

Federal vs. Oregon Family and Medical Leave Laws

	FEDERAL ELEMENTS	STATE ELEMENTS
Employer Covered	<p>Private Employers of 50 or more Employees in at least 20 weeks of the current or preceding year</p> <p>Public agencies, including state, local, and Federal Employers</p> <p>Local education agencies covered under special provisions</p>	<p>Employers with 25 or more Employees in the State of Oregon for each working day during each of 20 or more calendar workweeks of the current or preceding year, but excepting employers meeting certain conditions and providing family leave at least as generous as required by statute</p> <p>Special provisions for teachers</p>
Employees Eligible	<p>Worked for Employer for at least 12 months - which need not be consecutive; worked at least 1,250 hours for Employer during 12 months preceding leave; and employed at Employer worksite with 50 or more Employees or within 75 miles of Employer worksites with a total of 50 or more Employees</p>	<p>Have worked average of 25 or more hours/week and employed 180 days for an Employer immediately preceding commencement of leave in order to qualify for family leave. The only requirement for parental leave is to have been employed for 180 days immediately preceding the commencement of leave.</p> <p>No worksite provision</p>
Leave Amount	<p>Up to a total of 12 weeks during a 12-month period; however, leave for birth, adoption, foster care, or to care for a parent with a serious health condition must be shared by spouses working for same Employer</p>	<p>12 weeks within any one-year period. Additional leave may be available in some circumstances. See below.</p>
Type of leave	<p>Unpaid leave for birth, placement of child for adoption or foster care, to provide care for Employee's own parent (including individuals who exercise parental responsibility under state law), child, or spouse with serious health condition, or Employee's own serious health condition</p>	<p>"Family leave" to care for an infant or newly adopted child under 18 years of age, or for an adopted or foster child older than 18 years of age if the child is incapable of self-care, a family member with a serious health condition because of a mental or physical disability, to recover from the Employee's own serious health condition, to care for the Employee's child who is suffering from an illness, injury, or condition that is not a serious health condition, but requires home care.</p> <p>A female Employee may take a total of 12 weeks of additional leave within any one-year period for an illness, injury or condition related to pregnancy or childbirth that disables the Employee from performing any available job duties</p> <p>An Employee who takes 12 weeks of "parental leave" (see above) may take an additional 12 weeks to care for a child of the Employee who is suffering from an illness, injury or condition that is not a serious</p>

		<p>health condition but that requires home care</p> <p>Two family members of the same Employer may not take concurrent family leave except under limited circumstances.</p> <p>Teachers have special rules</p>
Serious Health Condition	<p>Illness, injury, impairment, or physical or mental condition involving incapacity or treatment connected with inpatient care in hospital, hospice, or residential medical-care facility; or, continuing treatment by a health care provider involving a period of incapacity: (1) requiring absence of more than 3 consecutive calendar days from work, school, or other activities; (2) due to a chronic or long-term condition for which treatment may be ineffective; (3) absences to receive multiple treatments (including recovery periods) for a condition that if left untreated likely would result in incapacity of more than 3 days; or (4) due to any incapacity related to pregnancy or for prenatal care</p>	<p>Illness, injury, impairment, or physical or mental condition that requires inpatient care in a hospital, hospice, or residential medical care facility</p> <p>Illness, disease, or condition that in the medical judgment 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; or any period of disability due to pregnancy, or period of absence for prenatal care</p>
Health Care Provider	<p>Doctors of medicine or osteopathy authorized to practice medicine or surgery; podiatrists, dentists, clinical psychologists, clinical social workers, optometrists, chiropractors (limited to manual manipulation of spine to correct subluxation shown to exist by x-ray), nurse practitioners, and nurse-midwives, if authorized to practice under State law and consistent with the scope of their authorization; Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, MA; any provider so recognized by the Employer or its group health plan's benefits manager; and any health provider listed above who practices and is authorized to practice in a country other than the United States</p>	<p>Similar to federal provision, but does not include language extending recognition to any provider recognized as such by the Employer or its group health plan's benefits manager, includes naturopaths and direct entry midwives. Also includes persons who are primarily responsible for treatment of an eligible employed solely through spiritual means, including but not limited to a Christian science practitioner.</p>
Intermittent Leave	<p>Permitted for serious health condition when medically necessary. Not permitted for care of newborn or new placement by adoption or foster care unless Employer agrees</p>	<p>Similar to Federal provision</p>
Substitution of Paid Leave	<p>Employees may elect or Employers may require accrued paid leave to be substituted in some cases. No limits on substituting paid vacation or personal leave. An Employee may not substitute paid sick, medical, or family leave for any situation not covered by any Employers' leave plan</p>	<p>Employee may use any paid accrued vacation or sick leave offered by Employer</p>
Reinstatement Rights	<p>Must be restored to same position or one equivalent to it in all benefits and other terms and conditions of employment</p>	<p>Employee must be restored to same position – if it still exists; if not, Employee must be restored to any available equivalent position</p>

		with all terms and conditions at a job located within 20 miles of the site of the employee's former position.
Key Employee Exception	Limited exception for salaried Employees if among highest paid 10%, within 75 miles of worksites, restoration would lead to grievous economic harm to Employer, and other conditions met	No provision
Maintenance of Health Benefits During Leave	Health insurance must be continued under same conditions as prior to leave	No requirement for continuation of benefits unless required by agreement or policy
Leave Requests	<p>If due to a planned medical treatment or for intermittent leave, the Employee, subject to health care provider's approval, shall make a reasonable effort to schedule it in a way that does not unduly disrupt Employer's operation</p> <p>To be made by Employee at least 30 days prior to date leave is to begin where need is known in advance or, where not foreseeable, as soon as practicable.</p>	Similar to Federal provision, but where 30 day notice not possible, oral request must be made within 24 hours of leave commencement followed by written notice within 3 days after return to work
Medical Certification May Be Required by Employer for:	<p>To demonstrate Employee's fitness to return to work from medical leave where Employer has a uniformly applied practice or policy to require such certification</p> <p>Request for leave because of serious health condition</p>	<p>Employer may require certification for family leave taken in relation to a family member with a serious health condition, the employee's own serious health condition, or a child suffering from an illness, injury, or condition that is not a serious health condition but requires home care</p> <p>Employer may require certification that the Employee is able to resume work</p>
Executive, Administrative, and Professional Employees	Such individuals are entitled to FMLA benefits. However, their use of FMLA leave does not change their status under the Fair Labor Standards Act (FLSA), i.e., an Employer, does not lose its exemption from the FLSA's minimum wage and overtime requirements	Similar to Federal provision when FMLA applies, but not in cases when only OFLA applies.