



Santiam Travel Station

750 S. Third Street, Lebanon, OR 97355

DISTRICT GOALS: Improve Student Achievement, K-3 Literacy, On-Time Graduation

MEETING AGENDA

1. WELCOME

- A. Call to Order
- B. Flag Salute

2. PUBLIC COMMENTS

This is a time for citizens to address the Board. The Chair will recognize speaker(s) at the designated time. All speakers shall identify themselves and state their name before speaking. Speakers are asked to provide their name, address and telephone number on the Speaker's Sign-in Sheet. Each speaker may address the Board for three minutes.

3. SUMMER SCHOOL UPDATE

Action: Informational

4. VOLUNTEER UPDATE

Action: Informational

5. EARLY RELEASE PRIORITIES

Action: Informational

6. CONSENT AGENDA

Action: Approval Requested

- A. July 14, 2022 Board Meeting Minutes, pg. 4
- B. Policy Updates – First and Second Readings, pg. 13

| CODE | TITLE |
|-----------------------|--|
| FIRST READING | |
| JGEA | Alternative Education Programs Following Expulsion** |
| SECOND READING | |
| GBA-AR | Veterans' Preference |
| GCBDA/GDBDA-AR(1) | Family Leave * |

C. Hiring:

| NAME | POSITION | FTE | START DATE | END DATE |
|--------------------------|--|-----|------------|----------|
| NEW HIRES 2022-23 | | | | |
| Charles Bias | Roving Teacher – Seven Oak Middle School | 1.0 | 8/29/2022 | |
| Kyla Creech | 8 th Grade Teacher – Lcomb School | 1.0 | 8/29/2022 | |
| Justine Hynes | Dean of Students Success – Pioneer School | 1.0 | 8/29/2022 | |

| | | | | |
|-----------------|---|-----|-----------|--|
| Kalei Merrill | Math Teacher – Seven Oak Middle School | 1.0 | 8/29/2022 | |
| Kristie Moseley | Special Education Teacher – Green Acres School | 1.0 | 8/29/2022 | |
| Kerry Slater | Science Teacher – Seven Oak Middle School | 1.0 | 8/29/2022 | |
| Joyce Vasquez | Special Education Teacher/ TOSA | 1.0 | 8/29/2022 | |
| Colby Wooten | Language Arts Teacher – Seven Oak Middle School | 1.0 | 8/29/2022 | |

7. DEPARTMENT REPORTS

Action: Informational

- A. Operations
- B. Human Resources
- C. Finance
 - 1. Memorandum, pg. 33

8. COMMUNICATION

Action: Informational

- A. Board
- B. Superintendent
 - 1. Jen Zen

9. AUDIENCE COMMENTS

The Lebanon Community School District Board of Directors welcomes you to our regular meeting. It is the Board's goal to hold an effective and efficient meeting to conduct the business of the District. In keeping with this goal, the Board provides a place for Audience Comments on each of its regular agendas. This is a time when you can provide statements or ask questions. The Board allows three minutes for each speaker. The language below discusses the Public Meetings Law and public participation in such meetings.

"The Public Meetings Law is a public attendance law, not a public participation law. Under the Public Meetings Law, governing body meetings are open to the public except as otherwise provided by law. ORS 192.630 The right of public attendance guaranteed by the Public Meetings Law does not include the right to participate by public testimony or comment.

"Other statutes, rules, charters, ordinances, and bylaws outside the Public Meetings Law may require governing bodies to hear public testimony or comment on certain matters. But in the absence of such a requirement, a governing body may conduct a meeting without any public participation. Governing bodies voluntarily may allow limited public participation at their meetings."

Oregon Attorney General's Administrative Law Manual and Uniform and Model Rules of Procedure under the Administrative Procedures Act. Hardy Myers, Attorney General, March 27, 2000.

10. ADJOURNMENT

Upcoming meeting dates:

September 8th, 2022 – Board Meeting at 6:00 PM
October 13th, 2022 – Board Meeting at 6:00 PM
November 10th, 2022 – Board Meeting at 6:00 PM

Agenda Item 6

A. July 14, 2022 Board Meeting Minutes



Santiam Travel Station

750 S. Third Street, Lebanon, OR 97355

MEETING MINUTES

| | |
|--|--|
| <p><u>BOARD MEMBERS PRESENT:</u> Mike Martin, Chair Richard Borden, Vice Chair Tom Oliver, Member Tammy Schilling, Member</p> | <p><u>EXECUTIVE STAFF PRESENT:</u> Bo Yates, Superintendent, via zoom Jennifer Meckley, Assistant Superintendent William Lewis, Business Director Kim Grousbeck, Human Resources Director</p> |
|--|--|

The meeting minutes were recorded by Executive Secretary Jessica Woody.

