

Columbia Gorge ESD

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The following symbol is used on some policies:

** As used in this policy, the term parent includes legal guardian or person in a parental relationship. The status and duties of a legal guardian are defined in ORS 125.005(4) and 125.300-125.325. The determination of whether an individual is acting in a parental relationship, for purposes of determining residency, depends on the evaluation of the factors listed in ORS 419B.373. The determination for other purposes depends on evaluation of those factors and a power of attorney executed pursuant to ORS 109.056. For special education students, parent also includes a surrogate parent, an adult student to whom rights have transferred and foster parent as defined in OAR 581-015-2000.

Columbia Gorge ESD

Code: GCBDA/GDBDA
Adopted: 8/16/17
Orig. Code: GCBDA/GDBDA

Family Medical Leave *

When applicable, the ESD will comply with the provisions of the Family and Medical Leave Act (FMLA) of 1993, the Oregon Family Leave Act (OFLA) of 1995, the Military Family Leave Act as part of the National Defense Authorization Act of 2008 and for Fiscal Year 2010 (which expanded certain leave to military families and veterans for specific circumstances), the Oregon Military Family Leave Act (OMFLA) of 2009, and other applicable provisions of Board policies and collective bargaining agreements regarding family medical leave.

FMLA applies to ESDs with 50 or more employees within 75 miles of the employee's work site, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

OFLA and OMFLA applies to ESDs that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more work weeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

In order for an employee to be eligible for the benefits under FMLA, ~~he/she~~ they must have been employed by the ESD for at least 12 months and have worked at least 1,250 hours during the past 12-month period.

In order for an employee to be eligible for the benefits under OFLA, ~~he/she~~ they must work an average of 25 hours per week and have been employed at least 180 calendar days prior to the first day of the family medical leave of absence. For parental leave purposes, an employee becomes eligible upon completing at least 180 calendar days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

OMFLA applies to employees who work an average of at least 20 hours per week; there is no minimum number of days worked when determining an employee's eligibility for OMFLA.

Federal and state leave entitlements generally run concurrently.

The superintendent will develop administrative regulations as necessary for the implementation of the provisions of both federal and state law.

END OF POLICY

Legal Reference(s):[ORS 332.507](#)[ORS 342.545](#)[ORS 659A.090](#)[ORS 659A.093](#)[ORS 659A.096](#)[ORS 659A.099](#)[ORS 659A.150 to -659A.186](#)[OAR 839-009-0200 to -0320](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); 5 U.S.C. §§ 6381-6387 (2017); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2017).

Americans with Disabilities Act Amendments Act of 2008.

Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(1)
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Federal Family and Medical Leave/State Family Medical Leave *

Coverage

The federal Family and Medical Leave Act (FMLA) applies to ESDs with 50 or more employees within 75 miles of the employee's work-site, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year preceding the year in which the leave is to be taken. The 50 employee test does not apply to educational institutions for determining employee eligibility.

The Oregon Family Leave Act (OFLA) and the Oregon Military Family Leave Act (OMFLA) applies to ESDs that employ 25 or more part-time or full-time employees in Oregon, based on employment during each working day during any of the 20 or more workweeks in the calendar year in which the leave is to be taken, or in the calendar year immediately preceding the year in which the leave is to be taken.

Employee Eligibility

FMLA applies to employees who have worked for the ESD for at least 12 months (not necessarily consecutive) and worked for at least 1,250 hours during the 12-month period immediately preceding the start of the leave.

An employee who has previously qualified for and has taken some portion of FMLA leave may request additional FMLA leave within the same leave year. In such instances, the employee need not requalify as an eligible employee, if the additional leave applied for is in the same leave year and for the same condition.

OFLA applies to employees who work an average of 25 hours or more per week during the 180 calendar days or more immediately prior to the first day of the start of the requested leave¹. For parental leave purposes, an employee becomes eligible upon completing at least 180 days immediately preceding the date on which the parental leave begins. There is no minimum average number of hours worked per week when determining employee eligibility for parental leave.

An employee who has previously qualified for and has taken some portion of OFLA leave, may request additional OFLA leave within the same leave year. In such instances, the employee must requalify as an eligible employee for each additional leave requested unless one of the following exceptions apply:

¹ The requirements of OFLA do not apply to any employer offering eligible employees a nondiscriminatory cafeteria plan, as defined by section 125 of the Internal Revenue Code of 1986, which provides as one of its options employee leave at least as generous as the leave required by OFLA.

1. A female employee who has taken 12 weeks of pregnancy disability leave need not requalify leave in the same leave year for any other purpose;
2. An employee who has taken 12 weeks of parental leave need not requalify to take an additional 12 weeks in the same leave year for sick child leave; and
3. An employee granted leave for a serious health condition for the employee or a family member need not requalify if additional leave is taken in this leave year for the same reason.

OMFLA applies to employees who work an average of at least 20 hours per week. There is no minimum number of days worked when determining employee eligibility for OMFLA.

In determining if an employee has been employed for the preceding 180 calendar days, when applicable, the employer must consider days, e.g. paid or unpaid, an employee is maintained on payroll for any part of a work week. Full-time public school teachers who have been maintained on payroll by an ESD for 180 consecutive calendar days are thereafter deemed to have been employed for an average of at least 25 hours per week during the 180 days immediately preceding the start date of the OFLA leave. This provision is eligible for rebuttal if for example, the employee was on a nonpaid sabbatical.

In determining average workweek, the employer must count the actual hours worked using the Fair Labor Standards Act (FLSA) guidelines.

Qualifying Reason

Eligible employees may access FMLA leave for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave² (separate from eligible leave as a result of a child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.

² Parental leave must be taken in one continuous block of time within 12 months of the triggering event.

3. Military Caregiver Leave: leave for the care for spouse, son, daughter or next-of-kin who is a covered servicemember/veteran with a serious injury or illness;
4. Qualifying Exigency Leave: leave arising out of the foreign deployment of the employee's spouse, son, daughter or parent.

Eligible employees may access OFLA for the following reasons:

1. Serious health condition of the employee or the employee's covered family member:
 - a. Inpatient care;
 - b. Continuing treatment;
 - c. Chronic conditions;
 - d. Permanent, long-term or terminal conditions;
 - e. Multiple treatments;
 - f. Pregnancy and prenatal care.
2. Parental leave (separate from eligible leave as a result of the child's serious health condition):
 - a. Bonding with and the care for the employee's newborn (within 12 months following birth);
 - b. Bonding with and the care for a newly adopted or newly placed foster child under the age of 18 (within 12 months of placement);
 - c. Care for a newly adopted or newly placed foster child over 18 years of age who is incapable of self-care because of a physical or mental impairment (within 12 months of placement);
 - d. Time to effectuate the legal process required for placement of a foster child or the adoption of a child.
3. Sick Child Leave: leave for non-serious health conditions of the employee's child. For OFLA, sick child leave includes absence to care for an employee's child whose school or child care provider has been closed³ in conjunction with a statewide public health emergency declared by a public health official.⁴
4. Bereavement Leave: leave related to the death of a covered family member.⁵

Eligible employees may access OMFLA for the purpose of spending time with a spouse or same-gender domestic partner who is in the military and has been notified of an impending call or order to active duty, or who has been deployed during a period of military conflict.

³ "Closure" for the purpose of sick child leave during a statewide public health emergency declared by a public health official means a closure that is ongoing, intermittent, or recurring and restricts physical access to the child's school or child care provider. OAR 839-009-0210(4).

⁴ The district may request verification of the need for sick child leave due to a closure during a statewide emergency. Verification may include:

1. The name of the child being cared for;
2. The name of the school or child care provider that has closed or become unavailable; and
3. A statement from the employee that no other family member of the child is willing and able to care for the child. With the care of a child older than 14, a statement that special circumstances exist requiring the employee to provide care to the child during daylight hours.

⁵ Bereavement leave under OFLA must be completed within 60 days of when the employee received notice of the death.

The eligibility of an employee who takes multiple leaves for different qualified reasons during the same ESD designated leave period may reconfirm at the start of each qualified leave requested.

Definitions

1. Family member:

- a. For the purposes of FMLA, “family member” means:
 - (1) Spouse⁶;
 - (2) Parent;
 - (3) Child; or
 - (4) Persons who are “in loco parentis”.
- b. For the purposes of OFLA, “family member” means:
 - (1) Spouse;
 - (2) Registered, same-gender domestic partner;
 - (3) Parent;
 - (4) Parent-in-law;
 - (5) Parent of employee’s registered, same-gender domestic partner;
 - (6) Child;
 - (7) Child of employee’s registered, same-gender domestic partner;
 - (8) Grandchild;
 - (9) Grandparent; or
 - (10) Persons who are “in loco parentis”.

2. Child:

- a. For the purposes of FMLA, “child” means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing “in loco parentis”, who is either under the age of 18, or who is 18 years of age or older and who is incapable of self-care because of a physical or mental impairment.
- b. For the purposes of Military Caregiver Leave and Qualifying Exigency Leave under FMLA, “child” means the employee’s son or daughter on covered active duty regardless of that child’s age.
- c. For the purposes of OFLA, “child” means a biological, adopted, foster child or stepchild of the employee, the child of the employee’s same-gender domestic partner, or a child with whom the employee is or was in a relationship of “in loco parentis”.
- d. For the purposes of parental and sick child leave under OFLA, the child must be under the age of 18 or an adult dependent child substantially limited by a physical or mental impairment.

3. In loco parentis:

⁶ “Spouse” means individuals in a marriage, including “common law” marriage and same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

- a. For the purposes of FMLA, “in loco parentis” means persons with day-to-day responsibility to care for and financially support a child, or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.
- b. For the purposes of OFLA, “in loco parentis” means person in the place of the parent having financial or day-to-day responsibility for the care of a child. A legal or biological relationship is not required.

4. Next of kin:

For the purposes of FMLA and Military Caregiver Leave under FMLA, “next of kin” means the nearest blood relative other than the servicemember’s spouse, parent, son or daughter in the following order of priority (unless otherwise designated in writing by the servicemember):

- a. Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- b. Brothers or sisters;
- c. Grandparents;
- d. Aunts and uncles; and
- e. First cousins.

5. Covered servicemembers:

For the purposes of Military Caregiver Leave under FMLA, “covered servicemember” means a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation or therapy, or is in outpatient status, or is on the temporary disability retire list for a serious injury or illness.

6. Covered veteran:

For the purposes of Military Caregiver Leave under FMLA, “covered veteran” means a veteran who is undergoing medical treatment, recuperation or therapy for a serious injury or illness provided ~~they were~~ ~~he or she was~~:

- a. A member of the Armed Forces (including a member of the National Guard or Reserves);
- b. Discharged or released under conditions other than dishonorable; and
- c. Discharged within the five-year period before the eligible employee first takes FMLA, Military Caregiver Leave.

Leave Period

For the purposes of calculating an employee’s leave period, the ESD will use the 12-month period measured forward from the date the employee’s leave begins. The same method for calculating the 12-month period for FMLA and OFLA leave entitlement shall be used for all employees. However, in all instances, the leave period for the purposes of OMFLA and Military Caregiver Leave under FMLA shall be dependent on the start of any such leave regardless of the ESD’s designated 12-month leave period described above.

Leave Duration

For the purposes of FMLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the ESD's designated leave period⁷. Spouses who work for the ESD may be limited to a combined 12 weeks of FMLA leave during the ESD's designated leave period when the purpose of the leave is for the birth of a child or to care for a child after birth, placement of an adopted or foster child or the care for an adopted or foster child after placement, or to care for the employee's parent's serious medical condition. Except in specific and unique instances, all qualified leave under FMLA counts toward an employee's leave entitlement within the ESD's designated leave period.

For the purposes of OFLA, an eligible employee is generally entitled to a total of 12 weeks of qualified leave during the ESD's designated leave period. However, a woman is entitled to an additional full 12 weeks of parental leave during the ESD's designated leave period following the birth of a child regardless of how much OFLA qualified leave she has taken prior to the birth of such child during the ESD's designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the ESD designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the ESD's designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care⁸. Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the ESD. However, under OFLA, family members who work for the ESD may be restricted from taking concurrent OFLA qualified leave.⁹

For the purposes of OMFLA, an eligible employee is entitled to 14 days of leave per call or order to active duty or notification of a leave from deployment. When an employee also meets the eligibility requirements of OFLA, the duration of the OMFLA leave counts toward that employee's leave entitlement during the ESD's designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the ESD's designated leave period.

For the purpose of tracking the number of leave hours an eligible employee is entitled and/or has used during each week of the employee's leave, leave entitlement is calculated by multiplying the number of hours the eligible employee normally works per week by 12¹⁰. If an employee's schedule varies from

⁷ An eligible employee taking Military Caregiver Leave under FMLA is entitled to up to 26 weeks of leave in the 12-month period beginning with the first day of such leave and regardless of any FMLA leave taken previously during the ESD's leave period. However, once the 12-month period begins for the purposes of Military Caregiver Leave under FMLA, any subsequent FMLA qualified leave, regardless of reason for such leave, will count toward the employee's 26-week entitlement under Military Caregiver Leave under FMLA.

⁸ Sick child leave under OFLA need not be provided if another family member, including a noncustodial biological parent, is willing and able to care for the child.

⁹ Exceptions to the ability to require family members from taking OFLA qualified leave at different times are when 1) employee is caring for the other employee who has a serious medical condition; 2) one employee is caring for a child with a serious medical condition when the other employee is suffering a serious medical condition; 3) each family member is suffering a serious medical condition; 4) each family member wants to take bereavement leave under OFLA; and 5) the employer allows the family members to take concurrent leave.

¹⁰ For example, an employee normally employed to work 30 hours per week is entitled to 12 times 30 hours, or a total of 360 hours of leave.

week-to-week, a weekly average of the hours worked over the 12 weeks worked prior to the beginning of the leave period shall be used for calculating the employee's normal workweek¹¹. If an employee takes intermittent or reduced work schedule leave, only the actual number of hours of leave taken may be counted toward the 12 weeks of leave to which the employee is entitled.

Intermittent Leave

With the exception of parental leave which must be taken in one continuous block of time, an eligible employee is permitted under FMLA and OFLA to take intermittent leave for any qualifying reason.

Intermittent leave is taken in multiple blocks of time (i.e., hours, days, weeks, etc.) rather than in one continuous block of time and/or requires a modified or reduced work schedule. For OFLA this includes but not limited to sick child leave taken requiring an altered or reduced work schedule because the intermittent or recurring closure of a child's school or child care provider due to a statewide public health emergency declared by a public health official.

When an employee is eligible for OFLA leave, but not FMLA leave, the employer:

1. May allow an exempt employee, as defined by state and federal law, with accrued paid time off to take OFLA leave in blocks of less than a full day, but;
2. May not reduce the salary of an employee who is taking intermittent leave when they do not have accrued paid leave available. To do so would result in the loss of exemption under state law.

An employee's FMLA and/or OFLA intermittent leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

Holidays or days in which the ESD is not in operation, are not counted against the eligible employee's intermittent OFLA leave period unless the employee was scheduled and expected to work on any such day.

Alternate Work Assignment

The ESD may transfer an employee recovering from a serious health condition to an alternate position which accommodates the serious health condition provided:

1. The employee accepts the position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreement;

¹¹ For example, an employee working an average of 25 hours per week is entitled to 12 times 25 hours, or a total of 300 hours of leave.

4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA; and
5. The transfer is not used to discourage the employee from taking FMLA and/or OFLA leave for a serious health condition or to create a hardship for the employee.

The ESD may transfer an eligible employee who is on a foreseeable intermittent FMLA and/or OFLA leave to another position with the same or different duties to accommodate the leave, provided:

1. The employee accepts the transfer position voluntarily and without coercion;
2. The transfer is temporary, lasts no longer than necessary and has equivalent pay and benefits;
3. The transfer is compliant with any applicable collective bargaining agreements;
4. The transfer is compliant with state and federal law, including but not limited to the protections provided for in FMLA and/or OFLA;
5. The transfer to an alternate position is used only when there is no other reasonable option available that would allow the employee to use intermittent leave or reduced work schedule; and
6. The transfer is not used to discourage the employee from taking intermittent or reduced work schedule leave, or to create a hardship for the employee.

If an eligible employee is transferred to an alternative position, and as a result the employee works fewer hours than the employee was working in the original position, the employee's FMLA and/or OFLA leave time is determined by calculating the difference between the employee's normal work schedule and the number of hours the employee actually works during the leave period. The result of such calculation is credited against the eligible employee's leave entitlement.

When an employee is transferred to alternate position as described above but such transfer does not result in a reduced schedule, time worked in any such alternate position shall not be considered for the purpose of FMLA and/or OFLA leave. An employee working in an alternate position retains the right to return to the employee's original position unless all FMLA and/or OFLA leave taken in that leave year plus the period of time worked in the alternate position exceeds 12 weeks.

Special Rules for School Employees

For the purposes of FMLA, "school employee" means those whose principal function is to teach and instruct students in a class, a small group or an individual settlement. Athletic coaches, driving instructors and special education assistants, such as interpreters for the hearing impaired, are included in this definition. This definition does not apply to teacher assistants or aides, counselors, psychologist, curriculum specialists, cafeteria workers, maintenance workers or bus drivers.

For the purposes of OFLA, "school employee" means employees employed principally as instructors in public kindergartens, elementary schools, secondary schools or education service districts.

FMLA and/or OFLA leave that is taken for a period that ends with the school year and begins with the next semester is considered consecutive rather than intermittent. In any such situation, the eligible school

employee will receive any benefits during the break period that employees would normally receive if they had been working at the end of the school year.

1. Foreseeable Intermittent Leave Exceeding 20 Percent of Working Days

When the qualified leave is foreseeable, will encompass more than 20 percent of the eligible school employee's regular work schedule during the leave period, and the purpose of such leave is to care for a family member with a serious medical condition, for a servicemember with a serious medical condition or because of the employee's own serious medical condition, the ESD may require the eligible school employee to:

- a. Take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
- b. Temporarily transfer the eligible school employee to an alternate position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than the employee's original position.

2. Limitation on Leave Near the End of the School Year

When an eligible school employee requests leave near the end of the school year, the ESD may require the following:

- a. When the qualified leave begins more than five weeks before the end of the school year:
 - (1) For the purposes of FMLA leave, the eligible school employee may be required to continue taking leave until the end of the school year provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee would return to work during the three week period before the end of the term.
 - (2) For the purposes of OFLA leave, if the reason for the leave is because of the eligible school employee's own serious health condition, the eligible school employee may be required to remain in leave until the end of the school year, provided:
 - (a) The leave will last at least three weeks; and
 - (b) The employee's return to work would occur within three weeks of the end of the school year.
- b. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within five weeks of the end of the school year and the purpose of such leave is parental leave, for the serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided:
 - (1) The leave will last more than two weeks; and
 - (2) The employee would return to work during the two-week period before the end of the school year.
- c. For the purposes of FMLA and/or OFLA leave, when the qualified leave begins within three weeks of the end of the school year and the purpose of such leave is parental leave, for the

serious health condition of a family member or for the serious health condition of a servicemember, the eligible school employee may be required to remain on leave until the end of the school year provided the length of the leave will last more than five working days.

If the ESD requires an eligible school employee to remain on leave until the end of the school year as described above, additional leave required by the employer until the end of the school year shall not count against the eligible school employee's leave entitlement.

Paid/Unpaid Leave

FMLA and OFLA do not require the ESD to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, the ESD requires the eligible employee to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking FMLA and/or OFLA leave without pay during the leave period. The employee may select the order in which the available paid leave is used.

The ESD will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the ESD, that available accrued paid leave shall be used during the leave period. In the event the ESD is aware of an OFLA or FMLA qualifying exigency, the ESD shall notify the eligible employee of its intent to designate the leave as such regardless of whether a request has been made by the eligible employee. Such notification will be given to the eligible employee prior to the commencement of the leave or within two working days of the employee's notice of an unanticipated or emergency leave, whichever is sooner.

When the ESD does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the ESD will provide the required notice promptly when the information is available but no later than two working days after the ESD has received the information. Oral notices will be confirmed in writing no later than the following payday. If the payday is less than one week after the oral notice is given, written notice will be provided no later than the subsequent payday.

Eligible employees who request OMFLA leave shall not be required to use any available accrued paid time off during the OMFLA leave period.

Benefits and Insurance

When an eligible employee returns to work following a FMLA or OFLA qualified leave, the employee must be reinstated to the same position the employee held when the leave commenced, or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

During an OFLA qualified leave an eligible employee does not accrue seniority or other benefits that would have accrued while the employee was working. The eligible employee is also subject to layoff to the same extent similarly situated employees not taking OFLA leave are subject unless the terms of an applicable collective bargaining agreement, other agreement or the ESD's policies provide otherwise.

