

EMPLOYMENT LEAVES

Presented by:

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HR Answers, Inc.





Law – Requirements



Practice – Consistency and Documentation



Questions

TODAY'S AGENDA



LAW
THE REQUIREMENTS

REQUIRED LEAVES

- Oregon Sick Time
- FMLA – Family and Medical Leave Act
- OFLA – Oregon Family Leave Act
- ADAAA – Americans with Disabilities Act Amendments Act
- Civic Duty Leave
- Crime Victims' Leave
- Domestic Violence Leave
- Donation of Bone Marrow Leave
- Two additional required Leaves

OREGON SICK TIME

- Employees get **paid** sick time if your employer has **10 or more employees** (6 or more if they have a location in Portland). Otherwise, sick time is protected but unpaid.
- Sick time for many reasons, including if you or a family member is sick, injured, experiencing mental illness, or need to visit the doctor.
- Employees get **at least** 1 hour of protected sick time for every 30 hours you work up to 40 hours per year. (Employers can choose to frontload at least 40 hours of sick time at the beginning of the year.)
- Employees may take sick time after working for at least 90 days.
- Employer must regularly let employees know how much sick time has been earned.

[ORS 653.601-653.661](#) [OAR 839-007](#)

Additional resource information [BOLI : Sick time : For Workers : State of Oregon](#)

FMLA (FAMILY AND MEDICAL LEAVE)

- **ALL** government employers are covered by FMLA.
- Employees are eligible if the following criteria is met:
 - The organization has 50 or more employees in a 75-mile radius, **AND**
 - the employee has worked a minimum of 1,250, **AND**
 - has a qualifying instance.
- Eligible employees are protected for up to 12 weeks of leave, in most cases.

NOTE: This may or may not be paid time depending on your policy.

[Code of Federal Regulation: Part 825](#)

[Additional Resources: Family and Medical Leave \(FMLA\) | U.S. Department of Labor \(dol.gov\)](#)

OFLA (OREGON FAMILY LEAVE ACT)

- Employers with 25 or more employees are covered by OFLA.
- Employees are eligible if the following criteria is met:
 - The employee has worked an average of 25 hours per week during the 180 calendar days immediately preceding the date OFLA leaves begins, in most cases, **AND**
 - has a qualifying instance.
- Eligible employees are protected for up to 12 weeks of leave, in most cases.

NOTE: This may or may not be paid time depending on your policy.

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

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

Additional Resources: [BOLI : Oregon Family Leave Act \(OFLA\) : For Workers : State of Oregon](#)

FMLA/OFLA COMPARISON – EMPLOYEE ELIGIBILITY

Term of Employment	FMLA	OFLA
Hire Date	One year (12 months)	180 Days Exception: Oregon Military Leave (no prior history required)
Hours Worked	1250 hours in the past year	Average of 25 hours per week Exception: Parental Leave (no requirement) Oregon Military Leave – average 20 hours per week.

When counting the number of hours worked and employer will typically count all hours actually worked. Paid or unpaid leaves are typically not included.

FMLA/OFLA COMPARISON – FAMILY MEMBER

FMLA	OFLA
Spouse	Spouse Registered Domestic Partner (same gender)
Son or Daughter <ul style="list-style-type: none"> • Under 18 • If 18 or older, and incapable of self care due to disability (mental or physical) 	Child Child of registered Domestic Partner (same gender)
Parent (includes in loco parentis)	Parent (includes in loco parentis) Parent of registered Domestic Partner (same gender) Parent-in-Law
	Grandparent Grandchild

SUMMARY COMPARISON – QUALIFYING REASONS

FMLA	OFLA
Employee's Own Serious Health Condition	Employee's Own Serious Health Condition
Care for a Family Member with a serious health Condition	Care for a Family Member with a serious health condition
Parental Leave: care for or bond with newborn, newly adopted or placed foster child under the age of 18.	Parental Leave: care for or bond with newborn, newly adopted or placed foster child under the age of 18.
	Sick Child Leave (includes child's school or childcare provider is closed due to a public health emergency)
	Bereavement Leave (up to 2 weeks)
	Pregnancy Disability Leave
Military Caregiver	
Qualified Exigency	
	Military Deployment Leave – for spouse or registered same sex domestic partner.

WHAT IS A SERIOUS HEALTH CONDITION?

Serious Health Condition: is an illness, injury, impairment, physical or mental condition that incapacitates you or a family member for three (3) consecutive days or longer, and involves at least one of the following: inpatient hospital care; absence plus treatment; pregnancy; chronic conditions requiring treatment; permanent/long-term conditions requiring supervision; multiple treatments for nonchronic conditions.

