

Find answers to frequently asked questions on the [Paid Leave Oregon website](#).

*Questions taken from Budget Engagement Sessions, Community Conversations, and emails from the public.*

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### General Questions

**Question:** What is Paid Leave Oregon?

**Answer:** Paid Leave Oregon is a new program that allows employees in Oregon to take paid time off for some of life's most important moments.

**Question:** When can employees take paid leave?

**Answer:** Employees can take time off for three different kinds of life events:

#### **Family leave:**

- To care for a family member with a serious illness or injury
- Birth of a child
- Bonding with a child
  - In the first year after birth
  - After adoption
  - When they're placed in your home through foster care

**Medical leave:** To care for yourself when you have a serious health condition

**Safe leave:** For survivors of sexual assault, domestic violence, harassment, or stalking.

**Question:** Who is eligible for Paid Leave Oregon?

**Answer:** Most employees in Oregon are eligible for Paid Leave Oregon.

- If you're an employee who made at least \$1,000 the year before applying for paid leave, you may be eligible.
- Whether you work full-time, part-time, or for more than one employer, it counts.
- If you are self-employed or an independent contractor, you are not automatically covered, but can choose coverage.
- Employees of tribal governments are also not automatically covered. Tribal governments that want to provide Paid Leave benefits to their employees can choose coverage for some or all their businesses.
- Federal government employees are not eligible.

**Question:** Which employers are required to participate in Paid Leave Oregon?

**Answer:**

- Employers with 25 or more employees are required to participate and pay into the program.
- Small employers with less than 25 employees are not required to pay contributions, but must still collect and submit employee contributions and provide job protections.
- Self-employed people can choose coverage. If they choose coverage, they will be responsible for paying contributions.
- Tribal governments can choose if they want to provide Paid Leave benefits to their employees for some or all of their businesses. If they choose to, they will be responsible for paying contributions.

**Question:** How is the program funded?

**Answer:** Paid Leave is a program we all pay into. Here's how it works for employees:

- Employees pay 60% of the contribution rate. The Oregon Employment Department decides the amount before the beginning of each year, and will not be more than 1% of the employee's gross wages.
- For example, if an employee's paycheck totals \$1,000 dollars, they would pay \$6 as their portion of the contribution for that paycheck.
- The contribution rate for 2023 is 1%.

Here's how it works for employers:

- Employers with 25 or more employees pay 40% of the contribution rate.
- For example, if a business has more than 25 employees and pays \$1 million in payroll, it would pay \$10,000 into Paid Leave Oregon each year. Employers will pay 40% (\$4,000) of this amount and are responsible for collecting and submitting their employees' contributions.
- Employers can also choose to pay the employee portion, in full or in part, as a benefit for their employees.
- Small employers, those with fewer than 25 employees, are not required to contribute. But, you still need to collect and submit employee contributions and protect their job.
- Assistance grants are available for small employers.

**Question:** When does Paid Leave Oregon start?

**Answer:** Employer and employee contributions begin Jan. 1, 2023, and employees can apply for Paid Leave benefits starting Sept. 3, 2023.

**Question:** Who passed the paid leave law in Oregon?

**Answer:** Businesses, workers, and others have been talking about bringing paid leave to Oregon since at least 2016. The Oregon State Legislature passed it into law in 2019 so more people in Oregon could have the time and support they need to care for themselves and their loved ones when life's important moments happen. We all go through events in life where we need time to care for ourselves, or those we love.

**Question:** My business has X number of employees. Am I required to participate?

**Answer:** If you have 25 or more employees, you are required to participate, pay into the program, and collect and submit your employees' contributions. You are also required to protect the jobs of employees who qualify for Paid Leave Oregon and take leave.

If you have fewer than 25 employees, you are not required to pay the employer portion of contributions, but you still need to collect and submit employees' contributions and protect their jobs.

