during the two week period before the end of the school year.
  - c. For the purposes of OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

### **Paid/Unpaid Leave**

OFLA does not require the district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, <sup>{10}</sup>{an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.} [the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking OFLA leave without pay during the leave period.] [the district requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.]

The district will notify the eligible employee that the requested leave has been designated as OFLA leave and, if required by the district, that available accrued paid leave shall be used during the OFLA leave period. In the event the district is aware of an OFLA qualifying exigency, the district shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the

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<sup>10</sup> {The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.}

commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the district does not have sufficient information to make a determination of whether the leave qualifies as OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

## **Benefits and Insurance**

When an eligible employee returns to work following a OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working, unless the terms of a collective bargaining agreement, other agreement or other employer's policy provide otherwise.<sup>11</sup> The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provides otherwise.

For the purposes of OFLA, the school district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

## **Fitness-for-Duty Certification**

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as an OFLA leave. Failure to provide the fitness-for-duty certification may result in a delay or denial of reinstatement.

For the purposes of OFLA qualified leave, any out of pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

## **Application**

An eligible employee requesting OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to

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<sup>11</sup> See also ORS 342.934(4)(d) in reduction force situations.

schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as OFLA leave. The district may designate the employee as provisionally on OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

### **Medical Certification**

The district [may] [shall] require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for the leave, other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency. The district will provide written notification to employees of this requirement within three working days of employee's request for leave. If the employee does not provide 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

### **Second and Third Opinions**

For the purposes of OFLA and except for leave related to sick child leave under OFLA, the district may require the employee to obtain a second opinion from a health care provider designated by the district. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

### **Notification**

Any notice required by state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the [superintendent] [personnel director].

### **Record Keeping/Posted Notice**

The district will maintain all records as required by state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of OFLA<sup>12</sup> requirements.

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<sup>12</sup> Poster available at <https://www.oregon.gov/boli/employers/pages/required-worksite-postings.aspx>.

# OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)  
Revised/Reviewed:

## Family Leave \* (Version 1)

{Highly recommended administrative regulation (AR). The law does not require districts to have this information in an AR, but the district is required to follow the law. Having an AR in place can assist with compliance. This AR is intended for districts with 50 or more employees. If the district has between 25 and 50 employees, use version 2 of GCBDA/GDBDA-AR(1) - Family Leave \*. If the district does not have 25 employees, the district should not use this AR.}

### Employee Eligibility

FMLA benefits are available to employees who have been employed by the district for at least 12 months, have worked at least 1,250 hours during the past 12-month period and work at a worksite that employs 50 district employees within 75 miles of the worksite.

An employee who has previously qualified for and has taken some portion of FMLA leave may request additional FMLA leave within the same leave year. In such instances, the employee may not need to requalify as an eligible employee.

Generally, in order for an employee to be eligible for the benefits under OFLA, the employee must work an average of 25 hours or more per week during the 180 calendar days immediately prior to the first day of the start of the requested leave.<sup>1</sup> For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins: there is no minimum average number of hours worked per week.

An employee is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who has worked for the district for fewer than 30 days immediately before the date on which the family leave would commence; or
2. An employee who has worked for the district for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of the district is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the district, irrespective of any reason:
  - a. Is eligible to take leave OFLA at the time the employee separates; and
  - b. Is reemployed by the district within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:

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<sup>1</sup> The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

- a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
- b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for the district prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the district within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. An employee taking, in any order, some or all of 12 weeks of OFLA pregnancy disability leave and some or all of 12 weeks of OFLA leave for any other purpose, need not requalify leave in the same leave year;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave;
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason;
4. An employee unable to work because of a disabling compensable injury<sup>2</sup> need not requalify in order to use OFLA leave following a period the employee is off work due to the compensable injury; and
5. An employee who has taken serious health condition leave to care for a family member who dies during the employee's serious health condition need not requalify to take leave for the death of that family member.

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 employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, the district must consider days, paid or unpaid, an employee is maintained on payroll. Full-time public school teachers who have been maintained on payroll by the district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

### **Qualifying Reason**

Eligible employees may access FMLA leave for the following reasons:

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<sup>2</sup> As defined in ORS 656.005.

1. Serious health condition of the employee or the employee’s covered family member. Serious health condition means an illness, injury, impairment or physical or mental condition that involves inpatient care<sup>3</sup> or continuing treatment by a health care provider<sup>4</sup>.
2. Parental leave<sup>5</sup> (separate from eligible leave as a result of a child’s serious health condition):
  - a. Bonding with and the care for the employee’s newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted child or newly placed child in foster care<sup>{6}</sup> under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted child or newly placed child in foster care over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a child in foster care or the adoption of a child.
3. Military Caregiver Leave: leave for the care for spouse, child or next-of-kin who is a covered servicemember with a serious injury or illness;
4. Qualifying Exigency Leave: leave arising out of the foreign deployment of the employee’s spouse, child or parent.

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee’s covered family member. 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.<sup>7</sup>
2. Parental leave (separate from eligible leave as a result of the child’s serious health condition):

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<sup>3</sup> Inpatient care means an overnight stay in a hospital, hospice, or residential medical facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care. 29 CFR 825.114.

<sup>4</sup> Continuing treatment includes incapacity and treatment, pregnancy or prenatal care, chronic conditions, permanent or long-term conditions, conditions requiring multiple treatments, and absences attributable to incapacity. See 29 CFR 815.115.

<sup>5</sup> Parental leave must be taken in one continuous block of time within 12 months of the triggering event.

<sup>6</sup> {ORS 659A.159 uses the term “foster child.” Districts can choose to use either “foster child” or “child in foster care” throughout this AR.}

<sup>7</sup> This definition is from ORS 659A.150(7). A more detailed definition is available in OAR 839-009-0210(22).