1. WELCOME AND CALL TO ORDER

Board Chair Mike Martin called the meeting to order at 6:04 PM and led the flag salute.

2. BOARD REORGANIZATION

A. Election of board chair – Richard Borden nominates Tom Oliver as board chair, Tammy Schilling seconds the vote. With no further discussion it is a unanimous vote. Tom Oliver then takes over as board chair for the remaining of the meeting.

B. Election of board vice chair – Mike Martin nominates Richard Borden as board vice chair. Tammy Schilling seconds the vote. With no further discussion it is a unanimous vote.

3. PUBLIC COMMENTS

No public comments were made.

4. 2022-23 LCSD BOARD MEETING SCHEDULE

Richard Borden moved the motion to approve the meeting schedule and Mike Martin seconds the motion. None apposed, making this a unanimous vote to approve the 2022-23 LCSD Board Meeting Schedule.

5. RESOLUTION 2223-1 REPRESENTATIONS AND AUTHORIZATIONS

Mike Martin states that there were not many changes that he saw, and that the 5 million dollars that can be borrowed is always a question. Mike questions what the circumstances are and that could happen with board notice and not authorization. Tom states that his understanding is that it is a cash flow line of credit type situation. Will clarifies that it is a cash flow situation, and that the school would not take out a 5 million dollar loan without coming to the board. Will also states that

May is a critical month for payroll, a lot of cash goes in and out at that point and this way the district can keep operations moving. Mike asks if the board has to approve it or if it is just a notification. Will states that how this reads is that the board is approving it now, and the district would notify at that time if it is needed, however Will assures the board that he would definitely bring something like that to the board months in advance if a situation was to arise. Tom asks about the auditor, if the name is being chosen. Tom asks if we went up for a RFP, Will adds that yes we did. Will also states that auditors are having the same employment struggle that we are, however he feels that the auditors are doing a great job, and he continues to take a critical lens, to be sure that they are doing the job that they need to do for the board of directors, and to be sure that we are in compliance with everything, especially on the federal side. Mike Martin then moved to approve, and Tammy Schilling seconds. With no further discussion and a unanimous vote it was voted to approve Resolution 2223-1 Representations and Authorizations.

6. SUMMER SCHOOL UPDATE

Ryan King, the summer school coordinator, addresses the board to speak about summer school and give some highlights for the weeks they have had so far. Ryan states that High School credit recovery is coming to a close, but they will be offering an online option for this as well. As of July 14th, 91 courses have been recovered by the high school students, with opportunity to continue this recovering online for the rest of the summer. Ryan also states that the summer school staff have all been exceptional and excellent to work with. He also explains that a weekly perfect attendance bonus was offered to staff and after calculating for the first 2 weeks they found that most if not all staff had perfect attendance, which was great in a planning aspect to have the staff you expect and great to be able to offer this to our staff as an incentive.

Ryan also provides an update from each administrative staff at the elementary and middle school levels. The elementary admin Ryan Luebke provides information of their curriculum and structure, and how they are incorporating fun and enjoyment as well. He also explains that they are receiving an abundance of positive feedback from students and parents, students are receiving music daily and they have also incorporated a Spanish language culture enrichment activity. Middle school admin Lisa Canaday provides that they are off to a great start in session 2, they have some great departments paired up together and creating some unique hands on activities. She notes the engagement and activity that each department is doing, and provides an example of the hands-on activities that they are providing and how students seem to be very engaged in these. She explains that the students are truly enjoying the activities, and especially for our 6th graders this is a great opportunity to get them used to the middle school environment and create comfortability. Ryan King adds information about the enrichment activities taking place and the partnership they have with the boys and girls club, several athletic programs, foreign language programs, sign language, and more. Ryan explains that his own daughter and son had been learning sign language at summer school and had gone home and worked on it further, even teaching one another what they had learned. Ryan feels that this really came full circle, and as a parent he appreciates the exposure to these opportunities that the students are being offered this summer.