**Question:** My business only has gig workers. How does Paid Leave Oregon work for my business?

**Answer:** It would depend on how the gig workers are classified.

- If your gig workers are employees, then you are an employer. If you have more than 25 employees, you will need to pay your part of the contribution. All employers, regardless of size, must protect the employee's jobs when they take leave.
- If your gig workers are classified as independent contractors, they are considered self-employed by the program and are not automatically covered. They can choose to participate if they want, but employers are not responsible for paying contributions for them or protecting their jobs.

**Question:** I am an employee at a small business. Am I covered under Paid Leave Oregon?

**Answer:** Most employees working in Oregon pay into the program and are covered, no matter the size of the company they work for. If the business you work for has fewer than 25 employees, your employer is not required to pay into the program. Your employer will withhold the employee contribution from your paychecks and you may qualify for benefits.

**Question:** I am a small employer and I'm worried about keeping my business going if one of my employees takes time off. Are there any exceptions?

**Answer:** Nearly all employers, regardless of size, are required to withhold and pay contributions on behalf of their employees and to provide qualified

employees with job-protected leave. If you choose to contribute to Paid Leave as an employer, you can apply for an [assistance grant](#). You are required to let them take leave if they qualify and to protect their job while they are gone. If you need help finding another worker, you can visit the [WorkSource Oregon website](#), which helps connect employers and workers in Oregon.

**Question:** If I am a small employer (or farmer) in a rural community, how am I going to find workers while mine are on leave?

**Answer:** It can be challenging for many small employers, especially those in rural communities to find other workers. Our WorkSource centers may be able to help you find another worker when an employee takes paid leave. To learn more about some of the programs and services, visit the [WorkSource Oregon website](#).

**Question:** What happens if an employer doesn't pay?

**Answer:** If an employer doesn't pay contributions when they are due, they may be responsible for paying penalties and interest.

## Self-Employed

**Question:** If I'm self-employed, am I required to participate?

**Answer:** If you are self-employed or an independent contractor, you're not automatically covered by Paid Leave Oregon. This means you are not required to pay into the program and you do not get the benefits. However, you can participate by choosing coverage. If you choose coverage, you will pay into the program the same way as employees – 60% of the contribution rate. Self-employed individuals can choose coverage beginning Jan. 1, 2023, and can apply for leave beginning Sept. 3, 2023.

**Question:** I am the owner of my business and the only employee. How does Paid Leave Oregon work for me?

**Answer:** It depends on your business and how you pay yourself.

- If you pay yourself like an employee, Paid Leave Oregon considers you an employee and you would pay into the program like all other employees.

- If you are the only employee of your business, you would be considered a small employer because you have fewer than 25 employees. This means you would not need to pay the employer portion. The contribution rate has been set for 2023 at 1%. Employees pay 60% of this. As the only employee, you would pay the employee contribution.
- If you pay yourself as an independent contractor or as someone who is self-employed, then you are not automatically covered by Paid Leave Oregon. This means you are not required to pay into the program and you do not get the benefits. But, you have the option to choose coverage. If you choose coverage, you will contribute the same as an employee contribution. You can choose coverage beginning Jan. 1, 2023, and can apply for leave beginning Sept. 3, 2023.

## Benefits

**Question:** Who is eligible to claim benefits and how are benefits paid?

**Answer:** Most employees in Oregon who made at least \$1,000 in the year before may be eligible for benefits. Beginning on Sept. 3, 2023, eligible employees will be able to take leave and apply for benefits. Employees will apply for paid leave and file claims with the Paid Leave Oregon program. Paid Leave Oregon—not their employer—will pay them their benefits (except if the employer has an equivalent plan). Employees will have different options for being paid. We will update the Paid Leave Oregon website once we have more information.

**Question:** How are benefit amounts decided and is there a maximum amount?

**Answer:** We calculate benefits based on the wages and income an employee earned in the prior year, so every employee's benefit amount will be different. The maximum amount an employee will be paid is 120% of the state average weekly wage — the average amount employees throughout the state earn. The state average weekly wage in Oregon for 2023 is \$1,224.82. Based on that, the minimum weekly benefit is \$61.24 and the maximum weekly benefit is \$1,469.78. The Oregon Employment Department updates the average weekly wage each July.

