



ADMINISTRATIVE POLICIES

SECTION: 300 - Human Resources	POLICY#: 304
TITLE: Family Medical Leave (FML)	R & O #: 18-14
	IMPLEMENTED BY PROCEDURE #: 304-A
SPONSORING DEPT/DIV: Support Services/Human Resources	
ADOPTED: 01/23/2018	REVIEWED:

PURPOSE: The purpose of this policy is to define the provisions and processes for eligible employees to take protected leave for qualifying medical and family circumstances. This policy is intended to comply with federal and state laws regulating these leaves of absence.

AUTHORITY: Family Medical Leave Act of 1993 (FMLA) and Oregon Family Leave Act (OFLA)

APPLICABILITY: This policy applies to all employees of Washington County.

GENERAL POLICY: The Family Medical Leave (FML) Policy provides protected leave for family and medical reasons in accordance with the federal Family and Medical Leave Act of 1993 (FMLA) and the Oregon Family Leave Act (OFLA). These laws secure the right of eligible employees to respond to serious health conditions of their own and those of their qualified family members; protect an employee against loss of employment for reasons related to the leave; in some cases, protect against loss of insurance coverage in the event an employee must be absent from the workplace due to a qualifying event; and provide for reinstatement to the employee's former or an equivalent position. The policy has been designed to consolidate provisions of both State and Federal laws in such a way as to allow employees the maximum advantage.

POLICY GUIDELINES:

1. Eligibility Requirements for Family Medical Leave: A table listing eligibility requirements under both FMLA and OFLA is included in the Administrative Procedures that accompany this policy (304-A).
 - 1.1. For purposes of this policy, employees include those occupying regular, temporary, variable hour, and seasonal positions.
 - 1.2. Employees who are absent from work due to service in the National Guard or the Reserves shall have time spent in military service count toward the eligibility requirements for FML.

2. Qualifying Event: A table listing reasons that qualify for FMLA and OFLA is included in the Administrative Procedures that accompany this policy (304-A).
3. Qualifying Family Member: A table listing family members that qualify for FMLA and OFLA is included in the Administrative Procedures that accompany this policy (304-A).
4. Serious Health Condition: A table listing definitions of serious health condition under FMLA and OFLA is included in the Administrative Procedures that accompany this policy (304-A).
5. Duration of Leave:
 - 5.1. For all qualifying events under FMLA and OFLA:
 - 5.1.1. Employees are permitted to take a total of twelve (12) weeks of leave in a 12-month period for any qualifying event. In most cases, FMLA leave and OFLA leave will run concurrently.
 - 5.1.2. Employees using qualified OFLA leave for circumstances not covered by FMLA may take additional protected leave for FMLA-qualifying conditions.
 - 5.1.3. One week of FML is based on the regular work schedule of the employee prior to the start of the leave.
 - 5.1.4. Leave for the birth of the employee's child, or the placement of a child for adoption or foster care with the employee ('parental leave') must be taken within twelve (12) months of the birth or adoption.
 - 5.1.5. Two family members that are both employees of Washington County may take FML concurrently only under the following circumstances:
 - a. under FMLA for parental leave or leave to care for an employee's parent with a serious health condition, but limited to a combined total of 12 weeks between the eligible employees in either circumstance; or
 - b. under OFLA where one employee needs to care for the other employee who is suffering from a serious health condition; or
 - c. under OFLA where both employees are suffering from a serious health condition; or
 - d. under OFLA where one employee needs to care for a child who has a serious health condition while the other employee is also suffering a serious health condition; or
 - e. under certain circumstances, subject to review and approval by Appointing Authority of the employee in coordination with the Human Resources Manager.
 - 5.1.6. Disability leave for the birth of a child and for a serious health condition of the employee will be designated as qualified under both FMLA and OFLA and will run concurrently.

5.1.7. Disability leave due to a compensable on-the-job injury will be designated as qualified under FMLA and OFLA and will run concurrently with Workers' Compensation Leave in accordance with federal and state statutes and regulations.

5.2. Additional leave under OFLA:

5.2.1. A female who takes leave for a pregnancy related disability (including routine prenatal care) may take up to an additional twelve (12) weeks of leave for any purpose that is qualified under OFLA.

5.2.2. Male or female employees who use a full twelve (12) weeks of parental leave may use up to twelve (12) additional weeks in the same leave year for sick child leave.

5.2.3. If an employee does not take a full twelve (12) weeks of parental leave, he or she is only entitled to take sick child leave up to his/her twelve (12) week entitlement.

5.2.4. Sick child leave is only allowed under OFLA.

5.3. A calendar year (January to December) is used when calculating available leave for the employee. Generally, eligible employees will be allowed up to twelve (12) weeks of qualifying leave between January 1st and December 31st of each year.

6. Medical Certification Requirements: Medical certification requirements for serious health conditions of the employee or their qualifying family member are outlined in the Administrative Procedures that accompany this policy (304-A).