- a. Bonding with and the care for the employee’s newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted child or newly placed child in foster care under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted child or newly placed child in foster care over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a child in foster care or the adoption of a child.
3. Sick Child Leave: leave for non-serious health conditions of the employee’s child. For OFLA, sick child leave includes absence to care for an employee’s child whose school or child care provider has been closed<sup>8</sup> in conjunction with a statewide public health emergency declared by a public health official.<sup>9</sup>
  4. Bereavement Leave: leave related to the death of a covered family member.<sup>10</sup>
  5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or domestic partner who is in the military and has been notified of an impending call or order to active duty, or who has been deployed during a period of military conflict.
  6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same leave year may be reconfirmed at the start of each qualified leave requested.

## Definitions

1. Family member:
  - a. For the purposes of FMLA, “family member” means:
    - (1) Spouse<sup>11</sup>;
    - (2) Parent;
    - (3) Child; or
    - (4) Persons who are “in loco parentis”.
  - b. For the purposes of OFLA, “family member” means:
    - (1) Spouse or domestic partner;

<sup>8</sup> “Closure” for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child’s school or child care provider. OAR 839-009-0210(4).

<sup>9</sup> The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
2. The name of the school or child care provider that has closed or become unavailable;
3. A statement from the employee that no other family member of the child is willing and able to care for the child; and
4. With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

<sup>10</sup> Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

<sup>11</sup> “Spouse” means individuals in a marriage, including “common law” marriage and same-sex marriage.

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- (2) Child or the child’s spouse or domestic partner;
- (3) Parent or the parent’s spouse or domestic partner;
- (4) Sibling or stepsibling, or the sibling’s or stepsibling’s spouse or domestic partner;
- (5) Grandparent or the grandparent’s spouse or domestic partner;
- (6) Grandchild or the grandchild’s spouse or domestic partner; or
- (7) Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.<sup>12</sup>

2. Child:

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- a. For the purposes of FMLA, “child” means a biological or adopted child, a child in foster care, a stepchild, a legal ward or a child of a person standing “in loco parentis”, who is either under the age of 18, or who is 18 years of age or older and who is incapable of self-care because of a physical or mental disability.
- b. For the purposes of Military Caregiver Leave and Qualifying Exigency Leave under FMLA, “child” means the employee’s child on covered active duty regardless of that child’s age.
- c. For the purposes of OFLA, “child” means a biological or adopted child, a child in foster care or stepchild of the employee, the child of the employee’s domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- d. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

3. In loco parentis:

- a. For the purposes of FMLA, “in loco parentis” means persons with day-to-day responsibility to care for or financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- b. For the purposes of OFLA, “in loco parentis” means person in the place of the parent, having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Next of kin:

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<sup>12</sup> “Affinity” means a relationship for which there is a significant personal bond that, when examined under the totality of the circumstances, is like a family relationship. This bond may be demonstrated by, but is not limited to the following factors, with no single factor being determinative:

- a. Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills or beneficiary designations;
- b. Emergency contact designation of the employee by the other individual in the relationship or the emergency contact designation of the other individual in the relationship by the employee;
- c. The expectation to provide care because of the relationship or the prior provision of care;
- d. Cohabitation and its duration and purpose;
- e. Geographic proximity; and
- f. Any other factor that demonstrates the existence of a family-like relationship.

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For the purposes of FMLA , “next of kin” means the nearest blood relative other than the servicemember’s spouse, parent or child in the following order of priority (unless otherwise designated in writing by the servicemember):

- a. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- b. Siblings;
- c. Grandparents;
- d. Siblings of parents and their spouses; and
- e. First cousins.

5. Covered servicemembers:

For the purposes of FMLA, “covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness; or a covered veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.

6. Covered veteran:

For the purposes of FMLA, “covered veteran” means an individual who was:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
- b. Discharged or released under conditions other than dishonorable; and
- c. Discharged within the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

7. Public health emergency:

For OFLA a public health emergency means;

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

## Leave Period

For the purposes of calculating an employee’s leave period, the district will use ~~the calendar year~~ ~~any fixed 12-month “leave year”~~ [the 12-month period measured forward from the date the employee’s leave begins] ~~a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave~~ ~~a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family leave commences~~ <sup>{13}</sup>. The same method for calculating the one-year period for FMLA and OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA and Military Caregiver Leave under FMLA shall be dependent on the start of any such leave regardless of the district’s designated leave period described above.

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<sup>{13}</sup> Beginning July 1, 2024, districts are required to use the final bracketed option for OFLA purposes. See SB 999 (2023). Prior to making a change to the leave period calculation, 60 days’ notice must be provided to employees. FMLA continues to measure the leave year as 12 months, which could result in slight differences for some employees.

## Leave Duration

For the purposes of FMLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district's designated leave period<sup>14</sup>. Spouses who work for the district may be limited to a combined 12 weeks of FMLA leave during the district's designated leave period when the purpose of the leave is for the birth of a child or to care for a child after birth, placement of an adopted child or child in foster care, the care for an adopted child or child in foster care after placement, or to care for the employee's parent's serious medical condition. Except in specific and unique instances, all qualified leave under FMLA counts toward an employee's leave entitlement within the designated leave period.

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the designated leave period. However, an employee may be entitled to an additional, full 12 weeks of parental leave during the designated leave period following the birth of a child regardless of how much OFLA qualified leave the employee has taken prior to the birth of such child during the designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA.<sup>15</sup> Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.<sup>16</sup>

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee's leave entitlement during the designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee's leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12<sup>17</sup>. If an employee's schedule varies from week-to-week, a weekly average of the hours worked over the 12 months worked prior to the beginning of

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<sup>14</sup> An eligible employee taking Military Caregiver Leave under FMLA is entitled to up to 26 weeks of leave in the 12-month period beginning with the first day of such leave and regardless of any FMLA leave taken previously during the district's leave period. However, once the 12-month period begins for the purposes of Military Caregiver Leave under FMLA, any subsequent FMLA qualified leave, regardless of reason for such leave, will count toward the employee's 26-week entitlement under Military Caregiver Leave under FMLA.

