

**ROGUE VALLEY SHRM MAY LEGAL SEMINAR 2025**

# **MASTERING THE LEAVE LAW MAZE**

**Navigating OFLA, PLO, and Other Protected Leaves of Absence with Confidence**

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# TODAY'S SPEAKERS



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# TODAY'S AGENDA

- 
- Overview of Leave Laws Applicable to Oregon Employers
  - Interaction Between Leave Laws
  - Administering Leaves
  - Suggested Practices
  - Avoiding Common Pitfalls
  - Questions

# LEAVE LAWS FOR OREGON EMPLOYERS

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# PAID LEAVE OREGON (PLO)

## Who

- All Oregon employers, all Oregon employees (with sufficient base wages)

## Length of Leave & Qualifying Reasons

- 12 weeks of PAID leave for:
  - Family Leave (child bonding, birth, adoption, foster placement)
  - Medical leave (employee's own serious health condition or a family member's)
  - Safe Leave (domestic violence, stalking, sexual harassment, bias crime)
  - Leave to effectuate the legal process required for placement of a foster child or the adoption of a child
- Additional 2 weeks of PAID leave for
  - Limitations related to pregnancy, childbirth, or a related medical condition, including lactation

# OREGON FAMILY LEAVE ACT (OFLA)

## Who

- Employers with 25 employees in Oregon
- Employees with 180 days of service with average of 25 hours per week\*

## Length of Leave & Qualifying Reasons

- 12 weeks of UNPAID leave for:
  - Sick child leave (all illnesses, injuries, or conditions that require home care, whether or not it is a serious medical condition)
  - Care for employee's, spouse's, or domestic partner's child whose school or childcare provider has been closed due to a public health emergency
  - Bereavement leave (maximum of 4 weeks per year, up to 2 weeks per death)
- Additional 12 weeks of UNPAID leave for:
  - Pregnancy-related disability leave



# OREGON PAID SICK TIME

## Length of Leave

- Accrue 1 hour of sick time for every 30 hours worked, up to 40 hours per year, OR frontload 40 hours per year

## Qualifying Reasons

- Preventive medical care, medical diagnosis, or care and treatment of employee's mental or physical illness, injury or health condition
- Care of employee's family member with a mental or physical illness, injury or health condition, including a serious health condition, who needs preventive medical care, medical diagnosis, or care and treatment
- To care for a child who is suffering from an illness, injury, or condition that requires home care, or who requires home care due to the closure of the child's school or childcare provider because of a public health emergency
- To grieve, arrange for, and attend a funeral or memorial service, and to attend to other related-family matters related to the death of a family member
- Any reasons that qualify under OFLA or PLO
- Absences related to domestic violence, harassment, sexual assault, bias, or stalking
- Public health emergencies, including:
  - Closure by a public official of an employee's place of business or the school or place of care of an employee's child, or a determination by a public health authority or health care provider that the presence of an employee or employee's family member presents a health risk to others
  - If a public official determines the air quality index or heat index are at a level where continued exposure to such levels would jeopardize the health of the employee
  - An employee's home or workplace is in a Level 2 or 3 evacuation zone

# FEDERAL FAMILY MEDICAL LEAVE ACT (FMLA)

## Who

- Employers with 50 or more employees
- Employees with 1 year of service, 1,250 working hours, working at a location with 50 employees in a 75-mile radius

## Length of Leave & Qualifying Reasons

- 12 weeks UNPAID leave for
  - Birth, adoption, or fostering of a child within one year of birth or placement
  - Care for the employee's spouse, child, or parent with serious health condition
  - Employee's own serious health condition
  - Qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a covered military member (called to duty or on leave from duty)
- 26 weeks UNPAID leave for (combined with other FMLA leave)
  - Care for a spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness (military caregiver leave)



# LEAVE AS A REASONABLE ACCOMMODATION FOR DISABILITY

## Who

- Federal Americans with Disabilities Act: Employers with 15 or more employees
- Oregon Law: Employers with 6 or more employees

