Linn Benton Lincoln
Education Service District

Code: **GDBDA/GCBDA**
Adopted: 11/15/23
Revised: 3/12/25

Family and Medical Leave *

When applicable, the ESD will comply with the provisions of the Family and Medical Leave Act (FMLA)[1], the Oregon Family Leave Act (OFLA)[2], the Oregon Military Family Leave Act (OMFLA), Paid Family and 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 ESD 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 or more ESD 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 ESD employees who have earned $1,000 in subject wages or taxable income during the alternate or base years[3], contributed to the PMFLI fund in the alternate or base years and are otherwise eligible.[4] PFMLI can be taken for family leave, medical leave or safe leave. [5]

Federal and state leave entitlements generally run concurrently.

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

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

[3] The wages are not required to have been earned for work in the ESD.

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

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

The Superintendent will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

Legal Reference(s);

ORS 659A.090
ORS 659A.093
ORS 657B.025
ORS 659A.096
ORS 659A.099
ORS 659B.010
OAR 839-009-0210-0460
ORS 659A.150 – 659A.186

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2023); 28 C.F.R. Part 35 (2023).
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654; 5 U.S.C. §§ 6381-6387 (2018); Family and Medical Leave Act, 29 C.F.R. Part 825 (2023).
Americans with Disabilities Act, 42 U.S.C. §§ 12101-12133 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).
Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).
Senate Bill 1515 (2024).