



# BOARD OF COMMISSIONERS

## BOARD OF COUNTY COMMISSIONERS MEETING

1:00 PM, MONDAY, JANUARY 5, 2026

Allen Room - Deschutes Services Building - 1300 NW Wall Street - Bend  
(541) 388-6570 | [www.deschutes.org](http://www.deschutes.org)

### AGENDA

**MEETING FORMAT:** In accordance with Oregon state law, this meeting is open to the public and can be accessed and attended in person or remotely, with the exception of any executive session.

Members of the public may view the meeting in real time via YouTube using this link: <http://bit.ly/3mmlnzy>. **To attend the meeting virtually via Zoom, see below.**

**Citizen Input:** The Board of Commissioners provides time during its public meetings for Citizen Input. Alternatively, comments may be submitted on any topic at any time by emailing [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or leaving a voice message at 541-385-1734.

When in-person comment from the public is allowed at the meeting, public comment will also be allowed via computer, phone or other virtual means.

**Zoom Meeting Information:** This meeting may be accessed via Zoom using a phone or computer.

- To join the meeting via Zoom from a computer, use this link: <http://bit.ly/3h3oqdD>.
- To join by phone, call 253-215-8782 and enter webinar ID # 899 4635 9970 followed by the passcode 013510.
- If joining by a browser, use the raise hand icon to indicate you would like to provide public comment, if and when allowed. If using a phone, press \*9 to indicate you would like to speak and \*6 to unmute yourself when you are called on.
- When it is your turn to provide testimony, you will be promoted from an attendee to a panelist. You may experience a brief pause as your meeting status changes. Once you have joined as a panelist, you will be able to turn on your camera, if you would like to.

**Time estimates:** The times listed on agenda items are estimates only. Generally, items will be heard in sequential order and items, including public hearings, may be heard before or after their listed times.

## CALL TO ORDER

## CITIZEN INPUT

The Board of Commissioners provides time during its public meetings for Citizen Input. This is an opportunity for citizens to communicate to the Commissioners. Time is limited to 3 minutes.

Citizen Input is not available for matters that are presently scheduled for a public hearing, or for matters that are anticipated or likely to come before the Commission at a future public hearing.

The Citizen Input platform is not available for and may not be utilized to communicate obscene or defamatory material.

***Note: In addition to the option of providing in-person comments at the meeting, citizen input comments may be emailed to [citizeninput@deschutes.org](mailto:citizeninput@deschutes.org) or you may leave a brief voicemail at 541.385.1734.***

## COMMISSIONER ANNOUNCEMENTS

## AGENDA ITEMS

1. **1:00 PM** Board Recognition of the Honorable Judge Wells Ashby for his seven years of service on the Public Safety Coordinating Council
2. **1:10 PM** Consideration of updates to HR-6, Deschutes County Remote Work Policy; HR-12, Family Medical Leave Policy; and HR-13, Employee Leave Donation Policy
3. **1:25 PM** Destiny Court PA/ZC Remand Record Decision
4. **1:40 PM** BOCC representative to 2026 AOC Legislative Committee
5. **1:45 PM** Discussion regarding process and timing of assigning Commissioner districts

## OTHER ITEMS

*These can be any items not included on the agenda that the Commissioners wish to discuss as part of the meeting, pursuant to ORS 192.640.*

## EXECUTIVE SESSION

*At any time during the meeting, an executive session could be called to address issues relating to ORS 192.660(2)(e), real property negotiations; ORS 192.660(2)(h), litigation; ORS 192.660(2)(d), labor negotiations; ORS 192.660(2)(b), personnel issues; or other executive session categories.*

*Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media.*

## ADJOURN



Deschutes County encourages persons with disabilities to participate in all programs and activities. This meeting/event is accessible. Accommodations including sign and other language interpreter services, assistive listening devices, materials in alternate formats such as Braille, large print, electronic formats, or language translations are available upon advance request at no cost. Please make a request at least 24 hours in advance of the meeting/event by calling Brenda Fritsvold at (541) 388-6572 or send an email to [brenda.fritsvold@deschutes.org](mailto:brenda.fritsvold@deschutes.org).



El condado de Deschutes anima a las personas con discapacidad a participar en todos los programas y actividades. Esta reunión/evento es accesible. Hay disponibles servicios de intérprete de lengua de señas y de otros idiomas, dispositivos de escucha asistida, materiales en formatos alternativos como braille, letra grande, formatos electrónicos, traducciones o cualquier otra adaptación, con solicitud previa y sin ningún costo. Haga su solicitud al menos 24 horas antes de la reunión/el evento llamando a Brenda Fritsvold al (541) 388-6572 o envíe un correo electrónico a [brenda.fritsvold@deschutes.org](mailto:brenda.fritsvold@deschutes.org).



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** January 5, 2026

**SUBJECT:** Consideration of updates to HR-6, Deschutes County Remote Work Policy; HR-12, Family Medical Leave Policy; and HR-13, Employee Leave Donation Policy

**RECOMMENDED MOTION:**

Work session discussion only. If BOCC supports the proposed changes, staff will return with policy updates on the Board's consent agenda.

**BACKGROUND AND POLICY IMPLICATIONS:**

Staff is proposing updates to three of the County's Human Resources (HR) policies:

- **HR-6, Deschutes County Remote Work Policy** – The Remote Work Policy provides guidelines for employees to work from approved sites other than their designated County locations, promoting flexible work options. Eligibility depends on job suitability and performance, with the policy detailing expectations for productivity, security, and the setup of a safe remote work environment. Staff is proposing updates to the policy that clarify expectations around remote work occurring outside of Central Oregon.
- **HR-12, Family Medical Leave Policy** - The Family and Medical Leave Policy allows Deschutes County employees to take leave for specific family and medical reasons, such as serious health conditions or to care for a new child, under FMLA, OFLA, and PLO, ensuring job protection and continuation of benefits. Staff is proposing administrative changes that align with updates in state and federal law and also improve clarity around existing processes.
- **HR-13, Employee Leave Donation Policy** – Deschutes County's Employee Leave Donation policy allows employees to donate vacation or compensatory time to colleagues who are out of leave due to OFLA/FMLA events, ensuring support during extended medical needs. Employees must have a minimum leave balance and donations are administered confidentially, with restrictions on solicitation and

maximum receipt limits. Staff is proposing the addition of new language that requires employees to exhaust all paid leave options before requesting leave donations.

Staff will be available to discuss the proposed updates with the Board and answer any questions.

**BUDGET IMPACTS:**

None.

**ATTENDANCE:**

Whitney Hale, Deputy County Administrator  
Susan DeJoode, Human Resources Director



## DESCHUTES COUNTY ADMINISTRATIVE POLICY No. HR-6

EFFECTIVE DATE: January 26, 2022

### REMOTE WORK PROGRAM

#### A. STATEMENT OF POLICY

Deschutes County is dedicated to its mission: Enhancing the lives of citizens by delivering quality services in a cost-effective manner. Deschutes County may implement its mission by allowing flexible work opportunities where appropriate. Flexible work opportunities may include a variety of options, including remote work.

