



## HRAR - 6.05 (B) Oregon Paid Family and Medical Leave - Interim

Administrative Rules Adopted by Bureaus Pursuant to Rule Making Authority (ARB)

Search Code, Charter, Policy

Policy category: [Leaves](#)

Policy number: HRAR - 6.05 (b)

Keywords

Search

### Purpose

Under Paid Leave Oregon (PLO), eligible employees may be entitled to a leave of absence with partial or full wage replacement benefits from the State of Oregon Employment Department ("OED") for absences due to their own serious health condition (medical leave), to care for a family member with a serious health condition or bond with a new child (family leave), or for survivors to deal with the ramifications of domestic violence, criminal harassment, sexual assault or stalking (safe leave).

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### Employee Eligibility

Employees who work in Oregon and earned at least \$1,000 from any Oregon employer in the year before they apply for Paid Leave may be eligible for benefits. Additional rules may apply to employees performing work in more than one state.

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### Reasons for and Length of Leave

During a benefit year, eligible employees may be entitled to:

- Up to 12 weeks of paid family or safe leave: (1) to care for a family member with a serious illness or injury; (2) to bond with a new child after birth, adoption or foster care placement; (3) during one's own serious health condition; or (4) for survivors of sexual assault, domestic violence, criminal harassment, or stalking.
- Medical leave may be extended up to an additional two weeks (i.e., up to 14 weeks of paid medical leave benefits) if the employee experiences a pregnancy-related health condition, including but not limited to lactation issues.
- Employees may also be entitled to additional unpaid leave benefits as well, subject to the provisions of the FMLA, OFLA, ADA, or other leave laws. To the extent possible, an employee's Paid Leave Oregon

entitlement will run concurrently (at the same time) with any FMLA/OFLA leave that the employee qualifies for.

An employee is not entitled to Paid Leave Oregon benefits for any week they are eligible to receive (1) workers' compensation, (2) unemployment benefits, or (3) other such exclusions as may be dictated by the OED.

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## Definitions

- **“Benefit year”** means the 52-week period beginning the Sunday before leave begins.
  - **“Family Member”** means the employee’s spouse or domestic partner, child, parent, grandparent, grandchild, sibling, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship, as determined by the State of Oregon.
  - **“Child”** means a biological, adopted, or foster child, a stepchild, legal ward, or a child to whom the employee stands in loco parentis, a legal guardian, as well as the “child” of the employee’s spouse or domestic partner.
  - **“Parent”** means the biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or state registered domestic partner, or an individual who stood in loco parentis to an employee when the employee was a minor, as well as the “parent” of the employee’s spouse or domestic partner.
  - **“Grandchild”** means a child of the employee’s child or the grandchild’s spouse or domestic partner.
  - **“Grandparent”** means a parent of the employee’s parent or the grandparent’s spouse or domestic partner.
  - **“Sibling”** means the sibling or stepsibling of an employee or the sibling’s or stepsibling’s spouse or domestic partner.
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## Wage Replacement Benefits

Eligible employees may receive wage replacement benefits from the OED. Wage replacement benefits are determined and administered by the OED, not the City. The amount of wage replacement benefits is calculated based on an employee’s average weekly wage in relation to the state average weekly wage and is capped at a maximum weekly benefit amount that is adjusted annually. Payment of wage replacement benefits may be subject to a waiting period as determined by the OED.

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## Intermittent and Reduced Schedule Leave

Employees may take Paid Leave Oregon intermittently, which means taking leave in blocks of time less than a full workweek. Leave can be claimed in units as small as one workday.

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## Payroll Deductions

Paid Leave Oregon benefits are funded by a contribution rate determined by the State of Oregon.

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## Requesting Leave

Employees must file an application for Paid Leave Oregon benefits directly with the OED using the OED's forms, available at [paidleave.oregon.gov](https://paidleave.oregon.gov).