For the purposes of FMLA and OFLA, the ESD will continue to pay the employer portion of the eligible employee's group health insurance contribution (if applicable) during the qualified leave period. The eligible employee is required to pay the employee portion of any such group health insurance contribution as a condition of continued coverage.

For the purposes of FMLA qualified leave, the ESD's obligation to maintain the employee's group health insurance coverage will cease if the employee's contribution is remitted more than 30 calendar days late. The ESD will provide written notice that the premium payment is more than 30 calendar days late. Such notice will be provided within 15 calendar days before coverage is to cease.

For the purposes of OMFLA, the eligible employee is entitled to a continuation of benefits.

Fitness-for-Duty Certification

Prior to the reinstatement of an employee following a leave which was the result of the employee's own serious health condition, the ESD may require the employee to obtain and present a Fitness-for-Duty Certification. The certification will specifically address the employee's ability to perform the essential functions of the employee's job as they relate to the health condition that was the reason for the leave. If the ESD is going to require a fitness-for-duty certification upon return to work, the ESD must notify the employee of such requirement when the leave is designated as FMLA and/or OFLA leave. Failure to provide the certification may result in a delay or denial of reinstatement.

For the purposes of FMLA qualified leave, any costs associated with obtaining the fitness-for-duty certification shall be borne by the employee.

For the purposes of OFLA qualified leave, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the ESD.

If the leave is qualified under both FMLA and OFLA, any out-of-pocket costs associated with obtaining the fitness-for-duty certification shall be borne by the ESD.

Application

Under federal and state law, an eligible employee requesting FMLA and/or OFLA leave shall provide at least 30 days' notice prior to the leave date if the leave is foreseeable. The notice shall be written and include the anticipated start date, duration and reasons for the requested leave. When appropriate, the eligible employee must make a reasonable effort to schedule treatment, including intermittent leave and reduced leave, so as not to unduly disrupt the operation of the ESD.

The ESD may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The ESD may designate the employee as provisionally on FMLA and/or OFLA leave until sufficient information is received to properly make a determination. An eligible employee able to give advance notice of the need to take FMLA and/or OFLA leave must follow the employer's known, reasonable and customary procedures for requesting any kind of leave.

For the purposes of FMLA, if advance notice is not possible, an employee eligible for FMLA leave must provide notice as soon as practicable. "As soon as practicable," for the purpose of FMLA leave, means the employee must comply with the employer's normal call-in procedures except in limited and under unique circumstances. Failure of an employee to provide the required notice for FMLA leave may result in the ESD delaying the employee's leave up to 30 days after the notice is ultimately given.

For the purposes of OFLA, an eligible employee is required to provide oral or written notice within 24 hours of commencement of the leave in unanticipated or emergency leave situations. The employee may

designate a family member or friend to notify the ESD during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the ESD deducting up to three weeks from the employee's unused OFLA leave in that one-year leave period. The employee may be subject to disciplinary action for not following the ESD's notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the ESD must choose the remedy that is most advantageous to the employee.

In all cases, proper documentation must be submitted no later than three working days following the employee's return to work.

Medical Certification

The ESD may require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for such leave. The ESD will provide written notification to an employee of this requirement within five working days of the employee's request for leave. If the employee provides less than 30 days' notice, the employee is required to submit such medical certification no later than 15 calendar days after receipt of the ESD's notification that medical certification is required.

The ESD may request re-certification of a condition when the minimum duration of a certification expires if continued leave is requested. If the certification does not indicate a duration or indicates that it is ongoing, the ESD may request re-certification at least every six months in connection with an absence.

Under federal law, a second medical opinion may be required whenever the ESD has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the ESD. The provider shall not be employed by the ESD on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The ESD and the employee will mutually agree on the selection of the health care provider for a third medical certification. The third opinion will be final. Second and third opinions and the actual travel expenses for an employee to obtain such opinions will be paid for by the ESD.

Second and Third Opinions

1. For the purposes of FMLA, the ESD may designate a second health care provider, but that person cannot be utilized by the ESD on a regular basis except in rural areas where health care is extremely limited. If the opinions of the employee's and the ESD's designated health care provider(s) differ, the ESD may require a third opinion at the ESD's expense. The third health care provider must be designated or approved jointly by the employee and the ESD. This third opinion shall be final and binding.
2. For the purposes of OFLA, and except for leave related to sick child leave under OFLA, the ESD may require the employee to obtain a second opinion from a health care provider designated by the ESD. If the first and second verifications conflict, the employer may require the two health care providers to jointly designate a third health care provider for the purpose of providing a verification. This third verification shall be final and binding.

Notification

Any notice required by federal and state laws explaining employee rights and responsibilities will be posted in all staff rooms and the ESD office. Additional information may be obtained by contacting the superintendent.

Record Keeping/Posted Notice

The ESD will maintain all records as required by federal and state laws including dates leave is taken by employees, identified separately from other leave; hours/days of leave; copies of general and specific notices to employees, including Board policy(ies) and regulations; premium payments of employee health benefits while on leave and records of any disputes with employees regarding granting of leave.

Medical documentation will be maintained separately from personnel files as confidential medical records.

The ESD will post notice of FMLA and OFLA leave requirements.

Federal vs. State Law

Both federal and state law contain provisions regarding leave for family illness. Federal regulations state an employer must comply with both laws; that the federal law does not supersede any provision of state law that provides greater family leave rights than those established pursuant to federal law; and that OFLA and FMLA leave entitlements run concurrently. State law requires that FMLA and OFLA leave entitlements run concurrently when possible.

For example, due to differences in regulations, an eligible employee who takes OFLA leave after 180 days of employment, but before they are ~~he/she is~~ eligible for FMLA leave, is still eligible to take a full 12 workweeks of FMLA leave after meeting FMLA's eligibility requirements. Thereafter, any eligible leave period will run concurrently, when appropriate.

EMPLOYEE RIGHTS AND RESPONSIBILITIES UNDER THE FAMILY AND MEDICAL LEAVE ACT

Basic Leave Entitlement

FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

Military Family Leave Entitlements

Eligible employees with a spouse, son, daughter, or parent on covered active duty or call to covered active duty status may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness*; or (2) a veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness*.

***The FMLA definition of "serious injury or illness" for current servicemembers and veterans are distinct from the FMLA definition of "serious health condition".**

Benefits and Protections

During FMLA leave, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA leave, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Eligibility Requirements

Employees are eligible if they have worked for a covered employer for at least 12 months, have 1,250 hours of service over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

Definition of Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than three consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a

chronic condition. Other conditions may meet the definition of continuing treatment.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

Substitution of Paid Leave for Unpaid Leave

Employees may choose or employers may require use of accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, employees must comply with the employer's normal paid leave policies.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When 30 days' notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Employer Responsibilities

Covered employers must inform employees requesting leave whether they are eligible under FMLA. If they are, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility. Covered employers must inform employees if leave will be designated as FMLA-protected and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA-protected, the employer must notify the employee.

Unlawful Acts by Employers

FMLA makes it unlawful for any employer to:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; and
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Enforcement

An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer. FMLA does not affect any Federal or State law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

FMLA section 109 (29 U.S.C. § 2619) requires FMLA covered employers to post the text of this notice. Regulations 29 C.F.R. § 825.300(a) may require additional disclosures.

For additional information:

1-866-4US-WAGE (1-866-487-9243) TTY: 1-877-889-5627

WWW.WAGEHOUR.DOL.GOV

U.S. Department of Labor | Wage and Hour Division

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(2)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(2)

Request for Family and Medical Leave

Employee Request for Family and Medical Leave (FMLA)
and/or Oregon Family Leave (OFLA)

PLEASE PRINT

Where the need for the leave may be anticipated, written request for family and medical leave must be made, if practical, at least 30 days prior to the date the requested leave is to begin. Failure to request leave in a timely manner could result in either the leave being postponed or the amount of leave available reduced up to three weeks.

Name _____ Effective Date of the Leave _____

Department _____ Title _____

Status: ☐ Full-time ☐ Part-time ☐ Temporary

Hire Date _____ Length of Service _____

Have you taken a family leave in the past 12 months? _____ Yes _____ No

If yes, how many work days? _____ Reason for leave _____

I request family or medical leave for one or more of the following reasons:¹

- ____ 1. Because of the birth of my child and in order to care for him or her. (ESD: Use GCBDA/GDBDA-AR(3)(A) Certification Form)

Expected date of birth _____ Actual date of birth _____

Leave to start _____ Expected return date _____

- ____ 2. Because of the placement of a child with me for adoption or foster care. (ESD: Use GCBDA/GDBDA-AR(3)(A) Certification Form)

Age of child _____ Date of placement _____

Leave to start _____ Expected return date _____

- ____ 3. In order to care for a family member² with a serious health condition. (ESD: Use GCBDA/GDBDA-AR(3)(B) Certification Form)

Leave to start _____ Expected return date _____

¹A physician's certification may be required to support a request for family and medical leave. In addition, a fitness ☐for ☐duty certification may be required before reinstatement following the leave.

²~~“Family member,” for purposes of FMLA and OFLA leave, means the spouse, custodial parent, noncustodial parent, adoptive parent, stepparent, step-parent or foster parent, biological parent, child of the employee (biological, adopted, foster or step child, a legal ward, or child of the employee standing in loco parentis), same-gender domestic partner, the child of a same-gender domestic partner or a person with whom the employee is or was in a relationship of “in loco parentis.” Additionally, when defining “family member” under OFLA (but not FMLA leave), the definition includes a grandparent, grandchild, parents, parent-in-law or the parents, parent of the employee’s registered same-gender domestic partner.~~

Please check one: ☐ Spouse³, ☐ Child⁴, ☐ Parent, ☐ Individual who was in *loco parentis* when the employee was a child, ☐ Parent-in-law or ☒ the parent of ☒ the employee's registered domestic partner (OFLA leave only), ☐ Custodial parent, ☐ Noncustodial parent, ☐ Adoptive parent, ☐ Foster parent, ☐ Step-parent, ☐ Grandparent (OFLA leave only), ☐ Grandchild (OFLA leave only).
Please state name and address of relation:

Name _____ Address _____

Does the condition render the family member unable to perform daily activities?

4. **A sick child leave due to the closure of a child's school or child care provider.**

45. For a serious health condition which prevents me from performing my job functions. (ESD: Use GCBDA/GDBDA-AR (3)(A) Certification Form)
Describe _____

Leave to start _____ Expected return date _____

Regarding 3 or 4 above, request intermittent (reduced workday hours) or reduced leave (fewer workdays each workweek) schedule or alternate duty (if applicable, subject to employer's approval). Please describe schedule of when you anticipate you will be unavailable to work:

56. In order to care for a child with a condition requiring home care which does not meet the definition of serious health condition and is not life threatening or terminal (OFLA leave only).

6. A qualifying exigency arising from an employee's spouse, son, daughter, or parent who is a covered service-member as defined in GCBDA/GDBDA-AR (1), or leave for the spouse of a military personnel per each deployment of the spouse when the spouse has either been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment. (ESD: Use GCBDA/GDBDA-AR (3)(C) Certification Form)

78. To care for a spouse, son, daughter, parent, or next of kin⁵ who is a covered service member with a serious illness or injury incurred in the line of duty or active duty in the armed forces. Has leave been taken for the same service member and the same injury? ☐ Yes ☐ No (ESD: Use GCBDA/GDBDA-AR(3)(D) Certification Form) If yes, when was the leave taken and for how many work days? _____

89. For the death of a family member (OFLA only).

I understand that I am required to use any available accrued paid leave, including personal and sick leave or available accrued vacation leave before taking FMLA and/or OFLA leave without pay during the leave period. I may select the order in which the available paid leave is used.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the ESD may terminate my employment. (A fitness-for-duty certification may be required.)

I authorize the ESD to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state and/or federal law.

³ "Spouse" means individuals in a marriage, including "common law" marriage and/or same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

⁴ For FMLA, the age of the son or daughter is not relevant in determining a parent's entitlement to FMLA leave.

⁵ "Next of kin" means the nearest blood relative of the eligible employee.

I have been provided a copy of the ESD's family and medical leave policy and a copy of my rights and responsibilities under the Family Medical Leave Act leave request form.

Signature of Employee: _____ Date: _____

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(A)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(3)(A)

Certification of Health Care Provider

To be completed by the ESD:

The Family Medical Leave Act (FMLA) provides that an ESD may require an employee seeking FMLA leave protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Employees may not be asked to provide more information than allowed under the FMLA regulations. The ESD will maintain records and documents relating to medical certification, recertifications, or medical histories of employee's family members, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Discrimination Act applies.

ESD Contact Person: _____

Employee's Job Title: _____ Regular Work Schedule: _____

Employee's Essential Job Functions: _____

Check if job description is attached: ☐

Return this completed form on _____ (date) (must be at least 15 **calendar** days after employee is notified of this requirement.)

To be completed by the employee:

Complete the information below before giving this form to your family member or ~~his/her~~ **their** medical provider. The return of this form is required to obtain or retain the benefit for FMLA protections. Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request.

Employee's Name: _____
First Middle Last

To be completed by health care provider:

Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown" or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), genetic services, as defined in 29. C.F.R. §

1635.3(e) or the manifestation of disease or disorder in the employee's family members, as defined in 29 C.F.R. § 1635.3 (b). Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/Medical specialty: _____

Telephone: () _____ Fax: () _____

Email: _____

Medical Facts

1. The approximate date the condition commenced: _____

The probable duration of the condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?

☐ No ☐ Yes If yes, dates of admission: _____

List the dates(s) you treated the patient for the condition _____

Was medication, other than over-the-counter medication, prescribed? ☐ No ☐ Yes

Will the patient need to have treatment visits at least twice per year due to the condition?

☐ No ☐ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?

☐ No ☐ Yes

If yes, state the nature of such treatments and expected duration of treatment:

2. Is the medical condition pregnancy? ☐ No ☐ Yes

If yes, expected delivery date: _____

3. Use the information provided by the ESD in the "To be completed by the ESD" section to answer this question. If the ESD fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of ~~his/her~~ their job functions.

Is the employee unable to perform any of ~~his/her~~ their job functions due to the condition? ☐ No ☐ Yes If yes, identify the job functions the employee is unable to perform:

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of leave needed

1. Will the employee be incapacitated for a single continuous period of time due to ~~his/her~~ their medical condition, including any time for treatment and recovery? ☐ No ☐ Yes

If yes, estimate the beginning and ending dates for the period of incapacity: _____

2. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? ☐ No ☐ Yes

If yes, are the treatments or the reduced number of hours of work medically necessary?

☐ No ☐ Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Estimate the part-time or reduced work schedule the employee needs, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

3. Will the condition cause episodic flare-ups periodically preventing the employee from performing ~~his/her~~ their job functions? ☐ No ☐ Yes

Is it medically necessary for the employee to be absent from work during the flare-ups?

☐ No ☐ Yes If yes, explain: _____

Based upon the employee's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the employee may have over the next six months (e.g., one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Additional Information – Identify the question number with your additional answer:

Signature of Health Care Provider

Date

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(B)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(3)(B)

Certification of Health Care Provider

Family Member's Serious Health Condition

To be completed by the ESD:

The Family Medical Leave Act (FMLA) provides that an ESD may require an employee seeking FMLA leave protections because of a need for leave to care for a covered family member with a serious health condition to submit a medical certification issued by the health care provider of the covered family member. Employees may not be asked to provide more information than allowed under the FMLA regulations. The ESD will maintain records and documents relating to medical certification, re-certifications or medical histories of the employee's family members, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

ESD Contact Person: _____

Employee's Job Title: _____ Regular Work Schedule: _____

Employee's essential job functions: _____

Check if job description is attached: ☐

Return this completed form on _____ (date) (must be at least 15 calendar days after employee is notified of this requirement).

To be Completed by the Employee:

Complete the information below before giving this form to your family member or his/her-their medical provider. The return of this form is required to obtain or retain the benefit for FMLA protections. Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request.

Employee's name: _____
First Middle Last

Relationship and name of family member for whom employee will provide care: _____
Relationship

First Middle Last

If the family member is your child, please provide his/her-their date of birth: _____

Describe the care you will provide to your family member and estimate the leave needed to provide such care:

Employee signature _____ Date _____

To be Completed by Health Care Provider:

The employee listed above has requested leave under the FMLA to care for your patient. Answer fully and completely, all applicable parts below. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be the best estimate based upon your medical knowledge, experience and examination of the patient. Be as specific as you can; terms such as “lifetime,” “unknown,” or “indeterminate” may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the patient needs leave. Do not provide information about genetic tests, as defined in 29 C.F.R. § 1635.3(f), C.F.R. § 1635.3(b). Extra space is provided, should you need it. Please be sure to sign the form on the last page.

Provider's name and business address: _____

Type of practice/medical specialty: _____

Telephone: () _____ Fax: () _____

Email: _____

Medical Facts

1. The approximate date the condition commenced: _____

The probable duration of the condition: _____

Was the patient admitted for an overnight stay in a hospital, hospice or residential medical care facility?
☐ No ☐ Yes If yes, dates of admission: _____

List the date(s) you treated the patient for their condition _____

Was medication, other than over-the-counter medication, prescribed? ☐ No ☐ Yes

Will the patient need to have treatment visits at least twice per year due to the condition?
☐ No ☐ Yes

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)?
☐ No ☐ Yes

If yes, state the nature of such treatments and expected duration of treatment:

-
2. Is the medical condition pregnancy? ☐ No ☐ Yes

If yes, expected delivery date: _____

3. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis or any regimen of continuing treatment such as the use of specialized equipment):

Amount of leave needed

When answering these questions, keep in mind that your patient's need for care from the employee seeking leave may include assistance with basic medical, hygienic, nutritional, safety or transportation needs, or the provision of physical or psychological care:

1. Will the patient be incapacitated for a single continuous period of time, including any time for treatment and recovery? ☐ No ☐ Yes

If yes, estimate the beginning and ending dates for the period of incapacity: _____

During this time, will the patient need care? ☐ No ☐ Yes

Explain the care needed by the patient and why such care is medically necessary:

2. Will the patient require follow-up treatments, including any time for recovery? ☐ No ☐ Yes

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period:

Explain the care needed by the patient, and why such care is medically necessary: _____

3. Will the patient require care on an intermittent or reduced schedule basis, including any time for recovery?

☐ No ☐ Yes

Estimate the hours the patient needs care on an intermittent basis, if any:

_____ hour(s) per day; _____ days per week from _____ through _____

Explain the care needed by the patient, and why such care is medically necessary: _____

4. Will the condition cause episodic flare-ups periodically preventing the patient from participating in normal daily activities? ☐ No ☐ Yes

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next six months (e.g., one episode every three months lasting one to two days):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per episode

Does the patient need care during these flare-ups? ☐ No ☐ Yes

Explain the care needed by the patient, and why such care is medically necessary _____

Additional Information – Identify the question number with your additional answer:

Signature of Health Care Provider

Date

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(C)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(3)(C)

Military Family Leave

Certification of Qualifying Exigency for Military Family Leave

Section 1: (To be completed by the ESD)

The Family Medical Leave Act (FMLA) and the Oregon Military Family Leave Act (OMFLA) provides that an ESD may require an employee seeking FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment to submit a certification. Employees may not be asked to provide more information than allowed under the FMLA or OMFLA regulations.

ESD Name and Address: _____

Superintendent information: _____

Section 2: (To be completed by the employee)

Complete the information below fully and completely. The FMLA or OMFLA permits the ESD to require that you submit a timely, complete and sufficient certification to support a request for FMLA or OMFLA leave due to a qualifying exigency or due to notification of impending call to active duty or deployment. Several questions in this section seek a response as to the frequency or duration of the qualifying exigency. Be as specific as you can; terms such as “lifetime,” “unknown” or “indeterminate” may not be sufficient to determine FMLA or OMFLA coverage. Your response is required to obtain a benefit. While you are not required to provide this information, failure to do so may result in a denial of your request for qualifying leave. The ESD must give you at least 15 calendar days to return this form to the ESD.

Employee's Name: _____
First Middle Last

Name of covered military member on active duty or call to active duty status in support of a contingency operation:

First Middle Last

Relationship of covered military member to you: _____

Period of covered military member's active duty: _____

A complete and sufficient certification to support a request for FMLA leave due to a qualifying exigency includes written documentation confirming a covered military member's active duty or call to active duty status in support of a contingency operation. Please check one of the following and attach the indicated document to support that the military member is on covered ~~active~~ **activity** duty or called to covered active duty status:

- ☐ A copy of the covered military member's active duty orders is attached.
- ☐ Other documentation from the military certifying that the covered military member is on active duty (or has been notified of an impending call to active duty).

- ☐ I have previously provided the ESD with sufficient written documentation confirming the covered military member's active duty or call to active duty status.

