

# Metro | *Policies and procedures*

**Subject** Crime Victims' Leave to Attend Criminal Proceedings  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Metro provides excused leave from work for crime victims to attend criminal proceedings as required by Oregon law.*

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## **Applicable to**

All employees.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

## **Definitions**

**Crime Victim:** An employee who has suffered financial, social, psychological or physical harm as the result of a "person felony," as defined in the rules of the Oregon Criminal Justice Commission (OAR 213-003-0001(14)), or who is an eligible immediate family member of a person who meets these criteria.

**Criminal Proceeding:** Any proceeding that constitutes a part of a criminal action or occurs in court in connection with a prospective, pending or completed criminal action, including juvenile proceedings or any other proceeding at which a crime victim has a right to be present arising from his or her status as a victim.

**Eligible Employee:** An employee who meets the above definition of crime victim, and who has worked an average of 25 hours per week or more for at least 180 days immediately preceding the date leave begins.

**Eligible Immediate Family Member:** A spouse, domestic partner, father, mother, sibling, child, stepchild or grandparent. Note that this definition follows applicable law and may differ from other Metro policies.

**Undue hardship:** A significant difficulty or expense, determined on a case-by-case basis.

## **Guidelines**

1. An eligible employee who is a crime victim or a crime victim's eligible immediate family member as defined above will be granted leave from employment to attend a criminal proceeding related to the crime, unless the employee's absence would result in an undue hardship to Metro's operations.

2. Leave taken under this policy must be paid from accrued paid leave time. Once paid leave accruals are exhausted, approved leave will be unpaid.
3. Leave taken under this policy will not deplete the employee's leave entitlement under the Family and Medical Leave Act (FMLA) or the Oregon Family Leave Act (OFLA). An employee may still be eligible for FMLA or OFLA for a serious health condition related to the crime, or for other qualifying purposes under those laws.
4. Crime victims who are victims of domestic violence, sexual assault, harassment or stalking may be entitled to additional protections. See Metro's Domestic Violence, Sexual Assault, Harassment and Stalking policy or contact the Human Resources Department for more information.

## Procedures

1. Eligible employees must give reasonable notice to their supervisor and/or the HR Benefits Manager of the intention to take leave. To verify the need for leave, the employee must provide the HR Benefits Manager with a copy of the notice of scheduled criminal proceedings received from a court, district attorney, or law enforcement agency.
  - a. Employees shall request leave by submitting a Leave Request Form and verification documents to Human Resources (HR) 30 days before the date leave is to begin. If the employee receives notice of a criminal proceeding that will occur fewer than 30 days from the date notice is received, the employee shall request leave and submit verification documents to HR as soon as practicable after receiving notice.
  - b. If the employee receives notice that a criminal proceeding will occur within 48 hours of the date notice is received, the initial request for leave may be verbal or written, and may be directed to the employee's supervisor, Department Director, or the HR Benefits Manager. The employee must submit a completed Leave Request Form and appropriate verification to HR immediately upon return to duty.
  - c. Employees are not required to disclose to their supervisors the nature of the underlying crime or criminal proceedings. The HR Department will inform the supervisor of the need for leave and the leave approval designation but will maintain the confidentiality of the underlying details and the documents provided for verification in accordance with applicable law. The HR Department, supervisor, and other managers may confer about staffing needs and any operational hardships related to the absence.
  - d. The HR Department will notify the employee whether the leave is approved.
2. The employee must promptly notify the HR Benefits Manager of the dates and hours of leave taken under this policy. The HR Department will code the leave appropriately in Kronos.
3. The maximum length of leave ordinarily will be the duration of the criminal proceeding. Metro may deny the leave request or limit leave to a shorter period only if the employee's absence would result in an undue hardship to Metro's operations.
  - a. Supervisors and Department Directors should notify the Human Resources Department immediately if they believe the employee's absence would create an undue hardship.
  - b. The HR Department, in consultation with the Department Director and Office of Metro Attorney, will make the decision whether to limit or deny leave based on undue hardship.
4. An employee on crime victims' leave must keep his or her supervisor informed of any changes to his or her anticipated return date and time. If the duration of leave is not known at the outset, the employee should follow regular call-in procedures.

5. The use of leave under this policy will not be held against the employee when evaluating the employee's attendance.
6. Metro will maintain the confidentiality of all records related to leave taken under this policy.

## **Responsibilities**

### Employee:

- Provide reasonable notice of the intention to take leave following the procedures outlined above.
- Provide a copy of the notice of scheduled criminal proceedings received from a court, district attorney, or law enforcement agency.
- Keep your supervisor informed of any changes to your anticipated return date and/or follow regular call-in procedures while on leave.
- Notify the HR Benefits Manager of dates and hours of leave taken under this policy.
- If you experience any adverse employment action or negative treatment as a result of taking leave under this policy, report it following the procedures outlined in Metro's Discrimination and Harassment Policy.

### Supervisor:

- Immediately notify the HR Benefits Manager of any requests for leave under this policy.
- Maintain the confidentiality of all records related to leave taken under this policy. Send any verification documents received from the employee to Human Resources without keeping a copy.

### Department Director:

- Immediately notify the HR Benefits Manager of any requests for leave under this policy.
- Maintain the confidentiality of all records related to leave taken under this policy. Send any verification documents received from the employee to HR without keeping a copy.

### Human Resources Department:

- Notify the supervisor of any requests for leave under this policy and provide guidance and information to the supervisor and Department Director as needed.
- Track leave requests and verification of the need for leave, and code the use of paid and unpaid leave following usual procedures.
- Maintain the confidentiality of all records related to leave taken under this policy.

## **References**

ORS 659A.190 – ORS 659A.198 (Crime Victims' Leave statute)

OAR 213-003-0001(14) (definition of "person felony")

Metro Domestic Violence, Sexual Assault, Harassment and Stalking Policy

Metro Family and Medical Leave Policy

Metro Discrimination and Harassment Policy