7. Intermittent or Reduced Work Schedule Leave: Employees may take their FMLA/OFLA leave consecutively or intermittently. Under certain circumstances, employees may use their leave to reduce the work week or work day, resulting in a reduced hour schedule.

Circumstances and provisions for intermittent or reduced work schedules related to FMLA/OFLA are outlined in the Administrative Procedures that accompany this policy (304-A).

8. Seniority, Leave Balances, Accruals and Other Benefits:

8.1. Employees on qualified leave will retain accrued balances for sick leave, compensatory time, administrative leave, floating holiday and vacation leave earned prior to leave, except for the amount of leave accruals used during the leave.

8.2. Employees will be eligible for holiday pay as provided for in the County's Personnel Rules and Regulations or applicable collective bargaining agreement.

8.3. Payroll periods will be considered qualified provided an employee is in paid status for no less than 90% of their regularly scheduled hours for the Payroll Period.

8.4. An employee will accrue sick and vacation leaves as provided in the Personnel Rules and Regulations.

8.5. Step increase and review dates will be adjusted for unqualified payroll periods according to the provisions of the Personnel Rules and Regulations.

9. Use of Accrued Paid Leave:

- 9.1. Use of accrued paid leaves will run concurrently with FMLA and OFLA.
- 9.2. Oregon Sick Time will run concurrently with FMLA and OFLA if the employee is eligible and the absence is for a qualifying reason under the applicable law.
- 9.3. The employee must use all accrued paid leave, including any paid leave accrued during the employee's qualified leave, prior to commencing any period of unpaid leave.
- 9.4. Paid leaves include, but are not limited to, vacation, administrative leave, floating holiday, compensatory time and, when applicable, sick leave.
- 9.5. Provisions for the use of accrued paid leave are outlined in the Administrative Procedures that accompany this policy (304-A).

10. FMLA/OFLA Leave Expanded for Military Families: The National Defense Authorization Act for Fiscal Year 2008 (NDAA) and Oregon House Bill 2744 (2009) include provisions amending the Family and Medical Leave Act and the Oregon Family Leave Act for military families. Specifically, the amendments expand the leaves available under the FMLA and OFLA by adding qualifying events related to an eligible employee who is a spouse or family member of a member of the Armed Forces.

Provisions related to leave for military families are outlined in the Administrative Procedures that accompany this policy (304-A)

11. Additional Leave at the End of Family Medical Leave:

- 11.1. After available sick leave, paid leave and protected leave have been exhausted, an employee may request Sick Leave without Pay of a reasonable period of time.
- 11.2. Unless otherwise specified in the applicable collective bargaining agreement, the Appointing Authority may approve Sick Leave without Pay for a reasonable period of time based on the business needs of the department.
- 11.3. Sick Leave without Pay in excess of ninety (90) days may be granted at the discretion of the County Administrator.

12. Return to Work:

- 12.1. If an employee has been on leave due to his or her own serious health condition, the employee must provide Human Resources and the supervisor with a sufficient release to return to work form completed by their health care provider.
- 12.2. Except under specified or limited circumstances, employees who take qualified leave under FMLA and OFLA will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms.
- 12.3. The County retains the right to deny restoration in the following situations:
 - a. the employee would have lost the job due to layoff if he/she had not been on leave;
 - b. the employee fraudulently obtains FML;

- c. the employee violates the County policy governing outside employment during the leave; or
- d. the employee fails to provide a sufficient release to return to work from their health care provider upon return.

13. Health Benefit Continuation:

- 13.1. The County will continue its contribution to employer paid benefits during leave period that is qualified under FMLA or OFLA at the same level and under the same conditions as if the employee had continued to work.
- 13.2. The employee is responsible for their share of premiums. If premiums are not paid during the leave, the County will take additional deductions when the employee returns from leave.
- 13.3. If the employee chooses not to return to work for reasons other than (1) a continued serious health condition of the employee or the employee's family member, or (2) a circumstance beyond the employee's control, the County may require the employee to reimburse the County the amount that it paid for the employee's health and life insurance premiums during the leave period.
- 13.4. Employees will be offered COBRA in accordance with the law should they not be able to return to work following a leave.

RESPONSIBILITIES: The Human Resources Division is responsible for working collaboratively with Directors, managers and supervisors to establish necessary procedures to implement and monitor this policy and may modify the established procedures as necessary to carry out the intent of this policy.

DISTRIBUTION: This policy shall be disseminated to all managers, supervisors and employees of Washington County. Any questions, concerns, or comments related to this policy should be directed to the Human Resources Manager or his/her designee.

IMPLEMENTATION: Observance of and adherence to this policy is mandatory for all County employees. Violation of this policy may result in disciplinary action up to and including termination.

PERIODIC REVIEW: This policy shall be reviewed by the Human Resources Division at least every three years, or more often if needed, and updated as necessary.