Employees must also provide advance notice to the City as follows:

- When the need for PLO leave is foreseeable—e.g., an expected birth, placement of a child, or planned medical treatment for a serious health condition—the employee must provide written notice to the City at least 30 days in advance.
- When 30 days' notice is not possible, such as because of a lack of knowledge of approximately when PLO leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide written notice to the City as soon as practicable. "As soon as practicable" means as soon as it is both possible and practical to provide notice, taking into account all of the facts and circumstances in the individual situation.
- If an employee commences leave without prior notice, the employee must give oral notice to the employer within 24 hours and written notice within three days.
- Oral notice for unforeseeable leave may be given by anyone on behalf of the employee.
- Written notice for unforeseeable leave may be given by the employee's emergency contact person, or any other person otherwise specifically designated by the employee in the employer's records.

Written notice should be provided to the employee's manager or supervisor and specify the (1) employee's first and last name, (2) the type of leave, (3) an explanation of the need for leave, and (4) anticipated timing and duration of the leave. Written notice includes, but is not limited to, handwritten or typed notices, and all forms of written electronic communications such as email. Failure to provide timely notice may result in the OED reducing an employee's first week of paid leave benefits by up to 25%.

Employees must advise the City as soon as practicable if the dates of a scheduled PLO leave change or are extended, or if the dates of leave were initially unknown. Employees applying for PLO benefits must provide the OED supporting documentation or attestation as required by the OED.

When using PLO concurrently with FMLA, employees must comply with the notice and certification requirements found at [HRAR 6.05 \(A\)](#), Family Medical Leave.

When possible, an employee must make a reasonable effort to schedule treatment or supervision at times that will minimize disruption of the City's operations, subject to the approval of the employee's or family member's health care provider.

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## Health Benefits

If an employee has been employed by City for at least 90 days, the City will continue making contributions to employee group health benefits during the PLO leave on the same terms as if the employee had continued to actively work. Employees must continue to make the same premium payments that they are normally required to make for themselves or their dependents.

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## Effect on Other Rights and Paid Leave

When both FMLA and PLO apply, the leave provided by each will count against the employee's entitlement under both laws, and leave taken under FMLA will run concurrently with leave taken under PLO. Similar provisions apply for leave taken under both OFLA and PLO.

Employees may use accrued and eligible leave accruals in addition to receiving Paid Leave Oregon benefits to replace their wages during a period of qualifying Paid Leave by the OED. This is known as **"topping off."** Employees must affirmatively request that City "top off" of payments by the OED with accrued PTO. "Topping off" is only available upon written request by the affected employee. Employees may "top off" the PLO benefit to supplement of the employee's average weekly wage, the amount adjudicated by the OED must be communicated promptly by the employee to City, so that the appropriate accrual usage charge may be calculated and paid. The employee must promptly notify the City of any changes to the wage replacement benefits they request or receive from the OED.

Paid time off will accrue only on the monies paid by the City that the employee has elected to access to supplement PLO benefits. PLO benefits paid by the State will not accrue paid time off.

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## Return from Leave

Employees who were employed at least 90 days before going out on PLO and who return to work as scheduled at the end of PLO will be reinstated to the same position they held at the time the leave commenced, or to an equivalent position with comparable benefits, pay, and other terms and conditions of employment, if the position no longer exists.

For employees who do not meet the requirements for job reinstatement under Paid Leave Oregon, reinstatement is not guaranteed. Other laws that provide for reinstatement may apply, and the City will comply with all applicable reinstatement requirements.

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## Protected Rights

The City takes its Paid Leave Oregon obligations very seriously and will not interfere with, restrain or deny the exercise of any right protected under PLO. The City will not discriminate or retaliate against any employee because that person uses or attempts to use PLO benefits. Employees who believe their PLO rights have been violated in any way should immediately report the matter to their Human Resource Business Partner or the Bureau of Human Resources. Any health information related to family leave, medical leave or safe leave is confidential and is maintained in the employee's medical file rather than their personnel file. Employees have the right to file an administrative charge with the Oregon Bureau of Labor and Industries or a lawsuit in Circuit Court if they believe their rights under the law have been violated.

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## History

Interim Rule Effective September 5, 2023

## Related documents

 [PPCOA Paid Leave Oregon LOA](#) 1.65 MB

 [PPA Paid Leave Oregon LOA](#) 208.04 KB

 [DCTU, LiUNA Laborers' Local 483, PFFA, and PROTEC17 Paid Leave Oregon LOA](#) 571.66 KB

## LETTER OF AGREEMENT

The parties to this Letter of Agreement (“LOA” or “Agreement”) are the City of Portland (“City”) and the Portland Police Commanding Officers Association (“PPCOA”).

