Clatskanie School District 6J

Code: **GCBDA/GDBDA**
Adopted: 9/24/07
Readopted: 5/06/13; 6/19/17
Orig. Code: GCBDA/GDBDA

Family Medical Leave *

{Highly recommended policy. The law does not require districts to have a board-adopted policy, but the district is required to follow the law. Having policy and an administrative regulation in place can assist with compliance. Policy is intended for districts with 50 or more employees as counted in accordance with ORS 659A.153. If the district has between 25 and 50 employees, the district should use version 2 of GCBDA/GDBDA – Family Medical Leave *. If the district does not have 25 employees, the district should not adopt this policy.}

When applicable, the district will comply with the provisions of the Family and Medical Leave Act (FMLA){[1]}, ~~of 1993,~~ the Oregon Family Leave Act (OFLA){[2]}, ~~of 1995, the Military Family Leave Act as part of the National Defense Authorization Acts of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances),~~ the Oregon Military Family Leave Act (OMFLA), Paid Family Medical Leave Insurance (PFMLI) and ~~of 2009,~~ other applicable provisions of state and federal law, Board policies and collective bargaining agreements regarding family medical leave.

~~FMLA applies to districts with 50 or more employees within 75 miles of the employee's worksite, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.~~

~~OFLA and OMFLA applies to districts that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.~~

In order for an employee to be eligible for the benefits under FMLA, the employee~~he/she~~ must have been employed by the district for at least~~the previous~~ 12 months, ~~and~~ have worked at least 1,250 hours during the past 12-month period and worked at a worksite that employs 50 district employees within 75 miles of the worksite.

Generally, in~~In~~ order for an employee to be eligible for the benefits under OFLA, the employee~~he/she~~ must work an average of 25 hours or more per week during the ~~and have been employed at least~~ 180 calendar days immediately prior to the first day of the start of the requested~~family medical~~ leave ~~of absence~~. For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar

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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 districts 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)}

days immediately preceding the date on which the parental leave begins:. t~~T~~here is no minimum average number of hours worked per week. Special requirements apply during public health emergencies ~~when determining employee eligibility for parental leave~~.

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 district 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]

Federal and state leave entitlements generally run concurrently.

The superintendent or designee 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 332.507
ORS 657B.010
ORS 659A.090
ORS 659A.093
ORS 659A.096
ORS 659A.099
ORS 659A.150 - 659A.186
OAR 839-009-0200 - 0320

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213; 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654; 5 U.S.C. §§ 6381-6387 (2012); Family and Medical Leave Act, 29 C.F.R. Part 825 (2017).
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 999 (2023).

Corrected 10/11/23

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

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