Tom Oliver asks, of the students at LHS that needed credit recovery, what percentage participated in summer school. Ryan states that he does not have an exact number, he would need to find out how many were recruited that had the need and how many they saw. Ryan states that there are also students who are doing online only and their numbers are being tracked as well. Ryan states that he can work on getting those numbers, and Tom Oliver would be interested in seeing them. Bo Yates also adds that this was asked by both middle and high school as well to see this.

7. K-8 DATA – STAR / SBAC

Jennifer Meckley speaks about the data that is presented from the board packet for STAR and SBAC. Jennifer explains that STAR is a 2nd-8th grade assessment used to impact instruction for growth, she then explains the patterns on the data sheet showing student level, to district.

She then explains that SBAC is the required state test, also noted that this is the first time we have had it since COVID, and it measures what students have learned and what they know for grade level standards. She also explains that the district does not have the ability to use this test as an instructional tool, but more so shows the health of our systems. She also states that this was a baseline year for the district, after 2 years of interrupted class time due to COVID. She states that overall, we are pleased with student growth, everyone worked through so many challenging times yet still had a lot of growth.

Bill Wittman, School Improvement and Federal Programs Director, also spoke about the STAR data report, with an emphasis on the baseline that Jennifer mentioned. Bill states that we had no expectations but some predictions, and this will now be what we are able to compare to year after year moving forward. He explains the across the board achievement for STAR and SBAC, and that for STAR specifically there was a tight spread with consistency on level 3 and 4 across the grade levels. He also explains that in level 1, students that need the most intervention, was also a pretty tight spread. Bill is curious with the number of students that need urgent intervention, how those numbers compare to the rest of the state.

Bill also explains SBAC and the state average for academic performance and the obstacles that get in the way. He explains how our child poverty rates and special education percentage of students compares to the rest of the state and how that could cause the district to perform less than the state, however this was not the case. The district performed higher than what statistically you would expect, making a pleasant surprise and setting a higher bar going forward.

8. 9-12 DATA – GRAD RATES / ON TRACK DATA

Jennifer Meckley also speaks about the high school data, she explains the data provided and the rates for each category. She explains how we expect a 79% grad rate this year but that could change with summer school as well. She also touches on the importance of the on track to graduate rates, showing that freshman students that were freshman during comprehensive distant learning were at 52%, and as of March 4th they made it up to 63% and then as of June 69%. Jennifer states that this shows significant increases and it is fantastic news, she also states that students and staff are working really hard and summer school is making a big impact. Bo Yates adds that what the district has done with our freshman is outstanding, he states that they are doing a good job of being intentional and working to get the students who lost a lot during COVID back on track. Mike Martin adds in that he would like to see the number at 90%, and Bo would really like to see that through and wants to have a critical eye on where we are at and how we are moving forward. Bo also asks for feedback from the board about how the data was presented, he would like to be consistent and asks for full transparency from the board on their thoughts.

Mike adds that the format is slightly different but that there is still growth and improvement. Tom adds as well that this shows a good snap shot, and that he is also curious about looking deeper about what this looks like for cohorts, IEPs vs not, and what these expectations would be. Bo adds that those are things that they have discussed, since there is a large number of students on IEPs the

district would like to see their growth and how that has an impact. Bo states that we can share that information if the board is interested. Tom Oliver also questions the data, if the district was to dial the dates back, what do those numbers look like and how closely do they go along with the actual grad rate. Mike Martin asks if we can invest more into the on-track group of freshmen, and Bo adds that we have extra resources going into our kids with early literacy and if we can keep them on track we think we have a good chance of them graduating. Bo explains that we are putting more funds towards our freshman, with opportunity to have teachers moving around so that the district can have teams that work together and get the students where they need to be.

Bo also states that we are hoping to take this and model it for next year with our sophomore class. Mike asks if this is a class that is coming through with a higher rate of students on track, and Bo explains that this is a COVID year of incoming students that have been in a struggling year. He says that this is intentional and we should expect to see higher numbers with that freshman group and all the way through, a product of providing programs that kids want to be a part of. Bill Wittman also adds that the district is focused on how to raise grad rates, and that there was a lot of enthusiasm on this topic of how to make systems and policy changes to really help the kids that are struggling. He states that there is a lot of high energy around this topic.

Tom Oliver also touches on the fact that the district is allocating resources based on where we can get the most results, and Bo states that we are trying to be as intentional as possible.

9. FACILITIES UPDATE

Bo explains that with the bonds that we did not get, the district is trying to be as responsible as we can. He explains that they are working towards saving enough for Lcomb and Seven Oak Schools, and that the high school will be a major bill.