### Recitals

- A. The purpose of this LOA is to memorialize the parties’ agreement over the implementation of the State of Oregon’s Paid Leave Oregon program.
- B. The parties agree as follows.

### Agreement

1. Effective September 3, 2023, the date that Paid Leave Oregon (PLO) benefits become payable under State law, an employee may elect to supplement their PLO benefit with their paid leave banks to receive 100% of their regular pay (which is the hourly rate paid if the employee would have used their time off accruals). If an employee elects the supplement, it is the employees’ responsibility to calculate how much accrued paid leave they need to use in order to supplement their PLO benefit. The PLO benefit and supplement can put the employee above 100% of their regular pay. The City will notify the employee if the employee does not have sufficient accrued leave to supplement and allow the employee to resubmit their request.

The employee may elect to use their accrued leave during the PLO eligibility review process beginning on the benefit start date as reported by the employee on the application for PLO benefits to ensure they are receiving 100% of their regular pay during the eligibility review process. The PLO benefit and accrued leave use can put the employee above 100% of their regular pay.

2. PLO time runs concurrently with FMLA and OFLA if the PLO event also qualifies under FMLA and/or OFLA.
3. While receiving PLO benefits, regardless of whether the employee is supplementing under paragraph 1 of this Agreement, the City will continue City-paid health, vision, and dental insurance. If the employee is receiving a supplement through the use of paid leave, the employee’s remittance of the employee portion of health, vision, and dental insurance premiums shall occur through regular payroll withholding. If the employee is not receiving a supplement through use of paid leave, the employee is responsible for remitting any unpaid employee health, vision, and dental insurance premium through paycheck deduction upon returning to active paid status. If total employee premiums due exceed the amount of the employee’s paycheck, the employee is responsible for

remitting their health, vision, and dental insurance premium portion pursuant to collective bargaining agreement requirements for continuation of medical benefits. Employees agree to work with the Benefits Office regarding repayment options.

4. While receiving PLO benefits with any employee leave supplementation under paragraph 1 of this Agreement, the employee's paid leave accruals under the collective bargaining agreement will continue uninterrupted. While receiving PLO benefits without employee leave supplementation under paragraph 1 of this Agreement, the employee's leave banks will be frozen and the employee will not accrue additional paid leave benefits during that PLO period.
5. While receiving PLO benefits, regardless of whether the employee is supplementing under paragraph 1 of this Agreement, an employee's seniority will continue to accrue without any break in service.
6. If an employee elects to use any paid leave bank to supplement under paragraph 1 of this Agreement, the City will report that supplement salary to the appropriate pension plan as subject salary.
7. Should any section or portion thereof of this letter of agreement be declared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations Board or other regulatory body, by regulation, statute or constitutional amendment, or upon mutual agreement of the parties, such decision shall apply only to the specific section or portion thereof, directly specified in the decisions; upon the issuance of such a decision, rulings, or law, the parties agree immediately to negotiate a substitute, if possible, for the invalidated section or portion thereof in accordance with the expedited bargaining procedures in ORS 243.698. Should the City's administrative capabilities change to allow for more accurate administration of the supplementation process defined under paragraph 1, the parties agree to negotiate a revised process for such elections under ORS 243.698.
8. For employees eligible under the State of Washington's Paid Family and Medical Leave program, the same supplementation procedures defined under paragraph 1 will apply.
9. This Agreement is effective upon execution.

For the City:

Cathy L. Bless 9/7/23  
Cathy Bless Date  
BHR Director

For the PPCOA:

Casey Hettman 9/7/2023  
Casey Hettman Date  
Lieutenant

## LETTER OF AGREEMENT

The parties to this Letter of Agreement (“LOA” or “Agreement”) are the City of Portland (“City”) and the Portland Police Association (“PPA”) on behalf of its Police Bureau and BOEC bargaining units.

