

Policies



Subject	Washington state supplemental policies
Section	Human Resources
Approved by	Marissa Madrigal, Chief Operating Officer
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Replaces	none

PURPOSE

Metro is committed to workplace policies and practices that comply with federal, state and local laws. For this reason, Metro has created this Washington Policy Supplement (“Washington Supplement”) for those employees working in the state of Washington. Many subjects are already covered by Metro’s standard Employee Policies (“Employee Policies”). If a policy is applicable in both Oregon and Washington, employees should refer to the standard Employee Policies.

This supplemental policy information is intended as a resource on specific provisions derived under Washington law that apply to Washington employees’ employment. It should be read together with Metro’s Employee Policies and, to the extent that the policies in the Washington Supplement are different from or more generous than those in the Employee Policies, the policies in the Washington Policy Supplement will apply.

The Washington Supplement is not intended to create a contract of continued employment or alter the at-will employment relationship.

APPLICABLE TO

This policy supplement applies only to employees working in the state of Washington.

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Meal and rest breaks

Metro provides meals breaks and rest periods in accordance with state law.

Meal Breaks

Nonexempt employees working more than five hours in a shift will be provided a meal break of at least 30 minutes. The meal break must be taken between the second and the fifth hour of work. An additional meal break will be provided for each additional five hours of work and will be given within five hours from the end of the first meal break. Nonexempt employees who work three or more hours longer than the normally scheduled shift will be provided at least one 30-minute meal break before or during that extra work time.

Uninterrupted meal breaks of at least 30 minutes, during which the employee is completely relieved from duty, are unpaid. Because meal breaks are unpaid, employees must record their start and stop times. An employee who is required to work through some or all of a 30-minute meal break or whose 30-minute meal break is interrupted should report it to Human Resources as soon as possible and within the same pay period. If an employee does not report a missed or interrupted meal break, Metro will assume the employee voluntarily waived the meal break.

Rest Breaks

Nonexempt employees must take a 10-minute paid rest break for every four hours worked and must not work more than three consecutive hours without a paid 10-minute rest break. A rest break taken in a 10-minute block must be scheduled as near as possible to the midpoint of the work period. An employee's paid rest breaks do not have to be scheduled in 10-minute blocks if the nature of the work allows the employee to take shorter, intermittent rest breaks totaling 10 minutes for every four hours worked. An employee may not waive a paid rest break.

Any employee who does not receive a rest break in accordance with this policy should report it to Human Resources immediately and within the same pay period. If an employee does not report a missed rest break, Metro will assume the employee took their rest breaks as required by this policy.

Washington Paid Family and Medical Leave

In accordance with the Washington Paid Family and Medical Leave Act (“WA PFMLA”), eligible employees may be entitled to a leave of absence with partial wage replacement benefits from the State of Washington Employment Security Department (“State of Washington”) for absences due to:

- Their own serious health condition;
- To care for a family member with a serious health condition;
- To bond with a new child; and/or
- To assist with obligations that arise when a family member is called into active military service.

Employee Eligibility

Employees are eligible for WA PFMLA leave and partial wage replacement benefits if they meet the eligibility requirements as determined by the State of Washington (*i.e.*, have worked 820 hours in “employment” (as defined by the WA PFMLA), for any employer in Washington State, during the qualifying period (*i.e.*, first four of the last five completed calendar quarters or, if eligibility is not established, the last four completed calendar quarters immediately preceding the application for leave).

Reasons for and Length of Leave

Beginning January 1, 2023, during a benefit year, eligible employees may be entitled to:

- Up to a maximum of 12 weeks of paid family leave to: (1) participate in providing care for a “family member” of the employee made necessary by the family member’s serious health condition; (2) bond with the employee’s child under the age of 18 during the first 12 months following the child’s birth, adoption or foster care placement of a child under the age of eighteen; or (3) attend to a “qualifying exigency,” as defined under the federal Family and Medical Leave Act (“FMLA”), arising from the “covered active duty” of an employee’s family member as a member of the military reserves, National Guard, or Armed Forces.
- Up to a maximum of 12 weeks of paid medical leave to attend to their own serious health condition. Medical leave may be extended up to an additional two weeks (*i.e.*, for a total maximum of 14 weeks of medical leave) if the employee experiences a pregnancy-related serious health condition that results in incapacity.