<sup>15</sup> Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

<sup>16</sup> Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family member wants to take Bereavement Leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

<sup>17</sup> For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

the leave period shall be used for calculating the employee's normal workweek<sup>18</sup>. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

### **Intermittent Leave**

With the exception of parental leave which must be taken in one continuous block of time, an eligible employee is permitted under FMLA and OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (i.e., hours, days, weeks, etc.) rather than in one continuous block of time and/or requiring an altered or reduced work schedule. For OFLA this includes but is not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child's school or child care provider due to a statewide public health emergency declared by a public health official.

When an exempt employee is eligible for both OFLA and FMLA leave, and the employee takes intermittent leave in blocks of less than one day, if done in accordance with 29 CFR § 825.206, the district may reduce the employee's salary for the part-day absence without the loss of the employee's exempt status in accordance with OAR 839-020-0004(30)(a).

When an exempt employee is eligible for OFLA but not FMLA leave, and the employee takes intermittent leave in blocks of less than one day, the district will jeopardize the employee's exempt status if the district reduces the employee's salary for the party-day absence.

An employee's FMLA and/or OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation, are not counted against the eligible employee's intermittent OFLA leave period unless the employee was scheduled and expected to work on any such day.

### **Alternate Work Assignment**

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;

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<sup>18</sup> For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

4. The transfer is compliant with state and federal law, including but not limited to the applicable protections provided for in FMLA and/or OFLA; and
5. The transfer is not used to discourage the employee from taking FMLA and/or OFLA leave for a serious health condition or to create a hardship for the employee.

The district may transfer an eligible employee who is on intermittent OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary to accommodate the leave and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreements;
4. The transfer is compliant with state and federal law, including but not limited to the applicable protections provided for in FMLA and/or OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position to accommodate the employee's serious health condition, and as a result the employee works fewer hours than the employee was working in the original position, the employee's OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

### **Special Rules for School Employees**

For the purposes of FMLA, "instructional employee" means those whose principal function is to teach and instruct students in a class, a small group or an individual setting. Athletic coaches, driving instructors and special education assistants, such as interpreters for the hearing impaired, are included in this definition. This definition does not apply to teacher assistants or aides who do not have as their principal job actual teaching or instructing, counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

FMLA and/or OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family member with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

2. Limitation on Leave Near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
  - (1) For the purposes of FMLA leave, the eligible school employee may be required to continue taking leave until the end of the school year provided:
    - (a) The leave will last at least three weeks; and
    - (b) The employee would return to work during the three-week period before the end of the term.
  - (2) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain on leave until the end of the school year, provided:
    - (a) The leave will last at least three weeks; and
    - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
  - (1) The leave will last more than two weeks; and
  - (2) The employee would return to work during the two-week period before the end of the school year.

- c. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

## **Paid/Unpaid Leave**

FMLA and OFLA do not require the district to pay an eligible employee who is on a qualified leave. Paid Family Medical Leave Insurance (PMFLI) leave taken via Paid Leave Oregon or an equivalent plan will run concurrently with OFLA and FMLA when taken for the same purpose. Subject to any related provisions in any applicable collective bargaining agreement [an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.]{<sup>19</sup>} This includes when an employee is being paid through PMFLI. The district will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and ask the employee about the use of available accrued paid leave.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

## **Benefits and Insurance**

When an eligible employee returns to work following a FMLA or OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working, unless the terms of a collective bargaining agreement, other agreement or other district policy provide otherwise.<sup>20</sup> The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provide otherwise.

For the purposes of FMLA and OFLA, the district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to pay the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of FMLA qualified leave, the district's obligation to maintain the employee's group health insurance coverage will cease if the employee's contribution is remitted more than 30 calendar days

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<sup>19</sup> {Coordinate with any language regarding use of accrued leave during PMFLI from GDBDF/GDBDF or any equivalent plan information.}

<sup>20</sup> See also ORS 342.934(4)(d) in reduction force situations.

late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

### **Fitness-for-Duty Certification**

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA and/or OFLA leave. Failure to provide the certification may result in a delay or denial of reinstatement.

For the purposes of FMLA qualified leave, any costs associated with obtaining the fitness-for-duty certification shall be borne by the employee.

For the purposes of OFLA qualified leave, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under both FMLA and OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

### **Application**

Under federal and state law, an eligible employee requesting FMLA and/or OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start date, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The district may designate the employee as provisionally on FMLA and/or OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take FMLA and/or OFLA leave must follow the district's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of FMLA, if advance notice is not possible, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," for the purpose of FMLA leave, means as soon as both possible and practical, taking into account all of the facts and circumstances in the individual case. In most situations, as soon as practicable will be within one business day of an employee becoming aware of the need. Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee's leave up to 30 days after the notice is ultimately given.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the district must choose the remedy that is most advantageous to the employee.<sup>21</sup>

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

### **Medical Certification**

The district may require an eligible employee to provide medical documentation, when appropriate<sup>22</sup>, to support the stated reason for such leave. The district will provide written notification to an employee of this requirement within five working days of the employee's request for leave. If the employee provides less than 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

Any additional certifications, including second and third opinions, will be in accordance with applicable law.

