	<p><b>City of Albany</b>  <b>Administrative Policy</b>  Benefits &amp; Compensation  Policy #: HR-BC-08-005  Title: Family, Medical, and Safe Leave</p>	<p><b>Human Resources</b></p>
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**Purpose** To provide all employees with an understanding of their rights and responsibilities under state and federal leave laws and to outline the City’s policy with respect to benefits and compensation provided to employees while on leave.

**Policy** It is the policy of the City of Albany, and in accordance with federal (FMLA) and state laws (OFLA, PLO, and OMFLA), to grant family, medical, and safe leave to eligible employees.

**Eligibility** All regular status employees are eligible for leave under this policy, provided they meet the eligibility requirements as outlined below. Additionally, temporary status employees on City payroll are eligible for PLO benefits as outlined within this policy. Employees must be in paid status at the time of taking leave in order to be eligible for leave benefits. Provisions of collective bargaining agreements prevail for bargaining unit employees.

**Family and Medical Leave Act (FMLA)**

Employees must have worked for the City of Albany for at least twelve (12) months (not necessarily consecutive months) and have at least 1,250 actual hours worked with the City during the 12 months immediately preceding the leave.

**Oregon Family Leave Act (OFLA)**

Employees must have been employed by the City for at least 180 calendar days and also have actual hours worked at an average of at least 25 hours per week during the 180 calendar days immediately preceding the leave.

During such time as the governor has declared a public health emergency, an employee becomes eligible for family medical leave for any OFLA-qualifying reason if they were employed for the thirty (30) calendar days immediately preceding the leave and have actual hours worked at an average of at least twenty-five (25) hours per week during the thirty (30) calendar days immediately preceding the leave.

Employees taking leave to care for a newborn, adopted, or newly placed foster child only have to meet the 30-day or 180-day employment requirement, as outlined above, regardless of number of hours worked.

Additional eligibility criteria for reemployed or returning individuals:

- Employees reemployed or returning from qualifying medical leave within 180 days who were eligible for OFLA leave at the time of their separation from employment or the beginning of their temporary cessation of work will be eligible to take OFLA leave immediately upon reemployment or return.



**City of Albany**  
**Administrative Policy**  
Benefits & Compensation  
Policy #: HR-BC-08-005  
Title: Family, Medical, and Safe Leave

**Human Resources**

- Employees reemployed or returning from qualifying medical leave within 180 days who were not yet eligible for OFLA leave at the time of their separation from employment or the beginning of their temporary cessation of work will receive credit for time worked for the City prior to the break in service for the purpose of establishing eligibility.

### **Oregon Paid Family Medical Leave (PFML)**

— Also referred to as Paid Leave Oregon (PLO) —

Employees are eligible for OR PFML benefits immediately upon hire if they have worked in Oregon and earned at least \$1,000 in wages in their base year and have contributed to Paid Leave Oregon through payroll deduction in their base year.

*For employees covered under this policy, the City's third-party administrator will waive the earnings test and waiting period for eligibility for PLO benefits.*

***Note:** The terms "OR PFML," "PFML," and "PLO" may be used interchangeably within this policy and any City benefits documentation and are intended to refer to the Oregon Paid Family Medical Leave law and any benefits required under the law.*

### **Oregon Military Family Leave Act (OMFLA)**

Employees must have worked an average of at least 20 hours per week, and must be the spouse or domestic partner of a member of the Armed Forces of the United States, the National Guard, or the military reserve forces of the United States who has been called to active duty or notified of an impending call or order to active duty, or who is on leave from active duty during a period of military conflict.

### **Qualifying Reasons for Leave**

An employee may qualify for Family, Medical, and/or Safe Leave under federal and/or state law(s) for the following reasons:

**Family Leave (FMLA, OFLA, PLO):** For an eligible employee to care for a covered family member with a serious illness or injury; or to bond with a new child after birth, adoption, or foster care placement (leave must be completed no later than 12 months from the date of birth, adoption, or placement).

**Medical Leave (FMLA, OFLA, PLO):** For an eligible employee experiencing their own serious health condition; or experiencing disability due to pregnancy before or after birth; or for prenatal care.

### ***Qualifying Family and Medical Leave Conditions***

Employees absent due to illness, injury, impairment, or physical or mental health conditions for more than three (3) workdays, which does not need to be full days or continuous days in a row, for themselves and/or a qualifying family member may qualify for leave under FMLA or OFLA leave provisions. Examples of qualifying medical leave conditions include:

- Requires inpatient care.



**City of Albany**  
**Administrative Policy**  
Benefits & Compensation  
Policy #: HR-BC-08-005  
Title: Family, Medical, and Safe Leave

**Human Resources**

- Requires constant or continuing care.
- Involves a period of incapacity whether continuous or intermittent.
- Involves multiple treatments.
- Involves a period of disability due to pregnancy, childbirth, miscarriage or stillbirth, or period of absence for prenatal care.
- Poses an imminent danger of death or possibility of death in the near future.