An eligible employee may receive up to a combined total of 16 weeks of medical and family leave, which may be extended to 18 weeks if the employee experiences a pregnancy-related serious health condition that results in an incapacity.

An employee is not entitled to WA PFMLA benefits for (a) absences caused by the employee's willful intent to bring about injury to or sickness of the employee or another; (b) absences resulting from an injury or sickness sustained in the employee's perpetration of an illegal act; (c) any family or medical leave beginning before the employee is eligible for such benefits; (d) a period during which

the employee is on suspension from employment; or (d) any period of time during which the employee works for remuneration or profit.

Definitions

- **“Benefit year”** means a period of 52 consecutive calendar weeks beginning on Sunday of the week of the employee’s timely and complete application to the State of Washington. Employees will only have one “Benefit Year” at a time.
- **“Child”** means a biological, adopted, or foster child, a stepchild, a child’s spouse, or a child to whom the employee stands in *loco parentis*, is a legal guardian, or is a de facto parent, regardless of age or dependency status.
- **“Covered Active Duty”** means (1) in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and (2) in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty (or notification of an impending call or order to active duty) in support of a contingency operation as defined by applicable law.
- **“Family Member”** means the employee’s spouse or state registered domestic partner, child, parent, grandparent, grandchild, or sibling.
- **“Grandchild”** means a child of the employee’s child.
- **“Grandparent”** means a parent of the employee’s parent.
- **“Parent”** means the biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or state registered domestic partner, or an individual who stood in *loco parentis* to an employee when the employee was a child.

Wage Replacement Benefits

Beginning January 1, 2023, eligible employees may receive wage replacement benefits from the state of Washington. Wage replacement benefits are determined and administered by the state of Washington, not Metro. The amount of wage replacement benefits is calculated based upon an employee’s average weekly wage in relation to the state average weekly wage and is capped at a maximum weekly benefit amount that is adjusted annually. When taking WA PFMLA for reasons other than family leave for the birth or placement of the employee’s child or a qualifying exigency, payment of wage replacement benefits is subject to a waiting period of seven consecutive calendar days. The waiting period begins on the Sunday of the first week an eligible employee starts taking paid family or medical leave. Employees may use available vacation, sick leave (if applicable), or other paid time off during the waiting period.

The minimum claim duration is eight consecutive hours of leave meaning the employee claims at least eight consecutive hours at some point during the week beginning on Sunday at 12:00 a.m. and ending at 11:59 p.m. the following Saturday.

In any week in which an employee is eligible to receive benefits under federal or state unemployment compensation, industrial insurance, or disability insurance laws, the employee is disqualified from receiving WA PFMLA wage replacement benefits.

Intermittent and Reduced Schedule Leave

Employees may take WA PFMLA leave intermittently, which means taking leave in blocks of time, or on a reduced schedule basis, by reducing the employee's normal weekly or daily work schedule.

Payroll Deductions

WA PFMLA benefits are funded by a Metro contribution and an employee contribution.

Requesting Leave

Employees must file an application for WA PFMLA benefits directly with the State of Washington.

Employees must also provide advance notice to Metro as follows:

- When the need for WA PFMLA leave is foreseeable based on an expected birth, placement of a child, or planned medical treatment for a serious health condition, the employee must provide written notice to Metro at least 30 days in advance.
- When 30 days' notice is not possible, such as because of a lack of knowledge of approximately when WA PFMLA leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide written notice to Metro as soon as practicable.
- When the need for WA PFMLA leave due to a qualifying military exigency is foreseeable, the employee must provide written notice to Metro as soon as is practicable, regardless of how far in advance such leave is foreseeable.
- When the need for leave is not foreseeable, the employee must provide written notice to Metro as soon as is practicable under the facts and circumstances of the particular situation. If the employee is unable to provide notice personally, written notice may be given by another responsible party, such as the employee's spouse or domestic partner, neighbor, or coworker.

"As soon as is practicable" means as soon as it is both possible and practical to provide notice, taking into account all of the facts and circumstances in the individual situation.