### **Posted Notice**

The district will post the Bureau of Labor and Industries Family Leave notice in each building or worksite that is accessible to and regularly frequented by employees.<sup>23</sup> The district will also post a notice explaining the provisions of FMLA and providing information concerning the procedures for filing complaints.<sup>24</sup>

### **Record Keeping**

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

### **Federal vs. State Law**

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law; and that OFLA

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<sup>21</sup> See OAR 839-009-0250(4)(c).

<sup>22</sup> Medical documentation is not allowed in every situation. Review current laws and guidance for more information.

<sup>23</sup> [https://www.oregon.gov/boli/employers/Documents/BOLI\\_Printable\\_FamilyMedLv.pdf](https://www.oregon.gov/boli/employers/Documents/BOLI_Printable_FamilyMedLv.pdf); electronic posting is not sufficient to satisfy this requirement, but may be used to supplement the physical posting.

<sup>24</sup> <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fmlaen.pdf>; electronic posting is sufficient as long as it is posted prominently where it can be readily seen by employees and applicants for employees. The poster and the text must be large enough to be easily read and contain fully legible text.

and FMLA leave entitlements run concurrently. State law requires that FMLA and OFLA leave entitlements run concurrently when possible.

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# OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)  
Revised/Reviewed:

D

## Family Leave \*

### Coverage

The federal Family and Medical Leave Act (FMLA) applies to districts with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more workweeks 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.

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (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 workweeks 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.

### Employee Eligibility

FMLA applies to employees who have worked for the district for at least 12 months (not necessarily consecutive) and worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

An employee who has previously qualified for and has taken some portion of FMLA leave may request additional FMLA leave within the same leave year. In such instances, the employee need not requalify as an eligible employee, if the additional leave applied for is in the same leave year and for the same condition.

OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave.<sup>1</sup> For parental leave purposes, an employee becomes eligible upon completing at least 180 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.

An employee of a covered employer is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or

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<sup>1</sup> The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

2. An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of a covered employer is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the covered employer, irrespective of any reason:
  - a. Is eligible to take leave OFLA at the time the employee separates; and
  - b. Is reemployed by the covered employer within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:
  - a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
  - b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

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 employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days, e.g., paid or unpaid, an employee is maintained on payroll for any part of a work week. Full-time public school teachers who have been maintained on payroll by a district for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example, the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

### **Qualifying Reason**

Eligible employees may access FMLA leave for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
  - a. Inpatient care;
  - b. Continuing treatment;
  - c. Chronic conditions;
  - d. Permanent, long-term or terminal conditions;
  - e. Multiple treatments;
  - f. Pregnancy and prenatal care.
2. Parental leave<sup>2</sup> (separate from eligible leave as a result of a child's serious health condition):
  - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Military Caregiver Leave: leave for the care for spouse, son, daughter or next-of-kin who is a covered servicemember/veteran with a serious injury or illness;
4. Qualifying Exigency Leave: leave arising out of the foreign deployment of the employee's spouse, son, daughter or parent.

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
  - a. Inpatient care;
  - b. Continuing treatment;
  - c. Chronic conditions;
  - d. Permanent, long-term or terminal conditions;
  - e. Multiple treatments;
  - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
  - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
  - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
  - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
  - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.

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<sup>2</sup> Parental leave must be taken in one continuous block of time within 12 months of the triggering event.

3. Sick Child Leave: leave for non-serious health conditions of the employee’s child. For OFLA, sick child leave includes absence to care for an employee’s child whose school or child care provider has been closed<sup>3</sup> in conjunction with a statewide public health emergency declared by a public health official.<sup>4</sup>
4. Bereavement Leave: leave related to the death of a covered family member.<sup>5</sup>
5. Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty, or who has been deployed during a period of military conflict.
6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed at the start of each qualified leave requested.

**Definitions**

1. Family member:
  - a. For the purposes of FMLA, “family member” means:
    - (1) Spouse<sup>6</sup>;
    - (2) Parent;
    - (3) Child; or
    - (4) Persons who are “in loco parentis”.
  - b. For the purposes of OFLA, “family member” means:
    - (1) Spouse;
    - (2) Registered, same-gender domestic partner;
    - (3) Parent;
    - (4) Parent-in-law;
    - (5) Parent of employee’s registered, same-gender domestic partner;
    - (6) Child;
    - (7) Child of employee’s registered, same-gender domestic partner;

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<sup>3</sup> “Closure” for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child’s school or child care provider. OAR 839-009-0210(4).

<sup>4</sup> The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
2. The name of the school or child care provider that has closed or become unavailable; and
3. A statement from the employee that no other family member of the child is willing and able to care for the child. With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

<sup>5</sup> Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

<sup>6</sup> “Spouse” means individuals in a marriage, including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

- (8) Grandchild;
- (9) Grandparent; or
- (10) Persons who are “in loco parentis”.

2. Child:

- a. For the purposes of FMLA, “child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing “in loco parentis”, who is either under the age of 18, or who is 18 years of age or older and who is incapable of self-care because of a physical or mental impairment.
- b. For the purposes of Military Caregiver Leave and Qualifying Exigency Leave under FMLA, “child” means the employee’s son or daughter on covered active duty regardless of that child’s age.
- c. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- d. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

3. In loco parentis:

- a. For the purposes of FMLA, “in loco parentis” means persons with day-to-day responsibility to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- b. For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Next of kin:

For the purposes of FMLA and Military Caregiver Leave under FMLA, “next of kin” means the nearest blood relative other than the servicemember’s spouse, parent, son or daughter in the following order of priority (unless otherwise designated in writing by the servicemember):

- a. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- b. Brothers or sisters;
- c. Grandparents;
- d. Aunts and uncles; and
- e. First cousins.

5. Covered servicemembers:

For the purposes of Military Caregiver Leave under FMLA, “covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation or therapy, or is in outpatient status, or is on the temporary disability retired list for a serious injury or illness.