Part A: Qualifying reason for leave

1. Describe the reason you are requesting qualifying leave due to a qualifying exigency (include the specific reason you are requesting leave):

2. Describe the reason you are requesting OMFLA leave (include the specific reason below, either a) an impending call or order to active duty, or b) impending leave from deployment):

3. A complete and sufficient certification to support a request for qualifying leave due to a qualifying exigency includes any available written documentation which supports the need for leave; such documentation may include a copy of a meeting announcement for information briefings sponsored by the military; a document confirming the military member's Rest and Recuperation Leave; a document confirming an appointment with a third party, such as a counselor, school official or staff at a care facility; or a copy of a bill for services for the handling of legal or financial affairs. Is available written documentation supporting this request for leave attached? ☐ Yes ☐ No ☐ None available

Part B: Amount of leave needed

1. The approximate date the qualifying exigency or deployment commenced or will commence is:

The probable duration of such exigency or deployment is: _____

2. Will you need to be absent from work for a single continuous period of time due to the qualifying exigency or deployment?
☐ Yes ☐ No

If yes, estimate the beginning and ending dates for the period of absence _____

3. Will you need to be absent from work periodically to address this qualifying exigency or deployment?
☐ Yes ☐ No

If yes, estimate the schedule of leave, including the dates of any scheduled meetings or appointments:

4. Estimate the frequency and duration of each appointment, meeting or leave event, including any travel time (i.e. one deployment-related meeting every month lasting four hours) (FMLA only):

Frequency: _____ times per _____ week(s) _____ month(s)

Duration: _____ hours or _____ day(s) per event

Part C: Third party certification

If leave is requested to meet with a third party (such as to arrange for childcare, to attend counseling, to attend meetings with school or childcare providers, to make financial or legal arrangements, to act as the covered military member's representative before a federal, state or local agency for purposes of obtaining, arranging or appealing military service benefits, or to attend any event sponsored by the military or military service organizations), a complete and sufficient certification includes the name, address and appropriate contact information of the individual or entity with whom you are meeting (i.e. either the telephone or fax number or email address of the individual or entity). This information may be used by the ESD to verify that the information contained on this form is accurate. (FMLA only)

Name of individual _____ Title _____

Organization _____

Address _____

Telephone () _____ Fax () _____

Email _____

Describe the nature of the meeting: _____

Part D: Employee Signature

I certify that the information I provided above is true and correct. (For OMFLA leave purposes, notice must be given by the employee within five business days of receiving an official notice.)

Signature of Employee

Date

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(D)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(3)(D)

Military Family Leave

(Certification for Serious Injury or Illness of Covered Service member for Military Family Leave)

Notice and instructions to the ESD:

The Family Medical Leave Act (FMLA) provides that an ESD may require an employee seeking FMLA leave due to a serious injury or illness of a covered service member to submit a certification providing sufficient facts to support the request for leave. Employees may not be asked to provide more information than allowed under the FMLA regulations 29 C.F.R. § 825.310. The ESD will maintain records and documents relating to medical certification, ~~recertifications~~ ~~re-certifications~~ or medical histories of employees or employees' family member, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. ~~§ 1630.14(c)(1), if the Americans with Disabilities Act applies.~~
§ 1630.14(c)(1), if the Americans with Disabilities Act applies.

Section 1

Part A: Employee information

Complete the employee and covered service member information below before giving this form to your family member or ~~his/her~~ their medical provider.

ESD name and address

Name of employee requesting leave to care for covered service member:

First

Middle

Last

Name of covered service member for whom employee is requesting leave to care for:

First

Middle

Last

Relationship of employee to covered service member requesting leave to care for:

☐ Spouse

☐ Parent

☐ Child

☐ Next of kin

Part B: Covered service member information

1. Is the covered service member a current member of the regular Armed Forces, the National Guard or Reserves, or a veteran? ☐ Yes ☐ No

If a current service member, please provide the covered service member's military branch, rank and unit currently assigned to:

If a qualifying veteran, when was the date of discharge? _____

Is the covered service member assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as medical hold or warrior transition unit)? ☐ Yes ☐ No

If yes, provide the name of the medical facility or unit:

2. Is the covered service member on the Temporary Disability Retired List (TDRL)? ☐ Yes ☐ No

Part C: Care to be provided to the covered service member

Describe the care to be provided to the covered service member and an estimate of the leave needed to provide the care: _____

Section 2:

(For completion by a United States State Department of Defense (DOD) Health Care Provider ~~health care provider~~ or a Health Care Provider ~~health care provider~~ who is either 1) a United States State Department of Veterans Affairs (VA) health care provider; 2) a DOD TRICARE network authorized private health care provider; 3) a DOD non-network TRICARE authorized private health care provider; or 4) a health care provider as defined in 29 C.F.R. § 825.125.)

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). Please ensure that Section 1 above has been completed before completing this section. Please be sure to sign the form on the last page.

Part A: Health care provider information

Health care provider's name and business address:

Type of practice/medical specialty: _____

Please state whether you are either: 1) a DOD health care provider; 2) a VA health care provider; 3) a DOD TRICARE network authorized private health care provider; 4) a DOD non-network TRICARE authorized private care provider; or 5) a health care provider as defined in 29. C.F.R. § 825.125.

Telephone () _____ Fax () _____ Email _____

Part B: Medical status

1. Covered service member's medical condition is classified as (check one of the appropriate boxes):

- ☐ (VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at the bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- ☐ (SI) Seriously Ill/Injured – Illness/Injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- ☐ Other Ill/Injured – A serious injury or illness that may render the service member medically unfit to perform the duties of the member’s office, grade, rank or rating.
- ☐ None of the above. (Note to employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition”. If such leave is requested, you may be required to complete the form *Certification of Health Care Provider for Family Member’s Serious Health Condition*.)

2. Was the condition for which the covered service member is being treated incurred in the line of duty on active duty in the Armed Forces? ☐ Yes ☐ No

If no, did the condition exist before the beginning of active duty and aggravated by service in the line of duty while on active duty? ☐ Yes ☐ No

3. Appropriate date condition commenced: _____

4. Probable duration of condition and/or need for care: _____

5. Is the covered service member undergoing medical treatment, recuperation or therapy? ☐ Yes ☐ No
If yes, please describe medical treatment, recuperation or therapy:

Part C: Covered service member’s need for care by family member

1. Will the covered service member need care for a single continuous period of time, including any time for treatment and recovery? ☐ Yes ☐ No

If yes, estimate the beginning and ending dates for this period of time _____

2. Will the covered service member require periodic follow-up treatment appointments? ☐ Yes ☐ No
If yes, estimate the treatment schedule: _____

3. Is there a medical necessity for the service member to have periodic care for these follow-up treatment appointment? ☐ Yes ☐ No

4. Is there a medical necessity for the covered service member to have periodic care for other than scheduled follow-up treatment appointments (e.g. episodic flare-ups of medical conditions)? ☐ Yes ☐ No
If yes, estimate the frequency and duration of the periodic care.

Signature of health care provider

Date

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(D)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(3)(D)

Military Family Leave

(Certification for Serious Injury or Illness of Covered Service member for Military Family Leave)

Notice and instructions to the ESD:

The Family Medical Leave Act (FMLA) provides that an ESD may require an employee seeking FMLA leave due to a serious injury or illness of a covered service member to submit a certification providing sufficient facts to support the request for leave. Employees may not be asked to provide more information than allowed under the FMLA regulations 29 C.F.R. § 825.310. The ESD will maintain records and documents relating to medical certification, ~~recertifications~~ ~~re-certifications~~ or medical histories of employees or employees' family member, created for FMLA purposes, as confidential medical records in separate files from personnel files and in accordance with 29 C.F.R. ~~§ 1630.14(c)(1), if the Americans with Disabilities Act applies.~~
§ 1630.14(c)(1), if the Americans with Disabilities Act applies.

Section 1

Part A: Employee information

Complete the employee and covered service member information below before giving this form to your family member or his/her medical provider.

ESD name and address

Name of employee requesting leave to care for covered service member:

First

Middle

Last

Name of covered service member for whom employee is requesting leave to care for:

First

Middle

Last

Relationship of employee to covered service member requesting leave to care for:

☐ Spouse

☐ Parent

☐ Child

☐ Next of kin

Part B: Covered service member information

1. Is the covered service member a current member of the regular Armed Forces, the National Guard or Reserves, or a veteran? ☐ Yes ☐ No

If a current service member, please provide the covered service member's military branch, rank and unit currently assigned to:

If a qualifying veteran, when was the date of discharge? _____

Is the covered service member assigned to a military medical treatment facility as an outpatient or to a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients (such as medical hold or warrior transition unit)? ☐ Yes ☐ No

If yes, provide the name of the medical facility or unit:

2. Is the covered service member on the Temporary Disability Retired List (TDRL)? ☐ Yes ☐ No

Part C: Care to be provided to the covered service member

Describe the care to be provided to the covered service member and an estimate of the leave needed to provide the care: _____

Section 2:

(For completion by a United States ~~State~~ Department of Defense (DOD) Health Care Provider ~~health care provider~~ or a Health Care Provider ~~health care provider~~ who is either 1) a United States ~~State~~ Department of Veterans Affairs (VA) health care provider; 2) a DOD TRICARE network authorized private health care provider; 3) a DOD non-network TRICARE authorized private health care provider; or 4) a health care provider as defined in 29 C.F.R. § 825.125.)

If you are unable to make certain of the military-related determinations contained below in Part B, you are permitted to rely upon determinations from an authorized DOD representative (such as a DOD recovery care coordinator). Please ensure that Section 1 above has been completed before completing this section. Please be sure to sign the form on the last page.

Part A: Health care provider information

Health care provider's name and business address:

Type of practice/medical specialty: _____

Please state whether you are either: 1) a DOD health care provider; 2) a VA health care provider; 3) a DOD TRICARE network authorized private health care provider; 4) a DOD non-network TRICARE authorized private care provider; or 5) a health care provider as defined in 29. C.F.R. § 825.125.

Telephone () _____ Fax () _____ Email _____

Part B: Medical status

1. Covered service member's medical condition is classified as (check one of the appropriate boxes):

- ☐ (VSI) Very Seriously Ill/Injured – Illness/Injury is of such a severity that life is imminently endangered. Family members are requested at the bedside immediately. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- ☐ (SI) Seriously Ill/Injured – Illness/Injury is of such severity that there is cause for immediate concern, but there is no imminent danger to life. Family members are requested at bedside. (Please note this is an internal DOD casualty assistance designation used by DOD healthcare providers.)
- ☐ Other Ill/Injured – A serious injury or illness that may render the service member medically unfit to perform the duties of the member’s office, grade, rank or rating.
- ☐ None of the above. (Note to employee: If this box is checked, you may still be eligible to take leave to care for a covered family member with a “serious health condition”. If such leave is requested, you may be required to complete the form *Certification of Health Care Provider for Family Member’s Serious Health Condition*.)

2. Was the condition for which the covered service member is being treated incurred in the line of duty on active duty in the Armed Forces? ☐ Yes ☐ No

If no, did the condition exist before the beginning of active duty and aggravated by service in the line of duty while on active duty? ☐ Yes ☐ No

3. Appropriate date condition commenced: _____

4. Probable duration of condition and/or need for care: _____

5. Is the covered service member undergoing medical treatment, recuperation or therapy? ☐ Yes ☐ No
If yes, please describe medical treatment, recuperation or therapy:

Part C: Covered service member’s need for care by family member

1. Will the covered service member need care for a single continuous period of time, including any time for treatment and recovery? ☐ Yes ☐ No

If yes, estimate the beginning and ending dates for this period of time _____

2. Will the covered service member require periodic follow-up treatment appointments? ☐ Yes ☐ No
If yes, estimate the treatment schedule: _____

3. Is there a medical necessity for the service member to have periodic care for these follow-up treatment appointment? ☐ Yes ☐ No

4. Is there a medical necessity for the covered service member to have periodic care for other than scheduled follow-up treatment appointments (e.g. episodic flare-ups of medical conditions)? ☐ Yes ☐ No
If yes, estimate the frequency and duration of the periodic care.

Signature of health care provider

Date

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(3)(E)
Adopted: 5/19/10
Orig. Code: GCBDA/GDBDA-AR(3)(E)

Medical Certification Form

(To be completed by health-care provider)

Certification of Health-care Provider
(Family and Medical Leave Act of 1993)

Employee's Name: _____

2. Patient's Name (if different from employee): _____

3. The attached sheet describes what is meant by a "serious health condition" or a "serious illness or injury of a covered service member" under the Family and Medical Leave Act. Does the patient's condition¹ qualify under any of the categories described? If so, please check the applicable category.

(1) _____ (2) _____ (3) _____ (4) _____ (5) _____ (6) _____

None of the above _____

4. Describe the medical facts which support your certification, including a brief statement as to how the medical facts meet the criteria of one of these categories:

- 5a. State the approximate date the condition commenced and the probable duration of the condition (and also the probable duration of the patient's present incapacity² if different):

- 5b. Will it be necessary for the employee to work only intermittently or to work on a less than full schedule as a result of the condition (including treatment described in Item 6 below):

If yes, give the probable duration:

- 5c. If the condition is a chronic condition (condition #4) or pregnancy, state whether the patient is presently incapacitated and the likely duration and frequency of episodes of incapacity:

- 6a. If additional treatments will be required for the condition, provide an estimate of the probable number of such treatments.

If the patient will be absent from work or other daily activities because of a treatment on an intermittent or part-time basis, also provide an estimate of the probable number and interval between such treatments, actual or estimated dates of treatment if known and period required for recovery if any:

¹Here and elsewhere on this form, the information sought relates only to the condition for which the employee is taking FMLA leave.

²"Incapacity," for purposes of FMLA, is defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom.

- 6b. If any of these treatments will be provided by another provider of health services (e.g., physical therapist), please state the nature of the treatments.
- 6c. If a regimen of continuing treatment by the patient is required under your supervision, provide a general description of such regimen (e.g., prescription drugs, physical therapy requiring special equipment):
- 7a. If medical leave is required for the employee's absence from work because of the employee's own condition (including absences due to pregnancy or a chronic condition), is the employee unable to perform work of any kind? _____
- 7b. If able to perform some work, is the employee unable to perform any one or more of the essential functions of the employee's job (the employee or the employer should supply you with information about the essential job functions)? _____ If yes, please list the essential functions the employee is unable to perform:
- 7c. If neither 7a. nor 7b. applies, is it necessary for the employee to be absent from work for treatment? _____
- 8a. If leave is required to care for a family member of the employee with a serious health condition, does the patient require assistance for basic medical or personal needs or safety, or for transportation? _____
- 8b. If no, would the employee's presence to provide psychological comfort be beneficial to the patient or assist in the patient's recovery? _____
- 8c. If the patient will need care only intermittently or on a part-time basis, please indicate the probable duration of this need:
9. Was the serious illness or injury sustained in the line of duty, while on active duty, that may render the person medically unfit to perform the duties of the person's office, grade, rank, or rating?

(Signature of Health-care Provider)

(Type of Practice)

(Address)

(Telephone Number)

To be completed by the employee needing family leave to care for a family member:

State the care you will provide and an estimate of the period during which care will be provided, including a schedule if leave is to be taken intermittently or if it will be necessary for you to work less than a full schedule:

(Employee Signature)

(Date)

A “serious health condition” means an illness, injury, impairment or physical or mental condition of an employee or family member that involves one of the following:

1. Hospital Care

Inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, including any period of incapacity or subsequent treatment in connection with or consequent to such inpatient care.

2. Absence Plus Treatment

A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition) that also involves:

- a. Treatment³ two or more times by a health-care provider, by a nurse or physician’s assistant under direct supervision of a health-care provider or by a provider of health-care services (e.g., physical therapist) under orders of, or on referral by, a health-care provider; or
- b. Treatment by a health-care provider on at least one occasion which results in a regimen of continuing treatment⁴ under the supervision of the health-care provider.

3. Pregnancy

Any period of incapacity due to pregnancy or for prenatal care.

4. Chronic Conditions Requiring Treatments

A chronic condition which:

- a. Requires periodic visits for treatment by a health-care provider or by a nurse or physician’s assistant under direct supervision of a health-care provider;

³ Treatment includes examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations or dental examinations.

⁴ A regimen of continuing treatment includes, for example, a course of prescription medication (e.g., an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition. A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines or salves; or bed-rest, drinking fluids, exercise and other similar activities that can be initiated without a visit to a health-care provider. An exception to this definition of regimen could occur when an employee suffers from a minor illness generally treated with over-the-counter medication, bed rest and intake of fluids so long as the employee is incapacitated for more than three days and is under continuing treatment by a health-care provider for the specific ailment.

- b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
- c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.).

5. Permanent/Long-term Conditions Requiring Supervision

A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health-care provider. Examples include Alzheimer's, a severe stroke or the terminal stages of a disease.

6. Multiple Treatments (Nonchronic Conditions)

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health-care provider or by a provider of health-care services under orders of, or on referral by, a health-care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).

A "serious illness or injury of a covered service member" means an injury or illness incurred by the member in the line of duty, while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(4)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(4)

FMLA/OFLA Eligibility Notice to Employee

Date _____

TO: _____
(Employee's name)

FROM: _____
(Name of appropriate employer representative)

SUBJECT: Request for FMLA and/or OFLA Leave

On (date) you notified us of your need to take family/medical leave due to:

1. _____ The birth of your child, or the placement of a child with you for adoption or foster care;
2. _____ A serious health condition that makes you unable to perform the essential functions of your job;
3. _____ A serious health condition of your ☐ spouse¹, ☐ Child (including the biological, grandchild, adopted or foster child or stepchild of an employee or a child with whom the employee is or was in a relationship of "in loco parentis"), ☐ Parent (biological parent of an employee or an individual who stood "in loco parentis" to an employee when the employee was a child), ☐ Grandparent (OFLA leave only), ☐ Parent-in-law or parent of the employee's registered domestic partner (OFLA leave only), ☐ Custodial parent, ☐ Noncustodial parent, ☐ Adoptive parent, ☐ Foster parent or step-parent for which you are needed to provide care;
4. _____ **A sick child leave due to the closure of a child's school or child care provider.**
5. _____ An illness or injury to your child which requires home care but is not a serious health condition (OFLA leave only).
6. _____ A qualifying exigency arising from a spouse, child, or parent in the Armed Forces on covered active duty, or in the National Guard or Reserves on covered active duty;
7. _____ Your spouse has been notified of an impending call to active duty, has been ordered to active duty, or has been deployed or on leave from deployment;
8. _____ A serious illness or injury, incurred in the line of duty, of a covered service member who is your spouse, child, parent or next of kin.
9. _____ For the death of a family member (OFLA only).

¹ "Spouse" means individuals in a marriage, including "common law" marriage **and** ~~or~~ same-sex marriage. For OFLA, spouse also includes same-sex individuals with a Certificate of Registered Domestic Partnership.

You notified us that you need this leave beginning on (date) and that you expect leave to continue until on or about (date) . The FMLA requires that you notify the ESD as soon as possible if dates of scheduled leave changes or are extended, or were initially unknown.

Except as explained below, you have a right under the FMLA and/or OFLA for up to 12 workweeks of unpaid leave in a 12-month period for the reasons listed above.² The ESD will use the 12-month period measured forward from the date the employee's leave begins. FMLA leave and OFLA leave generally run concurrently. In order to care for an injured service member, you are entitled to up to 26 weeks of leave in a single 12-month period.

Also, your health benefits under FMLA ~~and OFLA~~ must be maintained during any period of unpaid leave under the same conditions as if you continued to work, including you continuing to pay the same portion of the premiums you ~~currently~~ ~~current~~ pay. You will be reinstated to the same position, or in some cases under state or federal law, to an equivalent position. ~~The ESD is not required to maintain benefits if you only qualify for OFLA leave unless provided otherwise by Board policy or a collective bargaining agreement; however, all such benefits will be restored in full upon your return to the ESD.~~

If you do not return to work following FMLA and/or OFLA leave for a reason other than: (1) the continuation, recurrence or onset of a serious health condition which would entitle you to FMLA and/or OFLA; or (2) other circumstances beyond your control, you may be required to reimburse the ESD for health insurance premiums paid on your behalf during your FMLA and/or OFLA leave.