**Question:** What kind of leave does Paid Leave Oregon cover?

**Answer:** Paid Leave Oregon covers three kinds of paid leave: Family, Medical, and Safe Leave

### **Family Leave**

- To care for a family member with a serious illness or injury
- The birth of a child
- Bonding with a child:
  - In the first year after birth
  - Through adoption
  - When they're placed in your home through foster care

### **Medical Leave**

- To care for yourself when you have a serious illness or injury

### **Safe Leave**

- For survivors of sexual assault, domestic violence, harassment, or stalking.

**Question:** Are seasonal employees covered by Paid Leave Oregon?

**Answer:** If a worker is paid as an employee, earned at least \$1,000 in wages the year before, and are currently working, they may be eligible for Paid Leave benefits, no matter how many hours they work. This means seasonal employees are covered by Paid Leave Oregon.

**Question:** Are seasonal employees' jobs protected under Paid Leave Oregon?

**Answer:** An employee's job is protected when taking Paid Leave if they have worked for the same employer for 90 straight days. For example, if they apply for Paid Leave in their second week of work, their job is not protected.

## **Contributions**

**Question:** What are Paid Leave Oregon contributions and when do they begin?

**Answer:** Paid Leave Oregon contributions are the amounts employers and employees will pay into the program. Contributions start on Jan. 1, 2023. Employees can begin to apply for benefits starting Sept. 3, 2023.

- The total contribution rate for 2023 has been set at 1% on up to \$132,900 in wages. The department decides the rate and wage cap by November 15 each year.
- Employees pay 60% of the contribution rate. For example, if an employee's paycheck totals \$1,000 dollars, they would pay \$6 as their portion of the contribution rate for that paycheck.
- Employers with 25 or more employees pay 40% of the contribution rate. For example, if a business has more than 25 employees and pays \$1 million in payroll, it would pay \$10,000 into Paid Leave Oregon each year. Employers will pay 40% (\$4,000) of this amount and employees would pay 60% (\$6,000).
- Employers can choose to pay the employee portion, full or in part, as a benefit for their employees.
- Small employers, those with fewer than 25 employees, are not required to pay into the program. But, you still need to collect and submit employee contributions and protect their job. Assistance grants are available for small employers.

**Question:** Will officers of a corporation be required to pay contributions?

**Answer:** It depends on whether or not:

- The corporate officers qualifies as “employee” as defined in [section \(13\) of this section of the law](#)
- Wages paid to the corporate officer qualify as “wages” according to these rules:
  - [Bonuses, Fees, and Prizes](#)
  - [Gifts](#)
  - [Remuneration Types](#)
  - [Remuneration Other than Cash](#)
  - [Corporate Officer and Shareholder Dividends](#)

If both are true for the corporate officer, then, like other employees, they would be responsible for paying the employee portion of the contributions on anything that is considered “wages” for Paid Leave. Also, if the business is a large

employer for Paid Leave Oregon, then the business would be responsible for the employer portion of contributions on the corporate officer's wages.

**Question:** Are nonprofit organizations included in this program?

**Answer:** Yes, the program covers nonprofit organizations and their employees. The program covers nearly all employers and employees in Oregon. Employees working for a nonprofit organization pay into the program and may qualify for Paid Leave benefits. Nonprofit employers with 25 or more employees are responsible for paying employer contributions to the program, withholding employee contributions, and protecting the jobs of qualified workers who take leave. Nonprofit employers with fewer than 25 employees are not required to pay the employer portion of contributions, but must still withhold employee contributions and provide job protections.

**Question:** Are religious organizations included in this program?

**Answer:** Yes, the program covers religious organizations and their employees. The program covers nearly all employers and employees in Oregon. Employees who work for a religious organization pay into the program and may qualify for Paid Leave benefits. Employers of religious organizations with 25 or more employees are responsible for paying employer contributions to the program, collecting employee contributions, and protecting the jobs of qualified workers who take leave. Employers of religious organization with fewer than 25 employees are not required to pay the employer portion of contributions, but still need to collect employee contributions and provide job protections.

