

OFFICE OF THE SECRETARY OF STATE

LAVONNE GRIFFIN-VALADE
SECRETARY OF STATE

CHERYL MYERS
DEPUTY SECRETARY OF STATE
AND TRIBAL LIAISON



ARCHIVES DIVISION

STEPHANIE CLARK
DIRECTOR

800 SUMMER STREET NE
SALEM, OR 97310
503-373-0701

TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

BLI 14-2024

CHAPTER 839

BUREAU OF LABOR AND INDUSTRIES

FILED

05/08/2024 9:49 AM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: Adopts temporary rule to implement chapter 20, Oregon Laws 2024.

EFFECTIVE DATE: 05/08/2024 THROUGH 07/01/2024

AGENCY APPROVED DATE: 05/07/2024

CONTACT: Josh Nasbe

971-269-4431

josh.d.nasbe@boli.oregon.gov

1800 SW 1st Ave, Suite 500

Portland, OR 97201

Filed By:

Josh Nasbe

Rules Coordinator

NEED FOR THE RULE(S):

This rule is necessary to address the July 1, 2024 transition of certain, statutorily described employee leave from the Oregon Family Leave Act to Paid Leave Oregon.

JUSTIFICATION OF TEMPORARY FILING:

This temporary rule is necessary to provide clarity to Oregon workers and Oregon businesses regarding the implementation of chapter 20, Oregon Laws 2024, which became effective on March 20, 2024. Beginning July 1, 2024, certain leave that was previously protected by the Oregon Family Leave Act will instead be protected by Paid Leave Oregon. In the absence of these rules, eligible employees and covered employers would lack clarity regarding their respective rights and responsibilities in advance of the July 1, 2024 transition. These temporary rules will provide clarity to guide employers and employees through this transition, and will do so sufficiently in advance of July 1, 2024 to allow employees and employers to prepare for the forthcoming change in statutory law.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Chapter 20, Oregon Laws 2024 (Enrolled Senate Bill 1515 (2024)) is available here:

<https://olis.oregonlegislature.gov/liz/2024R1/Measures/Overview/SB1515>.

ADOPT: 839-009-0201

RULE SUMMARY: Adopts temporary rule to implement chapter 20, Oregon Laws 2024.

CHANGES TO RULE:

839-009-0201

OFLA: Leave Previously Protected by OFLA; Paid Leave Oregon Application Period

(1) As used in this rule, "leave previously protected by OFLA" means leave:

(a) To which an eligible employee would be entitled under ORS 659A.150 to 659A.186 on June 30, 2024; and

(b) To which an eligible employee would not be entitled under ORS 659A.150 to 659A.186, on July 1, 2024.

(2) A covered employer may rescind a designation or approval of leave previously protected by OFLA that is

scheduled to occur on or after July 1, 2024.

(3) A covered employer who has designated or approved leave previously protected by OFLA that is scheduled to occur on or after July 1, 2024:

(a) Must, as soon as practicable but no later than June 1, 2024, notify the employee in writing, in the language the employer typically uses to communicate with the employee, that the leave is not protected by OFLA on and after July 1, 2024; and

(b) May not retaliate or in any way discriminate against the employee with respect to hire or tenure or any other term or condition of employment because the employee has inquired about the provisions of OFLA, submitted a request for OFLA leave, or invoked any provision of OFLA.

(4) A covered employer must provide written information to an employee that informs the employee of the ability to apply for benefits under ORS chapter 657B, including contact information for Paid Leave Oregon or the administrator of the employer's equivalent plan:

(a) Concurrently if the employer rescinds the employee's previous OFLA designation or approval, as described in section (2) of this rule; and

(b) As soon as practicable but within 14 calendar days of the employee providing the employer with information that, before July 1, 2024, would have been sufficient for the employer to provisionally designate the leave as leave previously protected by OFLA.

(5) A covered employer may comply with section (4) of this rule by providing the employee with the notice made available by the Director of the Employment Department described in ORS 657B.440, in the language the employer typically uses to communicate with the employee.

(6) This rule does not relieve an employer from the obligation to comply with other laws, including the Family and Medical Leave Act, the Americans with Disabilities Act, ORS 659A.103 to 659A.146 and 659A.147 and ORS 653.601 to 653.661, when the employer is notified of the employee's need for leave that was previously protected by OFLA.

(7) The provisions of ORS 657B.060 and 657B.070 apply during periods of time that include but are not limited to the application period described in OAR 471-070-1100.

Statutory/Other Authority: ORS 651.060, ORS 659A.805, Chapter 20, Oregon Laws 2024

Statutes/Other Implemented: Chapter 20, Oregon Laws 2024, ORS 659A.150 to 659A.186