This is to inform you that *(check appropriate boxes, explain where indicated)*:

1. You are ☐ eligible ☐ not eligible for leave under the ☐ FMLA, ☐ OFLA or ☐ both FMLA and OFLA.
2. The requested leave may be counted against your annual ☐ FMLA leave entitlement, ☐ OFLA leave entitlement ☐ both FMLA and OFLA leave entitlements.
3. You ☐ will ☐ will not be required to furnish a medical certification of a serious health condition. If required, you must furnish the certification by (date) (must be at least 15 days after you are notified of this requirement).
4. You may elect to substitute accrued paid leave for unpaid FMLA leave. We ☐ will ☐ will not require that you substitute accrued paid leave for unpaid FMLA and/or OFLA leave. If paid leave will be used the following conditions will apply: *(Explain)*
- 5a. If you normally pay a portion of the premiums for your health insurance, these payments will continue during the period of FMLA and/or OFLA leave. Arrangements for payment have been discussed with you and it is agreed that you will make premium payments as follows: *(Set forth dates, e.g., the 10th of each month, or pay periods, etc., that specifically cover the agreement with the employee.)*
- 5b. You have a minimum ☐ 30-day ☐ Other: *(indicate longer period, if applicable)* grace period in which to make premium payments. If payment is not timely made, your group health insurance may be ~~canceled~~ ~~cancelled~~. We will notify you in writing at least 15 days before the date that your health coverage will lapse. At our option, we may also pay your share of the premiums during your FMLA and/or OFLA leave as provided by Board policy and/or collective bargaining agreement, and recover these payments from you upon your return to work. We ☐ will ☐ will not pay your share of health insurance premiums while you are on FMLA and/or OFLA leave.

²Oregon Military Family Leave ~~Act~~ allows for 14 days of leave per deployment.

- 5c. We ☐ will ☐ will not do the same with other benefits (e.g., life insurance, disability insurance, etc.) while you are on FMLA and/or OFLA leave. If we do pay your premiums for other benefits, when you return from leave you ☐ will ☐ will not be expected to reimburse us for the payments made on your behalf.
- 5d. Except as noted above, in the event you do not return to work for the ESD after your FMLA and/or, OFLA leave and the ESD has paid your share of benefit premiums, you ☐ will ☐ will not be responsible for reimbursing the ESD the amount paid on your behalf, with the exceptions noted in C.F.R. § 104 (c)(2)(B) of the FMLA.
6. ☐ You will be required to present a fitness-for-duty certification prior to being restored to employment following leave for your own serious health condition. If such certification is required but not received, your return to work may be delayed until the certification is provided. A list of essential functions for your position is attached. The fitness-for-duty certification must address your ability to perform these functions.
- ☐ You will not be required to present a fitness-for-duty certification prior to being restored to employment following leave for your own serious health condition.
- 7a. You ☐ are ☐ are not a “key employee” as described in C.F.R. § 825.218 of the FMLA regulations. If you are a “key employee,” reinstatement to employment may be denied following FMLA leave on the grounds that such restoration will cause substantial and grievous economic injury to the ESD. (FMLA leave only.)
- 7b. We ☐ have ☐ have not determined that restoring you to employment at the conclusion of FMLA leave will cause substantial and grievous economic harm to us. (FMLA leave only.) *(Explain (a) and/or (b) below.)*
8. While on FMLA and/or OFLA leave, you ☐ will ☐ will not be required to furnish us with periodic reports every _____ *(indicate interval of periodic reports, as appropriate for the particular leave situation)* of your status and intent to return to work. If the circumstances of your leave change and you are able to return to work earlier than the date indicated on this form, you ☐ will ☐ will not be required to notify us at least two workdays prior to the date you intend to report for work.
9. You ☐ will ☐ will not be required to furnish recertification relating to a serious health condition. (FMLA leave only.) *(Explain below, if necessary, including the interval between certifications as prescribed in C.F.R. § 825.308 of the FMLA regulations.)*
10. You are notified that all leave taken for the purposes of the death of a family member, counts toward the total period of authorized family leave.

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(5)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(5)

Sample Designation Letter to Employee - FMLA/OFLA Leave

The following is a sample cover letter to an employee notifying the employee that the employer is treating a request for leave as a request for FMLA and/or OFLA leave (either paid or unpaid) that will reduce the employee's FMLA and/or OFLA leave entitlement. This letter, along with the Designation Notice form GCBDA/GDBDA-AR(6), or the FMLA/OFLA Eligibility Notice form GCBDA/GDBDA-AR(4), ~~OFLA only eligible~~, should be mailed to the employee within five working days after receiving enough information to determine whether the leave qualifies under FMLA or OFLA.

Dear Employee:

On ____ (date) ____ you advised the ESD that you were requesting a leave that may qualify for protected time under the Family and Medical Leave Act (FMLA) and/or the Oregon Family Leave Act (OFLA). Under our policy, a leave of absence that qualifies for family and medical leave under federal law (FMLA), may run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave, OFLA and leave for a workers' compensation injury or illness. A leave of absence that qualifies for family and medical leave under state law (OFLA), may run concurrently with other types of leave such as sick leave, vacation leave, short-term disability leave, but cannot run concurrently with a leave for a workers' compensation injury or illness (unless you refuse a light-duty assignment).

IF APPROVED: We have determined the purpose of your requested leave qualifies as family or medical leave under [state] [and/or federal] law. Accordingly, this letter is to notify you that the leave will be counted against your annual family and medical leave entitlement. Also attached is a form entitled Designation Notice which contains other information for you regarding federal and state family medical leave rights, including an estimate of time that will count toward your protected time.

IF NOT APPROVED: We have determined the purpose of your requested leave does NOT qualify as family or medical leave under state and/or federal law. You may be entitled to other leave time, under Board policy or the collective bargaining agreement, however, the protections of FMLA/OFLA will not be observed for this leave.

If you have any questions regarding your leave, now or at any time during your leave, please contact the personnel office as soon as possible.

Sincerely,

Superintendent

Enclosure (FMLA and/or OFLA Designation Notice form)

CR4/13/17 | RS

Sample Designation Letter to Employee - FMLA/OFLA Leave –
GCBDA/GDBDA-AR(5)

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(6)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(6)

Designation Notice – FMLA/OFLA

Leave covered under the Family and Medical Leave Act (FMLA) and/or Oregon Family Leave Act (OFLA) must be designated as FMLA and/or OFLA-protected and the ESD must inform the employee of the amount of leave that will be counted against the employee's FMLA and/or OFLA leave entitlement.

In order to determine whether leave is covered under the FMLA and/or OFLA, the ESD may request that the leave be supported by a physician's certification. If the certification is incomplete or insufficient, the ESD will state in writing what additional information is necessary to make the certification complete and sufficient.

Employee Name: _____ Date: _____

We have reviewed your request for leave under the FMLA and/or OFLA and any supporting documentation that you have provided. We received your most recent information on: _____.

Please be advised:

- ☐ Your request is approved for FMLA. All leave taken for this reason will be designated as FMLA leave.
- ☐ Your request is approved for FMLA and OFLA. This designation of leave will run concurrently.
- ☐ Your request is approved for OFLA. All leave taken for this reason will be designated as OFLA leave.

The FMLA and/or OFLA requires that you notify us as soon as practicable if dates of scheduled leave change or are extended, or were initially unknown. Based on the information you have provided to date, we are providing the following information about the amount of time that will be counted against your entitlement:

- ☐ Provided there is no deviation from your anticipated leave schedule, the following number of hours, days or weeks will be counted against your leave entitlement: _____
- ☐ Because the leave you requested will be rescheduled, it is not possible to provide the hours, days or weeks that will be counted against your FMLA and/or OFLA entitlement at this time. You have the right to request this information once in a 30-day period (if leave was taken in the 30 day period).

Please be advised (check if applicable):

- ☐ You have requested to use paid leave during your FMLA and/or OFLA leave. Any paid leave taken for this reason will count against your FMLA and/or OFLA leave entitlement.

- ☐ We are requiring you to substitute or use paid leave during your FMLA and/or OFLA leave.
- ☐ You will be required to present a fitness-for-duty certification to be reinstated to your position. If such certification is not timely received, your return to work may be delayed until certification is provided. The Fitness-for Duty Certification form is attached, please have your medical provider complete this form prior to the termination of your leave. A list of the essential functions of your position ☐ is ☐ is not attached. If attached, the fitness-for-duty certifications must address your ability to perform these functions:

- ☐ Additional information is needed to determine if your FMLA and/or OFLA leave request can be approved.

- ☐ The certification you have provided is incomplete and insufficient to determine whether the FMLA and/or OFLA applies to your leave procedures. You must provide the following information no later than _____ (date) _____ (at least 15 calendar days), unless it is not practicable under the particular circumstances despite your diligent good faith efforts, or your leave may be denied. The information needed to make the certification complete and sufficient is¹:

- ☐ We are exercising our right to have you obtain a second or third opinion medical certification at our expense, and we will provide further details at a later time.

- ☐ Your FMLA leave request is NOT APPROVED.
- ☐ The FMLA does not apply to your leave request.
- ☐ You have exhausted your FMLA leave entitlement in the applicable 12-month period. (Note: Federal Military Family Leave is on a separate 12-month period.)
- ☐ Your OFLA leave request is NOT APPROVED.
- ☐ The OFLA does not apply to your leave request.
- ☐ You have exhausted your OFLA leave entitlement in the applicable 12-month period.

¹ If you fail to provide a complete and sufficient certification by the due date, we may a) delay the commencement of your leave; or b) withdraw any designation of FMLA leave, in which case your leave of absence may be unauthorized and subject to discipline, up to and including termination.

Columbia Gorge ESD

Code: GCBDA/GDBDA-AR(7)
Revised/Reviewed: 8/16/17
Orig. Code: GCBDA/GDBDA-AR(7)

Fitness-for-Duty Certification

[NOTE: THESE INSTRUCTIONS ARE NOT INTENDED TO BE INCLUDED WITH THE CERTIFICATION TO THE EMPLOYEE – DELETE THIS PARAGRAPH PRIOR TO REVIEW AND POSTING FOR USE. Instructions for use of this sample form:] In order to condition an employee's return to work for the employee's own serious health condition on a fitness-for-duty certificate, the ESD must have notified the employee in the designation notice that a fitness-for-duty certification would be required before returning to work. If the ESD did not require a fitness-for-duty certification in the designation letter, once an employee comes back, if the ESD has concerns (based on evidence, not speculation) about the employee's ability to perform the job, the ESD can get a fitness-for-duty certification based on the Americans with Disabilities Act Amendments Act (ADAAA), rather than FMLA and OFLA. Under OFLA, the ESD cannot obtain a second opinion for fitness-for-duty certification, and fitness-for-duty certification must be sought pursuant to uniformly applied policy. The ESD must pay any out-of-pocket expenses paid to obtain a fitness-for-duty examination. This is a sample fitness-for-duty certification.]

To: _____ Date: _____

From: _____

Subject: Fitness-for-Duty Certification

Family and ~~medical leave~~ **Medical Leave** for your own serious health condition ends on (date) _____. Prior to returning to work you must provide a Fitness-for-Duty Certification verifying whether you are able to return to work, if you have any job-related restrictions and the duration of any restrictions. Please take this Fitness-for-Duty Certification to your ~~health care~~ **healthcare** provider for completion. The ESD will use this Fitness-for-Duty Certification to determine if you are able to return to work after your leave.

Return the completed Fitness-for-Duty Certification to the ESD prior to the end of your Family and Medical Leave or by (date) _____.

Fitness-for-Duty Certification

Health Care Provider Completes this Section

Instructions: Please complete all sections in order for the ESD to determine if the employee is able to return to duty. The employee's position description or a list of essential duties (ESD specifies which) is attached to this form.

1. The employee is able to return to work full-time without restrictions: ☐ Yes ☐ No
 - a. If yes, list the effective date _____.
 - b. If no, complete the following:
 - (1) The employee will be able to return to work with no limitation on (date) _____.
 - (2) I certify that from (date) _____ to (date) _____ the above named employee will be:

- (a) ☐ Unable to perform the physical requirements of their work; or
(b) ☐ Is medically incapacitated: ☐ Totally ☐ Partially**

**If partially medically incapacitated, complete the following:

- (c) Number of hours per day employee is able to work _____.
(d) Number of days per week employee is able to work _____.

- (3) List any restrictions on the employee's work: _____

Printed name of health care provider

Type of practice

Signature - health care provider

Date

Health care provider: Please return the completed form to the employee/patient.

| Attached: Position description or description of essential duties (ESD specifies which).-

Columbia Gorge ESD

Code: GCBDAAGDBDAA
Adopted: 7/15/20
Orig. Code: GCBDAAGDBDAA

Paid Leaves

(this policy refers to the CBA also it does not include Sick Time leave)

Up to five days of paid leave, as described in this policy, may be granted to regular employees who work at least 760 hours or more annually, including confidential and administrative employees, as provided by the district's negotiated agreements. Regular employees who work 759 hours or less annually may be granted a maximum of three days annually for the leaves described here.

Employees requesting these leaves must provide sufficient information on the leave request form so that the eligibility for the leave can be determined.

Personal Leave

A cumulative total of five (5) days per year of paid leave will be allowed. This leave shall not accumulate. Personal leave must be scheduled with the division director as soon as possible, and not later than 24 hours in advance of the leave. Requests for more than two (2) consecutive days will require explanation. It is not the intent of this section to allow personal leave on the day before or the day after holidays or vacations or the first or last day of the employee's work calendar.

Sick Leave

- a. All full-time twelve (12) month employees of the District shall be entitled to twelve (12) days (96 hours) of sick leave with pay per year. All other full-time employees shall be entitled to ten (10) days (80 hours) of sick leave with pay per year. This shall be granted on July 1st of each year.
- b. Sick leave shall accrue at the rate of one (1) day for each full month (172 hours) of completed service, without limit to a maximum accumulation.
- c. Regular employees who work less than full-time shall earn sick leave on a pro-rated basis.
- d. Staff members shall be able to transfer up to 75 days of other Oregon school district or ESD sick leave and shall be allowed to use accumulated and unused sick leave in accordance with the provisions of ORS 332.507.
- e. All members may utilize sick leave for absences due to illness, bodily injury, disability resulting from pregnancy, or necessary medical or dental care or for any other reason, including absences to care for family members as covered by Oregon law.
- f. "Family member" means an employee's spouse, domestic partner, custodial parent, noncustodial parent, adoptive parent, foster parent, biological , stepparent, parent-in-law, a parent of an employee's domestic partner, an employee's grandparent or grandchild, or a person with whom the employee is or was in a relationship of in loco parentis. "Family member" also includes the biological, adopted, foster child or stepchild of an employee or the child of an employee's same-gender domestic partner. An employee's child in any of these categories may be either a minor or an adult at the time qualifying leave is taken.
- g. As per ORS 332.507(3) "At the option of the local governing board, sick leave in excess of five (5) consecutive work days shall be allowed only upon certificate of the school employee's attending physician or practitioner that the illness or injury prevents the school employee from working." Any employee refusing to submit to such an examination or to provide other

evidence as required by the district, shall be subject to appropriate disciplinary action, up to and including dismissal.

COVID-19 Related Leave – HAS EXPIRED

When applicable, the ESD will comply with the provisions of the Families First Coronavirus Response Act (FFCRA) which includes the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). The ESD will also comply with the Oregon Bureau of Labor and Industries' (BOLI) temporary rule BLI 4-2020 that amends Oregon Administrative Rule 839-009-0230 for the purpose of taking leave during the statewide public health emergency. This policy and its accompanying administrative regulation will be in effect until each of the above laws have expired.

Employees are eligible for EFMLEA leave if they have been employed for at least 30 days.

EPSLA applies to all employees no matter how long they have been employed or how many hours they have worked.

The ESD may exclude from the EPSLA and EFMLEA employees who are health care providers, including anyone employed at any post-secondary educational institution offering health care instruction.

The BOLI rule applies to ESDs with employees who are eligible for leave under the Oregon Family Leave Act.

The ESD shall post a notice of FFCRA requirements in conspicuous places at ESD facilities. The ESD may meet the notice requirement by emailing the notice to employees or posting notice on an internal or external website made available to employees.

The ESD is prohibited from retaliating against an employee who takes leave or takes actions to enforce the requirements of these acts.

This policy does not affect employee rights or benefits under any other law, collective bargaining agreement, or ESD policy. The ESD is not required to pay an employee for unused emergency paid sick time if an employee resigns, retires or is terminated.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)

[ORS 659A.093](#)

[ORS 659A.150](#) – [659A.196](#)

[ORS 342.545](#) [ORS 659A.096](#)

[ORS 659A.090](#) [ORS 659A.099](#)

[OAR 839-009-0200](#) – [0320](#)

Families First Coronavirus Response Act, Public Law No: 116-127, Mar. 18, 2020.

Americans with Disabilities Act, 42 U.S.C. §§ 12101-12213 (2018); 29 C.F.R. Part 1630 (2019); 28 C.F.R. Part 35 (2019).

Family and Medical Leave Act, 29 U.S.C. §§ 2601-2654 (2018); 5 U.S.C. §§ 6381-6387 (2018); Family and Medical Leave Act, 29 C.F.R. Part 825 (2019).

Americans with Disabilities Act Amendments Act of 2008, 42 U.S.C. § 2000ff-1 (2018).

Escriba v. Foster Poultry Farms, Inc. 743 F.3d 1236 (9th Cir. 2014).

Columbia Gorge ESD

Code: GCBDAAGDBDAA-AR(1)
Adopted: 7/15/20
Orig. Code: GCBDAAGDBDAA-AR(1)

COVID-19 Related Leave

(The federal covid leave has sunsetted, the BOLI leave has been codified and language is in FMLA/OFLA AR(1))

Emergency Paid Sick Leave Act

The ESD shall provide paid sick time to employees who are unable to work due to the effects of coronavirus disease 2019 (COVID-19). Full-time employees are entitled to 80 hours of paid sick time, which is available immediately for use if the employee:

1. Is subject to a governmental quarantine or isolation order;
2. Has been advised by a health-care provider to self-quarantine;
3. Is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. Is caring for an individual who is subject to quarantine or isolation by governmental order or health care provider advisement;
5. Is caring for their son or daughter whose school or child-care provider is closed; or
6. Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Paid sick time may be used before other paid leave that may be available to the employee. A part-time employee is entitled to such paid sick time for the average number of hours the part-time employee works during an average two-week period. Paid sick time shall not carry over from one year to the next.

The ESD shall pay the regular rate of pay up to \$511 per day, and \$5,110 in the aggregate, for paid sick time used by an employee who experiences symptoms of COVID-19, or is required or advised to self-quarantine due to concerns related to COVID-19.

The ESD shall pay two-thirds of the regular rate of pay up to \$200 per day, and \$2,000 in aggregate, for paid sick time used by an employee:

1. To care for an individual subject to quarantine or isolation by governmental order or health care provider advisement;
2. To care for their child because the child's school or child-care provider is closed due to COVID-19 related reasons; or
3. Who is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

Emergency Family and Medical Leave Expansion Act

An ESD employee may take public health emergency leave to care for the employee's child during a COVID-19 public health emergency.

The ESD is not required to pay an employee for the first 10 days of such public health emergency leave. However, an employee may use accrued paid leave during such time. After the 10 days, the ESD must pay not less than two-thirds of an employee's regular rate of pay for the number of hours per week the employee normally works. The maximum amount of compensation for such leave is \$200 per day and \$10,000 in aggregate.

The ESD shall restore the employee's former position following the use of public health emergency leave unless, the ESD:

1. Has fewer than 25 employees;
2. Has made reasonable efforts to retain the employee's position but such position no longer exists due to economic or operating conditions caused by the public health emergency; and
3. Has made reasonable efforts to restore the employee to an equivalent position.

Temporary BOLI Rule affecting Oregon Family Leave Act (OFLA)

The temporary BOLI rule extends OFLA's sick child leave to include the absence to care for an employee's child whose school or place of care has been closed in conjunction with a statewide public health emergency declared by a public health official.

The leave is protected but unpaid, and in most circumstances will run concurrently with leave taken under the Families First Coronavirus Response Act. An employee may elect to use any accrued paid leave time.

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Columbia Gorge ESD

Code: GCBDAAGDBDAAR(2)
Adopted: 7/15/20
Orig. Code: GCBDAAGDBDAAR(2)

COVID-19 Related Leave

Employee's Name: _____ Date: _____

Dates for which the leave is requested: _____

Qualifying reason for leave:

- ☐ Is subject to governmental-quarantined or isolation order.
- ☐ Has been advised by health-care provider to self-quarantine.
- ☐ Is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- ☐ Is caring for an individual who is subject to a quarantine or isolation by governmental order or health care provider advisement.
- ☐ Is caring for their son or daughter whose school or child-care provider is closed.
- ☐ Is experiencing a substantially similar condition related to COVID-19 as specified by the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor.

The employee is unable to work, including telework due to: _____

Documentation supporting the qualifying reason for requesting leave: _____

For quarantine or isolation orders, provide the name of the health care provider who advised the self-quarantine:

Name of health care provider

Contact information

For emergency Family Medical Leave Act (FMLA) leave and paid sick leave taken for COVID-19 related school or child care closings, provide documentation to support the need for leave, i.e., notice posted on government, school or day care website, published in a newspaper, or an email from an official of the school, place of care, or child care provider.