Generally NOT* Considered a Serious Health Condition: Common cold, flu, sore throat, treatment for acne, headache (other than migraines), earaches, routine medical or dental visits, plastic surgery for cosmetic purposes. Any of these conditions may become a serious health condition if medical treatment is sought and you or your family member are incapacitated for 3 or more calendar days.

*these are likely to be reasons that meet Sick Child Leave under OFLA.

ADAAA (AMERICANS WITH DISABILITIES ACT AMENDMENTS ACT)

- All employers with 15 or more employees are covered by ADAAA.
- Employees are eligible if the following criteria is met:
 - Upon hire, **AND**
 - when they have a qualifying disability, **AND**
 - when a reasonable accommodation is available.

NOTE: A reasonable accommodation of an extended LEAVE OF ABSENCE must be considered IF the leave will allow the employee to return to work later date.

[Code of Federal Regulation: Part 1630](#)

[Additional Resources: EEOC's Final Regulations Implementing the ADAAA](#)

CIVIC DUTY LEAVE



- This applies to both Jury and Witness responsibilities as requested/required by a court
- Employees are eligible upon hire
- Employers have may choose to make this paid or unpaid leave, unless – regarding an exempt employee – if they work any time during the leave, then their full salary must be paid.
- Employers may not require and employee to use vacation, sick, or annual leaves to cover jury leave.

ORS 10.090

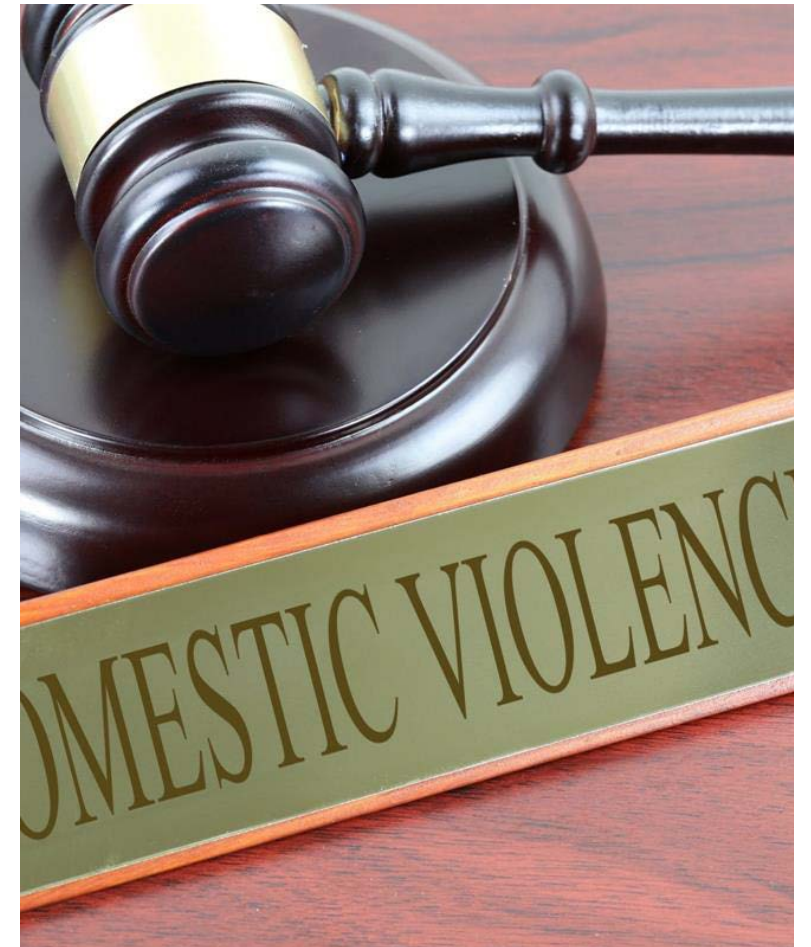
CRIME VICTIMS' LEAVE

- Employers with 6 or more employees are covered
- Employees who have worked an average of 25 hours per week for at least 180 days preceding the leave are eligible.
- The amount of leave is determined by the employer based on undue hardship. If you must limit the leave, you must notify the prosecuting attorney (who will notify the court).
- This leave is unpaid, however, an organization may choose to provide pay or allow the use of paid leaves.

