

## OFLA Questions and Answers

**My employee wants to use the Oregon Family Leave Act (OFLA) to be with her daughter when she has a baby. Does this qualify as OFLA?**

Yes, as long as it is the employee's child giving birth. There are several scenarios under which an employee would qualify for OFLA to attend the birth of their grandchild. However, there is one scenario under which all OFLA qualified employees could take OFLA leave to be present at the time when their child, minor or not, is giving birth. The administrative rules provide that a family member includes a child who is a minor or an adult for the purposes of OFLA leave for a serious medical condition. The administrative rules also state that childbirth specifically qualifies as a serious medical condition. Therefore, this employee may use OFLA leave to attend her daughter's childbirth under OFLA leave as a serious medical condition.

**My employee won't provide a medical certification. Do I have to grant OFLA?**

Not necessarily. If the employee is requesting leave thirty (30) days in advance, the employer may request medical verification from the employee prior to commencement of the leave. The employer is required to pay any out of pocket expenses for the medical examination. Should the employee refuse to provide such documentation the employer may not deny the employee leave and can designate the leave time as provisional OFLA leave.

If the leave commences without medical verification or without thirty (30) days prior notice the employee can be required to provide medical verification within fifteen (15) days from the day the leave commences designating the leave as provisional OFLA leave until medical verification is received.

In either case the employer is required to provide the employee a written request for medical verification. The request, given to the employee in writing, must clearly state the employer's request for medical verification, dates for completing such verification, and outline any consequences the employee may face for failing to provide medical verification.

Remember, an employee is not required to provide medical certification for sick child leave for the first three (3) occurrences in a given leave year. Also, an employee is not required to provide medical verification for parental leave.

**What happens when my employee runs out of OFLA; may I terminate the person immediately?**

Perhaps. Once an employee has exhausted OFLA leave an employer may begin holding an employee to the same absentee policy as any other employee and discipline or terminate an employee according to that policy. However, be aware that an employee

may have other rights under State and Federal disability statutes, the Federal Family and Medical Leave Act of 1993 (FMLA), or state law related to injured workers.

Plan to attend an upcoming Technical Assistance for Employers seminar: Wage and Hour Laws in Portland on May 13, Leave Laws in Oregon City on May 14, Wage and Hour Laws in St. Helens May 15, Wage and Hour Laws in Corvallis on May 20. For registration information, visit our website at [www.oregon.gov/BOLI](http://www.oregon.gov/BOLI)