6. Covered veteran:

For the purposes of Military Caregiver Leave under FMLA, “covered veteran” means a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness provided they were:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
- b. Discharged or released under conditions other than dishonorable; and
- c. Discharged within the five-year period before the eligible employee first takes FMLA, Military Caregiver Leave.

7. Public health emergency:

For OFLA a public health emergency means;

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

### Leave Period

For the purposes of calculating an employee’s leave period, the district will use [the calendar year] [any fixed 12-month “leave year”] [the 12-month period measured forward from the date the employee’s leave begins] [a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave]. The same method for calculating the 12-month period for FMLA and OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA and Military Caregiver Leave under FMLA shall be dependent on the start of any such leave regardless of the district’s designated 12-month leave period described above.

### Leave Duration

For the purposes of FMLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district’s designated leave period<sup>7</sup>. Spouses who work for the district may be limited to a combined 12 weeks of FMLA leave during the district’s designated leave period when the purpose of the leave is for the birth of a child or to care for a child after birth, placement of an adopted or foster child or the care for an adopted or foster child after placement, or to care for the employee’s parent’s serious medical condition. Except in specific and unique instances, all qualified leave under FMLA counts toward an employee’s leave entitlement within the district’s designated leave period.

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the district’s designated leave period. However, an eligible employee is entitled to an additional, full 12 weeks of parental leave during the district’s designated leave period following the birth of a child regardless of how much OFLA qualified leave the employee has taken prior to the birth of such child during the district’s designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick

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<sup>7</sup> An eligible employee taking Military Caregiver Leave under FMLA is entitled to up to 26 weeks of leave in the 12-month period beginning with the first day of such leave and regardless of any FMLA leave taken previously during the district’s leave period. However, once the 12-month period begins for the purposes of Military Caregiver Leave under FMLA, any subsequent FMLA qualified leave, regardless of reason for such leave, will count toward the employee’s 26-week entitlement under Military Caregiver Leave under FMLA.

child leave under OFLA during the district’s designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.<sup>8</sup> Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district may be restricted from taking concurrent OFLA qualified leave.<sup>9</sup>

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee’s leave entitlement during the district’s designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the district’s designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee’s leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12<sup>10</sup>. If an employee’s schedule varies from week-to-week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee’s normal workweek<sup>11</sup>. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

### **Intermittent Leave**

With the exception of parental leave which must be taken in one continuous block of time, an eligible employee is permitted under FMLA and OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (i.e., hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule. For OFLA this includes but not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child’s school or child care provider due to a statewide public health emergency declared by a public health official.

When an employee is eligible for OFLA leave, but not FMLA leave, the employer:

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<sup>8</sup> Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

<sup>9</sup> Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family member wants to take Bereavement Leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

<sup>10</sup> For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

<sup>11</sup> For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day; but
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's FMLA and/or OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the district is not in operation, are not counted against the eligible employee's intermittent OFLA leave period unless the employee was scheduled and expected to work on any such day.

### **Alternate Work Assignment**

The district may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA; and
5. The transfer is not used to discourage the employee from taking FMLA and/or OFLA leave for a serious health condition or to create a hardship for the employee.

The district may transfer an eligible employee who is on a foreseeable intermittent FMLA and/or OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreements;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's FMLA and/or OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of FMLA and/or OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA and/or OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

### **Special Rules for School Employees**

For the purposes of FMLA, "instructional employee" means those whose principal function is to teach and instruct students in a class, a small group or an individual setting. Athletic coaches, driving instructors and special education assistants, such as interpreters for the hearing impaired, are included in this definition. This definition does not apply to teacher assistants or aides who do not have as their principal job actual teaching or instructing, counselors, psychologist, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

FMLA and/or OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

#### **1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days**

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family member with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the district may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

#### **2. Limitation on Leave Near the End of the School Year**

When an eligible school employee requests leave near the end of the school year, the district may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:

(1) For the purposes of FMLA leave, the eligible school employee may be required to continue taking leave until the end of the school year provided:

**D**

- (a) The leave will last at least three weeks; and
- (b) The employee would return to work during the three-week period before the end of the term.

(2) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year, provided:

- (a) The leave will last at least three weeks; and
- (b) The employee's return to work would occur within three weeks of the end of the school year.

b. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:

- (1) The leave will last more than two weeks; and
- (2) The employee would return to work during the two-week period before the end of the school year.

c. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the district requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

## **Paid/Unpaid Leave**

FMLA and OFLA do not require the district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, {<sup>12</sup>} [an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.] [the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking FMLA and/or OFLA leave without pay during the leave period.] [the district requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued

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<sup>12</sup> {The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.}

vacation leave before taking FMLA and/or OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.]

The district will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that available accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

### **Benefits and Insurance**

When an eligible employee returns to work following a FMLA or OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working, unless the terms of a collective bargaining agreement, other agreement or other employer's policy provide otherwise.<sup>13</sup> The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the district's policies provide otherwise.

For the purposes of FMLA and OFLA, the district will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to pay the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of FMLA qualified leave, the district's obligation to maintain the employee's group health insurance coverage will cease if the employee's contribution is remitted more than 30 calendar days late. The district will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

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<sup>13</sup> See also ORS 342.934(4)(d) in reduction force situations.

## **Fitness-for-Duty Certification**

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the district may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the district is going to require a fitness-for-duty certification upon return to work, the district must notify the employee of such requirement when the leave is designated as FMLA and/or OFLA leave. Failure to provide the certification may result in a delay or denial of reinstatement.

For the purposes of FMLA qualified leave, any costs associated with obtaining the fitness-for-duty certification shall be borne by the employee.

For the purposes of OFLA qualified leave, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

If the leave is qualified under both FMLA and OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the district.

