

**Breaking Up is Hard To Do and Who Will Care For the Baby?**  
**by**  
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**My company, which provides in-home care, is large enough that it has to follow the requirements of the Oregon Family Leave Act (OFLA) and Federal Family and Medical Act (FMLA).**

**Maggie is a full-time employee in my company. She has been working for me for more than a year. Maggie went to the Human Resources Department saying that her daughter, Tina, decided to end her relationship with Russell after giving birth to their first child, Tyler, who was born in December 2008, because Russell wanted to move to Alaska to find himself. Tina decided to move back home to live with Maggie. Maggie said that she would provide support for Tina and Tyler financially and day-to-day care for Tyler. Maggie asked my Human Resources Manager if she could take 12 weeks off to help Tina move and make some household arrangements for the new addition. My question is: Is Maggie's time-off protected by the FMLA and OFLA?**

Under OFLA, an eligible employee may take up to 12 weeks of "parental leave" to care for the employee's newborn. "Parental leave" must be completed within 12 months of the birth of the child. Under FMLA, an eligible employee may take up to 12 weeks of bonding time for the birth of his or her child. An employee's entitlement to FMLA leave for a birth expires at the end of the 12-month period beginning on the date of the birth.

Maggie is eligible for OFLA and FMLA based on her length of service with your company and the number of hours worked. In Maggie's case, she is not Tyler's biological parent, but an in loco parentis relationship exists when Maggie becomes responsible for day-to-day care and financial support of Tyler. A legal or biological relationship is not necessary. The birth took place only four months ago. Therefore, Maggie is entitled to protected OFLA and FMLA leave. When she is on leave she may use her time to help Tina move and make other household arrangements welcoming the new addition.

**Sandra is a part-time employee working 20 hours a week. Sandra has been working for my company for about eight months and is a very caring person. Sandra and her husband, William, take in foster children. Sandra came to the Human Resources Department saying that the State recently informed her that a teenage child had been removed from her biological parents due to their drug addictions and would be placed in Sandra's home. Sandra asked my Human Resources Manager if she could take two weeks off to help the foster child adjust to a new**

**family environment and enroll her in the neighborhood high school. My question is: Is Sarah's time-off protected by the FMLA and OFLA?**

Sandra is not eligible for FMLA yet because she has not been employed by your company for 12 months.

Under OFLA, an eligible employee may take up to 12 weeks of "parental leave" to care for a newly placed foster child under 18 years of age (or 18 years of age or older who is incapable of self care because of a physical or mental impairment.)

Sandra is eligible for OFLA leave based on her length of service with the company. To become eligible, OFLA generally requires an employee to be employed by the employer an average of at least 25 hours per week during the 180 calendar days immediately preceding the date OFLA leave begins. One of the exceptions is that for the purpose of taking parental leave, an employee need only be employed for at least 180 calendar days immediately preceding the date OFLA leave begins. In this case Sandra may take two weeks to bond with the newly placed teenage foster child. Enrolling a child in school is considered to be part of the procedures to effectuate the legal process required for placement of a foster child.

If you would like to learn more about the Oregon Family Leave Act (OFLA), Federal Family and Medical Leave Act (FMLA) and Military Family Leave, Technical Assistance for Employers will be conducting seminars on Leave Laws in various cities: April 7 in Ontario and May 12 in Portland. Please go to the following website <http://egov.oregon.gov/BOLI/> for registration information.