**Question:** How does Paid Leave Oregon count the number of employees for a business for program eligibility?

**Answer:** The size of the business is based on an average headcount of employees working in and outside of Oregon (part-time and full-time employees). This number doesn't include any employees hired to temporarily replace eligible employees when they take paid leave.

**Question:** What if some of my employees are based in Oregon and others are out of state?

**Answer:** Employer contributions are based on total employer size. This includes the number of employees working within Oregon and those outside the state. If an employer has 25 or more employees, they must pay the employer's share of the contribution rate for employees who earn wages in Oregon. If an employer has fewer than 25 employees, the employer is not required to pay the employer's share of the contribution rate for employees who earn wages in Oregon.

**Example:** An Oregon company has three employees working in Oregon, 21 employees working in Idaho, and four working in Arizona. Because the company has 25 or more employees, they are subject to the employer contribution of 40% of the contribution rate. However, they will only pay the employer contribution on the three employee's wages that work in Oregon.

## Access for all

**Question:** Do you prioritize marginalized communities and diverse populations?

**Answer:** We partner with our communities, businesses, employees and advocacy groups to make sure everyone working and living in Oregon can take the time they need when it matters most. We encourage all of our communities to stay connected with Paid Leave Oregon, and invite you to join us for future community events.

## Equivalent Plans

**Question:** What is an “equivalent plan?”

**Answer:** An equivalent plan is a paid leave plan the Oregon Employment Department approved, which provides benefits that are equal to or greater than the benefits Paid Leave Oregon provides. If an employer already offers paid leave to their employees or is thinking about doing so, they can apply for an equivalent plan with the Oregon Employment Department. More information, including an equivalent plan checklist, is on the Paid Leave Oregon [website](#).

Please keep in mind that an equivalent plan means:

- You must offer the same or more benefits than Paid Leave Oregon offers

- You cannot deduct more from the employee's contribution from their paycheck than allowed by Paid Leave Oregon
- You must first have the Oregon Employment Department approve the plan

**Question:** Which insurance carriers will offer the same benefits as Paid Leave Oregon?

**Answer:** The Oregon Department of Consumer and Business Services' Division of Financial Regulation will approve insurance carriers, who can market their insurance products once approved. Regardless of what carrier they choose, employers will still need to submit their paid leave program for approval by Paid Leave Oregon to ensure it meets program requirements.

**Question:** As an employer, we are looking at offering an equivalent plan for our employees. How do we do this?

**Answer:** Paid Leave Oregon will accept applications for equivalent plans for Oregon's Paid Leave program beginning in September 2022. The application fee for a new equivalent plan is \$250. If an employer wants to offer an equivalent plan, they have two options:

1. Buy an insurance policy from an insurance company, which will be responsible for all claims, benefits, and payments.
2. Create their own equivalent plan. This means the employer will be responsible for claims, benefits and payments of the equivalent plan, whether or not they use a third-party administrator.

In either case, Paid Leave Oregon will need to review and approve any equivalent plan before the employer can offer it to their employees. More information on equivalent plans is [online](#).

**Question:** Our company already has a paid time off (PTO) policy. Can the Oregon Employment Department review our policy to see if qualifies as an equivalent plan?

**Answer:** If you want to use a current PTO policy as a Paid Leave Oregon equivalent plan, you can apply for approval beginning September 2022. The

application fee for a new equivalent plan is \$250. Information on equivalent plans is [online](#). Please keep in mind that an equivalent plan means:

- You must offer the same or more benefits than Paid Leave Oregon offers
- You cannot deduct more from the employee's contribution from their paycheck than allowed by Paid Leave Oregon
- You must first have the Oregon Employment Department approve the plan. This means you may need to update your current PTO policy to meet these requirements.