This policy provides departments a framework to implement remote work as a personnel management, recruitment and retention tool while ensuring employees performing remote work maintain or increase performance standards and service levels. Individual departments (upon the recommendation of the department head and the approval of the County Administrator) or offices of elected officials may opt out of this policy.

#### B. PURPOSE

This policy contains guidelines and requirements for Deschutes County's Remote Work Program. The requirements apply only to employees in departments participating in the Remote Work Program and are intended to:

- Meet productivity expectations.
- Reduce office space, facility, parking, and related needs and expenses.
- Provide flexible work opportunities.
- Decrease traffic congestion and impacts on County infrastructure.
- Serve as a benefit to the department and the population served.
- Not serve as an employee guaranteed benefit or right.

#### C. DEFINITIONS

1. Remote Work – a work flexibility arrangement under which an employee performs the duties and responsibilities of their position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.
  - a. Hybrid Work – when an employee is performing work from both on-site and remotely from an approved worksite other than the regular assigned work location for the position.
  - b. Fully Remote Work – when an employee is performing more than 75% of their work from an approved (non-County) worksite other than the regularly assigned work location for the position. If working under this category, the employee's primary work location becomes a non-County location.

#### D. RESPONSIBILITY

Employees who work remotely are responsible for adhering to all expectations outlined below. Supervisors are responsible for determining whether an employee is eligible to participate based on criteria outlined in this policy. Further, supervisors are responsible for implementing this policy consistently and with robust oversight and accountability, including monitoring remote work effectiveness and measuring performance.

#### E. LOCATION OF REMOTE WORK AND IMPACT ON COMMUTE/TRAVEL

For a fully remote employee, the employee's primary work location changes (and will likely be their residence). As a result, **fully remote work is only allowed if the employee's remote work location is located in Central Oregon (unless approved in advance by the County Administrator – see section 2 below).**

1. Remote work options from within Central Oregon
  - a. Hybrid remote work does not change the employee's assigned County work location. Travel time from the employee's remote work location to their assigned County location will be considered commute time and not compensated by the County.
  - b. Fully remote work – changes the employee's assigned work location. When business needs require the employee to work from or report to another location, the employee must be compensated for travel time in accordance with FLSA – in general, this means that travel time to and from their assigned work location (which will likely be their residence) as a part of their regular work duties is considered work time unless the travel is outside the employee's regular schedule. Deschutes County will follow the State of Oregon "[Compensable Travel Time While Working Remotely](#)" guidelines. Travel time during regularly scheduled work hours is considered work time and may also include mileage reimbursement (or the use of a County vehicle). Therefore, when required to come into the County workplace to perform work, the employee shall make every effort to travel to the County workplace during non-scheduled work time.
2. Remote work from outside Central Oregon is eligible under the following conditions:
  - a. It is temporary (a maximum of 14 days per occurrence) and approved by the Department Director.
  - b. Special circumstances requiring a duration longer than 14 days must be approved in advance by the County Administrator.
  - c. Remote work from outside Central Oregon shall never result in the employee's work location becoming a location outside Central Oregon unless explicitly approved in advance by the County Administrator. Establishing a work location outside Central Oregon would result in complications with paying the employee for travel time when coming to a County office/facility.

The requirements in this section are intended to prevent an employee working outside the State of Oregon becoming an employee of another state (for tax purposes). Deschutes County is not set up to be a multi-state employer.

- d. The decision and approval will be based on the employee's work duties, whether they can be satisfactorily fulfilled at that distance, and any impact on clients/customers.
- e. In general, additional costs incurred for the employee to work remote is the responsibility of the employee.

#### F. ELIGIBILITY

Not all positions are suited for participation in the program, such as customer facing positions. If the employee is sick and unable to function at full productivity, remote work is not permissible and is not a substitute for using Time Management Leave or Sick Leave.

Employees may be eligible to participate in the program based on criteria outlined below. Participation in this program is at the County's sole discretion and may be modified or revoked at any time. Employees must meet all the following to be eligible for participation in the program, unless granted an exception by the Department Director after consultation with HR:

1. Duties must be completed as efficiently, or more efficiently, than at the primary onsite location.
2. Participation must not lower the level of service delivery for the participant's work unit, including taking into account the impact on teamwork and morale.
3. The employee must have adequate job knowledge to work independently or remotely.
4. An overall rating of "Meets Expectations" or higher on most recent evaluation, if applicable.
5. No formal discipline within the last 12 months (written reprimand or higher).

Potential remote work situations that require careful review:

1. If an employee has a mild illness (for example, a mild cold or mild cough) or is recovering from a short-term medical condition, and is still able to work at full capacity, remote work is an option.
2. Remote work is not a substitute for childcare or other dependent/family care. Employees shall make or maintain childcare arrangements to permit concentration on work assignments. However, in limited situations, remote work may be approved to allow the employee to be at home with a sick child or to allow for dependent/family care, such as:

- a. The child or dependent/family member under care needs little or no direct care. The purpose of the employee working remotely is for the employee to be able to respond to an unlikely emergency event (examples: a dependent care arrangement where the employee works remotely to attend to an emergency situation should it arise, a child is recovering from a surgery and is sleeping most of the time, an older child is sick but does not require much direct care).
- b. The employee will only record and report time worked.
- c. There is another care giver at home.

While performing remote work, the employee is expected to devote the same degree of time and attention to work as when the employee is at their County worksite. Meeting the above criteria does not guarantee approval for participation; final approval is subject to supervisor/manager discretion.

Depending on the criteria in this policy, an employee may be determined to be:

- 1. Eligible for remote work on a part-time basis or intermittently.
- 2. Eligible for remote work on a regular schedule.
- 3. Not eligible for remote work.

#### G. REMOTE WORK EXPECTATIONS AND ENVIRONMENT

While performing remote work, the employee must adhere to the following expectations:

- 1. Continue working their regular set schedule unless the employee receives supervisory approval to change their schedule.
- 2. Seamlessly and completely be accessible via standard County phone and email systems during working hours.
- 3. The employee takes full responsibility for the technology required to complete their job remotely. If the technology does not work, the employee will be required to fix the problem without any loss of work time, or take TML or other available leave for any time loss associated with the remote technology barrier.
- 4. The employee will be required to use TML or other approved leave if the employee is otherwise unable to perform their job from a remote location.

Participants must have an adequate work environment that:

- 1. Is free from distractions.
- 2. Has adequate office furniture and office equipment provided by the employee.
- 3. Contains a secure, reliable internet connection with sufficient bandwidth to perform duties at the employee's cost.
- 4. Provides adequate auditory confidentiality if work requires it.

5. Is maintained in a safe condition, free from hazards to employee and equipment.
6. If needed, is modified to meet work safety requirements, (i.e., if modified workstation is required at the primary worksite, remote working environment should be similarly modified).
7. Meets the ergonomic needs of the employee.