**Safe Leave (PLO):** For an eligible employee to care for themselves or an eligible minor child or dependent who is a survivor of sexual assault, domestic violence, harassment, or stalking in order to seek legal or law enforcement assistance or be involved in other civil or criminal proceedings; to seek medical treatment or recover from injuries; to seek or assist in seeking counseling; to obtain victim services; or to relocate or take steps to secure an existing home.

**Sick Child Leave (OFLA):** For an eligible employee to care for a minor child with an illness or injury that requires home care but is not a serious illness or health condition.

**Bereavement Leave (OFLA):** For an eligible employee to grieve the death, attend the funeral (or alternative to funeral), and make arrangements necessitated by the death of the covered family member. Leave must be completed within 60 days of the date on which the employee receives notice of the death.

**Military Family Leave (OMFLA):** For an eligible employee to take leave for a covered family member of the Armed Forces who has been called to active-duty foreign deployment, is on leave from active duty with a serious injury or illness (military caregiver leave), or any qualifying exigency such as but not limited to attending certain military ceremonies and briefings.

**Covered  
Family  
Members**


**FMLA**

Covered family members include the employee's child, spouse, or parent.

**OFLA and PLO\***

Covered family members include the employee's:

- spouse or domestic partner;
- child (biological, adoptive, stepchild, foster, and *in loco parentis*), the employee's spouse/domestic partner's child, or the child's spouse or domestic partner;
- parent (biological, adoptive, stepparent, foster, and *in loco parentis* or foster when employee was minor), or parent's spouse or domestic partner;
- grandparents, grandchildren, siblings, stepsiblings (or those spouse or domestic partner), or those of the employee's spouse/domestic partner; or
- any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.

	<p><b>City of Albany</b>  <b>Administrative Policy</b>  Benefits &amp; Compensation  Policy #: HR-BC-08-005  Title: Family, Medical, and Safe Leave</p>	<p><b>Human Resources</b></p>
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*\*Safe Leave taken under PLO is limited to the employee or employee’s eligible minor child or dependent.*

**Duration of Leave**

Under both federal and state laws, employees are eligible for up to 12 weeks of paid or unpaid leave for any combination of family, medical, or safe leave during a benefit year and up to 14 days of leave per deployment (OMFLA).

Leave taken under FMLA, OFLA, and/or PLO will run **concurrently** in instances when the employee meets the eligibility requirements and the leave is for a qualifying reason under each respective leave law.

An employee’s benefit year is the period of 52 consecutive weeks beginning on the Sunday immediately preceding the day the employee begins taking leave, e.g., an employee begins taking leave on October 5, 2023, their benefit year begins on Sunday, October 1 (the Sunday immediately preceding).

*As of Sunday, September 3, 2023, with the implementation of Paid Leave Oregon, the benefit year for purposes of FMLA and OFLA shall be measured in the same manner as described in Paid Leave Oregon (OAR 471-070-1000). All employees covered under this policy shall have their FMLA/OFLA benefit year “reset” as of this date.*

**PLO**

An eligible employee may take up to 12 weeks of paid leave each benefit year for any combination of family, medical, or safe leave. An additional two weeks of leave is available for any limitations related to pregnancy, childbirth, or related medical condition, including lactation. For an employee taking PLO leave, an additional 4 weeks of leave may be also be available under OFLA for other OFLA-qualifying reasons. Leave may be taken consecutively or on an intermittent basis. ***Leave taken under PLO must be taken in increments of a full workday.***

**OFLA**

An eligible employee may take up to 12 weeks of leave each benefit year for any combination of family and medical leave for themselves or covered family member(s). Under certain circumstances, an employee may be eligible for additional leave for pregnancy-related conditions and/or OFLA sick child leave. Leave may be taken consecutively or on an intermittent basis. For employees who take concurrent leave under PLO and OFLA, their total OFLA leave will be limited to 18 weeks in a benefit year.

**FMLA**

An eligible employee may take up to 12 weeks of leave each benefit year for any combination of family and medical leave for himself or covered family member(s). Leave may be taken consecutively or on an intermittent basis.

**Notice and Documentation**

**Notice Requirements for Family, Medical, and Safe Leave**



**City of Albany**  
**Administrative Policy**  
Benefits & Compensation  
Policy #: HR-BC-08-005  
Title: Family, Medical, and Safe Leave

**Human Resources**

## Requirements

**30-day notice:** For foreseeable, non-emergency leave needs (such as in the case of childbirth or non-emergency surgery), employees must provide the City with at least 30 calendar days' notice before taking leave by notifying their supervisor (or designee in their supervisor's absence) and Human Resources.

