

Electronic Alert

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Common Questions Answered Regarding OFLA & Paid Leave Oregon

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With Paid Leave Oregon benefits beginning on September 3, 2023, the Oregon Employment Department and the Oregon Bureau of Labor & Industries have published a fact sheet to answer common questions regarding the interaction between leave taken under Paid Leave Oregon and leave taken under the Oregon Family Leave Act (“OFLA”). Although Senate Bill 999, which amended both Paid Leave Oregon and OFLA, attempted to bring these two leave laws into alignment, there is still tension between the two laws.

Concurrency of OFLA & Paid Leave Oregon

Generally, employees are eligible to take 16 (or up to 18 weeks) of total leave—including both unpaid OFLA leave and paid leave taken under Paid Leave Oregon—during a Paid Leave Oregon benefit year. Additionally, if an employee’s reason for leave qualifies under both Paid Leave Oregon and OFLA, the leave must be taken concurrently. However, employers may not require that their employees apply for Paid Leave Oregon benefits.

In a nutshell, this means that OFLA leave taken prior to an employee beginning their Paid Leave Oregon benefit year will not reduce the amount of leave under Paid Leave Oregon they may be eligible to take. Similarly, OFLA leave taken before September 3, 2023, will not reduce the amount of leave under Paid Leave Oregon available.

However, assuming that the employer’s Paid Leave Oregon and OFLA benefit years are aligned, this potential for “stacking” is eliminated if an employee chooses to apply for and take Paid Leave Oregon first or concurrently with OFLA. However, if an employee’s reason for leave qualifies under both Paid Leave Oregon and OFLA, but the employee decides not to apply for Paid Leave Oregon benefits at the outset, then that employee is entitled to exhaust their OFLA leave (for up to 36 weeks of protected leave) and subsequently apply for Paid Leave Oregon (for up to 14 weeks of protected leave).

Conversely, if an employee’s reason for leave qualifies under both Paid Leave Oregon and OFLA, but the employee does decide to apply for Paid Leave Oregon benefits at the outset, then that employee will concurrently exhaust their Paid Leave Oregon and OFLA leave and may take up to a maximum of 14 weeks of paid leave under Paid Leave Oregon and up to an additional four weeks of unpaid OFLA leave during the same benefit year.

Intermittent Parental Leave

Additionally, the fact sheet notes that, while OFLA permits an employer to require an employee to take parental leave all at once, Paid Leave Oregon allows parental leave to be taken intermittently.

Accordingly, employers must allow employees using Paid Leave Oregon to take parental leave intermittently so long as they take time off in full day increments.

For additional information relating to Paid Leave Oregon, including all recent E-Alerts and publications that relate to Paid Leave Oregon, visit our Paid Leave Oregon webpage.

For questions on compliance with Paid Leave Oregon, or other related policy updates, decision-making, or advice, contact Amy Angel at (503) 276-2195 or aangel@barran.com or Stacie Damazo at (503) 276-2121 or sdamazo@barran.com.