In general, the participant will be responsible for most/all costs associated with meeting the above requirements, including setup of designated workspace, as well as ongoing costs related to connectivity, printing, scanning, and/or other equipment necessary. There may be special situations where a department allows the employee to use County furniture/property for remote work. If significant county-funded supplies are required to perform work duties, such as a specialized scanner, this would constitute a need for the employee to perform those duties on-site.

Employee understands that all equipment, records, and materials provided by the County shall remain the property of the County. County-owned equipment and software shall be used exclusively by the employee and for the purpose of conducting County business. Software shall not be duplicated. Employee agrees to report to employee's supervisor any incidents of loss, damage, or unauthorized access as soon as possible.

#### H. INFORMATION SECURITY

Employee agrees to protect County-owned equipment, records, and materials from unauthorized or accidental access, use, modification, destruction, or disclosure. This includes protecting equipment when traveling to/from County facilities. The precautions described in this agreement apply regardless of the storage media on which information is maintained, the locations where the information is stored, the systems used to process the information, or the process by which the information is stored.

Participants will be held accountable for securing information by taking measures to safeguard information in accordance with confidentiality, HIPAA and privacy rules. At all times, employees shall adhere to all provisions of [Administrative Policy No. IT-1, "Computer, E-mail and Mobile Computing Device Use."](#)

#### I. PROCESS AND EVALUATION

Supervisors are responsible to ensure that an employee performing remote work has clear and documented productivity expectations and that the employee is meeting these expectations. Supervisors may require additional actions by employee to verify work time.

Here are factors a supervisor may consider to help determine appropriate amount/frequency of remote time:

1. Quantify tasks that are appropriate for remote work, and consider frequency and distribution (e.g. half a day once a week compared to a full day every other week).
2. Impact on clients, customers, and co-workers, including the importance of in-person interactions and communications.
3. Availability to attend meetings in-person (e.g. if most meetings are Tuesday/Wednesdays, schedule Thursdays as a remote day). Clearly communicate to staff that regularly scheduled remote time may be "bumped" if a need for an in-person meeting arises.
4. Impact on internal/external partners: feedback from others will inform whether the amount of time is working well (e.g., if feedback is received that the person is less available for consult or lacking timely follow up, remote time may be decreased, redistributed, or eliminated).
5. Adjustments depending on workload (e.g. a decrease in independent tasks may result in decreasing remote time; a special project with a hard deadline that necessitates independent concentration may result in approval of additional remote time).

#### K. PROGRAM AGREEMENT

Upon approval based on the criteria contained in this policy, staff will enter into a Remote Work Program Agreement (attached). The agreement will be signed by the employee, supervisor, and department director. Remote work may be on an as-needed basis, or regularly scheduled. The agreement will include:

1. Time period approved for remote work (frequency and duration, including an end date of no more than one year, noting that it may be reviewed throughout the period and may be terminated at the County's sole discretion).
2. Type of remote work.
3. The specific site(s) approved for remote work. The standard approval process is for remote work sites within Central Oregon.
4. A statement that the duties, obligations, and responsibilities of the participant's employment with the County remain unchanged.
5. An explanation how the remote work arrangement will affect the operations and impact the employee's productivity.
6. An explanation on how productivity will be measured/reported and how the employee will be available to supervisors, co-workers and customers.
7. A statement that the participant's salary, benefits, retirement, and County-sponsored insurance remain unchanged.
8. A statement that participants remain obligated to comply with all County, State, and Federal laws and rules, and policies, including the County's Code of Ethics and the Fair Labor Standards Act.

9. A statement that the violation of any of the above or the misuse of County time, data, or equipment may result in disciplinary action.
10. A list of County owned items (such as laptop, mouse, etc.) that will be at the remote location.
11. Signature of employee, supervisor, manager, and department head (if required per this policy).
12. A designation whether the request is for hybrid remote work or fully remote work. If fully remote work, a listing of the employee's primary work location which will not be a County location.

Approved by the Board of County Commissioners, January 26, 2022.



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Nick Lelack

County Administrator

# Remote Work Program Agreement



**Instructions:** Supervisors and managers may utilize this form to formalize terms and submit requests for eligible employees to participate in the Remote Work Program in accordance with *Deschutes County Administrative Policy HR-6 – REMOTE WORK PROGRAM*. Eligibility for participation is determined by the employee's supervisor in consultation with the Department Head.

## Program Acknowledgements

All remote work agreements are subject to policies and procedures as outlined in *Deschutes County Administrative Policy No. HR-6*. By signing this agreement, all parties participating in or granting approval for the employee's participation in the County's Remote Work Program acknowledge and agree to the following conditions:

1. The work duties, obligations, and responsibilities of employees participating in the Remote Work Program will remain unchanged.
2. All employees participating in the Remote Work Program remain obligated to comply with all County, State, and Federal laws and rules, and policies, including the County's Code of Ethics and the Fair Labor Standards Act. Violation of any of the above rules or the misuse of County time, data, or equipment may result in disciplinary action.
3. Remote work participation shall not impact the salary, benefits, retirement plan enrollment, and eligibility for County-sponsored insurance plans for participating employees.
4. All Remote Work Program approvals are subject to review during the approved agreement period and may be terminated at any time at the County's sole discretion.

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### Section 1: Personal Information & Remote Work Program Participation

Employee Name:  Department:   
Supervisor Name:

Schedule Details and Type of Remote Work Requested (*select one*):

Hybrid Remote Work

Fully Remote Work

Remote Work Agreement Period Dates (*one year or less*):

Description and Address of Employee Remote Work Location:

*[For requests for Fully Remote Work Only]*

Please indicate round trip mileage from the Employee Remote Work Location to each County facility to which the employee may be regularly required to travel, and if a County vehicle will be provided:

**[For Remote Work Requests Outside of Central Oregon Only]**

*Under most circumstances, remote work is only allowed from employee work locations within Central Oregon.*

*Department Directors may approve temporary remote work agreements from outside of Central Oregon of up to 14 days per occurrence. Special circumstances requiring remote work be conducted outside of Central Oregon for periods greater than 14 days require advance approval by the County Administrator and a copy of this agreement must be sent to HR and Payroll for notification.*

Describe the special circumstances for which an employee would conduct remote work at a remote work location outside of Central Oregon for a period of greater than 14 days (*attach additional pages if necessary*):

**Section 2: Remote Work Operational Considerations & Monitoring**

Describe the impact of the employee's participation in the Remote Work Program to departmental operations and employee productivity, including operational adjustments necessary to support remote work as requested (*attach additional pages if necessary*):

Describe how the participating employee's work productivity will be measured when working remotely.

Describe how the employee will maintain availability to supervisors, co-workers, and internal/external customers when working remotely.

Describe any applicable, additional expectations agreed upon by the participating employee and supervisor.