### Recitals

- A. The purpose of this LOA is to memorialize the parties’ agreement over the implementation of the State of Oregon’s Paid Leave Oregon program.
- B. The parties agree as follows.

### Agreement

1. Effective September 3, 2023, the date that Paid Leave Oregon (PLO) benefits become payable under State law, an employee may elect to supplement their PLO benefit with their paid leave banks to receive 100% of their regular pay (which is the hourly rate paid if the employee would have used their time off accruals). If an employee elects the supplement, it is the employees’ responsibility to calculate how much accrued paid leave they need to use in order to supplement their PLO benefit. The PLO benefit and supplement can put the employee above 100% of their regular pay. The City will notify the employee if the employee does not have sufficient accrued leave to supplement and allow the employee to resubmit their request.

The employee may elect to use their accrued leave during the PLO eligibility review process beginning on the benefit start date as reported by the employee on the application for PLO benefits to ensure they are receiving 100% of their regular pay during the eligibility review process. The PLO benefit and accrued leave use can put the employee above 100% of their regular pay.

2. PLO time runs concurrently with FMLA and OFLA if the PLO event also qualifies under FMLA and/or OFLA.
3. While receiving PLO benefits, regardless of whether the employee is supplementing under paragraph 1 of this Agreement, the City will continue City-paid health, vision, and dental insurance. If the employee is receiving a supplement through the use of paid leave, the employee’s remittance of the employee portion of health, vision, and dental insurance premiums shall occur through regular payroll withholding. If the employee is not receiving a supplement through use of paid leave, the employee is responsible for remitting any unpaid employee health, vision, and dental insurance premium through paycheck deduction upon returning to active paid status. If total employee premiums

due exceed the amount of the employee's paycheck, the employee is responsible for remitting their health, vision, and dental insurance premium portion pursuant to collective bargaining agreement requirements for continuation of medical benefits. Employees agree to work with the Benefits Office regarding repayment options.

4. While receiving PLO benefits with any employee leave supplementation under paragraph 1 of this Agreement, the employee's paid leave accruals under the collective bargaining agreement will continue uninterrupted. While receiving PLO benefits without employee leave supplementation under paragraph 1 of this Agreement, the employee's leave banks will be frozen and the employee will not accrue additional paid leave benefits during that PLO period.
5. While receiving PLO benefits, regardless of whether the employee is supplementing under paragraph 1 of this Agreement, an employee's seniority will continue to accrue without any break in service.
6. If an employee elects to use any paid leave bank to supplement under paragraph 1 of this Agreement, the City will report that supplement salary to the appropriate pension plan as subject salary.
7. Should any section or portion thereof of this letter of agreement be declared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations Board or other regulatory body, by regulation, statute or constitutional amendment, or upon mutual agreement of the parties, such decision shall apply only to the specific section or portion thereof, directly specified in the decisions; upon the issuance of such a decision, rulings, or law, the parties agree immediately to negotiate a substitute, if possible, for the invalidated section or portion thereof in accordance with the expedited bargaining procedures in ORS 243.698. Should the City's administrative capabilities change to allow for more accurate administration of the supplementation process defined under paragraph 1, the parties agree to negotiate a revised process for such elections under ORS 243.698.
8. Should the City enter into an agreement with another City labor organization that provides for the City "picking-up" some or all of the employee statutory PLO employee contribution, providing for leave accruals while the employee is on PLO-only status (no supplementing), or any other financial benefit beyond the terms set forth in this Agreement, the City and PPA will reopen this Agreement for re-negotiation under ORS 243.698.

9. For employees eligible under the State of Washington's Paid Family and Medical Leave program, the same supplementation procedures defined under paragraph 1 will apply.

10. This Agreement is effective upon execution.

For the City:

Cathy L. Bless 8/30/23  
Cathy Bless                      Date  
BHR Director

For the PPA:

Aaron Schmutz 9/4/23  
Sgt. Aaron Schmutz      Date

## **Letter of Agreement**

### **Paid Time Off and Paid Leave Oregon**

The parties to this Agreement are the City of Portland (“Employer”), The Professional Technical Employees Union PROTEC Local 17, District Council of Trade Unions the DCTU, AFSCME Local 189, AFSCME Local 189-Auditors, AFSCME Local 189 – IPR, LiUNA 483, and Portland Fire Fighters’ Association IAFF Local 43, (“Unions”).