Written notice should specify the anticipated timing and duration of the leave. Employees must advise Metro as soon as practicable if the dates of a scheduled WA PFMLA leave change or are extended, or if the dates of leave were initially unknown.

Employees applying for WA PFMLA benefits must provide the state of Washington with supporting documentation or certification as required by the State.

The use of WA PFMLA does not reduce your allowed use of FMLA, so it is possible to use both types of leave. However, it is important to note that WA PFMLA and FMLA can usually run concurrently too, since many WA PFMLA events also qualify for FMLA. When using WA PFMLA concurrently with FMLA, employees must comply with the notice and certification requirements. For more information, please see the Family and Medical Leave policy.

Employees must make a reasonable effort to schedule treatment in a manner that does not unduly disrupt Metro's operations, subject to the approval of the employee's or family member's health care provider.

Whenever an employee who is qualified for WA PFMLA benefits is absent from work for family leave or medical leave for a period of more than seven consecutive days, Metro will provide the employee with a written statement of the employee's rights. The notice will be provided to the employee within five business days after the employee's seventh consecutive day of absence due to family or medical leave, or within five business days after Metro has received notice that the employee's absence is for such reasons, whichever is later.

Health Benefits

If employees want their benefits coverage to continue during the WA PFMLA leave, they must also continue to make the same premium payments that they are normally required to make for themselves or their dependents. Failure to make timely payments may result in termination of health insurance coverage.

If an employee takes WA PFMLA and there is at least one day of concurrent use with FMLA, Metro will continue making contributions to employee group health benefits during the WA PFMLA leave on the same terms as if the employee had continued to actively work. Metro will maintain health benefits from the date WA PFMLA began until the earlier of when WA PFMLA ends or the employee returns from leave to any employment.

Effect on Other Rights and Paid Leave

When both the FMLA and the WA PFMLA apply, the leave provided by each will count against the employee's entitlement under both laws, and leave taken under the FMLA will run concurrently with leave taken under the WA PFMLA. Employees covered under WA PFMLA will not be covered by Oregon Family Medical Leave (OFLA).

WA PFMLA is in addition to any leave for sickness or temporary disability because of pregnancy or childbirth. When an employee takes leave for pregnancy disability under both the WA PFMLA and Pregnancy Disability Leave, the two leaves will run concurrently, but an employee's WA PFMLA entitlement or eligibility does not limit the amount of Pregnancy Disability Leave to which the employee may be entitled. For more information, please see Metro's Pregnancy & Nursing Individuals Accommodations policy.

Metro will not require employees to take paid vacation leave, paid sick leave, or other forms of paid time off provided by Metro before, in place of, or concurrently with WA PFMLA. An employee may choose whether or not to take paid leave provided under a collective bargaining agreement or Metro policy, however, such paid leave will be a supplemental benefit to WA PFMLA and an employee may not take more leave than will be required to provide the employee with a total of 100% of their pay for the absence (except that an employee may use their paid sick leave as provided for by applicable law).

Return from Leave

Employees who return to work as scheduled at the end of WA PFMLA will be reinstated to the same position they held at the time the leave commenced, or to an equivalent position with comparable benefits, pay, and other terms and conditions of employment, if the employee meets the following requirements:

- The employee is in “employment” in Washington State (as defined by the WA PFMLA).
- The employee has been employed by Metro for twelve months or more.
- The employee has worked for Metro for at least 1,250 hours during the twelve months immediately preceding the date on which leave will commence.

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

Metro may deny restoration to any salaried employee who is among the highest paid ten percent of the employees employed by Metro within 75 miles of the facility at which the employee is employed if:

- Denial is necessary to prevent substantial and grievous economic injury to the operations of Metro;
- Metro notifies the employee of its intent to deny restoration on such basis at the time Metro determines that the injury would occur; and
- The leave has commenced and the employee elects not to return to employment after receiving the notice.

Protected Rights

Metro takes its WA PFMLA obligations very seriously and will not interfere with, restrain or deny the exercise of any right protected under the WA PFMLA. Metro will not discriminate or retaliate against any employee because that person uses or attempts to use WA PFMLA benefits. Employees who believe their WA PFMLA rights have been violated in any way should immediately report the matter to hr.reporting@oregonmetro.gov or call 503-797-1570.