### **Section 3: Remote Work Station Resources and Safety**

Inventory below all County-owned and employee-owned equipment (including serial and/or asset numbers for County-owned equipment) that the employee will utilize at the remote work location. *(Note: Employee owned equipment, internet charges, and supplies must comply with relevant policies concerning use and are to be maintained at the employee's expense unless otherwise approved.)*

Employees are responsible for ensuring that their remote workstations are free of hazards that may result in injury. Please describe below any potential hazards relevant to the remote work location, and steps that will be taken in order to minimize the potential for injury to the employee conducting remote work.

### **Section 4: Approvals**

Employee Printed Name:	<input type="text"/>	Date:	<input type="text"/>
Employee Signature:	<input type="text"/>		
Supervisor Printed Name:	<input type="text"/>		
Supervisor Signature:	<input type="text"/>		
Department Director Printed Name:	<input type="text"/>		
Department Director Signature:	<input type="text"/>		
<i>[For Remote Agreements Outside of Central Oregon Greater Than 14 Days]</i>			
County Administrator Printed Name:	<input type="text"/>		
County Administrator Signature:	<input type="text"/>		

Once complete, the Remote Work Program Agreement should be updated as needed by the supervisor and employee. Remote Work Program Agreements requiring County Administrator approval should be sent to Human Resources via email attachment to [hr@deschutes.org](mailto:hr@deschutes.org) or interoffice mail. Finalized agreements should be kept by the supervisor and employee.



**Deschutes County Administrative Policy No. HR-6**  
**Effective Date: November 1, 2025**  
**Original Adoption: January 26, 2022**  
**Updated: January X, 2026**

## **REMOTE WORK POLICY**

### **I. STATEMENT OF POLICY**

Deschutes County is dedicated to its mission: Enhancing the lives of citizens by delivering quality services in a cost-effective manner. Deschutes County may implement its mission by allowing flexible work opportunities where appropriate.

Flexible work opportunities may include a variety of options, including remote work. This policy provides departments with a framework to implement remote work as a personnel management, recruitment and retention tool while ensuring employees performing remote work maintain or increase performance standards and service levels. Individual departments (upon the recommendation of the department head and the approval of the County Administrator) or offices of elected officials may opt out of this policy.

### **II. APPLICABILITY**

This policy applies to all Deschutes County employees, who work remotely.

### **III. DEFINITIONS**

1. Remote Work is defined as a work flexibility arrangement under which an employee performs the duties and responsibilities of their position, and other authorized activities, from an approved worksite other than the location from which the employee would otherwise work.
  - a. Hybrid Work is- when an employee is performing work from both on-site and remotely from an approved worksite other than the regular assigned work location for the position.
  - b. Fully Remote Work is- when an employee is performing more than 75% of their work from an approved (non-County) worksite other than the regularly assigned work location for the position. If working under this category, the employee's primary work location becomes a non-County location.
2. Central Oregon is defined as Deschutes, Crook, Jefferson or Klamath County.

### **IV. ROLES AND RESPONSIBILITIES**

Employees who work remotely are responsible for adhering to all expectations outlined below.

Supervisors are responsible for determining whether an employee is eligible to participate based on criteria outlined in this policy. Further, supervisors are responsible for implementing this policy consistently and with robust oversight and accountability, including monitoring remote work effectiveness and measuring performance.

## **V. LOCATION OF REMOTE WORK AND IMPACT ON COMMUTE/TRAVEL**

For a fully remote employee, the employee's primary work location changes (and will likely be their residence). As a result, any regularly scheduled **remote work is only allowed if the employee's remote work location is in Central Oregon. (unless approved in advance by the County Administrator – see section 2 below).**

Unless otherwise approved in writing (e.g., due to departmental operational needs or a reasonable accommodation), the remote work location must allow the employee to report onsite within the time it ordinarily takes them to commute to their assigned worksite.

1. Remote work options from within Central Oregon:
  - a. Hybrid remote work - does not change the employee's assigned County work location. Travel time from the employee's remote work location to their assigned County location will be considered commute time and not compensated by the County.
  - b. Fully remote work – changes the employee's assigned work location. When business needs require the employee to work from or report to another location, the employee must be compensated for travel time in accordance with the Fair Labor Standards Act (FLSA). Generally, this means that travel time to and from their assigned work location as a part of their regular work duties is considered work time unless the travel is outside the employee's regular work schedule. Deschutes County will follow the State of Oregon [Travel Time & Mileage](#) guidelines. Travel time during regularly scheduled work hours is considered work time and may also include mileage reimbursement (or the use of a County vehicle). Therefore, when required to come into the County workplace to perform work, the employee shall make every effort to travel to the County workplace during non-scheduled work time.
2. Remote work from outside Central Oregon is eligible under the following conditions:
  - a. It is not regularly scheduled.
  - b. While temporarily traveling for work purposes, such as attending a conference or training. [Such occurrences cannot exceed 14 days per calendar year and must be approved in advance by the Department](#)

Director. Any exception beyond the 14 day limit must be approved by the County Administrator or a Deputy County Administrator.

c. It is temporary (a maximum of 14 days per year) and approved by the Department Director.

d. Special circumstances requiring a duration longer than 14 days must be approved in advance by the County Administrator.

e.c. Remote work from outside Central Oregon shall never result in the employee's work location becoming a location outside Central Oregon, unless explicitly approved in advance by the County Administrator. Establishing a work location outside Central Oregon would result in complications with paying the employee for travel time when coming to a County office/facility.

d. Remote work location does not cause cross-jurisdictional employment relationships, or local and city tax liabilities which could affect employee withholding. Departments can coordinate with Payroll on any potential impacts. The requirements in this section are intended to prevent an employee working outside of Central Oregon becoming an employee of or incurring tax liabilities from another jurisdiction (for tax purposes). Deschutes County is not set up to be a multi-jurisdictional employer.

While performing work duties outside of the Deschutes County tax jurisdiction, if the remote work location causes the County to be subject to additional state and local income tax withholding and payment obligations, the additional fees and costs incurred for implementing and administering such taxes is the responsibility of the employee.

f. The decision and approval will be based on the employees' work duties, whether they can be satisfactorily fulfilled at that distance, and any impact on clients/customers.

g.e. In general, additional costs incurred for the employee to work remote is the responsibility of the employee.

## VI. ELIGIBILITY

Not all positions are suited for participation in the program, such as customer facing positions. If the employee is sick and unable to function at full productivity, remote work is not permissible and is not a substitute for using Time Management Leave or Sick Leave.

Employees may be eligible to participate in the program based on criteria outlined below. Participation in this program is at the County's sole discretion and may be modified or revoked at any time. Employees must meet all the following to be eligible for participation in the program, unless granted an exception by the Department Director after consultation with HR:

1. Duties must be completed as efficiently, or more efficiently, than at the primary onsite location.
2. Participation must not lower the level of service delivery for the participant's work unit, including taking into account the impact on teamwork and morale.
3. The employee must have adequate job knowledge to work independently or remotely.
4. An overall rating of "Meets Expectations" or higher on most recent evaluation, if applicable.
5. No formal discipline within the last 12 months (written reprimand or higher).