**24-hour emergency notice:** For unforeseeable or emergency leave needs, employees must give verbal notice to the City (their supervisor, at a minimum) within 24 hours of their absence that they need to take family, medical, or safe leave. Within three (3) days after starting leave, written notice to the City (as outlined above) is required. Verbal notice for unforeseeable leave may be given by anyone on behalf of the employee. Written notice may be given by the employee's emergency contact person, or any other person otherwise designated by the employee, as reflected in the employer's records.

Under PLO regulations, failure to give notice as required, may result in PLO benefits reduction of up to 25% of the first week's benefit.

### **Documentation Requirements under FMLA/OFLA**


For requests for Family Medical Leave due the serious health condition of the employee or employee's qualifying family member, written certification from a health care provider must be supplied by the employee as soon as possible, but no later than 15 calendar days following a request for certification by the employee's supervisor or the Human Resources Department. Failure to return the required medical certification may lead to disciplinary action and the denial of leave.

Employees must provide sufficient information and documentation to the City's Human Resources Department in order for the City to determine whether the leave qualifies for FMLA and/or OFLA, such as a medical certification, regardless of the employee's use of PLO leave or the information or documentation provided by the employee to the state of Oregon or a third-party administrator for PLO benefits.

Employees who use sick child leave on more than three occasions in a 12-month period may be required to provide medical certification for all subsequent uses of sick child leave in a 12-month period. The certification may be a doctor's note but it must include the name of the child, dates the child was sick, the opinion of the doctor that the child was sick and required home care and the doctor's signature.

The Human Resources Department may request a new medical certification under any of the following conditions:

- the employee requests an extension of their leave;
- the circumstances described by the previous certification have changed significantly; or
- 30 days have passed since the certification was received by Human Resources.

	<p><b>City of Albany</b>  <b>Administrative Policy</b>  Benefits &amp; Compensation  Policy #: HR-BC-08-005  Title: Family, Medical, and Safe Leave</p>	<p><b>Human Resources</b></p>
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The cost of any medical certification not covered by insurance or other benefits will be paid by the City of Albany.

**Contributions,  
Pay and  
Benefits**

**PLO Contributions**

Contributions for PLO will begin September 1, 2023, and will be paid through payroll deduction. The City will contribute 40% of the PLO contribution rate per employee and each employee will contribute 60% of the PLO contribution rate as provided by PLO law. All employees are required to pay PLO contributions based on their gross subject wages, regardless of PLO usage.

**PLO Benefit Payments**

While on leave, employees are entitled to partial wage replacement in accordance with PLO rules. The amount of partial wage replacement that the employees will receive while on leave is based on their average weekly wage compared to the State of Oregon’s average weekly wage. In accordance with PLO rules, if the employee’s average weekly wage is equal to or less than 65% of the state average weekly wage, they will receive the full amount of their average weekly wage while on leave. If their average weekly wage is more than 65% of the state average weekly wage, then they will receive 65% of the state average weekly wage plus half of the difference between their average weekly wage and 65% of the state average weekly wage up to 120% of Oregon’s average weekly wage.

*For employees covered under this policy, the City’s third-party administrator will also calculate the employee’s PLO benefits using their current regular rate of pay in effect at the time of starting leave, and the employee will receive PLO benefits based on the greater benefit resulting from those two calculations.*

**Use of Leave Accruals**

Eligible employees for family, medical, and safe leave who are taking leave under FMLA and/or OFLA only, are required to use all applicable accrued paid leaves, until exhausted, prior to taking unpaid leave.

Eligible employees for family, medical, and safe leave who are taking receiving PLO benefits, regardless of FMLA/OFLA eligibility, may use accrued paid leaves during the waiting period prior to receiving PLO benefits as well as to supplement their PLO benefits. Accrued leave used in conjunction with PLO benefits must be used in the following order: 1) sick leave; 2) vacation, floating holiday, personal leave, professional leave, compensatory time, etc.; and 3) sick leave donations. Employees are not required to use their City accrued paid leave while receiving PLO benefits.

Employees will be permitted to donate sick leave to an employee who has exhausted their own leave accruals and is in need of additional leave to supplement their PLO benefits. In accordance with the City’s Sick Leave policy, such donations will only be allowed up to the amount necessary to permit the employee to receive their current regular net rate of pay.



**City of Albany**  
**Administrative Policy**  
Benefits & Compensation  
Policy #: HR-BC-08-005  
Title: Family, Medical, and Safe Leave

**Human Resources**

### **Continuation of Benefits**

For employees taking protected leave under this policy, the City will maintain the employee's group health insurance coverage, as required under state and federal law and as outlined within the City's General Benefits policy.