## Length of Leave

- Based on medical provider's orders, provided does not result in undue hardship

## Qualifying Reasons

- Physical or mental impairment that substantially limits one or more major life activities, history or record of such an impairment, or perceived by others as having such an impairment

# FEDERAL PREGNANT WORKERS' FAIRNESS ACT (PWFA)

## Who

- Employers with 15 or more employees
- Oregon law: Employers with 6 or more employees

## Length of Leave

- Based on medical provider's orders, provided does not result in undue hardship

## Qualifying Reasons

- Qualified employees affected by pregnancy, childbirth, or related medical conditions. For example:
  - Current or past pregnancy
  - Lactation\*
  - Fertility or infertility treatments
  - Menstruation
  - Endometriosis
  - Miscarriage, stillbirth, abortion
  - Any pre-existing condition exacerbated by pregnancy or childbirth



# WORKERS' COMPENSATION LEAVE

## Who

- All employers and all employees

## Length of Leave

- Based on medical provider's orders

## Qualifying Reasons

- Have a work-related injury or illness



## BONUS OREGON LEAVES!

State and Federal  
Military Leave

Military Family  
Leave

Veterans Day  
Observance for  
Veterans

Bone Marrow Donor  
Leave

Domestic Violence,  
Harassment, Sexual  
Assault, Stalking,  
Bias Crime Leave

Crime Victim Leave

Juvenile Court  
Appearance Leave

Emergency  
Responder Leave\*

Legislative Leave

State Board or  
Commission Leave

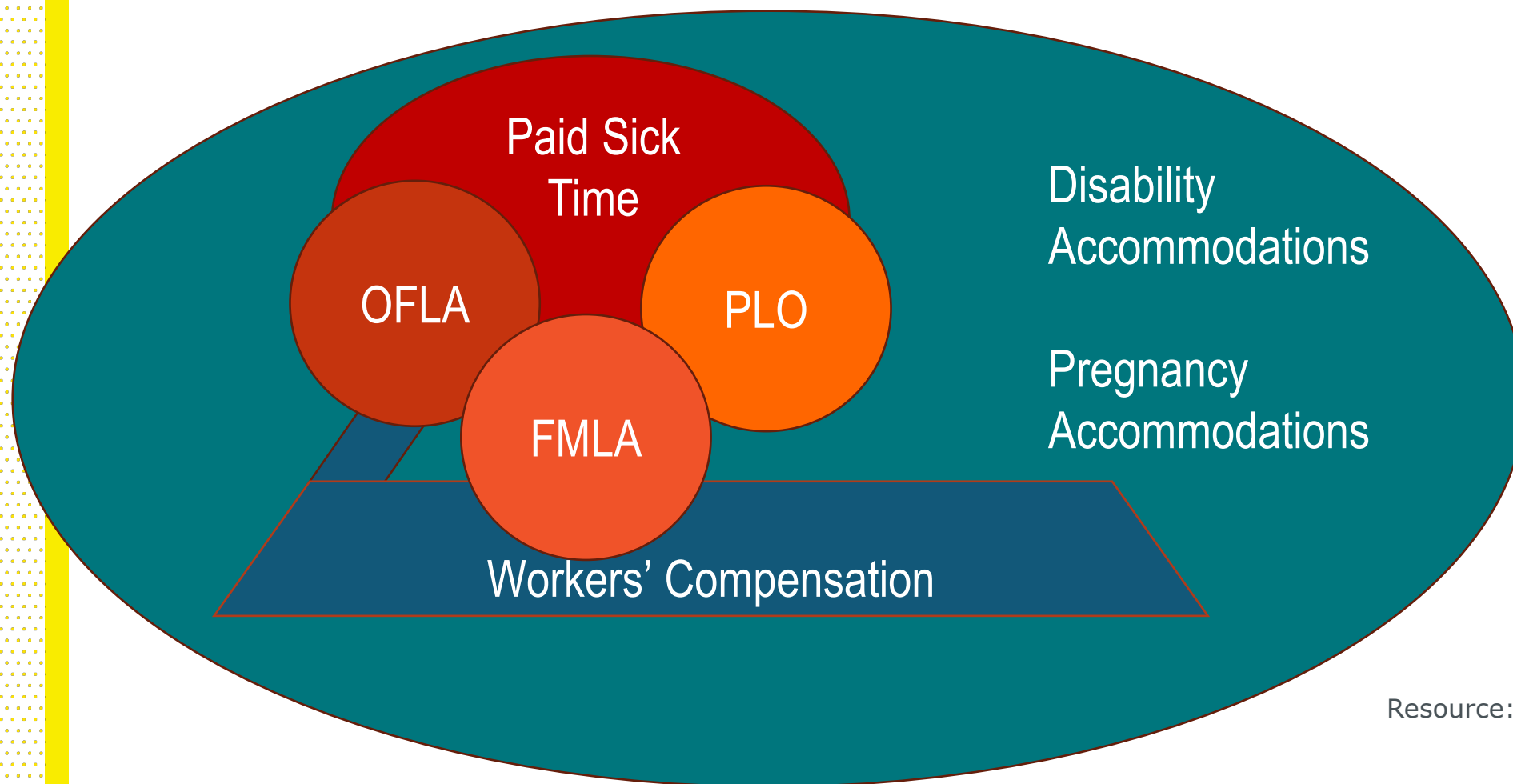
Olympics Leave

# LEAVE INTERACTION

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# OVERLAPPING LEAVE LAWS

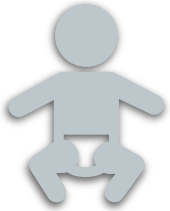


- Military Family Leave
- Domestic Violence Leave
- Bone Marrow Donation Leave

Resource: [Paid-Leave-OFLA-FMLA-Chart-EN.pdf](#)



# PLO AND FMLA TOGETHER



Birth or placement of a child with the employee for adoption or foster care\*



Care for a **child, spouse, or parent** who has a serious health condition