Potential remote work situations that require careful review:

1. If an employee has a mild illness (for example, a mild cold or mild cough) or is recovering from a short-term medical condition, and is still able to work at full capacity, remote work is an option.
2. Remote work is not a substitute for childcare or other dependent/family care. Employees shall make or maintain childcare arrangements to permit concentration on work assignments. However, in limited situations, remote work may be approved to allow the employee to be at home with a sick child or to allow for dependent/family care, such as:
  - a. The child or dependent/family member under care needs little or no direct care. The purpose of the employee working remotely is for the employee to be able to respond to an unlikely emergency event (examples: a dependent care arrangement where the employee works remotely to attend to an emergency situation should it arise, a child is recovering from a surgery and is sleeping most of the time, an older child is sick but does not require much direct care).
  - b. The employee will only record and report time worked.
  - c. There is another care giver at home.

While performing remote work, the employee is expected to devote the same degree of time and attention to work as when the employee is at their County worksite. Meeting the above criteria does not guarantee approval for participation; final approval is subject to supervisor/manager discretion.

Depending on the criteria in this policy, an employee may be determined to be:

1. Eligible for remote work on a part-time basis or intermittently.
2. Eligible for remote work on a regular schedule.
3. Not eligible for remote work.

## **VII. REMOTE WORK EXPECTATIONS AND ENVIRONMENT**

While performing remote work, the employee must adhere to the following expectations:

1. Continue working their regular set schedule unless the employee receives supervisory approval to change their schedule.

2. Seamlessly and completely be accessible via standard County phone and email systems during working hours.
3. The employee takes full responsibility for the technology required to complete their job remotely. If the technology does not work, the employee will be required to fix the problem without any loss of work time or take TML or other available leave for any time loss associated with the remote technology barrier.
4. The employee will be required to use TML or other approved leave if the employee is otherwise unable to perform their job from a remote location.

Participants must have an adequate work environment that:

1. It is free from distractions.
2. It has adequate office furniture and office equipment provided by the employee.
3. It contains a secure, reliable internet connection with sufficient bandwidth to perform duties at the employee's cost.
4. Provides adequate auditory confidentiality if work requires it.
5. It is maintained in a safe condition, free from hazards to employees and equipment.
6. If needed, it is modified to meet work safety requirements, (i.e., if modified workstation is required at the primary worksite, remote working environment should be similarly modified).
7. Meets the ergonomic needs of the employee.

In general, the participant will be responsible for most/all costs associated with meeting the above requirements, including setting up of designated workspace, as well as ongoing costs related to connectivity, printing, scanning, and/or other necessary equipment. There may be special situations where a department allows the employee to use County furniture/property for remote work. If significant county-funded supplies are required to perform work duties, such as a specialized scanner, this would constitute a need for the employee to perform those duties on-site.

Employees understand that all equipment, records, and materials provided by the County shall remain the property of the County. County-owned equipment and software shall be used exclusively by the employee and for the purpose of conducting County business.

Software shall not be duplicated. Employees agree to report to employee's supervisor any incidents of loss, damage, or unauthorized access as soon as possible.

## **VIII. INFORMATION SECURITY**

Employee agrees to protect County-owned equipment, records, and materials from unauthorized

or accidental access, use, modification, destruction, or disclosure. This includes protecting equipment when traveling to/from County facilities. The precautions described in this agreement apply regardless of the storage media on which information is maintained, the locations where the information is stored, the systems used to process the information, or the process by which the information is stored.

Participants will be held accountable for securing information by taking measures to safeguard information in accordance with confidentiality, HIPAA and privacy rules. At all times, employees shall adhere to all provisions of [Administrative Policy No. IT-1, "Computer, E-mail and Mobile Computing Device Use."](#)

## **IX. PROCESS AND EVALUATION**

Supervisors are responsible for ensuring that an employee performing remote work has clear and documented productivity expectations and that the employee is meeting these expectations. Supervisors may require additional actions by employees to verify work time.

Here are factors a supervisor may consider helping determine appropriate amount/frequency of remote time:

1. Quantify tasks that are appropriate for remote work and consider frequency and distribution (e.g. half a day once a week compared to a full day every other week).
2. Impact on clients, customers, and co-workers, including the importance of in-person interactions and communications.
3. Availability to attend meetings in-person (e.g. if most meetings are Tuesday/Wednesdays, schedule Thursdays as a remote day). Clearly communicate to staff that regularly scheduled remote time may be "bumped" if a need for an in-person meeting arises.
4. Impact on internal/external partners: feedback from others will inform whether the amount of time is working well (e.g., if feedback is received that the person is less available for consult or lacking timely follow up, remote time may be decreased, redistributed, or eliminated).
5. Adjustments depending on workload (e.g. a decrease in independent tasks may result in decreasing remote time; a special project with a hard deadline that necessitates independent concentration may result in approval of additional remote time).

## **X. PROGRAM AGREEMENT**

Upon approval based on the criteria contained in this policy, staff will enter into a Remote Work Program Agreement (attached). The agreement will be signed by the employee, supervisor, and department director. Remote work may be on an as needed basis or regularly scheduled. The agreement will include:

1. Time period approved for remote work (frequency and duration, including an end date of no

more than one year, noting that it may be reviewed throughout the period and may be terminated at the County's sole discretion).

2. Type of remote work.
3. The specific site(s) approved for remote work. The standard approval process is for remote work sites within Central Oregon.
4. A statement that the duties, obligations, and responsibilities of the participant's employment with the County remain unchanged.
5. An explanation of how the remote work arrangement will affect the operations and impact on the employee's productivity.
6. An explanation on how productivity will be measured/reported and how the employee will be available to supervisors, co-workers and customers.
7. A statement that the participant's salary, benefits, retirement, and County- sponsored insurance remain unchanged.
8. A statement that participants remain obligated to comply with all County, State, and Federal laws and rules, and policies, including the County's Code of Ethics and the Fair Labor Standards Act.
9. A statement that the violation of any of the above or the misuse of County time, data, or equipment may result in disciplinary action.
10. A list of County owned items (such as laptop, mouse, etc.) that will be at the remote location.
11. Signature of employee, supervisor, manager, and department head (if required per this policy).
12. A designation whether the request is for hybrid remote work or fully remote work. If fully remote work, a listing of the employee's primary work location which will not be a County location.

Approved by the Deschutes County Board of Commissioners on (INSERT DATE HERE)

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Nick Lelack  
County Administrator

Revision History:

**INCLUDE ADOBE FILLABLE REMOTE WORK PROGRAM AGREEMENT**



## DESCHUTES COUNTY ADMINISTRATIVE POLICY No. HR-12

EFFECTIVE DATE: JULY 21, 2008  
UPDATED: SEPTEMBER 3, 2023

### FAMILY AND MEDICAL LEAVE POLICY

#### STATEMENT OF POLICY

It is the policy of Deschutes County to comply with the provisions of the federal Family and Medical Leave Act (FMLA), the Oregon Family Leave Act (OFLA), and Paid Leave Oregon (PLO).