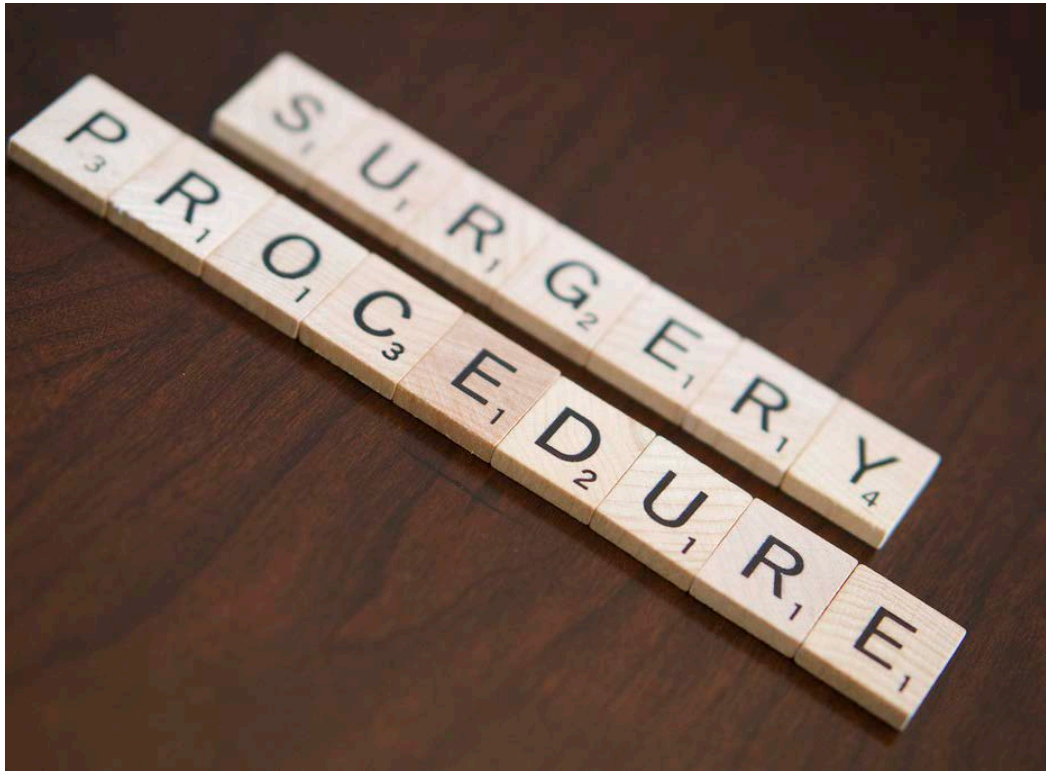


DOMESTIC VIOLENCE LEAVES

- Employers with 6 or more employees are covered
- Employees are eligible upon hire.
- Employees may take leave to seek legal or law enforcement assistance, to secure medical treatment, to obtain counseling or victim services, to relocate, or to take other reasonable steps to ensure one's own health and well-being or that of a child or legal dependent. (some of these provisions will be also qualifying events under Sick Leave, FMLA, OFLA)
- The amount of leave is determined by the employer based on undue hardship.
- This leave is unpaid, however, an organization may choose to provide pay or allow the use of paid leaves.



DONATION OF BONE MARROW LEAVE



- All employers are covered
- Employees who work 20 or more hours per week are eligible
- Employees may take up to 40 hours per week.
- Employers may not require the use of paid leave and must provide the option. (This may also qualify under Sick Leave, OFLA, and FMLA)