Employees may also contact benefits.help@oregonmetro.gov or leave a message at 503-797-1570 with questions regarding WA PFMLA benefits.

Family Military Leave

Employees who work 20 or more hours per week and have a spouse (including same-sex spouses and state-registered domestic partners) who is a member of the state military or the armed forces of the United States, National Guard or reserves may take family military leave if, during a period of military conflict, the employee's spouse is notified of an impending call or order to active duty or is deployed.

Eligible employees will be allowed up to 15 days of leave per deployment, to be taken after the employee's spouse has been notified of an impending call or order to active duty and before deployment or when the spouse is on leave from deployment. Employees may not use leave after the deployment has ended. Employees are not required to use leave on a day when they are not scheduled to work. In addition, employees may split their 15-day leave between different periods of time (pre-deployment or while the servicemember is on leave during deployment). The total number of days of leave however, cannot exceed 15 days per deployment.

Employees must give Metro advance notice of the intent to take leave within five business days of receiving official notice of the impending call or order to active duty, or of the spouse's leave from deployment. Employees may use any available accrued paid leave or take the leave as unpaid time off. Employees will be allowed to continue available group health benefits at their own expense.

Upon return from leave, employees will be restored to their prior position.

Employees should contact Human Resources if they have any questions about this policy.

Military Leave

State Uniformed Services

In addition to the military leave rights set forth in Metro's Employee Policies, Washington protects the employment rights of individuals with military service obligations under state authority. Employees who are in the reserve and National Guard forces, may take a military leave of absence for any of the following types of service:

- Active duty;
- Active and inactive duty for training;
- Initial active duty for training;
- Full-time National Guard duty; and
- Examination to determine fitness to perform any of these duties.

Employees must notify their supervisor of membership in the uniformed services within a reasonable time upon accepting employment or becoming a member of the uniformed services.

Time off under this policy is without pay. Employees will be considered as having been on furlough or a leave of absence during the leave and will be entitled to participate in insurance or other benefits offered by Metro in accordance with the established rules and practices regarding employee leaves of absence in effect at the time the employee is ordered to service.

Metro will reemploy employees returning from state uniformed service leave unless reemployment is impossible or unreasonable because of changed circumstances, reemployment presents an undue hardship for Metro or the position the individual held before leaving to serve was temporary. Unless one of these exceptions applies, Metro will reinstate employees, provided that the:

- Leave does not exceed four years, unless a period of additional service is imposed by law;
- Employee provides proper notice of the intent to return to employment with Metro; and
- Employee provides a receipt of an honorable discharge, report of separation, certificate of satisfactory service or other proof of having satisfactorily completed service.

Employees must notify Metro of their intent to return to employment following military service in accordance with the following timing requirements:

Service	Deadline for applying for reemployment
30 days or less	Must report to Metro and return to work on the next regularly scheduled work day after completion of service and expiration of an eight-hour period.
31-180 days	Must apply for reemployment and return to work within 14 days after completion of service.
181 days or more	Must apply for reemployment and return to work within 90 days after completion of service.
If hospitalized for illness or injury during service	Must apply for reemployment and return to work after recovery from the illness or injury, so long as the period of recovery does not exceed two years.

Metro may require documentation demonstrating that the employee has met advance notice requirements, has not exceeded the four-year leave limitation and has not been dishonorably discharged. However, Metro will not deny reemployment to an employee who fails to meet a documentation requirement if the failure occurs because such documentation does not exist or is not readily available at the time of the request. However, if documentation becomes available subsequent to reemployment that establishes that the requirements outlined above were not met, Metro may terminate employment and any benefits provided.

Unless Metro’s circumstances have so changed as to make it impossible or unreasonable to do so, employees returning from service will be reinstated to their prior position or a position of like seniority, status and pay, as long as they are still qualified to perform the duties of that position. If an employee is unable to perform the duties of their prior position due to a disability sustained during military service, but is qualified to perform the duties of another position, Metro will reinstate the employee to the other position with like seniority, status and pay (or the closest approximation) consistent with the employee’s circumstances.