#### APPLICABILITY

This policy applies to all eligible Deschutes County employees.

#### POLICY AND PROCEDURES

##### **General**

This policy informs county employees about protected leave outlined in FMLA, OFLA, and PLO. Whichever act provides the greater benefit to the employee will be applied. Protections that qualify under more than one type of protected leave will run concurrently. Although not every detail of these laws can be included in this policy, the county will administer protected leave in accordance with all applicable state and federal laws.

##### **Employee Eligibility**

###### FMLA

To qualify for FMLA, an employee must have been employed by the county for at least 12 months and have worked at least 1,250 hours in the previous 12 months.

###### OFLA

To qualify for OFLA, an employee must have been employed by the county for an average of 25 hours or more per week<sup>1</sup> for 180 calendar days before leave begins. However, employees taking leave due to the birth of a child or newly adopted or placed foster child become eligible after being employed for 180 calendar days, without regard to the number of hours worked per week. Additionally, during a public health emergency,

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<sup>1</sup> This requirement may be different for employees who qualify under the Oregon Military Family Leave Act (OMFLA). Human Resources will provide direct consultation regarding eligibility for those who qualify under OMFLA.

employees become eligible for OFLA leave if they have worked for a covered employer for at least 30 days and have worked an average of at least 25 hours per week in the 30 days before taking leave.

### PLO

PLO is a paid leave benefit administered by the Paid Leave Oregon division of the Oregon Employment Department. Eligible employees that have earned at least \$1,000 in the prior year and who have contributed to PLO may qualify for up to 12 weeks of paid family, medical, or safe leave in a benefit year.

Employees applying for PLO benefits will apply directly through the Paid Leave Oregon website and will be required to request a leave of absence from the county as well. When an employee applies for this PLO, the state will determine an employee's qualifications for the benefit and will approve or deny claims for PLO benefits.

### **Qualifying Events for Leave**

- a. Under FMLA, employees are entitled to take family medical leave in the following situations:
  - 1) When the employee has a "serious health condition" (defined further below), which renders the employee unable to perform the functions of their position.
  - 2) To care for a family member with a "serious health condition." Under FMLA, family member is defined as a spouse, parent, or child, or someone with whom the employee has an "in loco parentis" relationship. "In loco parentis" is defined as a person with whom an employee has developed a parent/child relationship in the absence of a biological or adoptive parent.
  - 3) For the birth or adoption of a child, or for the placement of a child in foster care with the employee. This is often referred to as "parental leave."
  - 4) Immediate family members (spouses, parents, and children) as well as next of kin (nearest blood relative) of an Armed Forces service member who suffers a serious injury or illness while in military service are entitled to take up to 26 weeks of FMLA leave to care for that service member during a 12-month period. The expanded leave to care for injured service members is only available during a single 12-month period.
  - 5) "Any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an

impending call to active duty status, in support of a contingency of operation. "Qualifying exigency" may include child or elder care (even without a serious health condition) or helping the family member prepare for departure for duty.

b. In addition, employees are entitled to take family medical leave in the following situations under Oregon law (OFLA):

- 1) To provide home care for a child under the age of 18 with a non-serious health condition, provided another family member is not willing and able to care for the child; or
- 2) To provide childcare if your child's school or childcare provider is closed due to a statewide public health emergency, such as COVID-19 pandemic school closures; or
- 3) Up to an additional twelve (12) weeks for pregnancy disability leave before or after the birth of a child; or
- 4) Up to fourteen (14) days for military family leave if your spouse or domestic partner is a service member who has been called to active duty or is on leave from active duty; or
- 5) Up to two (2) weeks for bereavement leave related to the death of a family member; or
- 6) To care for a family member with a "serious health condition." Under OFLA, eligible family members include those covered under FMLA as well as a child's spouse or domestic partner, a parent's spouse or domestic partner, a sibling or stepsibling or the sibling's or stepsibling's spouse or domestic partner, a grandparent or the grandparent's spouse or domestic partner, a grandchild or the grandchild's spouse or domestic partner, a domestic partner, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship. A statement of Affinity may be required to show that such a bond exists.
  - A. As outlined in OAR 471-070-1000, "affinity," as the term is used in ORS 657B.010, means a relationship that meets the following requirements:
    - a. There is a significant personal bond that, when examined under the totality of the circumstances, is like a family relationship, and;
    - b. The bond under section (a) of this rule may be demonstrated by, but is not limited to the following factors,

with no single factor being determinative:

- i. Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills, or beneficiary designations;
- ii. Emergency contact designation of the claimant by the other individual in the relationship, or vice versa;
- iii. The expectation to provide care because of the relationship or the prior provision of care;
- iv. Cohabitation and its duration and purpose;
- v. Geographical proximity; and
- vi. Any other factor that demonstrates the existence of a family-like relationship

c. Employees are entitled to take paid leave in the following situations under PLO:

- 1) To care for family members (as defined under OFLA) with a serious health condition.
- 2) To care for and bond with a child in the first year after birth, adoption, or when they're placed in your home through foster care.
- 3) Medical leave to care for yourself when you have a serious health condition.
- 4) Safe leave to care for yourself or your child if you or your child are survivors of sexual assault, domestic violence, harassment, or stalking.

### **Serious Health Condition**

A serious health condition means an illness, injury, impairment or physical or mental condition that involves:

- 1) Inpatient care (overnight hospital stay).
- 2) A critical illness or injury diagnosed as terminal, or which possesses an imminent danger of death.
- 3) A period of incapacity for more than three consecutive calendar days, and any subsequent treatment period of incapacity relating to the same condition, which also involves:
  - a. Two or more treatments by a health care provider, or
  - b. Treatment by a health care provider on at least one occasion, with a regimen of continuing treatment (e.g., prescription drugs.)
- 4) Permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer's disease, severe stroke, clinical depression, or terminal stages of a disease.

- 5) Absences for pre-natal care or pregnancy-related disability.
- 6) Absences for "chronic" serious health conditions, including, but not limited to diagnosed migraines, asthma, diabetes or epilepsy.
- 7) Absences to receive multiple treatments for restorative surgery after an accident or injury, or conditions that, if not treated, would likely result in an incapacity of more than three consecutive calendar days without medical intervention or treatment.

### **Duration of the Leave**

Qualifying employees are entitled to 12 weeks of family medical leave in a one-year period, which means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family leave commences.

For parental leave under OFLA, intermittent leave is subject to department approval and the leave must be taken and concluded within one (1) year from the date of birth or placement of the child.

Under OFLA and PLO, additional leave may be available for employees who suffer from a disability resulting from pregnancy or childbirth. Additionally, OFLA allows time off to care for a child with a non-serious health condition that requires home care. Employees should contact the Human Resources Department to determine if they are eligible for extended leave under these circumstances.