## Technical Questions

**Question:** How does Paid Leave Oregon define “wages?” Is it the same as unemployment wages?

**Answer:** The way Paid Leave Oregon defines wages is very similar to how Unemployment Insurance defines it.

Wages for Paid Leave Oregon include:

- Salaries and hourly pay
- Piece rate and by the job pay
- Vacation, sick, and holiday pay, and paid time off (PTO)
- Bonuses, fees, and prizes from an employer
- Compensatory time and stand by pay
- Commission or guaranteed wage payments
- Sickness and accident disability payments
- Dividends and distributions for services
- Tips and gratuities
- Dismissal and separation allowance
- Compensation other than cash, such as room and board (except for agricultural and domestic employees)
- Fringe benefits, such as company vehicles, company paid parking, sick pay by third parties (e.g. insurance companies), and dependent care assistance

Wages for Paid Leave Oregon do **not** include:\*

- Payments to flexible spending accounts and health saving accounts that meet the requirements of the Internal Revenue Code (IRC) section 125 plan paid by the employer or employee
- Health, dental, and other insurance paid by the employer
- Health, dental, and other insurance paid by the employee under the IRC Section 125 plan
- Meal and travel expenses and per diems paid by the employer under an accountable plan
- Retirement or pension income
- Sickness or accident disability under worker's compensation

There may be some exceptions to how “wages” are defined. We are working with Unemployment Insurance to make it clear as possible and help support employers.

**Question:** Are there any specific W2 box requirements?

**Answer:** We are working with the Department of Revenue to determine which box of the W2 we will use for Paid Leave Oregon. We will provide employers with that information as soon as we have it.

**Question:** If an employer pays the employee portion, is that taxable income for the employee?

**Answer:** We are working on an answer to this with the Department of Revenue. We will provide information as soon as we have it.

**Question:** Any there different requirements for S-Corp ownership?

**Answer:** The requirements are the same. If you are an employee of your S-Corp and are paid a salary as wages, the Oregon Employment Department would consider you an employee of that business for Paid Leave Oregon. This means you would pay the employee contribution. If you only receive payouts or distributions, you are considered self-employed. As a self-employed individual you are not automatically covered by Paid Leave Oregon. This means you are not required to pay into the program and you do not get the benefits. But, you have the option to choose coverage. If you choose coverage, you will contribute

the same as an employee contribution. You can choose coverage beginning Jan. 1, 2023, and can apply for leave beginning Sept. 3, 2023.

**Question:** Are there any differences between Paid Leave Oregon and Unemployment Insurance regarding reimbursing employers?

**Answer:** Unlike Unemployment Insurance, Paid Leave Oregon does not have a reimbursing option. If you are a reimbursing employer, you are currently eligible to reimburse the state unemployment trust fund for benefits your employees receive rather than paying quarterly or annual unemployment contributions. There is no reimbursement option for the Paid Leave Oregon program. All employers will list Paid Leave Oregon wages and pay Paid Leave contributions on the combined payroll report each quarter.

**Question:** What is the schedule for when contributions are collected?

**Answer:** The Paid Leave Oregon program will be part of the Oregon Combined Quarterly Tax Report schedule. We have drafted updates to payroll tax forms, including Form OQ and Form 132, to include Paid Leave Oregon. These updated forms will be released before Jan. 2023. Contributions begin Jan. 1, 2023.

**Question:** What do bulk filers need to know?

**Answer:** Paid Leave Oregon will use the same filing rules for bulk filers as Unemployment Insurance in the combined payroll reporting system. The Oregon Employment Department's new system will be ready to use starting September 2022. Frances Online will replace the Oregon Payroll Reporting System (OPRS) and the Employer Account Access (EAA) portal, beginning with the third quarter filing in 2022. The new system will support combined payroll reporting, including Unemployment Insurance tax, Workers' Benefit Fund (WBF), State Withholding Tax, Lane and TriMet Transit Taxes, and beginning in the first quarter of 2023, Statewide Transit Tax (STT) and Paid Leave Oregon contributions.

Learn more about Frances and file specifications at [francesinfo.oregon.gov](https://francesinfo.oregon.gov).

**Question:** Can employers go back and retroactively deduct from employees' pay if we did not start on Jan. 1, 2023?

**Answer:** We know unplanned errors can happen when starting something new. If an employee forgot to deduct employee contributions, they can retroactively deduct the contributions from the employee's pay within the first quarter of noticing the mistake.