Columbia Gorge ESD

Code: GCDAB/GDBDAB
Adopted: 11/16/16
Orig. Code: GCBDE/GDBDE

Leaves of Absence/Paid and Unpaid

(leaves are in CBA or statutory)

Leaves of Absence With Pay

A regular employee, unless as otherwise provided by the district's negotiated agreement upon application in writing and upon approval of the superintendent, may obtain leave of absence with pay under the conditions of this section and as provided by Oregon law.

All employee absences must be substantiated by written proof of the need for leave. Pay will not be granted for leaves of absence unless the employee worked or was validly excused from work both the workday before the absence and the workday following the absence.

The Board reserves the right to and may grant a leave of absence with pay at their discretion and in accordance with Oregon law; normally not to exceed five working days. This leave may be given by the superintendent should circumstances warrant such leave.

Leaves of Absence Without Pay

Short-term unpaid leave of absence may be granted by the action of the superintendent unless as otherwise provided by the district's negotiated agreement but a leave in excess of six weeks shall be only granted by the ESD Board.

A general unpaid leave of absence of up to one (1) year may be granted to any person covered under the Collective Bargaining Agreement upon written application to the Board of Directors. Application for a years' general leave shall be made by March 15th. Other applications (i.e., paternity leave, family care, etc.) will be made in a timely manner. The Board of Directors may choose to allow no more than one (1) employee per department to use this provision at any one time.

Re-employment may be assured if the staff member is on leave for further academic training, either education or travel, an exchange position or military service, provided the district is notified by letter from the staff member requesting such leave by March 1, or as soon as may reasonably be expected prior to his/her year of leave, indicating his/her desire to return to the position held prior to his/her leave status. Re-employment shall be subject to there being a position open appropriate to the employee's qualifications unless as otherwise provided by law.

In the case of a teacher taking a leave of absence, another teacher may be hired for the duration of the leave. No sick leave is to be allowed for pay purposes and no sick leave can be earned during this time by the teacher on leave.

Military Leave

Military leave of absence shall be granted in accordance with CGESD Policy GCBDE/GDBDE.

Return from Leave

All benefits to which an employee was entitled at the time the leave of absence commenced, including (but not limited to) placement on the salary schedule and unused accumulated sick leave shall be restored to the employee upon his/her return fully as if he/she had never taken said leave. The employee shall be assigned to the same job category held at the time said leave commenced.

Jury Duty

Any regular employee shall be granted a leave of absence with pay for service upon a jury, provided:

1. The employee signs over to the ESD any moneys received for jury duty (excluding travel); or
2. That the salary paid to such employee for the period of absence shall be reduced by the amount of money(ies) paid for jury service (excluding travel expense).

Court Appearances

Employees who appear before a court, legislative committee or other judicial or quasi-judicial body as witness in response to a subpoena or other direction by proper authority shall be granted leave for such appearance, provided:

1. That the employee endorses over funds to the ESD received for court appearances (excluding travel expenses); or
2. That the salary paid to such employee shall be reduced by an amount equal to that received by such employee as witness fees (excluding travel expenses).

Maternity Leave

Leave for maternity purposes, as described by the employee's physician, will be charged against accrued sick leave. The employee may apply for and the District may grant maternity leave without pay thereafter.

Parental Leave

Parental leave will be granted as per ORS 659A.150 et seq.

Other Leave

Any worker who has sustained a compensable personal injury or illness and is disabled and is unable to perform his/her essential job function will be re-employed at such time as a physician issues a certificate stating the type of work that is appropriate for reassignment, assuming such work is both suitable and available. Such rights of re-employment are subject to seniority rights and other restrictions of the collective bargaining agreement between the employer and employee bargaining unit.

Employee Benefits

All district-paid employee benefits, such as health and dental insurance, will cease on the last day of the month in which employment is terminated, or the staff member is placed on unpaid leave, unless the

unpaid leave is in conjunction with state or federal parental or family leave. The staff member will be informed of his/her rights to remain a part of the district benefit plan at personal expense.

Unexcused Absences

An unexcused absence or failure to follow the adopted policies of the Board, or provisions of negotiated agreements, regarding leave of absence may be sufficient grounds for dismissal.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 334.125 \(5\)](#)
[ORS 342.545](#)
[ORS 342.610](#)
[ORS 659A.046](#)

[OAR 581-024-0245](#)

Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101-12213; 28 CFR Part 35 (2006); 29 CFR Part 1630 (2006)
Family and Medical Leave Act of 1993, 29 U.S.C. Section 2601-2654; 29 CFR Part 825 (2006)

Columbia Gorge ESD

Code: GCBADAD
Adopted: 5/18/16
Orig. Code: GCBADAD

Emergency Closure Leave

(this should be in employee handbook)

All Columbia Gorge ESD employees shall be granted up to three non-accumulative paid days of leave for emergency closure of schools, offices or program facilities for inclement weather or other causes (e.g. natural disaster, mechanical failure, safety issues, etc.).

Columbia Gorge ESD employees will follow the delayed start or closure schedule of the location to which they are assigned on the date of a closure, unless directed by the program administrator to report to another location. If the school or program staff has to make up the day, Columbia Gorge ESD employees may also make up the day. Any decision to make up days lost will be made by the Columbia Gorge ESD Board upon recommendation of the superintendent.

Employees may use Emergency Closure or personal leave for the portion of the day the facility is closed. If employees are unable to travel safely to work, but the facility is open, they may use Emergency Closure or personal leave (see GCBDAAGDBDAAG).

In the event that more than three days of emergency closure leave are needed because of additional days of emergency closure or unsafe travel conditions, the following shall apply:

1. Personnel may use their personal leave days leave.
2. If no additional personal leave days are available for an employee, the employee may request to make up the additional emergency closure days on any non-scheduled ESD work day(s) prior to the end of the employee's work year. The request must be pre-approved and signed by the employee, employee's supervisor and superintendent. In order for such a request to be approved, the employee must demonstrate that make-up work will have little or no impact on services to children, services for which CGESD has a contract with another entity, i.e., school district, or the work of other staff members.
3. In the event that the makeup day(s) is/are not worked prior to the end of the employee's work year, the day shall be deducted at the hourly/daily rate in the employee's final paycheck.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

Columbia Gorge ESD

Code: GCBAD-AR
Adopted: 2/19/13
Orig. Code: GCBAD-AR

Inclement Weather Guidelines - Telecommuting

During inclement weather periods, the work of the ESD will continue in as normal a manner as possible, but employees will not be required to travel under weather conditions that will cause a high level of danger to their person and/or property.

During periods of inclement weather when a general closure is not in effect, some employees may judge travel conditions by any regular method between home and work to be unduly hazardous. If such employees choose not to report to work or to return to their home prior to the end of the normal workday, they are to notify the immediate supervisor as soon as possible. Wages will not be paid for hours lost during such an absence, but supervisors will accommodate requests for making up such time whenever it is appropriate and practical. Employees may also use personal leave or comp time for the period of work missed.

A request to telecommute during periods of inclement weather will be approved or disapproved by the superintendent on a case-by-case basis dependent upon the needs of the department, performance of the individual or other concerns. Telecommuting is not a universal employee benefit and will only be allowed for positions where service and operational needs of CGESD and local districts can be enhanced. Telecommuting may work well where the employee has demonstrated he/she can work independently and where the nature of the work does not require on-site production activities.

If allowed, the employee must be telephone-accessible to their supervisor and customers during the telecommuting day. Each teleworker must have an appropriate environment for teleworking. This does not imply that they must have dedicated space, just appropriate for the task to be completed.

Telecommuting is not a substitute for dependent care. If children or elderly family members (those unable to care for themselves) require care during “work” time, other arrangements should be made.

Columbia Gorge ESD

Code: GCBDB/GDBDB
Adopted: 5/19/10
Orig. Code: GCBDB/GDBDB

Early Return to Work

Efforts will be made, on a case-by-case basis, to ~~reinstate~~~~return~~ ill or injured employees to work. The ~~reinstatement~~~~Returns~~ will be within the requirements of the injury, the limitations of the law and the limitations of the ~~ESD~~~~district~~.

In the event an employee is not able to perform essential job functions completely after an illness or injury, the ~~ESD~~~~district~~ will determine whether reasonable accommodations are appropriate that would provide a temporary light ~~job~~ duty assignment, restructuring of a ~~position~~~~job~~ to include modified ~~workdays~~~~work days~~, shift or part ~~time~~ work, hours of work or modifications in facilities, equipment, special aids and services. Reasonable accommodations must not result in an undue hardship on the ~~ESD~~~~district~~.

If an employee cannot be reasonably accommodated in his/her current ~~position~~~~job~~, the ~~ESD~~~~district~~ will review alternative assignments. The employee, if qualified, will be offered an available vacant position with or without reasonable accommodations. If recovery is ongoing, sick leave is exhausted and ~~if~~ no other assignment is possible, the ~~ESD~~~~district~~ will provide temporary unpaid leave as an accommodation ~~if recovery is on-going and sick leave is exhausted. Unpaid leave will be provided~~ in accordance with ~~state~~ and federal ~~Oregon~~ law.

The ~~ESD~~~~district~~ will maintain current job descriptions for each ~~position~~~~job category~~. Physical requirements for appropriate job categories will be established.

END OF POLICY

Legal Reference(s):

[ORS 659A.043](#)
[ORS 659A.046](#)

[OAR 436-110-0001 to -0900](#)
[OAR 581-024-0240](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

Columbia Gorge ESD

Code: GCBDC/GDBDC
Adopted: 5/22/19
Orig. Code: GCBDC/GDBDC

Domestic Violence, Harassment, Sexual Assault, or Stalking Leave

Definitions:

1. “Covered employer” means an employer who employs six or more individuals in the state of Oregon for each working day through each of 20 or more calendar workweeks in the year in which the eligible employee takes leave to address domestic violence, harassment, sexual assault or stalking, or in the year immediately preceding the year in which an eligible employee takes leave for domestic violence, harassment, sexual assault or stalking.
2. “Eligible employee” means an employee who is a victim of domestic violence, harassment, sexual assault, or stalking or is the parent or guardian of a minor child or dependent who is a victim of domestic violence, harassment, sexual assault or stalking.
3. “Protective order” means an order authorized by Oregon Revised Statutes (ORS) 30.866, 107.095(1)(c), 107.700 ~~to~~ 107.735, 124.005 ~~to~~ 124.040 or 163.730 ~~to~~ 163.750 or any other order that restrains an individual from contact with an eligible employee or the employee’s minor child or dependent.
4. “Victim of domestic violence” means an individual who has been a victim of abuse as defined by ORS 107.705; or any other individual designated as a victim of domestic violence by rule adopted under ORS 659A.805.
5. “Victim of harassment” means an individual against whom ~~who~~ harassment has been committed as described in ~~defined by~~ ORS 166.065 and any other individual designated as a victim of harassment by rule adopted under ORS 659A.805.
6. “Victim of sexual assault” means an individual against whom a sexual offense has been committed as described in ORS 163.467 or 163.525; or any other individual designated as a victim of sexual assault by rule adopted under ORS 659A.805.
7. “Victim of stalking” means an individual against whom stalking has been committed as described in ORS 163.732; or ~~an any other~~ individual designated as a victim of stalking by rule adopted under ORS 695A.805; or an individual who has obtained a court’s stalking protective order or a temporary court’s stalking protective order under ORS 30.866.
8. “Victim services provider” means a prosecutor- based ~~victim~~ ~~victims~~ assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, harassment, sexual assault or stalking.

An ESD covered employee shall allow an eligible employee to take reasonable leave for any of the following reasons:

1. To seek legal or law enforcement assistance or remedies to ensure the health and safety of the employee or the employee's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal legal proceedings related to domestic violence, harassment, sexual assault, or stalking;
2. To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking of the eligible employee or the employee's minor child or dependent;
3. To obtain or assist a minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault, or stalking;
4. To obtain services from a victim services provider for the eligible employee or the employee's minor child or dependent;
5. To relocate or take steps to secure an existing home to ensure health and safety of the eligible employee or the employee's minor child or dependent.

The ESD may limit the amount of leave, if the employee's leave creates an undue hardship on the ESD.

The ESD shall not deny leave to an employee or discharge, threaten to discharge, demote, suspend or in any manner discriminate or retaliate against an employee with regards to promotion, compensation or other terms, conditions or privileges of employment as a result of taking such leave.

The employee shall give the ESD reasonable advanced notice of the employee's intent to take leave unless giving advance notice is not feasible.

The ESD may require the employee to provide certification that:

1. The employee or minor child or dependent is a victim of domestic violence, harassment, sexual assault, or stalking; and
2. The leave is taken for one of the identified purposes in this policy.

Sufficient certification includes:

1. A copy of a ~~police~~ report from law enforcement indicating indications the employee or child or dependent was a victim of domestic violence, harassment, sexual assault, or stalking.
2. A copy of a protective order or other evidence from ~~form~~ a court, administrative agency or attorney that the employee appeared in or was preparing for a civil, criminal or administrative proceeding related to domestic violence, harassment, sexual assault, or stalking.
3. Documentation from an attorney, law enforcement officer, health care professional, licensed mental professional or counselor, member of the clergy or a victim services provider that the employee or the employee's child or dependent was undergoing counseling, obtaining services or relocating as a result of domestic violence, harassment, sexual assault, or stalking.

All records and information kept by the ESD regarding the employee's leave, including the request or obtaining of leave is confidential and may not be released without the express permission of the employee

unless otherwise required by law. This information will be kept in a file separate from the employee's personnel file.

The employee may use accrued paid accrued leave that is offered by the ESD, including personal, sick, and vacation leave. The employer may chose the order in which paid accrued leave is to be used when more than one type of paid leave is available, consistent with Board policies and/or any collective bargaining agreement.

END OF POLICY

Legal Reference(s):

[ORS 192.355\(38\)](#)

[ORS 659A.270 - 659A.290](#)

Columbia Gorge ESD

Code: GCBDC/GDBDC-AR
Revised/Reviewed: 10/17/18
Orig. Code: GCBDC/GDBDC-AR

Request for Domestic Violence, Harassment, Sexual Assault or Stalking Leave

(For employers who employ six or more employees)

PLEASE PRINT

Where the need for the leave may be anticipated, a written request for leave under Oregon Revised Statute (ORS) 659A.270 - 659A.285 shall be made at least 30 days prior to the date the requested leave is to begin. In emergency situations, oral or written notice as soon as practical is allowed.

Name of Eligible Employee _____ Effective Date of the Leave _____

Department/School _____ Title _____

Status: ☐ Full-time ☐ Part-time ☐ Temporary Hire Date _____ Length of Service _____

The requested leave is for:

- ☐ Myself
- ☐ My minor child or dependent

The leave is for:

- ☐ To seek legal or law enforcement assistance or remedies to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.
- ☐ To seek medical treatment for or to recover from injuries caused by domestic violence, harassment, sexual assault or stalking for the eligible employee or the eligible employee's minor child or dependent.
- ☐ To obtain or assist the eligible employee's minor child or dependent in obtaining counseling from a licensed mental health professional related to an experience of domestic violence, harassment, sexual assault or stalking.
- ☐ To obtain services from a victim services provider for the eligible employee or the eligible employee's minor child or dependent.
- ☐ To relocate or take steps to secure an existing home to ensure the health and safety of the eligible employee or the eligible employee's minor child or dependent.

The following has been provided by the employee to certify the leave:

- ☐ A copy of a report from law enforcement indicating that the eligible employee or the eligible employee's minor child or dependent was a victim or alleged victim of domestic violence, harassment, sexual assault or stalking.
- ☐ A copy of a protective order or any other order that restrains an individual from contact with an eligible employee or the employee's minor child or dependent, evidence from a court, administrative agency or attorney that the eligible employee appeared in or is preparing for a civil or criminal proceeding related to domestic violence, harassment, sexual assault or stalking or other order authorized by ORS 30.866, 107.095(1) (c), 107.700 ~~to~~ 107.735, 124.005 - 124 ~~to~~ 120.040 or 163.730 ~~to~~ 163.750.
- ☐ Documentation from an attorney, law enforcement officer, health care professional, licensed mental health professional or counselor, member of the clergy or victim services provider with or from whom the eligible employee or the eligible employee's minor child or dependent is receiving services.

I understand that I may use accrued paid leave, including personal and sick leave or accrued vacation leave.

If my request for a leave is approved, it is my understanding that without an authorized extension when the need for an extension could be anticipated, I must report to duty on the first workday following the date my leave is scheduled to end. I understand that failure to do so will constitute unequivocal notice of my intent not to return to work and the ESD may terminate my employment. I understand if I am unable to return to work following the period of authorized leave I will notify my employer as soon as practical and provide any required information which will allow my employer to determine my eligibility for an extension of leave.

I authorize the ESD to deduct from my paychecks any employee contributions for health insurance premiums, life insurance or long-term disability insurance which remain unpaid after my leave, consistent with state law.

Signature of Employee: _____

Date: _____

Columbia Gorge ESD

Code: GCBDD

Adopted: 5/19/10

Orig. Code: GCBDD

Unexcused Absences

An unexcused absence or failure to follow the adopted policies of the Board, or provisions of negotiated agreements, regarding leave of absence may be sufficient grounds for dismissal.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#) (5)

[OAR 581-24-0245](#)

Columbia Gorge ESD

Code: GCBDD
Adopted: 5/19/10
Orig. Code: GCBDD

Unexcused Absences

(In CBA? Move to handbook and job descriptions)

An unexcused absence or failure to follow the adopted policies of the Board, or provisions of negotiated agreements, regarding leave of absence may be sufficient grounds for dismissal.

END OF POLICY

Legal Reference(s):

[ORS 334.125 \(5\)](#)

[OAR 581-24-0245](#)

Columbia Gorge ESD

Code: GCBDD/GDBDD
Adopted: 4/18/18
Orig. Code: GCBDD/GDBDD

Sick Time *

“Employee” means an individual who is employed by the ESD and who is paid on an hourly, stipend or salary basis, and for whom withholding is required under Oregon Revised Statute (ORS) 316.162-316.221. The definition does not include volunteers or independent contractors.

Employees qualify to begin earning and accruing sick time on the first day of employment with the ESD.

The ESD shall allow an eligible employee to access up to 40 hours of paid sick time per year. Paid sick time shall accrue at the rate of one hour of paid sick time for every 30 hours the employee works for substitutes and other part-time employees working less than 20 hours per week or temporary employees. Paid sick time of 40 hours shall be front-loaded to all full-time represented licensed employees, full-time represented classified employees, and full-time non-represented employees at the beginning of the fiscal year. Paid sick time of 40 hours shall be front loaded to all part-time employees working 20 hours or more per week.

The employee may carry up to 40 hours of unused sick time from one year to the subsequent year. An employee is limited to using no more than 40 hours of sick time in a fiscal year.

Sick time shall be taken in hourly increments and may be used for the employee’s or a family member’s¹ mental or physical illness, injury or health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive care, or for reasons consistent with the Family Medical Leave Act (FMLA) or Oregon Family Leave Act (OFLA). Sick time may also be used in the event of a public health emergency.

The use of sick time may not lead to, or result in, an adverse employment action against the employee.

The ESD reserves the right after five (5) consecutive days of absence, to require proof of personal illness or injury from an employee, including a medical examination by a physician chosen and paid for by the ESD. An employee refusing to submit to such an examination or to provide other evidence as required by the ESD, shall be subject to appropriate disciplinary action, up to and including dismissal.

When the reason for sick time is consistent with FMLA/OFLA leave, the sick time and the FMLA/OFLA leave will run concurrently.

When the reason for sick time is consistent with ORS 332.507, the sick time and leave pursuant to ORS 332.507 and any other applicable leave will run concurrently.

When the reason for sick time is consistent with other applicable leave, the sick time and other applicable leave will run concurrently.

If the reason for sick time is a foreseeable absence, the ESD may require the employee to provide advance notice of their intention to use sick time as soon as practicable. When the employee uses sick time for a foreseeable absence, the employee shall take reasonable effort to schedule the sick time in a manner that does not unduly disrupt the operations of the ESD (e.g. in-service training, mandatory meetings).

¹ “Family member” is defined by the Oregon Family Leave Act (OFLA).

If the reason for sick time is unforeseeable, such as an emergency, accident or sudden illness, the employee shall notify the ESD as soon as practicable.

The ESD shall establish a standard process to track the eligibility for sick time of a substitute.

END OF POLICY

Legal Reference(s):

[ORS 332.507](#)
[ORS 342.545](#)

[ORS 342.610](#)
[ORS 653.601 to -653.661](#)

[ORS 659A.150 to -659A.186](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601-2654 (2012); Family and Medical Leave Act of 1993, 29 C.F.R. Part 825 (2016).