Employee's own serious health condition

- FMLA runs concurrently with PLO when an employee has a need for leave that qualifies under **both**
  - Remember:
    - PLO's definition of "family member" is much more expansive than FMLA's
    - FMLA's military exigency and caregiver leaves do not run concurrently
- When notified an employee is taking PLO, proceed with your normal FMLA certification process, including required notices and medical certifications
- Policy Consideration:
  - Update your FMLA period so it runs concurrently with PLO: period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which leave commences

# PLO AND SHORT-TERM DISABILITY?

- They're different!
- PLO is a public benefits program; Short-Term Disability (STD) is not
- Eligibility for STD depends on your plan documents
- Employees can be eligible for PLO and STD at the same time
- STD  $\neq$  PLO Equivalent Plan
- Confirm with STD provider how they interact



# ADMINISTERING LEAVES OF ABSENCE

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# BREAK IT DOWN

- Assess each applicable law separately
- Ask yourself – based on the employee's reason for leave, which federal and Oregon leave programs might they qualify for?



# USING PAID TIME OFF

**Entitled** to use paid sick time, vacation or any other paid time offered in addition while on PLO benefits up to 100% of regular full wages during PLO period

**PLO**

**Can allow** PLO benefits + paid time off to exceed 100% of regular full wages during PLO period

**Cannot require** use of paid sick time, vacation or other paid time off while on PLO leave

**Can require** concurrent use of any paid time off

**FMLA**

**Can require** concurrent use of any paid time off

**OFLA**

**Can require** concurrent use of any paid time off

**Disability  
Accommodation**

**Can require** use for absences due to qualifying reasons

**Paid Sick Time**

# WHAT ABOUT INSURANCE BENEFITS?

## Health Insurance Must Be Continued

PLO (employees with 90  
days employment)