Tom questions if there is some funding that is still available in CET, ESSR, ect.

Bo also explains what the plan for the district will be with Seven Oak, he explains that it became too expensive to do the initial plan but we are looking at alternatives. He also explains that they are excited to eventually bring all of the 6th grade students over to Seven Oak Middle School, and that we will add some details about this during the finance report as well.

Bo also goes over some safety that the district is working on with entry ways, as well as he shares that he will be attending a school safety conference this month as well. He goes into detail about standardizing a system for entry ways at all schools. Bo also explains what we are looking at for a camera system upgrade, he speaks about looking for ways to capture our servers, the district has an extremely capable system for that. He states that the district is looking for things that articulate together, and we do not want to get too far ahead until we find out what the best practice is. He also states that the district continues to work with the local police department to improve systems as well.

Photos are shown of the Kees St project that is under construction. Mike Martin adds that it is looking good, and Bo states that it will be a neat project and he is very thankful for the community that is working so hard on this. Bo and Tom agree that it would be interesting to give the students an opportunity to see the construction work and see what all went into the project before it gets to a finished point. Tom also asks if the district plans to sell off a couple lots as soon as they are ready, and Bo adds that we will come back to the board at that time and make sure it is sustainable and see where the market is at that point as well.

10. CONSENT AGENDA

Richard Borden motions to approve and Tammy Schilling seconds the motion. All in favor with a unanimous vote, the consent agenda made up of June 9, 2022 Board Meeting Minutes, first reading policy updates GBA-AR and GCBDA/GDBDA-AR(1), and new hires Brady Blatchley, Kaitlen Caruso, Jeremiah Erskine, Daniel Hartman, Alyssa Murrhee, and Anthony Potthoff is approved in its entirety.

11. DEPARTMENT REPORTS

A. Operations

Bo explains that the district has still been working through hiring bus drivers. He explains how the district may have to adjust and we may have to continue this but if we bring more drivers on we will make adjustments that make sense as well. He also explains that the district is looking into different ways of more individualized transportation for Lacombe and Hamilton Creek Schools, like a small van or bus, for after school programs so that they can also participate if they need transportation. Mike mentions that the state has the staff retention money, which turns to HR.

B. Human Resources

Kim Grousbeck explains how the district is receiving about \$483,000 from the house bill that was approved, and that we are looking at ways for staff recruitment, and specifically looking at adding time to classified staff in the afternoons so that they can ride the buses for staff that it would work for. Kim also explains how the district is looking at grow your own, meeting with universities to see the best way to go about this, and that we hope to have a process on this. Kim also explains the district is supporting teachers that need endorsements and staff that are interested in being teachers that need their bachelors or associate degrees. She also goes over the emergency subs that the state has allowed the district to hire, staff that have high school diplomas, and or classified staff that go through the classes have the opportunity to help as teacher subs as well. Kim confirms that this will go through this 22/23 school year as well.

Tom confirms that this additional funding is a one-time thing, so that the district would need to look into how to cover these things in the future as well. From Mikes question, Kim confirms that there are not strict guidelines to the funds outside of staff retention and recruitment. Tom questions what the tuition reimbursement is for classified staff that would like to be teachers, and Kim explains that at this time that is not offered for classified staff but they will look into this and hope to be able to put something in place for this. Tom also adds that if we are focusing on grow your own, it would be nice to offer the tuition reimbursements. Kim ensures that there are avenues for grants and such as well that the district is looking at, to sustain for the coming years the things that we will provide with the house bill funding this year.

Kim also gives details about the hiring they have done recently, hiring 32 licensed staff with 11 left to fill. Next they will get busy with hiring classified staff. She explains that lots of hiring and changes are occurring. Tammy questions how many bus drivers the district is short of. Kim states that we have 12, and we are currently hiring 2, possibly 3 more, and that we would need 19-20 total to operate. Bo adds that we did make it work last year

but that was with sacrificing by putting our mechanics and such out on buses. Bo and Kim touch on the fact that this is a nationwide issue and the district is trying to aggressively pursue this.