When family members who are each employed by the county wish to take leave under this policy at the same time, their ability to do so may be limited in certain circumstances, such as when they wish to take parental leave together or when they wish to take leave at the same time to care for a parent suffering from a serious health condition. When family members who are each employed by the county wish to take leave at the same time, they should contact the Human Resources Department to determine if they are eligible to do so.

### **Concurrent Leaves**

To the extent permissible under the law, OFLA, FMLA, and PLO leave will run concurrently. Whenever these laws differ, the county will apply the standard which is most beneficial to the employee.

OFLA and PLO leave cannot run concurrently when the employee is eligible to receive worker's compensation under ORS chapter 656. OFLA leave can run concurrently only if the worker's compensation claim is denied, or if the employee has refused a suitable offer of light duty or

modified employment. FMLA leave will run concurrently with a worker's compensation leave if the leave meets the criteria for a serious health condition under FMLA.

### **Notice Required by Employee**

When the leave is foreseeable, the employee must apply for family medical leave **at least thirty (30) calendar days** in advance of the leave by completing and providing to the county a "Family and Medical Leave Request Form." Furthermore, if the leave is foreseeable, the employee must make reasonable efforts to schedule leave in a way that does not unduly disrupt the operation of the employee's department. If an employee fails to give at least thirty (30) days' notice of foreseeable leave, and has no reasonable excuse, the county may delay the start of leave until at least 30 days after the notice was actually given by the employee. If leave is required because of a medical emergency or other unforeseeable event, the employee must inform their supervisor within three working days so the form can be provided to the employee. Employees applying for PLO benefits must also notify the state within its established timeframes to avoid a possible reduction in the PLO benefit.

Completed forms are to be returned to the employee's supervisor and then forwarded to the Human Resources Department to determine if the employee and leave request meets the qualification criteria. It is the responsibility of the employee, and the employee's supervisor to ensure Family and Medical Leave Request Forms are completed and submitted to the Human Resources Department as quickly as possible.

Human Resources staff will review the Family and Medical Leave Request Form and provide the employee a Family and Medical Leave Designation Notice or request additional certification forms if needed. If the employee or family member has a serious health condition, the county may require the completion of a Health Care Provider Certification Form, which will be sent to the employee by the Human Resources Department.

The Health Care Provider Certification Form must be completed by the employee's health care provider and returned to the Human Resources Department within fifteen (15) calendar days from the date of the leave request. Failure to provide the Health Care Provider Certification Form may result in denial of the rights and protections of FMLA and OFLA.

If the serious illness is related to a family member, the attending health care provider must indicate on the Health Care Provider Certification Form that the employee is needed to provide care.

When the medical certification is unclear, or its validity is in question, the county may require the employee or family member to obtain a second or third opinion at the county's expense.

If the need for leave extends beyond a period of one (1) year, such as with intermittent serious health condition leave, the county may require periodic re-certifications by a

health care provider that there is a continuing need for leave.

If the family medical leave is for the employee's own serious health condition, the employee will be required to furnish a "Release to Return to Work" from their health care provider upon requesting to return to work.

Employees applying for PLO benefits will be required to provide documentation directly to PLO in accordance with PLO's claim request process. The county will not supply medical documentation to PLO on behalf of an employee or their family member.

### **Obligation to Designate Leave**

Deschutes County is obligated under the law to designate family medical leave when it becomes aware of a situation that clearly meets the leave criteria. It is the policy of Deschutes County that employees are to follow the above procedures for notifying the county of their potential leave. However, if the leave clearly meets the leave criteria, the county reserves the right to designate protected leave beginning with the first day of absence for the qualifying leave. The employee cannot delay the start date of family medical leave by declaring the first part of leave as "vacation" leave.

### **Confidentiality**

Supervisors and Human Resources staff are required to keep medical information confidential and Family and Medical Leave documents and forms in a file separate from the employee's personnel file.

### **Intermittent or Reduced Schedule Leaves**

For serious health conditions, family medical leave may be taken on an intermittent basis or a reduced schedule if medically necessary. Details of the proposed schedule will be verified by the certifying medical professional on the Health Care Provider Certification Form.

### **Status Reports**

While on family medical leave, the employee's supervisor is entitled to periodic reports of status and intent of return to work from the employee, at intervals determined by the supervisor. The supervisor must take into account all of the relevant facts and circumstances related to the individual employee's leave situation when considering such reports, how often such reports are required, and how such reports will affect the length of the employee's leave.

## Use of Accrued Leave

Employees who take leave under FMLA and/or OFLA, and who apply for, and are approved for PLO by the state, may elect to use their accrued paid leave to replace their wages up to approximately 100% of their average weekly wage, consistent with applicable law. The average weekly wage is the employee's total gross wages divided by the number of weeks the employee has worked for Deschutes County over the prior 12 months. An employee choosing to supplement their PLO benefits with accrued leave must make their election for each leave bank during the payroll period in which they wish to use the hours. The county will report all supplemental benefits paid to employees to the state in accordance with applicable rules. It should be understood that the county is not responsible for an employee's PLO repayment obligations, penalties, or reduction in benefits assessed by the state due to the employee's decision to use their accrued leave.

If an employee is approved for PLO benefits and has requested to use leave accruals, any period of absence when they are not using any leave accruals will be considered an unpaid leave of absence. The county may request documentation of PLO benefits received when an employee elects to supplement with their accrued leave while on PLO so the appropriate amount of accrued leave to be used can be determined. An employee's regular salary will not be paid when on leave under PLO, even if their PLO benefit has not yet been received.

If an employee's leave does not qualify or apply for PLO, but qualifies for other protected leaves, employees are required to use all available accrued paid leave before going into leave without pay. If the day before and after a holiday are leave without pay, the holiday will also be unpaid. An employee will not earn paid leave accruals on any time coded as unpaid leave for any reason.

## Tracking of Leave

Employees are responsible for informing their supervisors of absences that are related to a FMLA, OFLA, or PLO event. Both employees and supervisors are responsible for ensuring such absences are clearly noted on timesheets so the amount of FMLA/OFLA/PLO leave may be accurately tracked.

## Benefit Continuation

Employees on leave who are eligible for leave under FMLA and/or OFLA will have their benefits continued under the same terms and conditions as when they were an active

employee during the period of qualified leave. Employees who are eligible for protected leave under PLO will have their benefits continued after 90 consecutive days of employment.

Employee contributions towards benefits will be made either through payroll deduction (when using paid leave) or by direct payment to the county (while on unpaid leave). The employee will be advised in writing as to the method of payment and due date of premiums. Employee contribution amounts are subject to any change in rates that occur while the employee is on leave.

### **Reinstatement**

Employees returning from leave will be reinstated to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment and employment status (for example, if the employee was on a work plan or had progressive discipline before the leave, these corrective steps will resume), unless their former positions have been eliminated in circumstances under which the law does not require reinstatement. The employee's restoration rights are the same as they would have been had the employee not been on leave. Therefore, if an employee's position would have been eliminated or the employee would have been terminated but for the family and/or medical leave, the employee would not have the right to be reinstated upon return from leave.