## **Application**

Under federal and state law, an eligible employee requesting FMLA and/or OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start date, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the district.

The district may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The district may designate the employee as provisionally on FMLA and/or OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take FMLA and/or OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of FMLA, if advance notice is not possible, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," for the purpose of FMLA leave, means the employee must comply with the employer's normal call-in procedures except in limited and under unique circumstances. Failure of an employee to provide the required notice for FMLA leave may result in the district delaying the employee's leave up to 30 days after the notice is ultimately given.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may designate a family member or friend to notify the district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the district's notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the district must choose the remedy that is most advantageous to the employee.

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

## **Medical Certification**

The district [may] [shall] require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for such leave, other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency. The district will provide written notification to an employee of this requirement within five working days of the employee's request for leave. If the employee provides less than 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the district's notification that medical certification is required.

The district may request re-certification of a condition when the minimum duration of a certification expires if continued leave is requested. If the certification does not indicate a duration or indicates that it is ongoing, the district may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the district.

## **Second and Third Opinions**

1. For the purposes of FMLA, the district may designate a second health care provider, but that person cannot be utilized by the district on a regular basis except in rural areas where health care is extremely limited. If the opinions of the employee's and the district's designated health care provider(s) differ, the district may require a third opinion at the district's expense. The third health care provider must be designated or approved jointly by the employee and the district. This third opinion shall be final and binding.
2. For the purposes of OFLA, and except for leave related to sick child leave under OFLA, the district may require the employee to obtain a second opinion from a health care provider designated by the district. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

## **Notification**

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the district office. Additional information may be obtained by contacting the [superintendent] [personnel director].

## **Record Keeping/Posted Notice**

The district will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The district will post notice of FMLA<sup>14</sup> and OFLA<sup>15</sup> leave requirements.

### **Federal vs. State Law**

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law; and that OFLA and FMLA leave entitlements run concurrently. State law requires that FMLA and OFLA leave entitlements run concurrently when possible.

For example, due to differences in regulations, an eligible employee who takes OFLA leave after 180 days of employment, but before they are eligible for FMLA leave, is still eligible to take a full 12 workweeks of FMLA leave after meeting FMLA's eligibility requirements. Thereafter, any eligible leave period will run concurrently, when appropriate.

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<sup>14</sup> Poster available at <https://www.dol.gov/agencies/whd/fmla/posters>.

<sup>15</sup> Poster available at <https://www.oregon.gov/boli/employers/pages/required-worksites-postings.aspx>.

# OSBA Model Sample Policy

Code: GCPC/GDPC  
Adopted:

## Retirement of Staff \*

{Senate Bill (SB) 1049 (2019) made it possible for employees to retire under PERS and work for a PERS-covered employer, without hour restrictions in most situations. House Bill (HB) 2296 (2023) extends this law to 2034. The law does not require districts to allow PERS-retired employees to work in the district, rather, leaves the decision up to the district. OSBA encourages districts to evaluate the situation (including financial impacts) prior to making a decision regarding these employees. If districts do allow retired employees to return to work, OSBA recommends working with legal counsel to develop criteria and procedures that can be consistently implemented. Also consider the bargaining impacts of the selected practice.}

To assist the district in its planning efforts, staff members considering retirement are encouraged to notify the district as early as possible, preferably at the beginning of the school year in which the retirement will take place.

~~{Retiring employees are encouraged to coordinate with PERS and the [Human Resources Department] to ensure that all requirements are met. The superintendent will develop requirements, limitations and procedures for employment as a PERS retiree.}^{1}}~~

*{Regarding PERS-workback, there are three main options for districts, please choose one of the following:}*

~~{When an employee of the district retires under PERS, that employee's employment with the district will terminate. Individuals who have retired under PERS are not eligible for employment in the district.}~~

*{OR}*

~~{When an employee of the district retires under PERS, that employee's employment with the district will terminate. PERS-retired individuals may apply for open positions with the district.}^{2}}~~

*{OR}*

~~{District employees will be allowed to retire under PERS and return to their position in the district [only for the remainder of the school year]}^{4}.^{5}}~~

END OF POLICY

<sup>1</sup> {House Bill 2296 (2023) modified Senate Bill 1049 (2019), which allows PERS-retired employees to continue to work for PERS-employers without hour restrictions; this provision is now set to expire at the end of 2034.}

<sup>2</sup> There must be a break in service for retired employees returning to work.

<sup>3</sup> {House Bill 2296 (2023) modified Senate Bill 1049 (2019), which allows PERS-retired employees to continue to work for PERS-employers without hour restrictions; this provision is now set to expire at the end of 2034.}

<sup>4</sup> {Districts can limit workback, but must consider equity pay laws when developing any criteria.}

<sup>5</sup> There must be a break in service for retired employees returning to work.

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**Legal Reference(s):**

[ORS Chapter 237](#)  
[ORS Chapter 238](#)

[ORS Chapter 238A](#)  
[ORS 243.303](#)

[ORS 342.120](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1169 (2018).  
Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1461 (2018).  
OR. CONST., art. IX, §§ 10-13.  
[House Bill 2296 \(2023\)](#).

# OSBA Model Sample Policy

Code: LBE  
Adopted:

## Public Charter Schools\*\*

Public charter schools may be established as a new public school or a virtual public school, from one or more existing public schools in the district or a portion of the school, or from an existing alternative education program. A public charter school may not convert an existing tuition-based private school into a charter school, affiliate itself with a nonpublic sectarian school or religious institution, or encompass all the schools in the district unless the district is composed of only one school.