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GCBDE/GDBDE
Adopted: 5/19/10
Orig. Code: GCBDE/GDBDE

Military Leave of Absence

The ESD will grant military leave to employees on duty with a uniformed service in accordance with applicable state and federal law. Employees requesting military leave are required to provide written notice as soon as practicable following notification of military call up or reservist duty, unless precluded by military necessity.

Military leave exceeding 15 days is unpaid leave. Employees may use any accrued vacation or similar leave during the period of service exceeding 15 days.

While on military leave, the employee will receive the same benefits as other employees on leave, as well as the following:

1. The employee may continue enrollment in the district's health insurance plan for the period of the military leave up to five years. During the first 18 months of leave, the employee may be required to pay any employee contribution required of other employees on a leave of absence. If the leave extends beyond 18 months, the employee will be required to pay not more than 102 percent of the full premium;
2. Upon return from military service, the ESD will give retroactive employer contributions to the Public Employees Retirement System on the same basis as if the employee had not left, provided the employee was an enrolled member at the time of the leave. The employee may repay any required employee contributions over a period of three times the military service leave period or five years, whichever is less.

An employee on duty with a uniformed service is entitled to reemployment for a maximum of five years, unless retained on active duty because of war or national emergency. ~~An individual~~ returning from military leave shall notify the ESD of ~~his/her~~ their intent to return as follows:

1. Employees who are veterans and reservists returning from training must only inform the district of their training obligations and report back at the next regularly scheduled working period.
2. Employees returning from active duty must notify the district of their intention to return to their former jobs within 90 days of release from duty.

An individual reemployed under this policy is entitled to the seniority and other currently existing rights and benefits the individual had when service started, plus the additional seniority and similar rights and benefits that would have been accrued if employment had been continuous.

This policy does not apply if the employee has been separated from service with a dishonorable or bad conduct discharge or under other than honorable conditions.

END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

[ORS 408.270](#)

[ORS 408.240](#)

[ORS 408.290](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 42 U.S.C. §§ 300bb-1 – 300bb-8 (2006)

I.R.C. § 4980B(f)(4) (2006)

Employment and Reemployment Rights of Members of the Uniformed Services, 38 U.S.C. §§ 4301-4334 (2006)

Columbia Gorge ESD

Code: GCBDE/GDBDE
Adopted: 5/19/10
Orig. Code: GCBDE/GDBDE

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END OF POLICY

Legal Reference(s):

[ORS 332.505](#)

[ORS 408.270](#)

[ORS 408.240](#)

[ORS 408.290](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 42 U.S.C. §§ 300bb-1 – 300bb-8 (2006)

I.R.C. § 4980B(f)(4) (2006)

Employment and Reemployment Rights of Members of the Uniformed Services, 38 U.S.C. §§ 4301-4334 (2006)

Columbia Gorge ESD

Code: GCBE/GDBE
Adopted: 11/20/19
Orig. Code: GCBE/GDBE

Paid Holidays for Employees

(statutory and/or in CBA)

Columbia Gorge ESD employees not covered by a collective bargaining agreement shall have paid holidays as defined in the collective bargaining agreement: Labor Day; Veteran's Day; Thanksgiving; New Year's Day; Martin Luther King, Jr. Day, and Memorial Day. Temporary employees who work for less than ninety days shall not be eligible for holiday pay.

Regular part-time employees who are scheduled to work less than 760 hours annually will receive holiday pay based on their average daily hours worked. For example, an employee who works an average of two hours per day will receive two hours of holiday pay for each of the holidays listed above, providing they are scheduled to work on the day when the holiday occurs.

Employees covered by a collective bargaining agreement who work up to 219 days per year in a regular work calendar shall be granted the holidays listed above as paid.

Employees who work 220 to 234 days per year in their regular work calendar will also receive Christmas as a paid holiday; employees who work 235 days or more in their regular work calendar will also receive Christmas and July 4 as a paid holiday provided the employee works the last scheduled work day before and the first scheduled work day after each holiday.

School employees who are employed on extended contracts would be eligible for additional holidays if the employee is spending time performing duties substantially similar to their regular job. The ESD will notify employees when the contract is extended what, if any, additional holidays the employee will be eligible to receive.

END OF POLICY

Legal Reference(s):

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E

Columbia Gorge ESD

Code: GCC/GDC
Adopted: 3/21/12
Orig. Code: GCC/GDC

Recruitment of Staff

The superintendent will develop and maintain a recruitment program designed to attract personnel to the district.

It is the responsibility of the superintendent, with the assistance of other district administrators, to determine the personnel needs of the district and to locate suitable candidates to recommend for employment by the district. Those factors considered will include, but not be limited to, the diverse characteristics of the district.

The search for staff members may extend to a variety of educational institutions and geographical areas.

Present employees who meet the stated requirements are encouraged to apply for any vacant district position.

END OF POLICY

Legal Reference(s):

[ORS 326.051](#)
[ORS 334.125\(5\)](#)
[ORS 342.934](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659A.009](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[ORS 659A.040](#) to [-659A.052](#)
[ORS 659A.109](#)
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)
[ORS 659A.236](#)

[ORS 659A.309](#)
[ORS 659A.409](#)

[OAR 581-021-0045](#)
[OAR 581-024-0245](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R Part 1626 (2016).

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Columbia Gorge ESD

Code: GCCA/GDCA
Adopted: 3/21/12
Orig. Code: GCCA/GDCA

Posting of Vacancies

The district shall attempt to recruit the most suitably qualified applicants for filling all positions. Announced vacancies will be made available to ensure effective communications with all individuals, including those with disabilities.

All postings will notify applicants that equal employment opportunity and treatment shall be practiced by the district. The employers' duties under the Americans with Disabilities Act, including the duty to reasonably accommodate upon request and with appropriate advance notice will be clearly stated.

A copy of the posting will be sent to association representatives. During the summer break such notices will be ~~mailed~~ emailed to the president of the association. All notices will include the following information:

1. Job title;
2. Qualifications: license required;
3. Essential job functions;
4. Special requirements;
5. Terms of employment;
6. Salary range;
7. Posting dates;
8. Closing dates;
9. Other - as may be required/requested by administrator initiating the job order.

END OF POLICY

Legal Reference(s):

[ORS 334.125\(7\)](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GCCA/GDCA
Adopted: 3/21/12
Orig. Code: GCCA/GDCA

Posting of Vacancies

The district shall attempt to recruit the most suitably qualified applicants for filling all positions. Announced vacancies will be made available to ensure effective communications with all individuals, including those with disabilities.

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7. Posting dates;
8. Closing dates;
9. Other - as may be required/requested by administrator initiating the job order.

END OF POLICY

Legal Reference(s):

[ORS 334.125\(7\)](#)

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Section 503 of the Rehabilitation Act of 1973.

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GCDA/GDDA
Adopted: 11/20/19
Orig. Code: GCDA/GDDA

Criminal Records Checks and Fingerprinting *

In a continuing effort to ensure the safety and welfare of students and staff, the ESD~~district~~ shall require all newly hired full-time and part-time employees¹ not requiring licensure under Oregon Revised Statute (ORS) 342.223 to submit to a ~~fingerprint-based~~ criminal records check and fingerprinting as required by law. Other individuals, as determined by the ESD, that will have direct, unsupervised contact with students shall submit to criminal records checks and/or fingerprinting, as established by Board policy and as required by law.

“Direct, unsupervised contact with students” means contact with students that provides the person opportunity and probability for personal communication or touch when not under direct supervision.

Pursuant to state law, a criminal records check or fingerprint-based criminal records checks shall be required of the following individuals²:

1. All individuals employed as or by a contractor, whether employed part-time or full-time, and considered by the ESD to have direct, unsupervised contact with students;
2. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood education program, or at a grade K through 12 school site during the regular school day;
3. ³Any individual considered for volunteer service with the ESD who is allowed to have direct, unsupervised contact with students.

The ESD will provide the written notice about the requirements of fingerprinting and criminal records checks through means such as staff handbooks, employment applications, contracts or volunteer forms.

The ESD shall require a fingerprint-based criminal records check for volunteers⁴: Volunteers in classrooms, attending an ESD-sponsored activity, or transporting students, other than their own, in a private vehicle off ESD property for an ESD-sponsored activity.

¹ Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the ESD has evidence on file that meets the definition in Oregon Administrative Rule (OAR) 581-021-0510 (11)(b).

² Subject individuals and requirements are further outlined in GCDA/GDDA ~~AR~~ - Criminal Records Checks and Fingerprinting.

³ If the ESD allows volunteer service and the volunteers have direct, unsupervised contact with students, this policy language is required, and the ESDs are required to conduct criminal records checks on these volunteers.

⁴ If the ESD requires fingerprinting for certain volunteer positions, the ESD is required to list those volunteer positions in board policy.

The procedure for processing fingerprint collection is further outlined in GCDA/GDDA AR – Criminal Records Checks and Fingerprinting.

A subject individual shall be subject to the collection of fingerprint information only after the offer of employment or contract from the ESD and may be charged a fee by the ESD. A subject individual may request the fee be withheld from the amount otherwise due the individual.

When the ESD is notified of a subject individual who has been convicted of any crimes prohibiting employment or contract, the individual will not be employed or contracted. When the ESD is notified of a subject individual who knowingly made a false statement as to the conviction of any crime, the individual will not be employed or contracted with by the district, or if employed by the district may be terminated. A subject individual who fails to disclose the presence of convictions that would not otherwise prohibit employment or contract with the ESD as provided by law will not be employed or contracted with by the ESD.

The ESD's use of criminal history must be relevant to the specific requirements of the position, services or employment.

A volunteer who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in immediate termination from the ability to volunteer in the ESD.

The ESD may begin the employment of a subject individual or terms of an ESD contractor on a probationary basis pending the return and disposition of a criminal records check.

The service of a volunteer allowed to have having direct, unsupervised contact with students will not begin before the return and disposition of a criminal records check.

The service of a volunteer into a position identified by the ESD as requiring a fingerprint-based criminal records check will not begin before the return and disposition of a state and national criminal records check based on fingerprints.

The superintendent shall develop administrative regulations as necessary to meet the requirements of law.

Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the ESD to the Superintendent of Public Instruction as under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records check by ODE that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case under ORS ~~183-193~~.413 – 183.470.

END OF POLICY

Legal Reference(s):

[ORS 181A.180](#)
[ORS 181A.230](#)
[ORS 326.603](#)
[ORS 326.607](#)
[ORS 334.125](#)

[ORS 336.631](#)
[ORS 342.127](#)
[ORS 342.143](#)
[ORS 342.223](#)
[OAR 414-061](#)-0010 - 0030

[OAR 581](#)-021-0510 – 021-0512
[OAR 581](#)-022-2430
[OAR 584](#)-050-0012

Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et. seq. (2012).

Columbia Gorge ESD

Code: GCDA/GDDA-AR
Revised/Reviewed: 11/20/19
Orig. Code: GCDA/GDDA-AR

Criminal Records Checks and Fingerprinting

Requirements

1. Any individual newly hired employee¹, whether full-time or part-time, and not requiring licensure under Oregon Revised Statute (ORS) 342.223, ~~such~~ as a teacher, administrator, personnel specialist or school nurse, shall submit to a criminal records check and fingerprinting.
2. Any individual applying for reinstatement of an Oregon license with the Teacher Standards and Practices Commission (TSPC) that has lapsed for more than three years shall also be required to undergo a criminal records check and fingerprinting with TSPC.
3. Any individual registering with the TSPC for student teaching, practicum or internship as a teacher, administrator or personnel specialist shall be required to submit to a criminal records check and fingerprinting with TSPC.
4. Any individual hired as or by a contractor², whether part-time or full-time, into a position having direct, unsupervised contact with students as determined by the ESD shall be required to submit to a criminal records check and fingerprinting.

The superintendent will identify contractors who are subject to such requirements.

5. Any community college faculty member providing instruction at the site of an early childhood education program, a school site as part of an early childhood program or at a grade K through 12 school site during the regular school day, shall be required to undergo a criminal records check and fingerprinting.
6. ³A volunteer allowed by the ESD into a position that has direct, unsupervised contact with students shall undergo an in-state criminal records check.

¹ Any individual hired within the last three months. A subject individual does not include an employee hired within the last three months if the ESD has evidence on file that meets the definition in Oregon Administrative ~~Rule~~^{Rules} (OAR) 581-021-0510 (11)(b).

² A person hired as or by a contractor and their employees ~~A contractor's employee~~ may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

³ [If the ESD allows volunteers to have direct, unsupervised contact with students, ESDs are required to conduct criminal records checks on these volunteers. Choose the bracketed language options in 7, 8 and/or 9 of this policy that aligns with ESD practice. If the ESD allows volunteers to have direct, unsupervised contact with students the presented language is required. Align policy IICC – Volunteers with chosen language here.]

7. A volunteer allowed to have direct, unsupervised contact with students, in a volunteer position identified in Board policy⁴ by the ESD as requiring a fingerprint based criminal records check, shall undergo a state and national criminal records check based on fingerprints.

~~8. A volunteer that is not likely to have direct, unsupervised contact with students will be required to undergo an in-a-state and national criminal records check based on fingerprints.~~

Exceptions

A newly hired employee⁵ is not subject to fingerprinting if the ESD has evidence on file that the employee successfully completed a state and national criminal records check for a previous employer that was a school district, private school or ESD, and has not resided outside the state between the two periods of employment.

Notification

1. The ESD will provide the following notification to individuals subject to criminal records checks and fingerprinting:
 - a. Such criminal records checks and/or fingerprinting are required by law or Board policy;
 - b. Any action resulting from such checks completed by the Oregon Department of Education (ODE) that impact employment, contract or volunteering may be appealed as a contested case to ODE;
 - c. All employment or contract offers or the ability to volunteer are contingent upon the results of such checks;
 - d. A refusal to consent to a required criminal records checks and/or fingerprinting shall result in immediate termination from employment, contract status or the ability to volunteer in the ESD.
 - e. An individual determined to have knowingly made a false statement as to the conviction of any crime on ESD employment applications, contracts, ODE forms ~~or ESD volunteer forms~~ (written or electronic) will result in immediate termination from employment, contract status or the ability to volunteer in the ESD;
 - f. An individual determined to have been convicted of any crime that would prohibit employment or contract will be immediately terminated from employment or contract status;
 - g. A volunteer candidate who knowingly made a false statement or has a conviction of the crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number will result in the immediate termination from the ability to volunteer in the ESD. The ESD will remove the volunteer from the position allowing direct, unsupervised contact with students.
2. The ESD will provide the written notice described above through means such as staff handbooks, employment applications, contracts or volunteer forms.

⁴ See policy GCDA/GDDA – Criminal Records Checks and Fingerprinting.

⁵ Any individual hired within the last three months.

Processing and Reporting Procedures

1. Immediately following an offer and acceptance of employment or contract, an individual subject to criminal records checks and/or fingerprinting shall complete the appropriate forms authorizing such checks and report to an authorized finger-printer as directed by the ESD. The ESD shall send such authorization, any collection of fingerprint information, and the request to ODE pursuant to law.
2. Fingerprints may be collected by one of the following:
 - a. Employing ESD staff;
 - b. Contracted agent of employing ESD; or
 - c. Local or state law enforcement agency.
3. To ensure the integrity of the fingerprinting collection and prevent any compromise of the process, the ESD will provide the name of the individual to be fingerprinted to the authorized finger-printer.
4. The authorized finger-printer will obtain the necessary identification and fingerprinting and notify ODE of the results. ODE will then review and notify the ESD of said results as well as the identity of any individual it believes has knowingly made a false statement **as to conviction of a crime**, has knowingly made a false statement as to conviction of any crime or has a conviction of a crime prohibiting employment, contract or volunteering.
5. A copy of the fingerprinting results will be kept by the ESD.

Fees

Fees associated with criminal records checks and/or fingerprinting for individuals applying for employment with the ESD and not requiring licensure, including persons hired as or by contractors⁶, and volunteers shall be paid by the ESD

Termination of Employment or Withdrawal of Employment/Contract Offer/~~Ability to Volunteer~~ **Status**

1. A subject individual required to submit to a criminal records check and/or fingerprinting in accordance with law and/or Board policy will be terminated from employment or contract status, or withdrawal of offer of employment or contract will be made by the ESD upon:
 - a. Refusal to consent to a criminal records check and/or fingerprinting; or
 - b. Notification⁷ from the Superintendent of Public Instruction that the employee has a conviction of any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number~~,-~~.

⁶ A person hired as or by a contractor and their ~~A contractor's~~ employees may not be required to submit to fingerprinting until the contractor has been offered a contract by the ESD.

⁷ Prior to making a determination that results in this notification and opportunity for a hearing, the Superintendent of Public Instruction may cause an investigation pursuant to OAR 581-021-0511; involved parties shall cooperate with the investigation pursuant to law.

2. A subject individual will be terminated from employment or contract status upon notification from the Superintendent of Public Instruction that the employee has knowingly made a false statement as to the conviction of any crime.
3. Employment termination shall remove the individual from any ESD policies, collective bargaining provisions regarding dismissal procedures and appeals and the provisions of the Accountability for Schools for the 21st Century Law.
4. A volunteer who refuses to submit, when required, to a criminal records check or a fingerprint-based criminal records check in accordance with law and/or Board policy will be denied ~~such~~ the ability to volunteer in the ESD.
5. If the ESD has been notified by the Superintendent of Public Instruction that a volunteer knowingly made a false statement or has a conviction for any crimes listed in ORS 342.143, or the substantial equivalent of any of those crimes if the conviction occurred in another jurisdiction or in Oregon under a different statutory name or number, the individual will be denied the ability to volunteer.
6. A volunteer who knowingly makes a false statement, as determined by the ESD, on an ESD volunteer application form will be denied the ability to volunteer in the ESD.

Appeals

A subject individual may appeal a determination from ODE that prevents employment or eligibility to contract with the ESD to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

A volunteer may appeal a determination from a fingerprint-based criminal records check by ODE that prevents the ability to volunteer with the ESD to the Superintendent of Public Instruction as a contested case under ORS 183.413 – 183.470.

Columbia Gorge ESD

Code: GCI/GDI
Adopted: 4/18/12
Orig. Code: GCI/GDI

Assignments and Transfers *

All licensed and non-licensed personnel at the time of entry into service of the ESD will be assigned under the direction of the superintendent or department director.

~~The superintendent will develop procedures for voluntary and involuntary transfer of employees within the district.~~

Changes of assignment may be made at any time conditions warrant it. Transfers of school personnel, either voluntary or involuntary, will be made by the superintendent, or department director, whenever the best interests of the ESD and/or school district will be served.

Telecommuting has the potential to reduce energy used in transportation, decrease traffic congestion, and improve the work environment. Telecommuting is not an employee right and shall only be allowed on an individual basis for positions where service and operational needs of CGESD and local districts can be enhanced. The decision on telecommuting in each instance shall be made by the superintendent.

END OF POLICY

Legal Reference(s):

[ORS 236.610](#) to -236.630

[OAR 581-024](#)-0245

Columbia Gorge ESD

Code: GCI/GDI-AR
Adopted: 3/26/14
Orig. Code: GCI/GDI-AR

Designation of Coordinator(s)

The Board recognizes that the organizational structure of the ESD may not always provide adequate staff to fully coordinate the activities of any particular program. In such case, the Board authorizes the Superintendent to designate coordinator(s) for non-administrative staff who are responsible for coordinating the work of others in the department or program, subject to the following conditions:

1. The decision to designate coordinator(s) rests solely with the Superintendent.
2. A Coordinator may be selected in departments or programs with a minimum of 5 (five) employees.
3. Coordinators will be limited to one per department or program other than short-term coordination due to the extended absence of the program director or the need of the director to focus directly on other activities or projects.
4. The request to designate a coordinator must come from the department or program director with written rationale on the reasons why a coordinator is necessary and a list of the specific duties the coordinator will perform. This list must contain items that are not otherwise identified on the employee's regular position description.
5. Persons recommended as coordinators must have a distinguished performance record and the demonstrated ability to lead, guide and support fellow employees.
6. Coordinator positions are subject to annual review and renewal, and may be terminated at any such time as the District's need for such coordination is unnecessary.

Columbia Gorge ESD

Code: GCI/GDI-AR
Adopted: 3/26/14
Orig. Code: GCI/GDI-AR

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1. The decision to designate coordinator(s) rests solely with the Superintendent.
2. A Coordinator may be selected in departments or programs with a minimum of 5 (five) employees.
3. Coordinators will be limited to one per department or program other than short-term coordination due to the extended absence of the program director or the need of the director to focus directly on other activities or projects.
4. The request to designate a coordinator must come from the department or program director with written rationale on the reasons why a coordinator is necessary and a list of the specific duties the coordinator will perform. This list must contain items that are not otherwise identified on the employee's regular position description.
5. Persons recommended as coordinators must have a distinguished performance record and the demonstrated ability to lead, guide and support fellow employees.
6. Coordinator positions are subject to annual review and renewal, and may be terminated at any such time as the District's need for such coordination is unnecessary.