C. Finance

William Lewis explains to the board the updates that are occurring at the Kees St property, and provides some photos of the project and a rough draft of where they are at with it. Will explains that they will have more updates as they go, and goes over the draft budget for this as well. William also shows photos of the design of the Seven Oak project, explaining its basic but functional design layout with open floors, concrete, ect. Will next explains that for the budget for this project they are using ESSR, ESSR 2, and ESSR 3. He explains how this fits the alignment of mitigating the risks of COVID, because the district is providing something to enhance our systems by taking all 6th graders to middle school level and providing the additional space that is needed for that as well. Tom agrees with this idea and feels that since this is one-time money, it is smart to get something tangible that is going to last some time. Tom also states that though this is only at one facility, it is in fact impacting all facilities in some way. Tammy adds that it is in fact impacting all in town schools because it is providing more space for them.

William next speaks about district chrome books, he explains how a lot of significant damage has been associated with them and the district is looking at options to hold the community accountable for this incredible resource that we are providing them. The proposal that William gives is that the district would like to set up an opt in fee program, where if the family paid the opt in fee for chrome book technology at the start of the year and damage was made to the chrome book, the cost would be covered by this fee group. However, if the family did not opt into the fee option, they would be accountable for the damage. William feels that this is a way to get our community involved and hold the student body accountable. He also shows a cost analysis of replacement / fixing of the chrome books, and how the costs add up. Alisha Port, technology lead support specialist, also explains that the price per part is lower than what the actual cost is and the district can harvest what is still functional and can be resourceful with these things.

Mike questions whether the opt in would be optional, and if damage was to occur if there would be investigation as to if it was purposeful or not to hold people accountable. Will explains that this is just a presentation at this point, and Tom asks if there will be a policy made for this eventually. Will also explains that this would be district "assurance", not any actual insurance policy. Mike questions what the district predicts the participation would be, and asks how many are lost / destroyed each year. Will explains that there are a lot more being damaged then we would like to see, Alisha adds that there are 4,300 chrome books out to students / staff currently. Mike suggested if the district would get even 25% to opt in.

Tammy adds an idea that every student is required to pay a small, example \$5 fee, each year in lieu of the opt in amount that would be optional. Richard agrees with Tammy's idea because in relation to the amount of reduced lunch students that the district has, Richard worries that we would have a small portion of people paying the bills for all of those who don't / can't. Tom adds that he would be interested in seeing a model of each system to see whether the opt in or small required fee would make the most sense. Alisha provides

the amount of \$18,595 that was spent on repairs / replacements of chrome books. Will states that they will run both options and see how they look.

Mike suggests looking at offering text books online. As it is confirmed that we do, William also adds that we are a little low on our textbook account. Mike also asks if students are submitting their work online or in person. It is confirmed that both are occurring, however most recently during distance learning, their only option was to submit online.

Bo adds that we need to review as a district what our policies are as to who is taking them and what we are requiring. He would like to be more standardized on that. Bo also adds that it is important to teach the responsibility, the district finds that those that cause damage to the chrome books are ones that really do need to be able to utilize one. Mike adds that they are essential and the district needs to fund it some way, so we could ask parents to help. Will notes that the district will bring back some ideas.

William also brings to the board an update that they would like to make on the AR policy DLC-AR. The business office would like to update the language stating "Gratuity not to exceed 15% of the service", to "Gratuity not to exceed 18% of the service.". It is confirmed that since it is an AR, the district only requires notification to the board, there is no approval required. This change is satisfied by the board and district.

12. COMMUNICATION

A. Board

Nothing further to discuss.

B. Superintendent

Bo thanks Mike for being board chair during his time and states that there have been some challenging times and the district is grateful for his thoughtfulness. Mike adds that it has been an interesting year. Bo also adds that it is good to have Tom as board chair as well.

During Jen Zen, there are photos shown of summer school as well as the the AVID summer institute which 3 dozen staff attended and got to experience a great PD with learning strategies, collaboration, focusing on leadership, systems, and culture.

It is also updated that the business office is working on a new, more modern, payment system that will save families from making extra trips to schools and can easily make payments online.

Food services is also working hard to serve all meals to all sites and public places including libraries and parks. There have been 848 breakfasts and 2,196 lunches handed out – with great feedback from kids this summer.

13. AUDIENCE COMMENTS

No audience comments were made.

14. MEETING ADJOURNED

There being no further business before the Board, the meeting was adjourned at 7:30 PM.