Public charter schools shall demonstrate a commitment to the mission and diversity of public education while adhering to the following goals:

1. Increase student learning and achievement;
2. Increase choices of learning opportunities for students;
3. Better meet individual student academic needs and interests;
4. Build stronger working relationships among educators, parents and other community members;
5. Encourage the use of different and innovative learning methods;
6. Provide opportunities in small learning environments for flexibility and innovation;
7. Create new professional opportunities for teachers;
8. Establish additional forms of accountability for schools; and
9. Create innovative measurement tools.

An applicant must submit a complete public charter school proposal that meets the requirements of Oregon law, and includes other information required by the district in the application process. The public charter school will be located and operated within the sponsoring district except where authorized by law.

The public charter school employer will be determined with each proposal. If the district is the employer, the terms of the current collective bargaining agreement will be examined to determine which parts of the agreement apply. If the district is not the sponsor of the public charter school, the district shall not be the employer and will not collectively bargain with public charter school employees.

The district will determine if it has any vacant or unused buildings and make a list of such buildings; buildings may be made available for public charter school use, subject to Board approval and Board policy.

Public charter school students may, upon request, be allowed to participate in district programs such as physical education, instrumental and vocal music offerings, or other selected options if space and materials

are available.<sup>1</sup> Students must adhere to state law, Board policies, regulations, and rules concerning student conduct and discipline. ~~[[Public charter school students shall not be permitted to participate in district curricular programs.<sup>2</sup>]]~~

Public charter school students in grades K-8 may participate in their resident district’s activities that are offered before or after regular school hours. Public charter school students in grades 9-12 may participate in their resident district’s available activities that are sanctioned by the Oregon School Activities Association (OSAA) when the requirements found in Oregon law are met.

The district ~~[[will]]~~~~[[will not]]~~ provide instructional materials, lesson plans, or curriculum guides for use in a public charter school.

The superintendent will develop administrative regulations to include, but not limited to, the proposal process, review, and appeal procedures, and program evaluation, renewal, and termination.

END OF POLICY

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**Legal Reference(s):**

[ORS 327.077](#)  
[ORS 327.109](#)  
[ORS 332.107](#)

[ORS 338](#)  
[ORS 339.141](#)  
[ORS 339.147](#)

[ORS 339.450](#)  
[ORS 339.460](#)  
[OAR 581-026-0005 - 0710](#)

Every Student Succeeds Act, 20 U.S.C. §§ 6311-6322 (2018).  
[Senate Bill 767 \(2023\)](#).

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<sup>1</sup> This does not apply to the Oregon law related to OSAA-sanctioned activity participation.

<sup>2</sup> Unless allowed by Oregon law related to OSAA-sanctioned activity participation.

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# OSBA Model Sample Policy

Code: LBEA  
Adopted:

## Resident Student Denial for Virtual Public Charter School Attendance\*\*

{Conditionally Required. This policy is required if the district plans to deny enrollment of a student to attend a virtual public charter school. OAR 581-026-0007}

The district is not required to approve a transfer of a resident student, when more than three percent of the students residing in the district are attending a virtual public charter school not sponsored by the district. The district will semiannually, by October 1 and April 1, calculate the percentage of students residing in the district, who are attending a virtual public charter school not sponsored by the district. When the established percentage is more than three percent, the district will not approve additional students enrollment to such a virtual public charter school.

A parent must give notice to the district of intent to enroll their student in a virtual public charter school not sponsored by the district, before enrolling their student in such a school and notice of actual enrollment.

If the district is not approving the enrollment, the district must respond with a decision to not give approval within 10 calendar days of receipt of the notice of intent from the parent. Such decision must include:

1. The percentage of students in the district that attend virtual public charter schools that are not sponsored by the district, based on recent calculations;
2. The right to appeal the decision to the State Board of Education;
3. A list of two or more other online options available to the student; and
4. A copy of OAR 581-026-0305 and OAR 581-026-0310.

The district is only required to use data that is reasonably available to the district, including but not limited to the following for such calculation:

1. The number of students residing in the district enrolled in the schools within the district;
2. The number of students residing in the district enrolled in public charter schools located in the district;
3. The number of students residing in the district enrolled in virtual public charter schools;
4. The number of home-schooled students who reside in the district and who have registered with the educational service district; and
5. The number of students who reside in the district enrolled in private schools located within the school district.

A parent may appeal a decision of a district to not approve a student enrollment to a virtual public charter school to the State Board of Education under OAR 581-026-0310.

CR 8/30/23 | LF Resident Student Denial for Virtual Public Charter School Attendance\*\* - LBEA

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**Deleted:** ] [by [December 1]]

**Deleted:** the number of

**Deleted:** enrolled in

**Deleted:** , subject to the requirements in Oregon Administrative Rule (OAR) 581-026-0305(2)

**Deleted:** The district may send a notice of approval or disapproval to a parent<sup>2</sup> of a student who has sent a notice to the district of intent to enroll the student in a virtual public charter school not sponsored by the district<sup>4</sup> (See OAR 581-026-0305(3)).

**Deleted:** The district may respond with an approval or disapproval to a parent within [five] [eight] business days<sup>3</sup> of receipt of the notice from the parent.

**Deleted:** 11/06/20

If the student was enrolled in a virtual public charter school while living in another district and has maintained continuous enrollment in such school since moving into, and residing in this district, approval is not required.

END OF POLICY

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**Legal Reference(s):**

[ORS 332.107](#)

[ORS 338.125](#)

[OAR 581-026-0305](#)

[OAR 581-026-0310](#)

[House Bill 3024 \(2023\)](#)

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## **Student Body Report- Nov 8, 2023**

### **Student body 2023:**

Lyvia Short- Rep

Alayna White- Treasurer

Eva Mather - Secretary

Ezra Pennel- soph rep

Ella mather - vp

Keira Alvarez-Wilson- Activities

Ella Smith- President, senior rep

Angie- Freshman rep

### **Events this year:**

- Elections held in September
- Homecoming Assembly where we introduced our court prince and princess
- Spirit Week where the juniors won
- We helped out with the k-12 Fall Festival, supporting AVID. Elementary went around to secondary classrooms where they would participate in a craft or activity. In between they were able to meet different staff members. Gathering candy along the way.

