

**MEMORANDUM**

DATE: January 4, 2022  
RE: OFLA 2022 Update

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On January 1, 2022, the Oregon Family Leave Act (OFLA) expanded in a few important respects, which are summarized below. Employers should review their current policies, practices, and procedures to ensure they are aligned with these changes.

**Eligibility for Employees Rehired or Reinstated After Furlough or Separation**

Before January 1, OFLA did not give any credit for prior service to employees who were rehired or reinstated shortly after a temporary furlough (aka layoff) or a separation from employment (aka termination). Those folks were subject to the same eligibility requirements as new employees, which include being employed for at least 180 days immediately before leave begins and, for all qualifying reasons other than parental leave, working an average of at least 25 hours per week during those 180 days. Not anymore. Under the OFLA changes effective at the beginning of this year:

- Employees are immediately eligible for OFLA leave upon their rehire or return to work if they are rehired or return within 180 days of their furlough or separation date and if they were eligible for OFLA leave at the time of their furlough or separation.
- Employees who were not eligible for OFLA at the time of their furlough or separation will receive credit for time worked for the employer before the furlough or separation for the purpose of establishing OFLA eligibility as long as they are rehired or return to work within 180 days of their furlough or separation date.

Any OFLA leave taken by the returning employee within any one year-period continues to count against the amount of OFLA leave the employee is entitled to use.

**Expanded Eligibility During a Public Health Emergency**

During a “public health emergency,” employee eligibility for any qualifying reason (including parental leave) is reduced from the usual 180 days to 30 days for employees who have (a) been employed for at least 30 days before the leave begins, and (b) worked an average of at least 25 hours per week during that same timeframe.

A “public health emergency” means (a) a public health emergency declared under ORS 433.441, or (b) an emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

In Executive Order 20-03 from March 2020, Governor Kate Brown declared a public health emergency under ORS 401.165. That order has been extended twice, most recently on December 21, 2021, and will remain in effect until June 30, 2022, unless extended or terminated earlier by the Governor.

### **Expanded Reasons for Leave During a Public Health Emergency**

Finally, the OFLA amendments expanded the list of qualifying reasons for leave to include care for a child who requires home care due to the closure of the child’s school or child care provider as a result of a public health emergency. That change reflected updates BOLI had already made to its [rule](#), which includes definitions of “closure” and “child care provider.”

For more information, please contact our attorneys, [Amanda Walkup](#), [Andy Lewis](#), and [Mario Conte](#).

*This summary provides general information and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. If you have specific legal questions, you are urged to consult with your attorney concerning your own situation.*