Tom Oliver, Board Chair

Bo Yates, Superintendent

Agenda Item 6

B. Policy Updates

Lebanon Community Schools

Code: **JGEA**
Adopted: 8/6/09
Readopted: 1/20/11
Orig. Code(s): JGEA

Alternative Education Programs Following Expulsion**

Prior to a student leaving school or a student's expulsion, unless the expulsion is for a weapons policy violation, the district will propose in writing to the student or student's parent appropriate, accessible educational alternatives as determined by the district. Such alternative education program(s) will consist of instruction or instruction combined with counseling.

The proposal of potential alternative education programs will be hand-delivered or sent by certified mail to assure that the parent receives it prior to the time of an actual expulsion or leaving school.

Appropriate accessible alternative education programs may be either public or private (nonsectarian). Programs may be provided by the district as a separate school, evening classes or tutorial instruction. Homebound instruction could be considered an appropriate alternative.

The district shall pay the actual cost of the district-proposed alternative education program or an amount equal to 80 percent of the district's estimated current year's average per student net operating expenditure, whichever is less. ~~The district shall provide or pay for transportation.~~

If a parent receives an exemption on a semi-annual basis to withdraw a student age 16 or 17, the district has no obligation to pay for an alternative education program.

If a student is not successful in the alternative education program selected or the alternative education programs offered are not accepted by the student and/or parent, there is no obligation to propose or fund other alternatives.

END OF POLICY

Legal Reference(s):

[ORS 336.615 - 336.665](#)
[ORS 339.240](#)
[ORS 339.250](#)

[OAR 581-021-0070](#)
[OAR 581-021-0071](#)
[OAR 581-022-1350](#)

[OAR 581-022-1620](#)
[OAR 581-023-0006](#)
[OAR 581-023-0008](#)

Cross Reference(s):

IGBHA - Alternative Education Programs
IGBHB - Establishment of Alternative Education Programs
IGBHC - Alternative Education Notification

OSBA Model Sample Policy

Code: GBA-AR
Revised/Reviewed:

Veterans' Preference

Oregon's Veterans' Preference Law requires the district to grant a preference to qualified and eligible veterans and disabled veterans at each stage in the hiring and promotion process. To be **qualified** for veterans' preference, a veteran or disabled veteran must meet the minimum and any other special qualifications required for the position sought. To be **eligible** for veterans' preference¹ a veteran or disabled veteran must provide certification they are a veteran or disabled veteran as defined by Oregon law².

The district is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The district is obligated to interview all minimally qualified veterans or disabled veterans and to hire or promote a qualified or eligible veteran or disabled veteran if the individual is equal to or better than the top candidate after the veterans' preference has been applied.

A veteran may submit a written request to the district for an explanation of the reasons why they were not selected for the position. The district shall provide the reasons for not selecting the candidate when requested.

Recruitment Procedures

All job postings or announcements will include a concise list of minimum and any special qualifications required for the position. Job postings will include a statement that the district's policy is to provide veterans and disabled veterans with preference as required by law and the job posting will require applicants to provide certification³ of eligibility for preference, in addition to other requested materials.

Selection Procedures⁴

¹ See Oregon Revised Statute (ORS) 408.235.

² See Oregon Revised Statute (ORS) 408.225 and OAR 839-006-0440 for definitions of veteran and disabled veteran.

³ See Verification of Veteran's Preference (OAR 839-006-0465). An applicant claiming veteran's or disabled veteran's preference will submit a copy of their Certificate of Release or Discharge from Active Duty (DD Form 214 or 215) or a certification that the veteran is expected to be discharged or released from active duty under honorable conditions not later than 120 days after the submission of the certification. A disabled veteran may also submit a copy of their letter from the U.S. Department of Veterans Affairs, unless the information is included in the DD Form 214/215 or a certification that the veteran is expected to be medically separated from active duty under honorable conditions not later than 120 days after the submission of the certification.

⁴ If the district chooses not to use a scored system the law requires that the district give special consideration in the district's hiring decision to veterans and disabled veterans and the district will need to be able to demonstrate the method used for providing special consideration. ORS 408.230(2)(c).