#### **Background**

- A. The Employer and each Union are parties to a collective bargaining agreement (CBA) currently in effect;
- B. In June of 2019, the Oregon Legislature passed HB 2005, which created Paid Leave Oregon;
- C. The parties began negotiations on Paid Leave Oregon in September of 2022. On December 2, 2022, the City notified unions that it would be implementing the State’s required deductions, taking effect on January 1, 2023. Specifically, the City of Portland would begin paying 40% of the 1%, and covered employees would begin paying 60% of the 1% of the employee’s total payroll.
- D. The purpose of this agreement is to provide clarity on the use of paid time off accruals while a covered employee is receiving funds from Paid Leave Oregon.

#### **Agreement**

- 1. Effective September 3, 2023(the date that Paid Leave Oregon (PLO) benefits become payable under State law), an employee may elect to supplement their PLO benefit with their paid leave banks to receive 100% of their regular pay (which is the hourly rate paid if the employee would have used their time off accruals). If an employee elects the supplement, it is the employees’ responsibility to notify the City of how much accrued paid leave they need to use in order to supplement their PLO benefit. The City will notify the employee if the employee does not have sufficient accrued leave to supplement and allow the employee to resubmit their request.
- 2. Paid time off will accrue only on the monies paid by the City that the employee has elected to access to supplement PLO benefits. PLO benefits paid by the State will not accrue paid time off.

3. Employees are required to give the City thirty (30) days' notice of the need for leave when it is foreseeable (such as in the case of childbirth or planned medical treatment for a serious health condition) by completing a Leave of Absence Application form and providing it to their supervisor or responsible administrator. If the need for the leave is unforeseeable, the employee must give verbal notice to the City as soon as it is possible and practical after the need for leave becomes known to the employee and provide a Leave of Absence Application. Requests for family medical leave must be made to the immediate supervisor or responsible administrator. The request must include enough information to make the supervisor or administrator aware that the employee needs or is seeking family medical leave and the anticipated timing and duration of the leave.
4. The employee may elect to use their accrued leave during the PLO eligibility review process beginning on the benefit start date as reported by the employee on the application for PLO benefits to ensure they are receiving 100% of their regular pay during the eligibility review process.
5. Should any section or portion thereof of this letter of agreement be declared to be invalid by any court of competent jurisdiction, by ruling by the Employment Relations Board or other regulatory body, by regulation, statute or constitutional amendment, or upon mutual agreement of the parties, such decision shall apply only to the specific section or portion thereof, directly specified in the decisions; upon the issuance of such a decision, rulings, or law, the parties agree immediately to negotiate a substitute, if possible, for the invalidated section or portion thereof in accordance with the expedited bargaining procedures in ORS 243.698. Should the City's administrative capabilities change to allow for more accurate administration of the supplementation process defined under paragraph 1, the parties agree to negotiate a revised process for such elections.
6. For employees eligible under the State of Washington's Paid Family and Medical Leave program, the same supplementation procedures defined under paragraph 1 and 2 will apply.
7. This letter of agreement shall not set a precedent for any interpretation of parties collective bargaining agreements, City of Portland administrative rules or any other letter of agreement.

**So Agreed:**

Karen E.

**Karen Estevenin**  
PROTEC 17

09/07/2023

Date

Mark Hinkle

**Mark Hinkle**  
DCTU

09/08/2023

Date

R. J. Martin

**AFSCME Local 189 & AFSCME Local 189 (Auditors)**

9/20/2023

Date

James O'Laughlin

**RYAN SOTOMAYOR**  
Liuna 483

9/18/23

Date

Isaac McLennan

**Isaac McLennan**  
Portland Fire Fighters' Association, IAFF Local 43

9/18/2023

Date

Cathy L. Bless

**Cathy Bless**  
Chief Human Resource Officer

9/25/2023

Date

*Simone Rede*

9/26/2023

**Simone Rede**

**Date**

City Auditor

*Teri Gale*

9/27/2023

~~Chief~~, Deputy City Attorney

**Date**