Columbia Gorge ESD

Code: GCJ/GDJ
Adopted: 4/18/12
Orig. Code: GCJ/GDJ

Work Hours and Days

The regular workday for all ESD employees will be determined by the ESD department director.

The ESD department director is authorized to grant occasional emergency requests of licensed employees to leave early. Meetings may require times before or after assigned hours as well as other responsibilities assigned or not assigned.

Meal and rest periods will be provided based upon the length of the work period in accordance with Oregon law. The superintendent will develop, maintain and modify regulations as needed to implement this policy.

END OF POLICY

Legal Reference(s):

[ORS 334.125 \(7\)](#)

[OAR 581-024-0245](#)

Columbia Gorge ESD

Code: GCKA/GDKA
Adopted: 6/20/12
Orig. Code: GCKA/GDKA

Overtime

The department that may incur overtime shall budget funds for classified overtime.

Overtime is defined as time worked over 40 hours in one week. A week is defined as seven consecutive days covering Sunday through Saturday.

Overtime will be compensated at not less than one and one-half times the rate of pay. A rate of pay will be calculated for each employee working overtime.

With the approval of the employee's supervisor or if funds are not available for overtime, compensatory time at not less than time and one-half will be allowed. Compensatory time must be used by the end of the pay period immediately following the earned compensatory time. Compensatory time may be taken with prior superintendent approval.

The district will develop procedures to implement this policy to include overtime request procedures, establishing rate of pay and scheduling compensatory time.

END OF POLICY

Legal Reference(s):

[ORS 653.268](#)

Fair Labor Standards Act of 1938, as amended, 29 U.S.C. Sections 206 and 207
Oregon Employment Division Wage and Hour Handbook, 1996

Columbia Gorge ESD

Code: GCKA/GDKA-AR
Adopted: 6/20/12
Orig. Code: GCKA/GDKA-AR

Overtime

Occasionally classified employees may be required to work beyond the regular workday or week. Overtime for classified employees must be authorized by the immediate supervisor and may be compensated in the following manner:

- At the hourly rate of one and one-half times the regular wage rate for work done beyond 40 hours in any given week (Sunday through Saturday).
- With the approval of the supervisor, compensatory time may be given. Compensatory time will be awarded in accordance with current collective bargaining agreements.
- Employee requests for early work release may be granted based upon an hour for hour exchange, i.e., if the employee wishes to leave one hour early in the afternoon he/she will be expected to arrive one hour early in the morning.
- Full-time employees are authorized one fifteen-minute break during each four-hour work period and a minimum of one-half hour for lunch if they work longer than five hours. This time may not be used for any time exchanges. Early work release must have prior approval of the employee's supervisor.

All overtime must be authorized in advance by the immediate supervisor or program administrator. Overtime authorizations must consider workload and budgeted funds.

Overtime payment and compensatory time are not allowed for licensed and administrative employees.

Columbia Gorge ESD

Code: GCL/GDL
Adopted: 3/16/17
Orig. Code: GCL/GDL

Staff Development * (Version (Version 2))

It is the policy of the Board to encourage professional growth opportunities for all ESD employees. The superintendent may require specific training activities, at district expense, of any employee to meet individual or CGESD needs.

In order to strengthen and refine professional skills of ESD personnel, the superintendent or a his/her designee will develop a staff development program for all employees.

Professional development may include, but is not limited to, college courses, workshops, curriculum planning, research, supervision of teacher trainees and other activities approved by the supervisor. Staff development programs will provide appropriate reasonable accommodations to ensure such programs are available to employees with disabilities.

Each individual licensed employee is solely responsible for ensuring accurate completion of the professional development required for licensure. Once a licensed employee completes licensure requirements, the employee must submit evidence to the employee's supervisor, who will verify that the licensed employee has successfully completed the professional development requirements on the Teacher Standards and Practices Commission (TSPC) Professional Educational Experience Report (PEER) form.

END OF POLICY

Legal Reference(s):

[ORS 329.095](#)
[ORS 329.125](#)

[ORS 329.704](#)
[ORS 334.125](#)

[OAR 581-024-0245](#)
[OAR 584-255-0010 to -0030](#)

Clackamas IED Assn. v. Clackamas IED, No. C-141-77, 3 PUB. EMPL. COLL. BARG. REP. 1848 (ERB 1978).
Eugene Educ. Ass'n v. Eugene Sch. Dist. 4J, No. C-93-79, 5 PUB. EMPL. COLL. BARG. REP. 3004 (ERB 1980).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GCL/GDL
Adopted: 3/16/17
Orig. Code: GCL/GDL

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END OF POLICY

Legal Reference(s):

[ORS 329.095](#)
[ORS 329.125](#)

[ORS 329.704](#)
[ORS 334.125](#)

[OAR 581-024-0245](#)
[OAR 584-255-0010 to -0030](#)

Clackamas IED Assn. v. Clackamas IED, No. C-141-77, 3 PUB. EMPL. COLL. BARG. REP. 1848 (ERB 1978).
Eugene Educ. Ass'n v. Eugene Sch. Dist. 4J, No. C-93-79, 5 PUB. EMPL. COLL. BARG. REP. 3004 (ERB 1980).
Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2017); 28 C.F.R. Part 35 (2017).
Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GCL/GDL-AR
Revised/Reviewed: 3/16/17
Orig. Code: GCL/GDL-AR

Professional Development

ESD mission and goals, school and ESD improvement plan and report card data, and other such information will be considered in developing an ESD program of continuing professional development (CPD) for Board approval.

Board Policy GCL – Staff Development, this regulation, and related ESD-issued handbooks and materials are recognized as the ESD’s qualified Continuing Professional Development program.

Application for professional development funds, including tuition reimbursement, shall be in writing on the appropriate CGESD form and shall have prior supervisor approval.

Payment for professional development activities shall be made for activities approved by CGESD, and the employee shall show evidence of the cost of the activity and successful completion, as appropriate. No employee shall receive more in payment than his/her total cost for the professional development activity.

Documentation of the total cost of the activity and successful completion, as appropriate, must be submitted within 90 day of the schedule end of the activity.

Funds expended by CGESD for professional development activities that are not completed shall be returned to CGESD.

Completion of CPD requirements, as set forth in OAR Chapter 584, Division 090 by the Teacher Standards and Practices Commission (TSPC) for license renewal, are the sole responsibility of the employee.

Columbia Gorge ESD

Code: GCLA/GDLA
Adopted: 4/18/12
Orig. Code: GCLA/GDLA

Staff In-Service

In recognition of the importance of familiarizing staff members with the goals, objectives, procedures and current issues of the ESD, it shall be the responsibility of the superintendent to establish a program of in-service education as needed. The intended purpose of the in-service(s) and orientation program(s) shall be to increase the effectiveness of all district personnel and to facilitate a better understanding on the part of all employees of district policy and operating procedures. The time allotted to in-service education shall be included in the total number of days of contracted employment. Required in-service training shall apply to all regular staff employed by the ESD.

END OF POLICY

Legal Reference(s):

[ORS 329.095](#)
[ORS 329.125](#)

[ORS 329.704](#)
[ORS 334.125](#)

[OAR 581-022-0606](#)

[OAR 581-022-1720](#)

[OAR 581-024-0245](#)

Clackamas Intermediate Education District Association v. Clackamas Intermediate Education District, Case No. C-141-77, 3 PECBR 1848 (1978).

Eugene Education Association v. Eugene School District 4J, Case No. C-93-79, 5 PECBR 3004 (1980).

Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq. 29 CFR Part 1630

Columbia Gorge ESD

Code: GCLB/GDLB
Adopted: 6/20/12
Orig. Code: GCLB/GDLB

Limit of Tuition Reimbursement

Reimbursement for college classes and workshop college credits will be limited to the tuition cost specified in labor agreements and approved in advance in writing by the department director and by the superintendent.

This policy is further limited as follows:

1. Tuition reimbursed shall not exceed that of the state colleges, universities or regular tuition fees for the school attended. However, it will not exceed the actual amount paid. Receipt or canceled check marked tuition will be required with claim;
2. Classes shall be those leading to a license, degree, endorsements or be directly related to the employee's professional area as approved by the department director and superintendent;
3. A passing grade must be earned unless the class is non-graded or is for non-credit. Transcript or original grade slips will be required with the request for reimbursement;
4. Course reimbursement per each contracted year of employment shall include fall, winter, spring and summer sessions;
5. Reimbursement for summer school may only be made if the employee reports for work in September following the summer session. Such payment made shall be considered an expense of the previous fiscal year, only if completed prior to June 30;
6. Reimbursement for approved courses shall be based on fees as prescribed by the Oregon State System of Higher Education and the appropriate college/universities' tuition schedule during the budget year in which such course work is taken;
7. If approved by the superintendent with justification, tuition reimbursement from non-state system universities or college will be remunerated to the employee at the documented expense. If not approved, it will be remunerated at the Portland State University level or at a level approved by the superintendent.

The superintendent shall establish an administrative regulation to implement the tuition reimbursement process.

END OF POLICY

Legal Reference(s):

[ORS 329.095](#)

[ORS 334.125](#)

[OAR 581-022-0606](#)

[OAR 581-022-1720](#)

[OAR 581-024-0245](#)

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Columbia Gorge ESD

Code: GCLB/GDLB-AR(1)
Adopted: 6/20/12
Orig. Code: GCLB/GDLB-AR(1)

Tuition Reimbursement Request

Tuition Reimbursement Procedure:

1. Classes shall be those leading to a license or certificate, degree, endorsements, or be directly related to employee's professional area as approved by director and Superintendent.
2. Reimbursement for college classes and workshop college credits will be limited to the tuition cost of *nine college quarter hours per each contracted year of employment (in some cases Section B of Article 19 will apply additionally)* as **approved in advance** and in writing by department director and by the Superintendent.
3. After you have received the proper signatures in advance keep this form until you have completed your college course.
4. After you have received your passing grades, attach to this form: a) your transcript or original grade slip and b) a receipt or canceled check marked "tuition" and submit it with your timesheet. *(Tuition reimbursed shall not exceed that of the state colleges, universities or regular tuition fees for the school attended. See Policy GCLB/GDLB and Administrative Regulation GCLB/GDLB AR and Article 19 of the Negotiated Contract regarding Tuition Reimbursement for further procedures.)*
5. Approval for tuition reimbursement is based on a first-come-first-served basis during the two application opportunities specified in Administrative Regulation GCLB/GDLB AR (*April 1 – September 30; October 1 – March 31*).
6. Claims for approved tuition reimbursement will be paid only if filed by the deadlines specified in Administrative Regulation GCLB/GDLB AR:
 - Summer classes and workshops October 31
 - Fall classes and workshops March 31
 - Winter classes and workshops July 31
 - Spring classes and workshops August 31

Name: _____ Work Location: _____

Date: _____ Please check one: ☐ Credit ☐ Non-credit

College:	Semester <input type="checkbox"/>	Quarter Hour <input type="checkbox"/>	Credits
Course Title _____	Course #: _____	_____	_____
Course Title _____	Course #: _____	_____	_____
Course Title _____	Course #: _____	_____	_____
Term: _____	Credit Total: _____	_____	_____

Tuition fee: _____

Total number of credit hours taken this fiscal year (including above): _____

This course:

- ☐ Leads to obtaining or renewing a license or certificate*
☐ Leads to obtaining a degree*

Tuition Reimbursement Request – GCLB/GDLB-AR(1)

[] Leads to obtaining or renewing an endorsement*

[] Is directly related to my professional area as approved by my director*

**Submit your TSPC Professional Development Plan with CPDUs to date listed*

Employee's Signature: _____

Date: _____

Program Manager's Signature: _____

(I understand the above Tuition
Reimbursement Procedure)

Date: _____

Director's Signature: _____

Date: _____

Superintendent's Signature: _____

Date: _____

PERSONNEL USE ONLY:

Date Received _____

Receipt Received ☐ YES

Transcript or grade slip received: ☐ YES

Check # or receipt #: _____

Posted on Educational Record: ☐ YES initials: _____

Columbia Gorge ESD

Code: GCLB/GDLB-AR
Adopted: 6/20/12
Orig. Code: GCLB/GDLB-AR

Tuition Reimbursement

Reimbursement for college classes and workshop college credits will be limited to the tuition cost of nine (9) college quarter hours per each contracted year of employment as approved in advance in writing by the department director and by the superintendent.

Licensed employees employed on any form of license other than a basic, standard, initial or continuing may apply for six (6) additional hours each year. Additional hours may also be requested by employees on any license following requirements or recommendations from Teacher Standards and Practices Commission to attain course work.

In administering the tuition reimbursement program, directors shall adhere to the limitations specified in Article 19 of the contract and in Policy GCLB/GDLB.

Procedure for Reimbursement

The tuition reimbursement program will take place between July 1 and June 30 of each school year.

1. Employees may apply for tuition reimbursement during two application periods each year:
 - 1st - April 1 through September 30 for Summer & Fall classes and workshops;
 - 2nd - October 1 through March 31 for Winter & Spring classes and workshops.
2. Fifty percent of the tuition reimbursement funds will be available during each application period.
3. Tuition reimbursement will be provided on a first-come-first-served basis during each application period.
4. If any tuition reimbursement funds allocated to the first application period remain unspent, those remaining funds will be added to the allocation for the second application period.
5. If funds are insufficient to fund all tuition reimbursement requests in the first application period, unreimbursed employees may apply again on a first-come-first-served basis during the second application period, if any funds allocated to the second application period remain unspent.
6. Claims for approved tuition reimbursement filed later than the following deadlines will not be paid:

• Summer classes and workshops	October 31
• Fall classes and workshops	March 31
• Winter classes and workshops	July 31
• Spring classes and workshops	August 31

The 98 pages of this manual, outlining the evaluation process, all which are recommended to be deleted, have not been included.

Code: GCN AR

Adopted: 05/15/13

Revised/Readopted: 10/16/13;
11/20/13; 1/15/14; 2/19/14;
8/20/14; 12/17/14; 3/18/15;
8/19/15

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Columbia Gorge
EDUCATION SERVICE DISTRICT

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**Licensed
Professional Growth, Supervision
and Evaluation Process**

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July 1, 2015

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Columbia Gorge ESD

Code: GCN/GDN
Adopted: 1/17/18
Orig. Code: GCN/GDN

Evaluation of Staff *

An effective evaluation program is essential to a quality educational program. It is an important tool to determine the current level of a teacher's or specialist's performance of their professional responsibilities. It is also an important assessment of classified employees and current performance of their job assignments. Under Board policy, administrators are charged with the responsibility of evaluating the staff. An evaluation program provides a tool for supervisors who are responsible for making decisions about promotion, demotion, contract extension, contract non-extension, contract renewal or nonrenewal, dismissal and discipline.

Licensed Staff

The evaluations for licensed staff shall be based on the core teaching standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with teachers and any exclusive representatives of the licensed staff. .

Evaluation and support systems established by the ESD for teachers must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

1. Four performance level ratings of effectiveness;
2. Classroom-level student learning and growth goals set collaboratively between the teacher and the evaluator;
3. Consideration of multiple measures of teacher practice and responsibility which may include, but are not limited to:
 - a. Classroom-based assessments including observations, lesson plans, and assignments;
 - b. Portfolios of evidence;
 - c. Supervisor reports; and
 - d. Self-reflections and assessments.
4. Consideration of evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students, that is both formative and summative. Evidence may also include other indicators of student success;
5. A summative evaluation method for considering multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the teacher's professional growth path;
6. Customized by each ESD, which may include individualized weighting and application of standards.

An evaluation using the core teaching standards must attempt to:

1. Strengthen the knowledge, skills, disposition and practices of teachers and specialists;
2. Refine the support, assistance and professional growth opportunities offered to a teacher or specialist, based on the individual needs of the staff member and the needs of the students, the school and the ESD;
3. Allow the teacher to establish a set of classroom practices and student learning objectives that are based on the individual circumstances of the teacher, including the classroom and other assignments;
- ~~4. Allow the specialist to establish a set of professional practices and therapy objectives that are based on the individual circumstances of the specialist, including specialty area and other assignments;~~
- ~~5.4.~~ Establish a formative growth process for each teacher ~~or specialist~~ that supports professional learning and collaboration with other teachers; ~~or specialists;~~
- ~~6.5.~~ Use evaluation methods and professional development, support and other activities that are based on curricular standards and are targeted to the needs of the teacher ~~or specialist~~; and
- ~~7.6.~~ Address ways to help all educators strengthen their culturally responsive practices.

Evaluation and support systems established by the ESD must evaluate teachers on a regular cycle. The superintendent shall regularly report to the Board on implementation of the evaluation and support systems and educator effectiveness.

Each probationary teacher shall be evaluated at least annually, but with multiple observations. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the ESD.

Classified Staff

All classified employees will be formally evaluated by their immediate supervisor at least twice during their first year of employment and at least once each year thereafter.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 334.125\(5\)](#)

[ORS 342.815 to -342.934](#)

[OAR 581-024-0245](#)

Columbia Gorge ESD

Code:
Adopted:

GCPA

Layoff - Licensed Staff * (Version 2)

When the Board determines, through the budgeting process, that a layoff of staff is necessary, it will discuss the matter at a regular or special Board meeting and will consider such factors and alternatives it deems necessary to arrive at a decision. Layoff may take place under the following conditions:

1. The ESD's lack of funds to continue its educational program at its anticipated level;
2. Elimination or adjustment of classes due to an administrative decision;
3. Other reasons as determined by the Board.

Using the goals and priorities of the ESD, the Board shall direct the superintendent to prepare a reduction plan identifying which programs to be reduced or eliminated for Board approval. As a result of the program reductions or elimination, the superintendent shall bring a list of positions to be cut or eliminated to the Board for approval.

Nothing in this policy is intended to interfere with the right of the ESD to discharge, remove or non-renew the contract of a probationary teacher or to not extend the contract of or dismiss a contract teacher pursuant to the provisions of the Accountability for Schools for the 21st Century Law.

END OF POLICY

Legal Reference(s):

[ORS 342.805](#) to -342.910

[ORS 342.934](#)

Columbia Gorge ESD

Code:
Adopted:

GCPA-AR

Layoff/Recall - Licensed Staff

The Board will make the final decision on programs to be kept, cut or eliminated following a review of the reduction plan developed by the superintendent. The Board will determine when staff layoffs become necessary, and will approve positions to be cut or limited as recommended by the superintendent. The Board cannot change the proposed list of positions, as they are defined by the collective bargaining agreements. Individuals that may be impacted by the layoff shall not be discussed by the Board. The affected employees shall be notified within a reasonable time.

In determining teachers to be retained when layoffs occur, the ESD shall:

1. Determine whether teachers to be retained hold proper licensure at the time of layoff;
2. Determine competence and merit of teachers;
3. Determine length of service of teachers to be retained.

The ESD shall not waive the right to consider competence in making decisions about staff layoffs or recall of staff. Retained teachers will be licensed and qualified, as defined in Oregon statutes, for the positions they fill.

Licensed Support Personnel-Media Specialist, Music, P.E., Counselor, Etc.

If the ESD determines that a support program should be eliminated the following shall occur:

1. If the licensed teacher is properly licensed as a classroom teacher and meets the definition of competence, ~~he/she~~ they shall be considered a classroom teacher;
2. If the licensed teacher is not properly licensed as a classroom teacher ~~he/she~~ they will be considered only for that position for which ~~he/she is~~ they are licensed, competent and qualified.

Recall

If a teacher is laid off ~~he/she~~ they shall notify the administration in writing of the position for which ~~he/she~~ they wishes to be recalled.

A teacher who is laid off will remain on the layoff list and be eligible for recall for 27 months from the date of layoff. No new teacher shall be hired to any position until all laid-off employees who are licensed, fully qualified and competent for the position have been given an opportunity to accept the position.

The ESD shall notify laid-off employees of a position opening by registered letter, return receipt requested, at their last known address. Laid off teachers shall have 10 calendar days from receipt of such notification in which to indicate their acceptance or rejection of the position and must be able to return within 14 calendar days of receipt of the letter, unless otherwise mutually agreed upon.

If the teacher cannot be reached at ~~his/her~~ their last known address, or if ~~he/she~~ they rejects any position offered for which the teacher is licensed, qualified and competent, ~~he/she~~ they shall forfeit all recall rights. Teachers who wish to waive re-employment rights may do so by written notification to the ESD.

Employees returning from layoff shall have all previously accrued sick leave and seniority reinstated, but shall not receive benefits for the period of the layoff.