- Step 1: Before the review of any applications the [human resource director] will establish an evaluation scoring guide based on the minimum and any special qualifications listed in the job posting.
- Step 2: The [supervisor] will review the application materials using the evaluation scoring guide to determine which applicants meet the minimum and any special qualifications listed in the job posting. In assessing the applicant materials of a veteran or disabled veteran the [human resource director] shall evaluate whether the skill experience obtained in the military are transferable to the posted position. Any applicants that do not meet the minimum and any special qualifications shall be removed from the applicant pool.
- Step 3: Based on Step 2, the [supervisor] determines who will be interviewed. All qualified and eligible veterans or disabled veterans shall be given an opportunity to interview.
- Step 4: Interview questions and scoring sheets will be developed and each scoring sheet must be completed after each interview by the interviewers.
- Step 5: Following completion of the interviews, the [human resource director] shall complete the selection matrix and score the applicants based on the scoring sheets completed during interviews. Veterans' preference shall be applied by adding 5 percentage points to an eligible veteran and 10 percentage points to an eligible disabled veteran⁵.
- Step 6: The [human resource director] makes the offer to the applicant with the highest final score. The district is not obligated to hire or promote a qualified and eligible veteran or disabled veteran. The district is obligated to hire or promote a qualified or eligible veteran or disabled veteran if they are equal or better than the top candidate after the veterans' preference has been applied.

A veteran may submit a written request to the district for an explanation of the reasons why they were not selected for the position. The district shall provide the reasons for not selecting the candidate when requested.

Filing a Complaint

A veteran or disabled veteran is encouraged to contact the [human resource office] if they have any concerns or questions concerning the application of or the process used for veterans' preference.

A veteran or disabled veteran claiming to be aggrieved by a violation of Board policy GBA - Equal Employment Opportunity or this administrative regulation, may file a written complaint with the Civil Rights Division of the Bureau of Labor and Industries (BOLI) in accordance with Oregon Revised Statute (ORS) 659A.820.

⁵ The points are based on a 100 point scoring matrix. If a 100 point scoring matrix is not used, the district must use a multiplier equivalent to 5 percent for a veteran and 10 percent for a disabled veteran, or the equivalent.

OSBA Model Sample Policy

Code: GCBDA/GDBDA-AR(1)

Revised/Reviewed:

~~Federal Family and Medical Leave/State~~ **Family Medical Leave ***

Coverage

The federal Family and Medical Leave Act (FMLA) applies to districts 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 districts 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 district 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 leave.¹ 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 of a covered employer is eligible to take leave for purposes of OFLA during a period of time covered by a public health emergency except:

1. An employee who worked for the covered employer for fewer than 30 days immediately before the date on which the family leave would commence; or

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.

2. An employee who worked for the covered employer for an average of fewer than 25 hours per week in the 30 days immediately before the date on which the family leave would commence.

An employee of a covered employer is eligible to take leave for purposes of OFLA if the employee:

1. Separates from employment with the covered employer, irrespective of any reason:
 - a. Is eligible to take leave OFLA at the time the employee separates; and
 - b. Is reemployed by the covered employer within 180 days of separation from employment; or
2. Is eligible to take OFLA leave:
 - a. At the beginning of a temporary cessation of scheduled hours of 180 days or less; and
 - b. Returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

Any OFLA leave taken by the employee within any one-year period continues to count against the length of time of OFLA leave the employee is entitled. The amount of time that an employee is deemed to have worked for a covered employer prior to a break in service due to a separation from employment or a temporary cessation of scheduled hours shall be restored to the employee when the employee is reemployed by the employer within 180 days of separation from employment or when the employee returns to work at the end of the temporary cessation of scheduled hours of 180 days or less.

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. 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 a district 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.
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);

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

- 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
 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.
 6. The eligibility of an employee who takes multiple leaves for different qualified reasons during the same district designated leave period may be reconfirmed 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:

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.

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.

- (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:

- 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 retired 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:

- 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.

7. Public health emergency:

For OFLA a public health emergency means;

- a. A public health emergency declared under ORS 433.441.
- b. An emergency declared under ORS 401.165 if related to a public health emergency as defined in ORS 433.442.

Leave Period

For the purposes of calculating an employee’s leave period, the district will use a “rolling” 12-month period measured backward from the date the employee uses any family and medical leave. 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 district’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 district’s designated leave period⁷. Spouses who work for the district may be limited to a combined 12 weeks of FMLA leave during the district’s designated leave period when the purpose of the

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 district’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.

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 district'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 district's designated leave period. However, ~~a woman~~ **an eligible employee** is entitled to an additional, full 12 weeks of parental leave during the district's designated leave period following the birth of a child regardless of how much OFLA qualified leave ~~she~~ **the employee** has taken prior to the birth of such child during the district's designated leave period. Likewise, an employee who uses the full 12 weeks of parental leave during the district designated leave period, will be entitled to an additional 12 weeks of sick child leave under OFLA during the district's designated leave period for the purpose of caring for a child(ren) with a non-serious health condition requiring home care.⁸ Unlike FMLA, OFLA does not combine the leave entitlement for spouses working for the district. However, under OFLA, family members who work for the district 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 district's designated leave period.

