

OLYMPIC ESD 114 ADMINISTRATIVE PROCEDURE FAMILY, MATERNITY, AND MILITARY CAREGIVER LEAVE

5400 P4

Introduction

Olympic ESD 114 (OESD) will provide family and medical leave to its eligible employees consistent with OESD procedures, the Family and Medical Leave Act (FMLA), and applicable state/federal laws and regulations.

Employees eligible for leave according to this procedure shall use accrued paid time off prior to requesting leave without pay.

To qualify for unpaid leave up to the 12 weeks allowed by FMLA, employees must have worked for OESD for 12 months prior to the leave. The 12 months need not have been consecutive provided that the break in service does not exceed seven years. In addition, employees must have worked at least 1250 hours during the 12-month period preceding the commencement of the leave (refer to FLMA for military service exceptions).

Leaves Subject to the Federal Family and Medical Leave Act (FMLA)

FMLA and related state statutes entitle eligible OESD employees to take job-protected leave for specified family and medical reasons. Eligible employees are entitled to a total of up to twelve work weeks of paid or unpaid leave during any twelve (12) month period measured backward from the date leave is first used for one or more of the following:

- a) The birth of a child or placement of a child for adoption or foster care (refer to section titled “Maternity Leave” below;
- b) To bond with a child (leave must be taken within one year of the child’s birth or placement);
- c) Care for the employee’s spouse, parent or child who has a qualifying serious health condition;
- d) For the employee’s own serious health condition that makes the employee unable to perform his or her job;
- e) For qualifying exigencies related to the foreign deployment of a military member who is the employee’s spouse, child, or parent; and/or
- f) Care for the employee’s spouse, child, parent or next of kin who is a covered military veteran with a “serious injury or illness” as defined in the Family and Medical Leave Act (FMLA). Note: the employee is entitled to twenty-six (26) weeks of unpaid leave in a 12-month period to care for the service member.

Employees must submit FMLA forms provided by Human Resources which include an application for FMLA by the employee and completion of the Certification of Health Care Provider form from the employee’s or family member’s health care provider.

OESD may obtain the opinion of a second health care provider, at OESD expense, concerning any information pertinent to the employee's leave request.

OESD must notify its employees if leave will be designated as FMLA leave, and if so, how much leave will be designated as FMLA leave.

Additional Leave Requirements:

In addition to the above leave requirements, OESD employees must adhere to the following:

- a) Leave taken for newborn or adopted childcare will be completed within one year after the date of birth or placement for adoption.
- b) The period of absence for a newborn child is in addition to any sick leave taken due to the employee's temporary disability attributable to pregnancy or childbirth.

OESD will grant leave upon the same terms to male employees as is available to female employees upon the birth or adoption of the employee's child.

Leave will be granted upon the same terms to employees who become adoptive parents at the time of birth or initial placement for adoption of a child under the age of six, as is available to employees who become biological parents. Such leave is available only when the child lives in the employee's household at the time of birth or initial placement.

Leave Request Process

Employee requests for leave of absence due to birth or initial placement for adoption of a child will be submitted in writing to Human Resources not less than 30 days prior to the beginning date of the leave. If this isn't possible, notice should be given as soon as practicable. The notice will include the approximate beginning and ending dates for the leave requested.

If both parents of a newborn or newly adopted child are employed by OESD, they will be entitled to a total of twelve workweeks of family leave during any twelve-month period, and leave will be granted to only one parent at a time.

Intermittent or Reduced Hours Leave - Only Available If Required by Medical Necessity

Leave requested must normally be taken on a consecutive basis. However, intermittent or reduced hours leave may be available under certain limited conditions as follows:

- a) Childbirth and Adoption/Foster Care Leave - Childbirth and adoption/foster care leave may not be taken intermittently or on a reduced hours schedule unless the Superintendent or his/her designee specifically agrees on a case-by-case basis.
- b) Family Care and Personal Disability Leave - Family care and personal disability leave may not be taken intermittently or on a reduced hours schedule unless intermittent leave or a reduced hours schedule is medically necessary. The specific description of treatment, the regimen provided, and the expected duration and schedule of leave shall be certified by the medical provider to determine medical necessity.
- c) Temporary Transfer - In the case of a request for intermittent leave or a reduced hours schedule which is foreseeable based on planned medical treatment, the Superintendent or

his/her designee may require the employee to transfer temporarily to an available alternative position offered by the OESD for which the employee is qualified and which has equivalent pay and benefits and better accommodates recurring periods of leave.

Continuation of Health Benefits

- a) General -- During the term of any leave provided by this procedure, OESD shall continue coverage of the employee's group health plan as though the employee were not on leave. During any uncompensated leave, the employee shall remain responsible for any amount usually contributed by the employee to the health plan premium.
- b) Failure to Return to Work - The employee will be required to reimburse OESD all premiums paid by OESD to maintain coverage for the employee during the period of unpaid leave if the employee fails to return from leave upon the previously agreed date for a reason other than the continuation, recurrence, or onset of a serious health condition entitling the employee to family care or personal care, or other circumstances beyond the employee's control.

Restoration to Position

- a) General - Except as provided in subparagraph (c), an employee who takes leave provided by this procedure shall be restored upon return from leave to the same position held by the employee when the leave commenced or to an equivalent position with equivalent pay, benefits, and other terms and conditions of employment (this standard of "equivalent" is more stringent than "similar" or "comparable").
- b) Limitation - An employee who takes leave provided by this procedure has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the period of leave. Reinstatement need not occur, for example, if the employee's position has been eliminated due to a bona fide restructuring, reduction-in force, or completion of a specific term of employment or project for which the employee was hired.
- c) Employees returning from personal disability leave will be required to obtain a job-related "fitness for duty" certificate from a medical provider before being reinstated.

