ADMINISTRATIVE
PROCEDURES

TITLE: Protected Leave		PROCEDURE #: 305-A
DEPT: Business Services		
EFFECTIVE DATE: 11/05	REVIEWED:	REVISED: 1/14

OBJECTIVE: To establish procedures for administering the Protected Leave Policy.

REFERENCE: Policy # 305

POLICY STATEMENT: It is the policy of Marion County to comply with all federal and state laws concerning leaves of absence. Marion County provides leave for family, medical, military, and domestic violence in conformance with the federal Family Medical Leave Act (FMLA), Oregon Family Leave Act (OFLA), Oregon Military Family Leave Act (OMFLA), and Oregon Victims of Certain Crimes Leave Act (OVCCLA).

Marion County designates leaves based on qualifying conditions, regardless of whether the employee has leave accruals to cover the absence or whether the employee requests protected leave.

APPLICABILITY: All county employees

PROCEDURES: These procedures cover most situations. For assistance regarding specific situations or to access leave related forms, contact Marion County Business Services, Human Resources Program.

1. Initiating Protected Leave:
   Any foreseen or unforeseen absences may signify a situation that qualifies an employee under the Protected Leave policy. Section 4 of the Protected Leave policy outlines qualifying conditions for protected leave status. Initiation of protected leave status eligibility may be requested by:
   1.1. Business Services Department
   1.2. Employee involved in the absence(s)
   1.3. Department representative or supervisor where employee is assigned

   A determination of eligibility for protected leave status from the Business Services Department is required.

2. Determining Protected Leave Eligibility:
   2.1. To determine eligibility, an employee must provide documentation regarding the circumstances of the absence or absences.
   2.2. The department representative, supervisor, or Business Services Department will provide a packet to the employee within 5 working days of request for eligibility determination or circumstance.
   2.3. The forms for documentation will be included in a packet of materials prepared for the employee based on the employee's circumstances for which eligibility is being determined.

3. Protected Leave Employee Packet:
   Components of an employee packet for determining protected leave eligibility are available on the county Intranet. Examples of components for the packets are included as Attachment A. These components include but are not limited to the following:
   - Cover letter explaining the employee's rights and responsibilities
   - Notice of rights and responsibilities
   - Marion County's Protected Leave Policy
   - Family Medical Leave Request form
   - Certification of Health Care Provider (or Certification of Exigency) form
   - Sick Leave Retention Request form
   - Medical Release to Return to Work form
   - HIPAA Release form

4. Submission of Documentation:
   4.1. Once the protected leave status process is initiated, the employee is required to complete and return documentation to the department representative on forms included the packet.
   4.2. The completed protected leave forms must be submitted within 15 days of the date of the letter included in the packet.
   4.3. In the event of a personal medical injury in which the employee would be unable to complete the necessary forms, the employee may designate someone else to do so.
   4.4. Upon receiving and reviewing the required and completed documents, the department representative or supervisor will complete the employer packet and forward all the documents to the benefits section of the Business Services Department for review.

5. Protected Leave Status Designation:
   5.1. The designation of leave will be determined by the Business Services Department within five working days after receipt of completed documentation from a department.
   5.2. The department representative or supervisor will notify the employee of the designation of leave.
   5.3. If approval is granted, the employee will work with the department representative or supervisor to track protected leave hours and provide updated documentation as appropriate.

ATTACHMENT A

The information below is general. For complete information related to specific situations, contact your department representative, your supervisor or benefits.

Serious Health Condition - Employee (can be intermittent or reduced schedule)	**Serious Health Condition - Spouse, Parent, Child Under 18** (can be intermittent or reduced schedule)
1. FMLA notification 2. Certification of Health Care Provider 3. Employer gives employee Designation of Leave, designating both FMLA & OFLA, and EJF 4. Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department – Benefits section	1. FMLA notification 2. Certification of Health Care Provider 3. Employer gives employee Designation of Leave, designating both FMLA & OFLA, within five work days. 4. Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department – Benefits section.