Except as otherwise noted above, qualified leave under FMLA and OFLA for an eligible employee will run concurrently during the district'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 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

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.

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.

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 district 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 district 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;
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 district 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, “**instructional school employee**” means those whose principal function is to teach and instruct students in a class, a small group or an individual setting. 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 **who do not have as their principal job actual teaching or instructing**, 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 district 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 district 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 district 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 district to pay an eligible employee who is on a qualified leave. Subject to any related provisions in any applicable collective bargaining agreement, ^{¹²}~~{an employee may elect to use any available accrued paid leave including personal and sick leave, or available accrued vacation leave during the leave period.}~~ ~~{the district requires the eligible employee to use any available accrued sick leave, vacation or personal leave days (or other available paid time established by Board policy(ies) and/or collective bargaining agreement) in the order specified by the district and before taking FMLA and/or OFLA leave without pay during the leave period.}~~ ~~{the district 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 district will notify the eligible employee that the requested leave has been designated as FMLA and/or OFLA leave and, if required by the district, that available accrued paid leave shall be used during the leave period. In the event the district is aware of an OFLA or FMLA qualifying exigency, the district 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 district does not have sufficient information to make a determination of whether the leave qualifies as FMLA or OFLA leave, the district will provide the required notice promptly when the information is available but no later than two working days after the district 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, ~~unless the terms of a collective bargaining~~

¹² {The district must choose one of the following from the three available bracketed options to complete this paragraph, and delete the other two.}

agreement, other agreement or other employer's policy provide otherwise.¹³ 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 district's policies provide otherwise.

For the purposes of FMLA and OFLA, the district 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 district'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 district 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 district 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 district is going to require a fitness-for-duty certification upon return to work, the district 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 district.

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 district.

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 district.

¹³ See also ORS 342.934(4)(d) in reduction force situations.

The district may request additional information to determine that the requested leave qualifies as FMLA and/or OFLA leave. The district 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 district 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 district during that period of time. Failure of an employee to provide the required notice for leave covered by OFLA may result in the district 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 district's notice procedures.

When an employee fails to give advance notice for both the FMLA and OFLA above, the district 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 district ~~may~~ **shall** require an eligible employee to provide medical documentation, when appropriate, to support the stated reason for such leave, **other than to care for a child who requires home care due to the closure of the child's school or child care provider as a result of a public health emergency.** The district 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 district's notification that medical certification is required.

The district 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 district 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 district has reason to doubt the validity of the initial medical opinion. The health care provider may be selected by the district. The provider shall not be employed by the district on a regular basis. Should the first and second medical certifications differ, a third opinion may be required. The district 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 district.

Second and Third Opinions

1. For the purposes of FMLA, the district may designate a second health care provider, but that person cannot be utilized by the district on a regular basis except in rural areas where health care is extremely limited. If the opinions of the employee's and the district's designated health care provider(s) differ, the district may require a third opinion at the district's expense. The third health care provider must be designated or approved jointly by the employee and the district. 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 district may require the employee to obtain a second opinion from a health care provider designated by the district. 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 district office. Additional information may be obtained by contacting the ~~[superintendent]~~ ~~[personnel director]~~ HR Director.

Record Keeping/Posted Notice

The district 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 district will post notice of FMLA¹⁴ and OFLA¹⁵ 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 eligible for FMLA leave, is still eligible to take a full 12 workweeks of

¹⁴ Poster available at <https://www.dol.gov/agencies/whd/fmla/posters>.

¹⁵ Poster available at <https://www.oregon.gov/boli/employers/pages/required-worksite-postings.aspx>.

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

HR14/06/20-1/19/22| RS

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

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Agenda Item 7

C. Finance Memo

BOARD MEMORANDUM



To: The Honorable Chair and Members
Lebanon Community School District Board of Directors

From: William H. Lewis III, Business Director

Date: August 05, 2022

Meeting Date: August 11, 2020

Re: Financial Report

Financial Report

The business office is finalizing payments and grant claims for the 2021-22 school year and initiating payments and payrolls in the 2022-23 school year.

There is no additional information in the financial report this month. We will have our normal financial report next month.