Protected Leave Training for Supervisors

FMLA | OFLA | COVID-19 related expansions
Graduate Assistantships Family Medical Leave Policy

- All eligible Graduate Employees may take up to twelve weeks of a continuous block of leave from an active appointment as parental leave or to care for their own serious health condition or that of a family member. Starting October 1, 2020, OSU will cover the time with pay for three (3) weeks at the Graduate Employee’s current FTE. The Graduate Employee will have access to a continuation of benefits for the duration of their family leave for both paid and unpaid leave. To be eligible for family leave, a Graduate Employee must be on a current appointment or have been on an appointment in the term immediately prior to the leave of absence.

- For parental leave, Graduate Assistants may take advantage of this leave policy once per new child. For all other leave due to a serious health condition of the eligible Graduate Assistant or his/her family member, only one leave may be granted during their tenure at OSU.

- Intermittent leave periods are not available under this policy, although eligible Graduate Students may opt to take less than the full twelve-week period of leave.

- A leave taken under this policy does not extend a Graduate Assistant’s contractual appointment. In other words, if a Graduate Assistant’s appointment ends during a leave period, the eligible Graduate Assistant’s position and leave period end at the same time. Failure to return to an existing appointment upon completion of the leave may result in the Graduate Assistant’s having to repay the benefits received while on approved leave.

- To request leave under this policy, a Graduate Assistant must establish a protected leave request in EmpCenter. UHR will follow the same procedures it follows for employee leave requests, to the extent not inconsistent with this policy.
FMLA & OFLA are...

- Federal & State entitlements which provide up to 12 weeks of *unpaid* protected leave per leave year for eligible employees.
- Intended to lessen the stress that an employee may feel if forced to choose between work and family during the time of a serious medical situation.
FMLA/OFLA Provide...

Job Protection

Benefit Protection

Absences cannot be held against the employee in employment actions (hiring, promotions, or discipline)
What is a qualifying event?

- Employee’s own serious health condition. Includes disability related to pregnancy or childbirth
- Care of a family member with a serious health condition
- Care for / Bonding with a newborn
- Bonding with a newly placed adopted or foster child under the age of 18 (or incapable of self-care)
- Qualified Exigency from a covered military member’s call to active duty
Who are qualifying family members?

**FMLA**
- Spouse
- Son or Daughter (under age 18)
  - If 18 or older and incapable of self-care due to mental or physical disability
- Parent
  - Can be individual who stood in loco parentis

**OFLA**
- Spouse
- Domestic Partner (same gender)
- Child
- Child of Domestic Partner (same gender)
  - No age distinction
- Parent
  - Can be individual who stood in loco parentis
- Parent of Domestic Partner (same gender)
- Parent in-law
- Grandparent
- Grandchild
Do’s & Don’ts as a Supervisor

**DO**

- Ask basic, **non-medical** information about an employee’s absence to determine if it will require a referral to the protected leave office
  - Example: “I need to determine if I need to refer you to the Protected Leave office”
    - Are you able to come to work?
    - Have you been hospitalized?
    - Have you seen a doctor or do you have an appointment to see one?
    - Do you know how long you will be out?

**DON’T**

- Do not ask specific questions about the employee’s medical condition
- Do not share private information about the employee’s leave with others
- Do not count absences against employees in performance reviews, promotions or compensation decisions
- Do not say negative comments about FMLA/OFLA or an employee using leave
FMLA/OFLA PROTECTED LEAVE USAGE

• May be taken continuously, intermittently, or by working a reduced schedule
• Generally, FMLA & OFLA run concurrently
• Is unpaid, but OSU policy requires the use of paid leaves during protected leave (a couple exceptions apply)
  • If an employee has an approved STD claim and is on approved FMLA/OFLA protected leave:
    • The employee will be in unpaid status through the University while receiving disability benefits unless the employee elects to supplement their STD with other accrued leave (vacation, comp, etc.)
Supervisor Responsibilities | Before Leave Begins

**Step 1:**
Ask basic, non medical questions to determine if you should refer the employee to the OSU Protected Leaves office.