An employee who is returning from military leave with the United States armed forces will not be terminated without cause for one year following the date of reemployment.

Pregnancy Disability Leave

Employees will be given a leave of absence for periods of sickness or temporary disability due to pregnancy or childbirth. Leave will be allowed for the entire period of pregnancy or childbirth-related disability and will be provided under the same terms and conditions as leave for other temporary disabilities.

Metro may require that a licensed health care provider certify the actual period of disability.

Pregnancy leave is for the period of disability *only*, and not for childrearing after the disability ends. Leave provided under this policy will be in addition to leave available, if applicable, under the Washington Paid Family and Medical Leave Act.

Upon return, an employee who takes leave in accordance with this policy will be reinstated to the same or a similar position with equal pay, unless Metro is unable to reinstate the employee for reasons related to business necessity.

Family Care Leave

In accordance with Washington's Family Care Act (WFCA), employees may use their choice of earned sick leave or other earned paid time off (e.g., vacation, personal days) to care for a child of the employee with a health condition that requires treatment or supervision or to care for a spouse, state-registered domestic partner, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency condition.

When using paid time off for these purposes, the employee must comply with those terms of the applicable leave policy that do not conflict with the WFCA.

For purposes of this policy, the following definitions apply:

- “Child”—a biological, adopted or foster child; a stepchild; a legal ward; or a child of a person standing in *loco parentis* who is: (1) under 18 years of age; or (2) 18 years of age or older and incapable of self-care because of a mental or physical disability;
- “Parent”—a biological parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a child;
- A “health condition that requires treatment or supervision” (for which an employee may use paid leave to care for their child)—any medical condition requiring treatment or medication that the child cannot self-administer, any medical or mental health condition that would endanger the child’s safety or recovery without the presence of a parent or guardian, and any condition warranting treatment or preventive health care that a parent must be present to authorize and when sick leave may otherwise be used for the employee’s preventive health care.
- A “serious health condition” (for which an employee may use paid leave to care for an adult family member)—an illness, injury, impairment or physical or mental condition that involves: (1) any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, and any period of incapacity or subsequent treatment or recovery in connection with such inpatient care; or

(2) continuing treatment by or under the supervision of a health care provider or a provider of health care services and that includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities).

- An “emergency condition” (for which an employee may use paid leave to care for an adult family member)—a health condition that is a sudden, generally unexpected occurrence or set of circumstances related to one’s health, which demands immediate action and is typically very short term in nature.

Metro may require certification or verification from a health care provider.

Metro will not terminate, demote, discipline or otherwise retaliate or discriminate against an employee for requesting or taking time off in accordance with this policy.

For further information or to request leave under this policy, contact a Human Resources representative.

Civil Air Patrol Leave

Employees who are members of the Washington wing of the Civil Air Patrol may take time off, without pay, to provide services as part of an emergency service operation. For purposes of this policy, an “emergency service operation” refers to:

- A search and rescue mission designated by the Air Force Rescue Coordination Center;
- Disaster relief, when requested by the Federal Emergency Management Agency (FEMA) or the Department of Homeland Security (DHS);
- Humanitarian services, when requested by the FEMA or DHS;
- United States Air Force support designated by the first air force; and
- Counterdrug missions.

Employees may be asked to provide verification that leave was taken for a purpose allowed under this policy.

Emergency Responder Leave

Employees who are volunteer firefighters or reserve officers will be allowed time off to respond to a fire alarm or an emergency call that occurred prior to the time the employee is scheduled to report to work. For purposes of this policy, a “volunteer firefighter” is one who is not paid, is not already at work when called to serve as a volunteer and has been ordered to remain at their position by the commanding authority at the scene of the fire.

Employees may be asked to provide verification that leave was taken for a purpose allowed under this policy.

Time off will be without pay except that exempt employees will receive pay when required by applicable law.

Voting Leave

On the day of a primary or election, general or special, Metro will arrange an employee’s work hours so that the employee will have a reasonable time up to two hours available for voting during the hours the polls are open.

If an employee's work schedule does not allow for two free hours during the time voting polls are open, not including meal or rest breaks, Metro will permit the employee to take a reasonable time up to two hours from the employee's work schedule for voting purposes.