

# Treasure Valley Community College

Code: GCBDA/GDBDA  
Adopted: 10/14/09  
Readopted: 2/15/11

## Family Leave

### Medical Leave

The College will comply with all provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, and other applicable provisions of Board policies and collective bargaining agreements regarding leave.

Leave laws were enacted to provide eligible employees up to 12 weeks of job-protected leave during a leave year for qualifying reasons. Employers may not treat federal or state leave as unexcused absences or disciplinary incidents regarding attendance, and the employee has reinstatement rights when the leave ends. In some situations, an employee may be eligible under one law but not the other. It is important for the employee to use the Leave Request form in a timely manner in order to notify the College of potentially eligible absences.

### Eligibility

Under FMLA, an eligible employee must have worked for the College for at least 12 months and worked at least 1250 hours during the 12-month period.

Under OFLA, an eligible employee must have worked for the College for 180 calendar days preceding the date leave begins and work an average of 25 hours per week during that 180-day period. However, an employee is eligible for *Parental Leave* after just meeting the 180-day period of employment.

Federal and state leave generally run concurrently.

### Qualifying Circumstances

1. FMLA qualifying circumstances are:
  - a. Employee's own serious health condition, including pregnancy-related conditions;
  - b. Serious health condition of the employee's spouse, parent, or child under 18;
  - c. Newborn, newly adopted, or newly placed foster child (*parental leave*);
  - d. Military "qualifying exigency" or to care for military service member.
  
2. OFLA qualifying circumstances are:
  - a. Employee's own serious health condition, including pregnancy-related conditions;
  - b. Serious health condition of the employee's spouse, same-sex domestic partner, parent, parent-in-law, child under 18, grandparent and grandchild;
  - c. Newborn, newly adopted, or newly placed foster child (*parental leave*) within one year;
  - d. Non-serious health condition of a child that requires home (*sick child leave*);

- e. Leave for spouse or same-sex domestic partner of a service member for up to 14 calendar days (*Oregon Military Leave*).

Intermittent leave or a reduced schedule is permitted when medically necessary to care for the serious health condition of the employee or family member, for pregnancy or prenatal care, or for service member family leave. Employees may take leave for the remainder of their shift if they learn of a family member's serious health condition after reporting to work. Parental leave must be taken in one continuous block. An advance written request is required for each increment of family medical leave requested. Employees should make a reasonable effort to schedule medical treatments so as to minimize disruption of their job duties.

### **Notification**

Requests must be made as soon as practical after the necessity for the leave becomes known to the employee. In cases where the leave is anticipated, the notice shall be provided up to 30 days before the medical leave of absence. Where the leave is unanticipated, a verbal request is required within 24 hours before or after starting leave. All requests must be in writing using the Leave Request form and must specify the reason for the medical leave of absence, the relationship of the employee to the person needing care, and the anticipated length of the leave. The unavailability of any other family members to provide care may need to be explained. Additional time, if necessary, must be requested in writing in advance as provided above. If circumstances change during the leave, and the necessary leave period is shorter than originally anticipated, the employee must notify their supervisor as soon as possible and request an earlier return date.

The employee will be notified in writing within 5 work days of the request that medical leave has or has not been approved. Confidential medical certification may be required by Human Resources in order to verify leave eligibility. For an employee who has been on leave for his/her own serious health condition, the College may require certification from the employee's own health care provider that the employee is able to return to work. Medical verification may be required after the third occurrence in a year for sick child leave.

### **Benefits**

If eligible and available, an employee is required to use paid leave during the absence. If paid leave runs out, and the employee ends up with 30 or more days of unpaid leave, then there will be no accrual or accumulation of paid leave. The College will continue to provide health insurance for an employee on unpaid family leave as if the employee continued to work. However, the employee must make arrangements with Human Resources to pay their normal portion of the premiums.

### **Reinstatement**

An employee returning from FMLA leave is entitled to the same position held when the leave began or to an equivalent position with equivalent benefits. An employee returning from OFLA leave will be reinstated to the position held when the leave began. If an employee has given notice of the intent not to return to work, the College's reinstatement obligations cease. If an employee fails to report to work on the agreed upon return date, the College will assume the employee has resigned and take appropriate action. An employee is prohibited to work elsewhere while on paid or unpaid family leave.

### **Military Leave**

Military leave will be granted to any employee who is activated by a branch of the U.S. military or as ordered by the Governor. Military leave for members of the active reserve or National Guard units will be granted in accordance with national and state laws. Pay will not be continued unless mandated by state or federal law. Time in military service will be considered as continuous college service for salary increment adjustments.

Employees requesting military leave are required to provide written notice to the director of human resources as soon as practicable following notification of military call or reservist duty, unless precluded by military necessity.

### **Oregon Leave for Victims of Domestic Violence, Sexual Assault or Stalking**

The College will grant “reasonable leave” and comply with the Oregon Leave for Victims of Domestic Violence, Sexual Assault, or Stalking act of 2007.

Please contact Human Resources for more information on any of these leave laws.

END OF POLICY

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#### **Legal Reference(s):**

[ORS 341.290](#) (1)

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

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

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2006); 28 C.F.R. Part 35 (2006).  
Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2006); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2008).

National Defense Authorization Act of 2008, Public Law 110-181, Section 585(a).