### **Fundraisers -**

- 9th grade Monster Cookie Dough
- Junior class - Homecoming
- Sophomore class- Selling candles
- Seniors - Trick or Treat Grams, Candy store

### **Up and coming**

- Tomorrow Sports Assembly 8th period for volleyball, football, cross country and soccer
- Door decorating starts Nov 27th the theme will be winter movies
- We will be selling Holly Grams in Dec

# **BOARD MAINTENANCE REPORT**

## **NOVEMBER 2023**

### ***WALK IN FREEZER***

- *The Walk in Freezer is on its foundation and is operational*
- We are currently installing shelves and transferring stock from chest freezers in the storage building

### **THERMOSTATS UPGRADE AND MONITORING EQUIPMENT**

- We have been working with Community Energy Labs to explore grant opportunities for our school. During this process it became evident that we didn't have enough data to be competitive. The next step was to try to monitor usage through our existing Thermostat portal but the technology of the ten year old thermostats wasn't able to provide the necessary information.
- Community Energy Labs explored options for funding to install new thermostats and monitoring equipment to get the information they needed.
- Funding was secured by CEL (Community Energy Labs) from the USDA to install the monitoring equipment and the first of four phases of thermostat upgrades. This will give us a better sense of our energy consumption and its relationship to heating.
- The goal is to eventually complete all four phases and upgrade to one system and portal to control the heating throughout the school.
- Phase one is for the classrooms with the existing Envi thermostats, and the installation of the monitoring equipment.
- The installation is set to be completed and operational in the upcoming weeks

## **November 2023 School Board Report**

### **Transportation and Technology**

1. Looking at potential options for Fleet upgrades for buses. Propane vs Gasoline vs Diesel. Viability of Propane pump onsite is questionable at this point although it seems to be the best choice for future vehicles. Still investigating options.
2. Fourth Bus Driver in training for certification. Potentially certified by end November.

## **District Board Meeting: Triangle Lake Charter School Report**

### **November 2023 Meeting**

- **Our Fall Festival was a success at the end of October!**
  - **Middle School and High School students did a fantastic job of hosting activities for K-5 students throughout the afternoon. It was great to see the collaboration and problem solving that happened between secondary students as they planned and executed their plans.**
    - **6<sup>th</sup> grade – Fall BINGO**
    - **7<sup>th</sup> grade – Picture Frame Decorating**
    - **8<sup>th</sup> grade – Musical Chairs**
    - **9<sup>th</sup> grade – Carnival Games**
    - **10<sup>th</sup> grade – Mummy Wrap Activity**
    - **11<sup>th</sup> grade – Pumpkin Seed Counting**
    - **12<sup>th</sup> grade – Haunted House**
  - **A big thank you to our community members that came and participated in the trick or treat trail, a stop between for each grade as they moved to their next activity. We had representation from the Grange, Booster Club and School Board plus District Office Staff, we really appreciate their participation!**
  
- **Mid-Semester Parent/Teacher Conferences:**
  - **Thursday, November 9th: Parent Conferences 4pm-8pm**
  - **Friday, November 10th: Parent Conferences 8am-12pm**
  - **There are both virtual and in-person conferences available**
    - **K-5th Grade: Conferences by appointment only.**
    - **6th-12th Grade: Drop-in, arena style, conferences.**
      - **Thursday, November 17th**
        - **4:00pm-6:00pm via Zoom**
        - **6:00pm-8:00pm in TLCS Cafeteria**
      - **Friday, November 18th**
        - **8:00am-10:00am in TLCS Cafeteria**
        - **10:00am-12:00pm via Zoom**
  
- **AVID Update:**
  - **K-5 students continue to work on organizational skills**
  - **6-12 students are working on their grade level AVID curriculum and Tutorials**
    - **6-8 students have Tutorials once per month**
    - **9-12 students have Tutorials once per week**
  - **K-12 students are currently working career projects to be displayed at parent conferences**
    - **K-3: What I want to be when I grow up poster**
      - **Displayed outside their classroom**
    - **4-12: Career research project and poster board**
      - **4-5 will be displayed outside their classroom**

- **6-12 will have a gallery walk setup in the gym for conferences and then Friday afternoon posters will be moved to the MS/HS hallways**
  
- **Middle School had their first dance of the year on Thursday, October 26<sup>th</sup>**
  
- **HS Fall Sports Update:**
  - **Volleyball – Played at Powder Valley in the first round of the state play-offs**
  - **Football – Played at North Lake in the first round of the state play-offs**
  - **Cross Country – One TLCS student athlete competed at the state meet and placed 13<sup>th</sup> out of 76 runners**
  - **Girls Soccer – One TLCS student is playing on a co-op team at North Eugene and they have their semifinal game at Caldera HS on November 7<sup>th</sup>.**
  
- **Winter Sports:**
  - **MS Boys & Girls Basketball – 1<sup>st</sup> practice Monday, November 13<sup>th</sup>**
    - **Again this year, the boys and girls season will run at the same time from November through mid-February**
  - **HS Boys & Girls Basketball – 1<sup>st</sup> practice Monday, November 13<sup>th</sup>**
  
- **Upcoming Dates:**
  - **November 21<sup>st</sup> – November 24<sup>th</sup>: NO SCHOOL - Thanksgiving Break**
  - **November 28<sup>th</sup> – Picture Retake Day**
  - **December 6<sup>th</sup> – Charter Board Meeting**