FMLA

OFLA

Domestic Violence Leave

## Health Insurance Continuation Optional

Disability  
Accommodation

Workers' Compensation  
Leave

Change in Employee  
Election

## Must Other Benefits Be Continued?

Depends on Plan Terms



# RETURN TO WORK/FITNESS FOR DUTY CERTIFICATION

## NO

- Paid Leave Oregon
- Any leave unrelated to the employee's own health condition

## MAYBE

- Disability accommodation
- Pregnancy accommodation

## YES

- FMLA\*
- OFLA\*
- Workers' Compensation

# JOB PROTECTION

## FMLA

All employees\*  
Same or equivalent job

## OFLA

All employees\*  
Same position  
If not exist, equivalent position within 50-mile radius of former location, at closest to former location

## PLO

Employed for 90 calendar days\*  
Same position, if exists.  
If same position does not exist

- 25 employees or more: equivalent position within 50-mile radius of former location, at closest to former location
- Less than 25 employees: employer's discretion, based on business necessity, to provide similar position, same benefits and pay

## Disability Accommodation

All employees\*  
Same position, with accommodation, as necessary  
If unable to perform same position, a vacant position for which qualified, without competing with other applicants

# JOB PROTECTION – WORKERS' COMPENSATION

## 3-YEAR REINSTATEMENT/RE-EMPLOYMENT RIGHTS

Reemployment	Reinstatement
<ul style="list-style-type: none"><li>• Available, suitable position until able to perform former position, if*<ul style="list-style-type: none"><li>• 6 or more employees at the time of injury or demand for reinstatement</li><li>• Injured worker is disabled from performing duties of former position</li><li>• Medically released to perform the duties of the available, suitable position</li><li>• Timely demand is made</li></ul></li><li>• Temporary light duty as part of return-to-work program is acceptable</li><li>• Employee must be given opportunity to discuss position first</li><li>• Must follow the employer's reporting policy until offered position.</li></ul>	<ul style="list-style-type: none"><li>• To former position if:*<ul style="list-style-type: none"><li>• 21 or more employees at the time of injury or demand for reinstatement</li><li>• It still exists (and is available under CBA)</li><li>• Injured worker is not disabled from performing the duties</li><li>• Timely demand is made</li></ul></li><li>• Must follow the employer's reporting policy until offered position.</li></ul>



# SUGGESTED PRACTICES

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# HAVE POLICIES

- Default Leave of Absence Rules
- Individual Leave Policies
- Employee Handbook



# DOCUMENTATION & PROCESS

- Follow policies and coordinate with payroll and benefits
- Issue required notices
- Document efforts to comply
- Document employee agreements
- Have patience
- Be consistent
- Consider consulting legal counsel





# TRAIN MANAGERS

- Know qualifying reasons for leave
- Connect employees to HR
- Partner with HR
- Be empathetic
- Focus on ability to do the job
- Work with HR on performance issues in real time



What to  
do

What to  
avoid

- Contacting employees while on leave
- Creating false expectations
- Talking about medical issues
- Disparaging leave use
- Assuming what the employee needs or wants
- Retaliation

# MANAGING INTERMITTENT LEAVE

- Have a plan for last minute absences
- Can require adherence to notification rules
- Can usually require “reasonable efforts” to schedule around employer needs
- Be clear about expectations
- Monitor attendance against medical certification