**Question:** Do we need to use any special coding to note this tax on the pay statement?

**Answer:** Paid Leave Oregon employee contributions must be noted on the employee's paystub.

**Question:** Will employers or payroll service providers need to register somewhere new?

**Answer:** Yes. Starting September 2022, the Oregon Employment Department's new system, Frances Online, will replace the Oregon Payroll Reporting System (OPRS) and the Employer Account Access (EAA) portal, beginning with the third quarter filing in 2022. The new system will support combined payroll reporting, including Unemployment Insurance tax, Workers' Benefit Fund (WBF), State Withholding Tax, Lane and TriMet Transit Taxes, and beginning in the first quarter of 2023, Statewide Transit Tax (STT) and Paid Leave Oregon contributions. We will soon send information to employers on how to access the new system and register for your new online account.

**Question:** Do you know the account number for this tax?

**Answer:** Employers will use their Business Identification Number (BIN) for reporting, paying, or asking questions about your Paid Leave Oregon account. They must include the BIN in all communications, returns, and payments. Some forms may also include the Federal Employer Identification Number (FEIN).

**Question:** What forms do employers need to use for Paid Leave Oregon contributions?

**Answer:** Employers will file quarterly through the Oregon Combined Quarterly Tax Report. We have drafted updates to the Form OQ and Form 132 to include Paid Leave Oregon, which we will release prior to January 2023. Employers will fill out the portion of all wages eligible for contributions under Paid Leave Oregon, the employee count, and contributions due. Each employer must also file an Oregon Employee Detail Report (Form 132) that includes paid leave subject wages. The Oregon Combined Quarterly Tax Report (Form OQ) is due on or before the last day of the month following the close of the calendar quarter.

## Other Employer Questions

**Question:** I am an employer in a different state who has a remote worker who lives and works in Oregon. Does my business have to participate?

**Answer:** It depends. Paid Leave Oregon uses the same localization standards as the federal unemployment insurance program and Washington Paid Leave program. Employers who have employees working and living in Oregon will likely need to participate in Paid Leave Oregon by collecting the employee's share of the contributions. If an employer has 25 or more employees, they must pay the employer's share of the contribution for employees who earn wages in Oregon. If an employer has fewer than 25 employees, the employer is not required to pay the employer's share of the contribution for employees who earn wages in Oregon. However, employees working and living in Oregon would still pay the employee contribution.

Oregon residents who physically do all their work in another state do not pay contributions for Paid Leave Oregon and are not eligible for the program.

**Question:** What if my business is in a state, like Washington, that already has a Paid Leave program. Do I have to participate in this one, as well?

**Answer:** It depends on where each employee in your business works. Paid Leave Oregon uses the same localization standards as the federal unemployment insurance program and Washington Paid Leave program. You will likely not need to contribute in two states for the same employee. If your employee works primarily in Oregon, you will collect employee contributions and pay employer contributions into Paid Leave Oregon on all wages earned in Washington and

Oregon. We are working with Washington to make sure we all follow the same rules for contributions so employees do not have to pay twice.

## Other Employee Questions

**Question:** I need to apply for paid leave benefits now. How do I apply?

**Answer:** Paid Leave Oregon begins in 2023. Employers and employees will start paying contributions in January 2023, and employees can apply for benefits in September 2023. In September 2023, you can apply for leave through Frances Online or request a paper application. Paid Leave Oregon also created a [resources directory](#) to help people find support.

**Question:** I thought the program was starting earlier. I need this benefit now.

**Answer:** We understand your concern and we know this program is very important for all of our communities. It takes a lot of time for a new program to start. Paid Leave Oregon was signed into law in August 2019, and the COVID-19 pandemic began in March 2020. Many of our staff moved to work in Unemployment Insurance because many people lost their jobs at the beginning of the pandemic. This affected how we worked together, the amount of resources we had and how quickly we were able to roll out the program. Please share this [resources directory](#) with your friends and loved ones. There are programs available right now that can help during this time, if they qualify.