Maternity Leave

A staff member may use accumulated, paid sick leave for the period of actual disability attributable to pregnancy or childbirth. This period will extend from the date of birth for a period of not more than 60 days, unless an actual period of disability which begins prior to the date of birth or continues beyond 60 days is otherwise verified in writing by the employee's physician.

If the employee's accumulated sick leave is exhausted during the period of maternity, OESD will grant a leave of absence without pay or benefits, upon the staff member's request, for the remainder of the period of actual disability due to pregnancy or childbirth.

During any unpaid portion of such leave of absence, the staff member may pay the premiums for any OESD insurance plans to keep coverage in effect for the employee and her family.

Notice Required

A pregnant staff member is requested to notify her immediate supervisor and Human Resources by the beginning of the fifth month of pregnancy.

At the time of such notice the staff member will submit a written request to her immediate supervisor and Human Resources for one or more of the following:

1. Maternity leave for the period of her actual disability due to pregnancy or childbirth;
2. Family leave for a period of up to 12 weeks, in addition to any period of maternity disability leave (from employee's paid leave balance), OESD will extend the employee's health benefit during this period of unpaid leave;
3. Certificated staff working a school year schedule: Leave of absence for a period of up to the beginning of the next school year. Such extended leave of absence may be approved at the discretion of the superintendent or his/her designee based upon consideration of educational program needs and the desires of the staff member, together with the recommendation of her personal physician or licensed practitioner; or
4. Termination of employment by resignation.

The notice to OESD will include the approximate beginning and ending dates for the leave.

Employment Conditions

A pregnant staff member may continue working as long as she is capable of performing her normal duties. OESD may require the written approval of her physician or licensed practitioner.

The staff member may return to work when physically able to perform her duties. If the employee intends to return to work within 60 days of childbirth, her personal physician or licensed practitioner must certify that the staff member is in good health and ready to resume her duties.

No later than 30 days after the date of birth, the staff member is requested to notify Human Resources of the specific date when she will return to work. Unless Human Resources approves an earlier date of return, the employee will give at least 14 days advance notice of the actual date of return.

The staff member will return to her duties following a Maternity leave of absence on the date approved by the superintendent or his/her designee. If the employee is still experiencing a disability due to pregnancy, miscarriage, abortion, childbirth or recovery which prevents the employee from performing her duties on the scheduled date of return, an additional period of unpaid leave of absence may be approved at the discretion of the superintendent or his/her designee based upon consideration of program needs and the recommendation of the employee's personal physician or licensed practitioner.

Assignment upon Return

An employee who has taken a leave of absence only for the actual period of disability relating to pregnancy or childbirth or up to twelve weeks of family leave will return to the same assignment, or a similar position for which she is qualified with at least the same pay and benefits, as she held prior to the maternity leave or family leave.

Upon return from an extended maternity leave, a staff member will be entitled to a position in the OESD subject to the availability of a position for which she is qualified. An effort will be made to place the staff member in her original position or in a comparable position.

Washington State Family Leave*

The Washington State Family Leave Act (FLA) builds on existing similar benefits provided under the FMLA by providing additional benefits for women who are pregnant and to registered domestic partners.

Female employees who take leave from work for pregnancy-related conditions or childbirth and who qualify for leave under FMLA are entitled to additional leave benefits under the FLA. Registered domestic partners who qualify will be able to use their leave to care for a registered domestic partner who has a serious medical condition.

FMLA and FLA entitlement include weeks within which a holiday occurs but does not include periods of time for which OESD's activities have temporarily ceased and employees are not expected to report for work for one or more weeks (e.g., spring break or summer vacation for school-year employees).

Beginning on the first day of leave, employees must use all accrued paid leave available to them (i.e. sick, annual) to cover their leave under FMLA and FLA unless another federal or state law precludes this requirement. The twelve-week leave entitlement shall include and count such time used for other leaves except for the paid leave used for childbirth disability.

Domestic Violence Leave Act*

Victims of domestic violence, sexual assault or stalking are allowed to take reasonable leave from work, intermittent leave, or leave on a reduced work schedule, with or without pay; to seek legal or law enforcement assistance, medical treatment, counseling, or for safety and relocation issues.

Family members may also take reasonable leave to help a victim obtain needed treatment or services. Family member includes child, spouse, registered domestic partner, parent, parent-in-law, grandparent or person the employee is dating.

Employees must give advance notice of the need for leave when possible; but in an emergency, an employee must give notice no later than the end of the first day of leave. Verification from the employee requesting leave from one or more of the following will be required:

- 1) Police report indicating the employee or employee's family member was a victim;
- 2) Court order providing protection to the victim;
- 3) Documentation from a healthcare provider, advocate, clergy, or attorney; or
- 4) Written statement by the employee that the employee or employee's family member is a victim and needs assistance. Family relationship may be determined by birth certificate, court

document or other similar record.

Military Caregiver Leave

An employee who is the spouse, son or daughter, parent or next of kin of a service member who is recovering from a serious illness or injury sustained while on active duty is entitled to twenty-six (26) weeks of unpaid leave in a 12-month period to care for the service member.

Requirement for Posting and Providing Copies of Policy and Procedure

OESD shall post the FMLA poster provided by the Wage and Hour Division of the U.S. Department of Labor. Human Resources shall provide a copy of this policy and procedure or other written guidance as may be developed to any employee who requests leaves covered by this Procedure.

***Note:** Eligibility for, and the terms of, these leave benefits are established by state and/or federal law. The general description of these leaves as contained in this procedure is for informational purposes and employees are encouraged to contact the Human Resources Department if they have questions regarding these leave benefits.

(updated 2-16-2017)

Date: Converted from Policy 5404 To Procedure 5400 P4, February 21, 2019