TWO ADDITIONAL REQUIRED LEAVES

- Uniformed Service Leave and Re-employment
- Oregon Military Family Leave



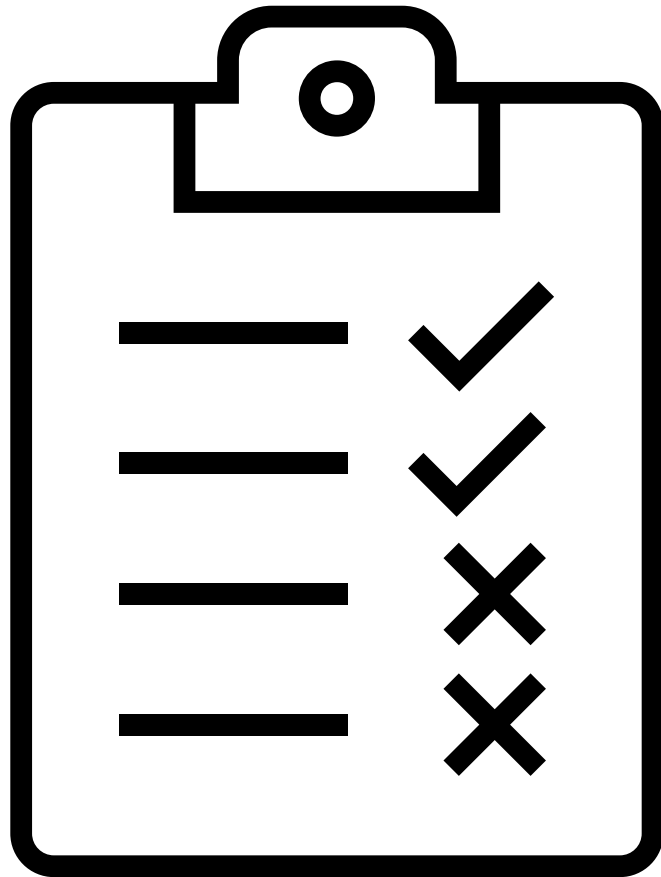


PROTECT LEAVE



PAID LEAVE

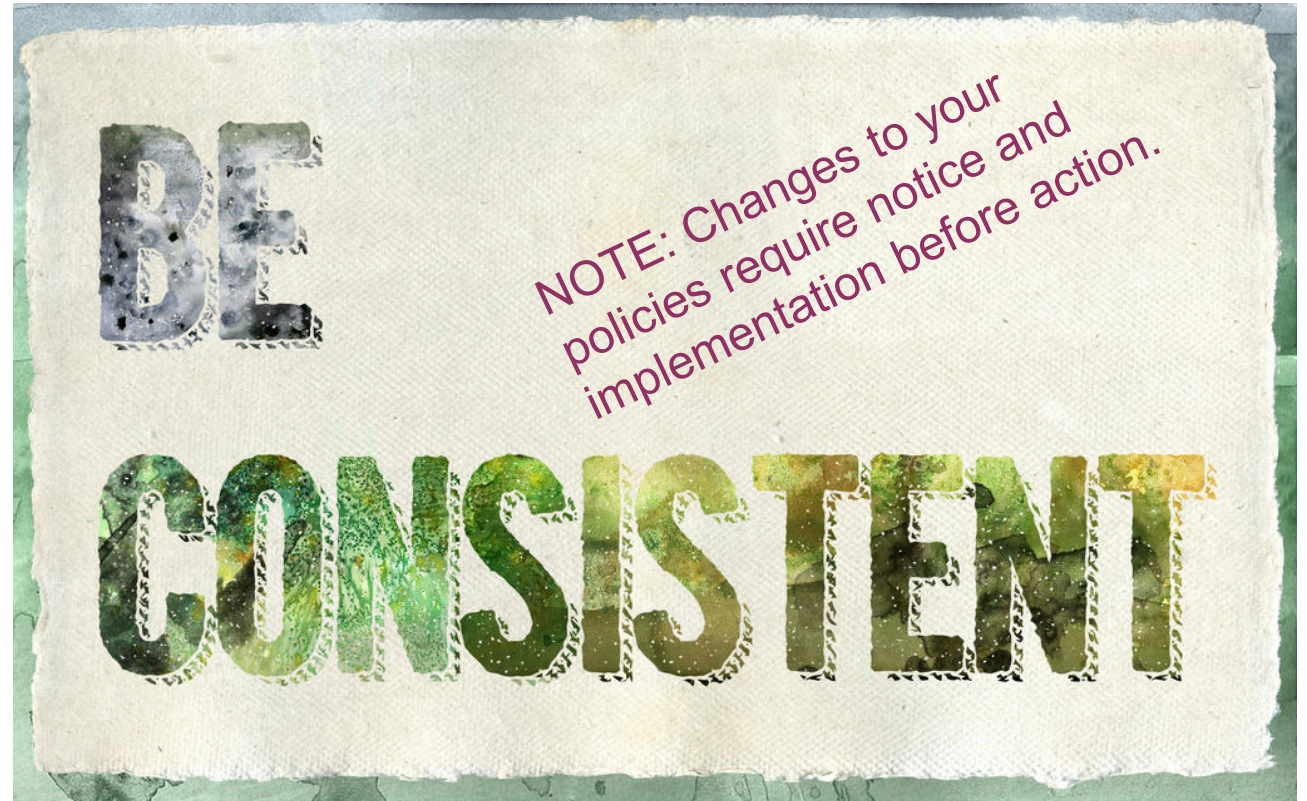
The organization must identify if, how, and when pay will be provided for each instance.



PRACTICE
CONSISTENCY AND
DOCUMENTATION

CONSISTENCY

- A defense for actions taken
- Builds trust
- Provides understanding
- Allows for predictability



DOCUMENT



- Proves consistency
- Provides facts for consideration in change
- Provides history of actions



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