Serious Health Condition - Parent-in-Law, Same-Sex Domestic Partner, Child 18 & Over, Grandparent, Grandchild (can be intermittent or reduced schedule)	**Pregnancy Disability** (can be intermittent or reduced schedule) (can be pre- and/or post-birth)
1. FMLA notification 2. Certification of Health Care Provider 3. Employer gives employee Designation of Leave, designating OFLA only. 4. Employer sends Medical Certification and Designation of Leave forms to the Business Services Department – Benefits section.	1. FMLA notification 2. Certification of Health Care Provider 3, Employer gives employee Designation of Leave, designating both FMLA & OFLA, and EJF within 5 work days. 4 Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department - Benefits section. Note: A female, who takes leave for a pregnancy-related disability, including routine pre-natal care, may take up to an additional 12 weeks for any other qualifying purpose. Additional leave may be OFLA only, depending on how many weeks used of pregnancy disability. Leave switches from pregnancy disability to parental leave upon medical release from the health care provider.

ATTACHMENT A (continued)

Parental Leave - Birth, Adoption or Placement of Foster Child (cannot be intermittent or reduced schedule)	**Sick Child** (non-serious health condition) (can be intermittent or reduced schedule)
1. FMLA notification 2. Certification of Health Care Provider 3. Employer gives employee Designation of Leave, designating both FMLA & OFLA unless employee has used all of FMLA due to pregnancy disability, within 5 work days. 4. Employer sends Request, Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department - Benefits section. Note: Males or females who use a full 12 weeks of parental leave may use up to 12 additional weeks in the same year for sick child leave. Under certain circumstances, a female could potentially qualify for 36 weeks of leave during one year: 12 weeks OFLA/FMLA pregnancy disability, 12 weeks OFLA/FMLA (or OFLA only if FMLA 12 weeks used) parental leave, and 12 weeks OFLA sick child leave.	1. Employee takes leave, staying home with a sick child. 2. Employer inquires regarding illness/injury. 3. If illness/injury sounds serious, employer follows instructions for Serious Health Condition - Spouse, Parent, Child. 4. If illness/injury sounds non-serious, employer gives or sends employee the Protected Leave packet and Designation of Leave form, designating OFLA only. (Note: Medical certification can only be sought after the third occurrence.)

ATTACHMENT A (continued)

Serious Injury or Illness Incurred in the Line of Duty – Spouse, Parent, Child or Next of Kin – Current Military or Veteran* (up to 26 weeks) (can be intermittent or reduced schedule)	**Exigency** – Spouse, Parent or Child** (can be intermittent or reduced schedule)
1. Employee returns Medical Certification forms or "invitational travel order/authorization" 2. Employer gives employee Designation of Leave, designating FMLA only. 3. Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department – Benefits section. Note: There is a separate "FMLA year" for military caregiver purposes, beginning the first date of caregiver leave and ending 12 months later.	1. Employee returns active duty orders and Certification form 2. Employer gives employee Designation of Leave, designating FMLA only, 3. If the leave is related to a spouse being called to active duty, the first 14 days are designated as both FMLA and OFLA. 4. Employer sends Eligibility Notice form, active duty orders, and Certification and Designation of Leave forms to the Business Services Department – Benefits section.

Victims of Certain Crimes Leave Act (OVCCLA): Domestic Violence Related	Victims of Certain Crimes Leave Act (OVCCLA): Leave to Attend Criminal Proceedings (can be intermittent or reduced schedule)
1. Employee may be required to certify that the leave is to be taken for an authorized purpose. 2. Employer gives employee Designation of Leave form, designating OFLA only 3. Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department – Benefits section.	1. Employee may be required to provide copies of the notice of the scheduled proceedings. 2. Employer gives employee Designation of Leave form, designating OFLA only 3. Employer sends Eligibility Notice, Medical Certification and Designation of Leave forms to the Business Services Department – Benefits Section.