Teachers will have recall rights for a maximum 27-month period. If they choose, staff members on layoff may keep up their institutional insurance and health plans by paying their own premiums as prescribed by law, subject to the rules of the insurance carrier.

Columbia Gorge ESD

Code: GCPA/GDPA
Adopted: 5/16/12
Orig. Code: GCPA/GDPA

Reduction in Force

(Version 1)

(see proposed version)

Union Members

The ESD, as per the district's negotiated agreement, reserves the right to lay off unit employees as determined by the ESD superintendent, by seniority, and qualification by job description and within job classification.

Non-union Members

Non-union classified employees may be laid off as per the needs of the ESD as determined by the ESD superintendent.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#) (7)
[ORS 342.934](#)

Negotiated Agreement (2011-2013), Article 7

Columbia Gorge ESD

Code: GCPB/GDPB
Adopted: 9/20/17
Orig. Code: GCPB/GDPB

Resignation of Staff

A licensed staff member who wishes to resign from ~~his/her~~ their position with the ESD must give ~~a~~ written notice of at least 60 days, ~~at or upon~~ or at the time of resignation. The superintendent is authorized to accept the resignation effective the day it is received and either release the ~~teacher~~ employee immediately from further teaching or administrative obligations or inform the ~~teacher~~ employee that ~~he/she~~ they must continue ~~teaching~~ working for part or all of the 60-day period.

Where less than a 60-day notice is given, the Board may request the Teacher Standards and Practices Commission to discipline the licensee. Exceptions due to emergency or other extenuating circumstances may be considered by the Board.

Classified employees are expected to submit resignation notices at least two weeks in advance of the effective date of the resignation. The superintendent is authorized to accept resignations of classified employees effective the day they are received.

Confidential employees are expected to submit resignation notices at least one month in advance of the effective date of the resignation. Acceptance of the resignation shall be effective at the time of receipt by the superintendent.

The superintendent shall make a report to the Board of all resignations accepted by the superintendent.

END OF POLICY

Legal Reference(s):

[ORS 342.553](#)
[ORS 652.140](#)

[OAR 581-024-0245](#)
[OAR 584-050-0020](#)

Pierce v. Douglas County Sch. Dist., 297 Or. 363 (1984).

Columbia Gorge ESD

Code: GCPB/GDPB
Adopted: 9/20/17
Orig. Code: GCPB/GDPB

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[ORS 342.553](#)
[ORS 652.140](#)

[OAR 581-024-0245](#)
[OAR 584-050-0020](#)

Pierce v. Douglas County Sch. Dist., 297 Or. 363 (1984).

Columbia Gorge ESD

Code: GCPC/GDPC
Adopted: 5/16/12
Orig. Code: GCPC/GDPC

Retirement of Staff *

To assist the ESD ~~district~~ in its planning efforts, staff members considering retirement are encouraged to notify the ESD ~~district~~ as early as possible, preferably at the beginning of the school year in which the retirement will take place.

Retiring employees are encouraged to coordinate with PERS and the Human Resources Department to ensure that all requirements are met. The superintendent will develop requirements, limitations and procedures for employment as a PERS-retiree.^{1}

When an employee of the ESD retires under PERS, that employee's employment with the ESD will terminate. PERS-retired individuals may apply for open positions with the ESD.^{2 {3}}

END OF POLICY

Legal Reference(s):

[ORS Chapter 237](#)
[ORS Chapter 238](#)

[ORS Chapter 238A](#)
[ORS 243.303](#)

[ORS 342.120](#)

Consolidated Omnibus Budget Reconciliation Act of 1985, 29 U.S.C. §§ 1161-1169 (2018).
Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1001-1461 (2018).
OR. CONST., art. IX, §§ 10-13.

¹ {The law that allows PERS-retired employees to continue to work for PERS-employers without hour restrictions is set to expire in 2024.}

² There must be a break in service for retired employees returning to work.

³ {The law that allows PERS-retired employees to continue to work for PERS-employers without hour restrictions is set to expire in 2024.}

Columbia Gorge ESD

Code: GCPC/GDPC
Adopted: 5/16/12
Orig. Code: GCPC/GDPC

Retirement of Staff *

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[ORS Chapter 238](#)

[ORS Chapter 238A](#)
[ORS 243.303](#)

[ORS 342.120](#)

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Columbia Gorge ESD

Code: GCPD/GDPD
Adopted: 5/16/12
Orig. Code: GCPD/GDPD

Discipline and Dismissal of Staff

The Board will use due process and comply with relevant portions of the collective bargaining agreement when disciplining and/or dismissing employees.

END OF POLICY

Legal Reference(s):

ORS 243.672	ORS 342.835	ORS 652.140
ORS 243.706	ORS 342.865 to -342.910	
ORS 243.756	ORS 342.934	OAR 584-020-0040

Columbia Gorge ESD

Code: GCQA/GDQA
Adopted: 5/16/12
Orig. Code: GCQA/GDQA

Non-District Employment

All employees are expected to accomplish those tasks required by the ~~ESD district. The Board recognizes that CGESD personnel are highly qualified employees and, as such, their expertise or technical services may be sought by other agencies. It is the policy of the Board that, under appropriate circumstances, employees of CGESD may engage in private consulting activities or other employment.~~

Employees must avoid outside employment that interferes with the performance of their responsibilities and the maintenance of productive relationships with students, parents and other staff members. If outside employment interferes with job performance, the employee will be required to make a choice between ~~ESD district~~ employment and outside employment.

~~CGESD personnel are allowed to engage in private consulting activities or other employment on non-contract or off work hours providing:~~

- ~~1. Consulting activities or other employment do not conflict with nor detract from the performance of duties and responsibilities with CGESD;~~
- ~~2. Opportunities for consulting activities which occur as a result of contact and communication with CGESD clients are discussed with the supervisor prior to contracting to do the work;~~
- ~~3. CGESD facilities, vehicles, equipment, and supplies are not used in conducting the activities;~~
- ~~4. Consulting activities are not conducted with CGESD clients in circumstances that would warrant CGESD service to be provided.~~

END OF POLICY

Legal Reference(s):

[ORS 334.125\(7\)](#)

Columbia Gorge ESD

Code: GCQB
Adopted: 6/20/12
Orig. Code: GCQB

Research

Employees are encouraged to participate in research for the development and improvement of education. If an employee plans to engage in a research project during the work-day or use ESD district resources or ESD students, either for study toward advanced work or for use in classroom instruction, approval must be secured from the superintendent. If the study results in material which would be useful to other employees, it ~~shall is recommended that it~~ be made available for distribution throughout the ESD district. For the protection of all concerned, privacy rights of students or other individuals involved in research projects must be protected.

Researchers using human subjects shall follow all state and federal laws applicable.

Any remuneration that is gained from being involved in research or material development done during contract time on behalf of the agency is property of the agency.

Research which is conducted by or for a non-ESD district employee must be approved by the superintendent or designee.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g (2012); Family Educational Rights and Privacy, 34 C.F.R. Part 99 (2016).
Protection of Pupil Rights, 20 U.S.C. § 1232h (2012); Student Rights in Research, Experimental Programs and Testing, 34 C.F.R. Part 98 (2016).

Columbia Gorge ESD

Code: GCQBA
Adopted: 6/20/12
Orig. Code: GCQBA

Copyrights and Patents

The Board asserts the ESD's ~~district's~~ proprietary rights to publications, instructional materials and other devices prepared by ESD ~~district~~ employees during their paid work time. The Board also recognizes the importance of encouraging its professional staff to engage in professional writing, research and other creative endeavors. Publications, articles, materials, models and other items produced by ESD ~~district~~ personnel for ESD ~~district~~ use with ESD ~~district~~ time, money and facilities as part of an employee's job responsibilities remain the property of the ESD ~~district~~.

The ESD ~~district~~ will apply for copyrights and patents when deemed appropriate by the superintendent. Employees will be expected to cooperate in the ESD's ~~district's~~ efforts.

In the event that an employee produces items described above partly on his/her own time and partly on ESD ~~district~~ time, the ESD ~~district~~ reserves the right to claim full ownership. The employee, ~~however~~, may petition the ESD ~~district~~ for assignment of copyright or patent rights. Employees will not attempt to copyright or patent such items without the knowledge and consent of the superintendent.

END OF POLICY

Legal Reference(s):

[ORS 334.125](#)

[ORS 332.745](#)

Copyrights, 17 U.S.C. §§ 101-1332 (2012); 19 C.F.R. Part 133 (2016).
Patents, 35 U.S.C. §§ 1-376 (2012).

Columbia Gorge ESD

Code: GD
Adopted: 4/18/12
Orig. Code: GD

Classified Staff/Classified Staff Positions

The superintendent shall approve the employment, fix the compensation and establish the term of employment for each person employed by the ESD to fill classified positions. Candidates for employment shall be recommended to the superintendent by appropriate administrative staff members.

Any candidate who is hired and who is subsequently determined to have misrepresented facts material to ~~his/her~~ their qualifications for employment or material to the determination of salary shall be subject to dismissal.

All new classified employees shall be appointed for a probationary period of six months. The probationary period shall be considered as a period of adjustment and orientation for new employees.

The superintendent has full authority to select and hire temporary employees for periods of less than a year.

In order to maintain a bias-free hiring practice and work environment, it is the policy of the ESD to not hire an individual when such hiring would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or place the individual in a position of being subject to such authority which a member of the individual's family exercises.

"Family" shall be defined as: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual.

The ESD Superintendent shall give, in writing, individual notices by May 30 to all employees for whom a teaching license is not required.

The notices shall address reasonable assurance of continued employment as covered in the Oregon Revised Statutes and Oregon Administrative Rules.

END OF POLICY

Legal Reference(s):

[ORS 326.051](#)
[ORS 334.125\(5\)](#)
[ORS 659.805](#)
[ORS 659.850](#)
[ORS 659A.009](#)
[ORS 659A.029](#)

[ORS 659A.030](#)
[ORS 659A.040](#) to -659A.052
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)
[ORS 659A.236](#)

[ORS 659A.309](#)
[ORS 659A.409](#)

[OAR 581-021-0045](#)
[OAR 581-024-0245](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R Part 1626 (2016).

Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107 (2012).

Equal Pay Act of 1963, 29 U.S.C. § 206(d) (2012).

Rehabilitation Act of 1973, 29 U.S.C. §§ 503, 791, 793-794 (2012).

Title IX of the Education Amendments of 1972, 20 U.S.C. §§ 1681-1683 (2012); Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance, 34 C.F.R. Part 106 (2016).

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GD
Adopted: 4/18/12
Orig. Code: GD

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The superintendent shall approve the employment, fix the compensation and establish the term of employment for each person employed by the ESD to fill classified positions. Candidates for employment shall be recommended to the superintendent by appropriate administrative staff members.

Any candidate who is hired and who is subsequently determined to have misrepresented facts material to his/her qualifications for employment or material to the determination of salary shall be subject to dismissal.

All new classified employees shall be appointed for a probationary period of six months. The probationary period shall be considered as a period of adjustment and orientation for new employees.

The superintendent has full authority to select and hire temporary employees for periods of less than a year.

In order to maintain a bias-free hiring practice and work environment, it is the policy of the ESD to not hire an individual when such hiring would place the individual in a position of exercising supervisory, appointment or grievance adjustment authority over a member of the individual's family or place the individual in a position of being subject to such authority which a member of the individual's family exercises.

"Family" shall be defined as: wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent or stepchild of the individual.

The ESD Superintendent shall give, in writing, individual notices by May 30 to all employees for whom a teaching license is not required.

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[ORS 326.051](#)
[ORS 334.125\(5\)](#)
[ORS 659.805](#)
[ORS 659.850](#)
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[ORS 659A.030](#)
[ORS 659A.040](#) to -659A.052
[ORS 659A.142](#)
[ORS 659A.145](#)
[ORS 659A.233](#)
[ORS 659A.236](#)

[ORS 659A.309](#)
[ORS 659A.409](#)

[OAR 581-021-0045](#)
[OAR 581-024-0245](#)

Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d (2012).

Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e (2012).

Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634 (2012); 29 C.F.R Part 1626 (2016).

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Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12213 (2012); 29 C.F.R. Part 1630 (2016); 28 C.F.R. Part 35 (2016).

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).

Title II of the Genetic Information Nondiscrimination Act of 2008.

Americans with Disabilities Act Amendments Act of 2008.

Columbia Gorge ESD

Code: GDA
Adopted: 9/16/15|
Orig. Code: GDA

Instructional Assistants

Instructional assistants shall be hired by the superintendent or designee.

All instructional assistants must:

1. Have a high school diploma or the equivalent;
2. Be at least 18 years of age or older; and
3. Have standards of moral character as required of teachers.

In addition to the above, instructional assistants providing translation services must have demonstrated proficiency and fluency, knowledge of and ability to provide accurate translations from a language other than English into English and from English into another language.

Instructional assistants¹ who work in Title IA programs and provide instructional support must have:

1. Completed at least two years of study at an institution of higher education; or
2. Obtained an associate's or higher degree; or
3. Met a rigorous standard of quality, and can demonstrate, through a formal state or local academic assessment or para-professional certificate program, knowledge of, and the ability to assist in instructing, as appropriate, reading/language arts, writing and mathematics or reading readiness, writing readiness and mathematics readiness.

The ESD ~~district~~ will not require individuals newly hired as Title IA instructional assistants who have met another ESD's ~~district's~~ academic assessment ~~as set forth by the No Child Left Behind Act of 2001~~, to meet the ESD's ~~district's~~ academic assessment standards.

¹ Instructional assistants may be assigned to: (1) provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher; (2) assist with classroom management, such as organizing instructional and other materials; (3) provide assistance in a computer laboratory; (4) conduct parental involvement activities; (5) provide support in a library or media center; (6) act as a translator; or (7) provide instructional services to students while working under the direct supervision of a teacher. Instructional assistants may assume limited duties that are assigned to similar personnel who are not working in a program supported with Title IA funds, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.

These requirements do not apply to an instructional assistant: (1) who is proficient in English and a language other than English and who provides services primarily to enhance the participation of children in Title IA programs by acting as a translator; or (2) whose duties consist solely of conducting parental involvement activities.

The general responsibilities of an instructional assistant shall be outlined in a job description. The major responsibility shall be to assist the classroom teacher, specialist or supervisor with instruction. The instructional assistants shall be under the supervision of the appropriately licensed classroom teachers, specialist or supervisor. Other supporting tasks may include, but are not limited to ~~are~~: clerical support, student control, personal care, translation or parent and / family involvement activities and media center or computer laboratory support.

Instructional assistants shall not be used by the ESD ~~district~~ or a teacher as substitute teachers. The responsibility for classroom supervision remains with the teacher at all times.

In an emergency an instructional assistant may be left in charge of a class for a brief period of no more than 30 minutes.

END OF POLICY

Legal Reference(s):

[ORS 334.125\(5\),\(7\)](#)
[ORS 342.120](#)

[OAR 581-022](#)-2400(2)
[OAR 581-037](#)-0005 to -0030

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.
Section 503 of the Rehabilitation Act of 1973.

Columbia Gorge ESD

Code: GDA
Adopted: 9/16/15|
Orig. Code: GDA

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Instructional assistants shall be hired by the superintendent.

All instructional assistants must:

1. Have a high school diploma or the equivalent;
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1. Completed at least two years of study at an institution of higher education; or
2. Obtained an associate's or higher degree; or
3. Met a rigorous standard of quality, and can demonstrate, through a formal state or local academic assessment or para-professional certificate program, knowledge of, and the ability to assist in instructing, as appropriate, reading/language arts, writing and mathematics or reading readiness, writing readiness and mathematics readiness.

The ESD district will not require individuals newly hired as Title IA instructional assistants who have met another ESD's district's academic assessment as set forth by the No Child Left Behind Act of 2001, to meet the ESD's district's academic assessment standards.

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END OF POLICY

Legal Reference(s):

[ORS 334.125\(5\),\(7\)](#)
[ORS 342.120](#)

[OAR 581-022](#)-2400(2)
[OAR 581-037](#)-0005 to -0030

The Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (2012).
Title II of the Genetic Information Nondiscrimination Act of 2008.
Section 503 of the Rehabilitation Act of 1973.

PROFESSIONAL PRACTICES OF SPEECH LANGUAGE PATHOLOGY ASSISTANT
DOMAIN 4: PROFESSIONAL RESPONSIBILITIES

Columbia Gorge ESD
Wasco-Hood River Counties

Code: GDN AR

Adopted: 11/18/87

Revised/Readopted: 10/04/00; 09/21/05; 8/18/10
05/15/13; 09/18/13; 11/20/13;
05/21/14; 08/20/14; 12/17/14;
06/17/15; 8/19/15; 11/18/15
09/21/16

Evaluation of Staff*

Performance goals shall be established annually for all employees by October 1 in consultation with the employee's supervisor. Performance goals shall be based upon position/job description, performance standards, prior evaluation, and professional development and licensure requirements.

Mid-year reviews of employee performance will be completed by January 15th for non-licensed employees. Mid-year reviews will include all aspects of an employee's performance including, but not limited to, observation, performance goals and necessary development and growth as outlined in a program of assistance for improvement should one be in force.

A written performance evaluation report for all employees shall be completed by June 1st for school year employees and June 30th for year round employees. Written evaluations shall be based on progress in meeting performance goals, job descriptions and expectations specific to the employee's position, performance standards of quality relative to performing the responsibilities identified in the job description, , and customer service feedback.

The following 103 pages of this manual, outlining the evaluation process, all which are recommended to be deleted, have not been included.

Columbia Gorge ESD

Code: GDN/GCN
Adopted: 1/17/18
Orig. Code: GDN/GCN

Evaluation of Staff

An effective evaluation program is essential to a quality educational program. It is an important tool to determine the current level of a teacher's or specialist's performance of their professional responsibilities. It is also an important assessment of classified employees and current performance of their job assignments. Under Board policy, administrators are charged with the responsibility of evaluating staff. An evaluation program provides a tool for supervisors who are responsible for making decisions about promotion, demotion, contract extension, contract non-extension, contract renewal or nonrenewal, dismissal and discipline.

Licensed Staff

The evaluations for licensed staff shall be based on the core teaching standards adopted by the Oregon State Board of Education. The standards shall be customized based on collaborative efforts with teachers and any exclusive representatives of the licensed staff. .

Evaluation and support systems established by the ESD for teachers must be designed to meet or exceed the requirements defined in the Oregon Framework for Teacher and Administrator Evaluation and Support Systems, including:

1. Four performance level ratings of effectiveness;
2. Classroom-level student learning and growth goals set collaboratively between the teacher and the evaluator;
3. Consideration of multiple measures of teacher practice and responsibility which may include, but are not limited to:
 - a. Classroom-based assessments including observations, lesson plans, and assignments;
 - b. Portfolios of evidence;
 - c. Supervisor reports; and
 - d. Self-reflection and assessments.
4. Consideration of evidence of student academic growth and learning based on multiple measures of student progress, including performance data of students that is both formative and summative. Evidence may also include other indicators of student success;
5. A summative evaluation method for considering multiple measures of professional practice, professional responsibilities, and student learning and growth to determine the teacher's professional growth path;
6. Customized by each ESD, which may include individualized weighting and application of standards.

An evaluation using the core teaching standards must attempt to:

1. Strengthen the knowledge skills, disposition and practices of teachers and specialists;
2. Refine the support, assistance and professional growth opportunities offered to a teacher or specialist, based on the individual needs of the staff member and the needs of the students, the school and the ESD;
3. Allow the teacher to establish a set of classroom practices and student learning objectives that are based on the individual circumstances of the teacher, including the classroom and other assignments;
4. Allow the specialist to establish a set of professional practices and therapy objectives that are based on the individual circumstances of the specialist, including specialty area and other assignments;
5. Establish a formative growth process for each teacher or specialist that supports professional learning and collaboration with other teachers or specialists;
6. Use evaluation methods and professional development, support and other activities that are based on curricular standards and are targeted to the needs of the teacher or specialist; and
7. Address ways to help all educators strengthen their culturally responsive practices.

Evaluation and support systems established by the ESD must evaluate teachers on a regular cycle. The superintendent shall regularly report to the Board on implementation of the evaluation and support systems and educator effectiveness.

Each probationary teacher shall be evaluated at least annually, but with multiple observations. The purpose of the evaluation is to aid the teacher in making continuing professional growth and to determine the teacher's performance of the teaching responsibilities. Evaluations shall be based upon at least two observations and other relevant information developed by the ESD.

Classified Staff

All classified employees will be formally evaluated by their immediate supervisor at least twice during their first year of employment and at least once each year thereafter.

END OF POLICY

Legal Reference(s):

[ORS 243.650](#)

[ORS 334.125 \(5\)](#)

[OAR 581-024-0245](#)

[ORS 342.815 - 342.934](#)