What is FMLA?

A. A three letter acronym
B. A farm subsidy program
C. A Swedish word that means gratitude
D. A federal law giving rights to certain employees for certain medical conditions
The FMLA allows eligible employees of a covered employer to take job protected, unpaid leave, or to substitute appropriate paid leave, for up to a total of 12 work weeks in any 12 month period for serious health or certain military-related conditions.
What Is OFLA?

A. The same thing as FMLA
B. The same thing as FMLA but for Ohio
C. The same thing as FMLA but for Ornery people
D. Similar to FMLA in that it provides employees with protected time off from work but with some differences
What Is OMFLA?

- A. Jan’s typo when she tried to spell OFLA
- B. The sound a tuba makes
- C. A body part located near your uvula
- D. The Oregon Military Family Leave Act, passed in 2009, to allow certain employees to spend time with certain family members who have been called to military duty. OMFLA leave is counted as leave taken under OFLA
Which Employers Are Covered?

**FMLA**
- Those with 50 or more employees

**OFLA/OMFLA**
- Those with 25 or more employees
Which Employees Are Eligible?

**FMLA**
- Worked for at least 12 months and
- at least 1250 hours during the previous 12 months

**OFLA/OMFLA**
- Worked for at least 180 calendar days immediately preceding the date leave begins and
- Worked an average of 25 hours per week during the 180 day period,
- Except there is no hourly threshold if the leave is to care for a new born child or newly placed adoptive or foster child ("Parental Leave")
Which Employees Are Eligible? (continued)

FMLA

For OMFLA only, the employee must work for the employer for an average of at least 20 hours per week and there is no 180 day requirement.
What Are Qualifying Circumstances?

**FMLA**
- Employee’s own serious health condition, including pregnancy-related conditions
- Serious health condition of employee’s family

**OFLA**
- Same
What is a “Serious Health Condition”?

- Pregnancy or prenatal care
- Chronic, long term, or permanent medical conditions
- Any condition that causes at least 3 consecutive days of absence combined with 2 or more treatments by a health care provider, where the first health care visit occurs within 7 days of the onset of the incapacity
- Any condition that causes a period of incapacity of any length combined with in-patient care
What Are Qualifying Circumstances? (continued)

**FMLA**
- Newborn, newly adopted or newly placed foster child (“Parental Leave”)

**OFLA**
- Same
- Non-serious health condition of a child requiring home care (“Sick Child Leave”)

What Are Qualifying Circumstances? (continued)

**FMLA**

- Any “qualifying exigency” arising out of the fact that the employee’s family member is on active duty in the uniformed services or has been notified of an impending call or order to active duty status, in support of a contingency operation. ("Qualifying Exigency Leave")

**OFLA**

- Leave for spouse or same-sex domestic partner of a service member called to active duty or notified of impending call to active duty, or who is on leave from active duty during a period of military conflict.
What Are Qualifying Circumstances? (continued)

- An eligible employee who is the family member or next of kin of a military service member who is recovering from a serious illness or injury sustained in the line of duty on active duty in the uniformed services, is entitled to FMLA leave to care for the aforementioned military service member (“Care of Military Service Member Leave”)

FMLA

OFLA
What Benefits Do Eligible Employees Receive?

**FMLA**
- Up to 12 weeks of unpaid leave in a 12 month period
- *Exception:* “Care of Military Service Member Leave” – employee is entitled up to 26 weeks of leave in a single 12 month period

**OFLA**
- Same
- *Exception #1:* A female who takes leave for a pregnancy-related disability (including prenatal care) may take up to an additional 12 weeks for any OFLA-qualifying purpose.
Exception #2: Male or female employees who use a full 12 weeks of parental leave may use up to 12 additional weeks in the same leave year for sick child leave.
Concurrent FMLA/OFLA

- OFLA requires that family leave be taken concurrently with any leave taken under FMLA.
- The employee may not choose to take FMLA and OFLA consecutively (24 weeks of leave) if he or she is concurrently OFLA and FMLA eligible.
A female employee uses 12 weeks for pregnancy disability leave and
12 full weeks for parental leave after the birth of a newborn.
She still has up to 12 weeks in the same leave year for OFLA “sick child” occurrences.
What Benefits Do Eligible Employees Receive?

FMLA
- Leave given to both men and women
- Keep health coverage under same conditions as if employee was not on leave

OFLA
- Leave given to both men and women
What About Intermittent Family Leave?

YEAH, WHAT ABOUT IT?!!
What About Intermittent Family Leave?

Parental Leave

FMLA

- Employee may take parental leave in one continuous block, unless the employer chooses to permit intermittent leave or a reduced work schedule

OFLA/OMFLA

- Same as FMLA
What About Intermittent Family Leave? (continued)

Serious Health Condition of Employee or Family Member

- Intermittent leave or reduced work schedules for serious health conditions must be permitted when medically necessary

- Same as FMLA
What About Intermittent Family Leave? (continued)

Pregnancy Disability or Prenatal Care

**FMLA**
- Intermittent leave or reduced work schedules for serious health conditions must be permitted as necessary for pregnancy disability or prenatal care.

**OFLA/OMFLA**
- Same as FMLA
What About Intermittent Family Leave?

(continued)

Sick Child Leave (Non-Serious Health Condition)

- N/A

- Sick child leave requires time as needed rather than a continuous block of time.

FMLA | OFLA/OMFLA
What About Intermittent Family Leave? (continued)

Qualifying Exigency

<table>
<thead>
<tr>
<th>FMLA</th>
<th>OFLA/OMFLA</th>
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<tbody>
<tr>
<td><strong>Yes</strong></td>
<td><strong>To the extent the need for OMFLA leave is also covered by the “qualifying exigencies” entitlement of FMLA.</strong></td>
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What About Intermittent Family Leave? (continued)

Service Member Family Leave

- FMLA
- OFLA/OMFLA

- Yes
- OMFLA - Yes
Employee Notice Requirements

- **Foreseeable Leave**
  - Employee must give at least 30 days notice
  - If 30 days is not possible, then notice as soon as practicable (Usually 1-2 business days)
Employee Notice Requirements (continued)

- Unforeseeable Leave
  - Notice as soon as practicable (OFLA says within 24 hours)
Employee Notice Requirements (continued)

- **Content**
  - Enough information so employer can determine if FMLA/OFLA qualifying leave
  - Time and duration
Employee Notice Requirements (continued)

- Request
  - In person or on the phone
  - By a spokesperson
  - Only need to request for FMLA/OFLA reason, no need to expressly assert rights under FMLA/OFLA
Return to Work Rights

- Fitness-for-duty certification
- Return to same position
- Perform the essential functions of the job
Return to Work Wrongs
The Bermuda Triangle

FMLA and OFLA/OMFLA work in conjunction with other employment laws such as ADA and Workers Compensation.
Confused?

Don’t Go There Alone!!!

Contact your friendly Human Resources representative for help