**Step 2:**
Refer employee to contact the Protected Leave office as soon as possible if you suspect there is a need for protected leave.

**Step 3:**
Contact the Protected Leave office if you are notified of any changes:
- Employee goes out on leave early
- Employee does not return the day after their approved leave end date
- Employee indicates that there has been a change in their status of leave
What to expect while your employee is in the FMLA/OFLA protected leave process:

**Step 1:**
Employee should notify you of their leave needs; meaning expected duration and frequency of their leave.

**Step 2:**
Our office will send a Supervisor Notice which will include the provisional approval while we await a completed medical certification from their provider. During this time, leave will be taken as needed.

**Step 3:**
Once a completed medical certification is received, an official Approval & Designation Notice will be sent out from our office with the certified duration and frequency of the leave. If this changes during their leave, they are to notify you and our office as well as supply an updated medical certification form. We will then send out an updated Approval Notice.
## Supervisor Responsibilities | During Leave

<table>
<thead>
<tr>
<th>Each month:</th>
<th>During intermittent leave:</th>
<th>Restrictions:</th>
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<tbody>
<tr>
<td>Verify employee’s reporting of protected leave on timesheet</td>
<td>Ensure employees follow normal call-in requirements</td>
<td>If an employee has restrictions or needs an accommodation to return to work, work with EOA to determine reasonable accommodations under the ADA</td>
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<tr>
<td>Work with HR Service Center to ensure employee is accurately paid while on leave</td>
<td>Clarify if absence is related to the protected leave or for another reason, if not clear on timesheet</td>
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Returning to Work

- Employee must work with their healthcare provider to determine appropriate date of return
- Employees are expected to perform essential functions of their position upon returning from leave
- We generally do not require a work release from the employee prior to returning from FMLA/OFLA leave
RESTRICTIONS ARE NOT PROTECTED UNDER FMLA/OFLA LEAVE LAWS

The employee must work with the Office of Equal Opportunity and Access if they have restrictions during their leave or upon their return to determine if reasonable accommodations can be made.
Confidentiality Reminder

Confidentiality is of utmost importance when it comes to protected leaves. Do not discuss or disclose any details regarding an employee’s protected leave with anyone other than the OSU Protected Leaves office or HR Service Center Representative who assists with timesheet auditing.
University Paid Family Medical Leave

- Eligible Professional Faculty & UAOSU Faculty can receive Paid Family and Medical Leave of 3 weeks paid by OSU.
- This leave is intended for multiple family and medical leave reasons.
  - Example: An employee has a serious health condition and needs to take time off for treatment.
  - Example: An employee’s qualifying family member has a serious health condition and needs care.
  - Example: An employee welcomes a new baby and needs parental leave.
  - An employee is taking protected leave for COVID-19 reasons.
The Oregon Family Leave Act (OFLA) was expanded by a temporary rule (April) then a permanent rule (September) to allow for leave for employees to care for children due to school or childcare center closures. This leave is in place until the end of the pandemic.
Announcements

- **HB 2474 – Oregon Family Leave Act (OFLA) Amendments**
  - Allows employees who have a break in service due to termination or temporary furlough or layoff of 180 days or less to retain their OFLA eligibility and count time prior to break in service to overall break in service.
  - Expands eligibility of OFLA during a public health emergency to employees working at least 30 days immediately prior to taking leave (reduced from 180 days) and an average of 25 hours or more per week during those 30 days.
  - Clarifies that pregnancy disability leave may be taken by “an eligible employee” rather than “a female eligible employee.”
  - These changes take effect January 1, 2022.

- **Delayed Implementation of Oregon’s Paid Family Medical Leave Program**
Questions?
Referrals

If you think an employee may have a need for protected leave, please refer them to our office.

Email: fmla@oregonstate.edu | Phone: 541-737-5946 or 541-737-0057

Whitney Brown | HR Officer – Protected Leaves
FMLA/OFLA Protected Leaves, Military Leaves, Graduate Leaves, Post-Doc Leaves & Disability Claims

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FMLA/OFLA Protected Leaves, Military Leaves, Graduate Leaves, Post-Doc Leaves & Disability Claims