Employees are responsible to pay their regular health insurance premium contributions as well as any premiums for employee-paid supplemental insurance coverage while on leave. For employees who are using City leave accruals, the amounts owed shall be paid through payroll deduction. If an employee's pay is insufficient to cover the full cost of the employee portion of premiums while on leave, the employee is responsible to pay the contribution owed directly to the City each month. Should an employee fall into arrears while on leave, employee premium payments will be subject to a repayment program and the City reserves all legal rights to recoup the amounts owed.

Regardless of whether an employee elects to use City leave accruals while on PLO leave, the use of PLO leave will be considered hours worked for the purposes of seniority, longevity, insurance coverage, holiday pay, leave accruals, and deferred compensation contributions. Use of PLO leave is **not** considered hours worked for the purpose of calculating overtime.

### **Additional Conditions**

#### **Job Protection**

Employees who have worked continuously for the City of Albany for at least 90 calendar days prior to taking PLO leave will be reinstated to their former position in accordance with state law. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

#### **Return to Work**

When an employee takes leave for their own serious health condition, the employee must provide a treatment provider's return-to-work release to Human Resources prior to beginning work (to include telecommuting). The employee shall be reinstated to the same position held when the leave began or one of like pay grade, pay, benefits and other conditions of employment.

An employee is expected to return to work as soon as medically able, as determined by a healthcare provider or, in the case of parental or safe leave, as approved in advance of the leave start date. Failure to return to work on the date designated by the parties, unless extended, will be treated as any other unauthorized absence. If an employee does not return to work at the end of their leave, reinstatement may not be available unless the law requires otherwise.

#### **Light Duty**

The City may allow light duty for off-the-job injuries, illnesses, or pregnancy providing the following criteria are met:

- The light duty assignment must be verifiable work that needs to be completed within the department and approved by the Department Director.



**City of Albany**  
**Administrative Policy**  
Benefits & Compensation  
Policy #: HR-BC-08-005  
Title: Family, Medical, and Safe Leave

**Human Resources**

- Light duty assignments will not be considered for periods less than two weeks.
- The light duty assignment must be based on a medical need or condition approved by a healthcare provider and verified by the Human Resources Department.
- The light duty assignment will not be approved if the assignment creates a need to backfill the employee's original position.
- Preference will be given to employees with on-the-job injuries. An employee working light duty for an off-the-job injury, illness, or pregnancy may be bumped from the light duty position if an on-the-job light duty position is needed.
- The light duty assignment will be considered a temporary assignment and will be reviewed every 90 days for continuation by Human Resources.
- Light Duty assignments presented on a non-City business day will not be evaluated until the following business day. Determinations for light duty assignments may take up to one week to evaluate.

#### **Prohibited Conduct On Family, Medical, and Safe Leave**

An employee on approved leave under this policy may not be engaged in work for another employer, perform work as a contractor or be self-employed, or be engaged in volunteer work without the express written approval of the Human Resources Director.

#### **Extension of Family Medical Leave**

Employees who require and are granted additional family, medical, or safe leave beyond the timeframes provided under the applicable leave law(s) will be required to use any remaining accrued paid leave prior to being on unpaid leave. Such additional leave is granted solely at the discretion of the Department and Human Resources Director, in accordance with the City's Leave of Absence policy, unless otherwise required by law or applicable collective bargaining agreement. If additional leave is granted, the provisions of state and federal law governing family medical leave do not apply, including, but not limited to, continued City-paid benefits unless the employee continues in paid status during the extension.

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#### **Definitions**

**Benefit Year** – As used within this policy, benefit year refers to the employee's leave year, regardless of whether the employee's leave is paid or unpaid. The term "benefit year" is used across various leave laws for consistency within this policy.

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#### **References**

Refer to specific collective bargaining agreements.

Family Medical Leave Act 29 USC 2601-2654 and Federal Regulations Part 825; Oregon Revised Statute (ORS) 659.479-659.494; ORS 657B; Americans with





**City of Albany**  
**Administrative Policy**  
 Benefits & Compensation  
 Policy #: HR-BC-08-005  
 Title: Family, Medical, and Safe Leave

**Human Resources**

Disabilities Act 42 USC 2101 et seq; Fair Labor Standards Act 29 USC 216(b); BOLI regulations.

**City Administrative Policies:** HR-BC-02, Bereavement Leave; HR-BC-09, General Benefits; HR-BC-11, Leave of Absence and Leave Without Pay; HR-BC-12, Overtime Pay; HR-BC-14, Sick Leave

**Review and Authorization**

Supersedes: HR-BC-08-043, 01/01/2014	Created/Amended by/date: HR; 8/11/2023	Effective Date: 9/1/2023
HR Director:		City Manager:

Training required? No  Yes