# AVOIDING COMMON PITFALLS

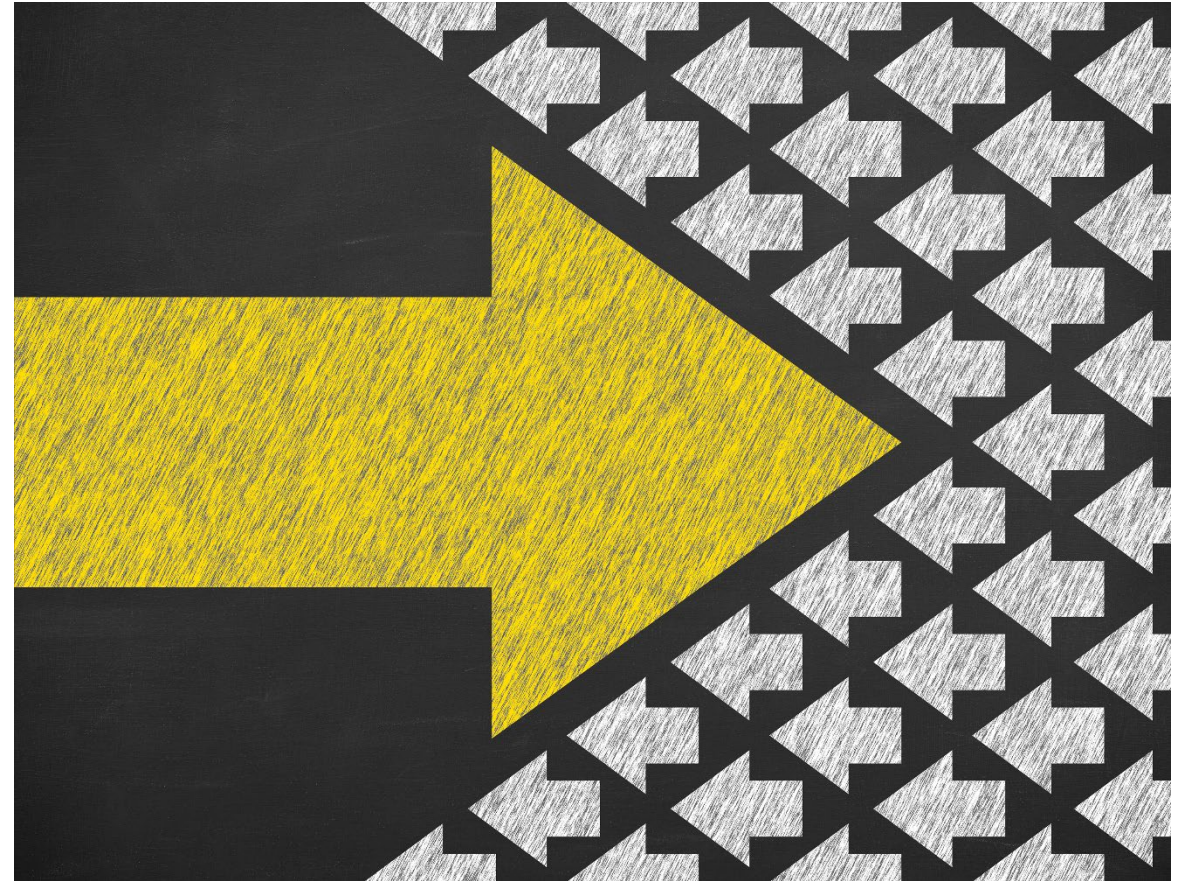
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# DIFFERENT EXPECTATIONS AND UNDERSTANDINGS

- Leave designations and status
- Expectations/standards and consequences
  - Notice of absences
  - Check-ins while on leave
  - Return to work requirements
  - Job duty and/or schedule changes
- Invite employees to respond if they disagree
- Consider consulting legal counsel



# ADDRESS PERFORMANCE PROBLEMS

- Put employee on notice – early
- Document and address separately
- Have good performance documentation
- Prepare accurate performance reviews
- Ensure absences or reasons for leave are not implicated in reasons for discipline
- Allow for employee input
- Carefully document intent to take action
- Consider consulting legal counsel

# AVOIDING RETALIATION COMPLAINTS

- Double check your concerns – avoid emotional decisions
- Document performance issues timely and completely
- Do not disparage use of leave
- Allow for employee input
- Consider downgrading disciplinary action
- Time lessens risk



# QUESTIONS?

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