If an employee is on probationary status while on approved family and/or medical leave, and the leave exceeds more than two weeks, the employee's probationary period will be extended by the length of the leave.

### **Failure to Return from Leave**

When an employee fails to return to work after exhausting family medical leave, their employment may be terminated in accordance with applicable laws, county policies, and union contracts. When an employee is unable to return to work due to their own serious health condition, the county will work with the employee to determine any protections that they may be afforded under the Americans with Disabilities Act (ADA).

If the employee has given unequivocal notice of the intent not to return from leave, the employer's obligation to reinstate the employee ceases. Under FMLA only, the employment relationship generally ends after the employee clearly abandons future employment. The employee may be required to repay the county for the employer-paid portion of the health insurance premium during any unpaid FMLA period. Health insurance premium repayment under this provision will not apply if the need for leave

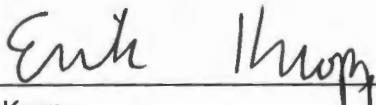
still exists, the employee cannot return for a reason that is beyond their control, or the employee elects retirement.

Regardless of the employee's notification of their decision to not return to work, under OFLA only, the county will continue the employee's previously approved OFLA leave until it is exhausted. The employee remains entitled to all rights and protections under OFLA for the balance of the leave, including the right to the continuation of group health coverage. If failure to return is due to continuation, recurrence or onset of a serious health condition, medical certification may be required within thirty (30) days from the date the county requests the information.

### **Retaliation or Discrimination**

Employees are protected against retaliation or discrimination in any manner as a result of the exercise of the right to FMLA OFLA, or PLO leave. Any employee violating this provision is subject to discipline.

Approved, as updated, by the Deschutes County Board of Commissioners effective September 3, 2023.

  
\_\_\_\_\_  
Erik Kropp  
Acting County Administrator



## DESCHUTES COUNTY ADMINISTRATIVE POLICY No. HR-12

EFFECTIVE DATE: JULY 21, 2008

UPDATED: SEPTEMBER 3, 2023

### FAMILY AND MEDICAL LEAVE POLICY

#### STATEMENT OF POLICY

It is the policy of Deschutes County to comply with the provisions of the ~~federal~~Federal Family and Medical Leave Act (FMLA), the Oregon Family Leave Act (OFLA), and Paid Leave Oregon (PLO).

#### APPLICABILITY

This policy applies to all eligible Deschutes County employees.

#### POLICY AND PROCEDURES

##### General

This policy informs county employees about protected leave outlined in FMLA, OFLA, and PLO. Whichever act provides the greater benefit to the employee will be applied. Protections that qualify under more than one type of protected leave will run concurrently. Although not every detail of these laws can be included in this policy, the county will administer protected leave in accordance with all applicable ~~state~~State and ~~federal~~Federal laws.

#### **Employee Eligibility**

##### FMLA

To qualify for FMLA, an employee must have been employed by the county for at least 12 months and have worked at least 1,250 hours in the previous 12 months.

##### OFLA

To qualify for OFLA, an employee must have been employed by the county for an

<sup>1</sup>This requirement may be different for employees who qualify under the Oregon Military Family Leave Act (OMFLA). Human Resources will provide direct consultation regarding eligibility for those who qualify under OMFLA.

average of 25 hours or more per ~~week~~<sup>11</sup> week for 180 calendar days before leave begins. ~~However, employees taking leave due to the birth of a child or newly adopted or placed foster child become eligible after being employed for 180 calendar days, without regard to the number of hours worked per week.~~ Additionally, ~~During~~ During a public health emergency, employees become eligible for OFLA leave if they have worked for a covered employer for at least 30 days and have worked an average of at least 25 hours per week in the 30 days before taking leave.

#### PLO

PLO is a paid leave benefit administered by the Paid Leave Oregon division of the Oregon Employment Department. Eligible employees that have earned at least \$1,000 in the prior year and who have contributed to PLO through payroll deductions may qualify for up to 12 weeks of paid family, medical, or safe leave in a benefit year.

Employees applying for PLO benefits will apply directly through the Paid Leave Oregon website and will be required to request a leave of absence from the county as well.

When an employee applies for this PLO, the state will determine an employee's qualifications for the benefit and will approve or deny claims for PLO benefits.

#### **Qualifying Events for Leave**

- a. Under FMLA, employees are entitled to take family medical leave in the following situations:
  - 1) When the employee has a "serious health condition" (defined further below), which renders the employee unable to perform the functions of their position.
  - 2) To care for a family member with a "serious health condition."<sup>11</sup> Under FMLA, family ~~member is members are~~ defined as a spouse, parent, or child, or someone with whom the employee has an "in loco parentis" relationship. "In loco parentis" is defined as a person with whom an employee has developed a parent/child relationship in the absence of a biological or adoptive parent.

<sup>11</sup>~~This requirement may be different for employees who qualify under the Oregon Military Family Leave Act (OMFLA). Human Resources will provide direct consultation requiring eligibility for those who qualify under OMFLA.~~

3) For the birth or adoption of a child, or for the placement of a child in foster care with the employee. This is often referred to as "parental leave."

4) Immediate family members (spouses, parents, and children) as well as next of kin (nearest blood relative) of an Armed Forces service member who suffers a serious injury or illness while in military service are entitled to take up to 26 weeks of FMLA leave to care for that service member during a 12-month period. The expanded leave to care for injured service members is only available during a single 12-month period.

5) "Any qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of an impending call to active-duty status, in support of a contingency of operation. "Qualifying exigency" may include child or elder care (even without a serious health condition) or helping the family member prepare for departure for duty.

b. In addition, employees Employees are entitled to take family medical leave in the following situations under Oregon law (OFLA):

1) To provide home care for a child under the age of 18 with a non-serious health who is suffering from an illness, injury, or condition, provided another family member is not willing and able to that requires home care.

1) To care for the child; or

2) To provide childcare if your child's who requires home care due to the closure of the child's school or childcare provider is closed due to as a statewide result of a public health emergency, such as COVID-19 pandemic school closures; or,

3) Up to an additional two (2) weeks for bereavement leave related to the death of a family member, taken within 60 days of the date on which the employee receives notice of the death of the family member, not to exceed a total of four weeks within a one-year period.

4) Up to twelve (12) weeks for pregnancy disability leave before or after the birth of a child; or. This is in addition to any other OFLA

leave used for the purposes stated above.

3)5) Up to fourteen (14) days for military family leave, if your spouse or domestic partner is a service member who has been called to active duty or is on leave from active duty; or

4)6) Up to two (2) weeks for bereavement leave. Under OFLA, "family member" means an individual who is related by affinity to the death of a family member; employee or an individual who is the employee:

To care for a family member with a "serious health condition." Under OFLA, eligible family members include those covered under FMLA as well as a child's spouse

- (a) Spouse or domestic partner, a parent's
- (b) Child or the child's spouse or domestic partner, a sibling
- (c) Parent or the parent's spouse or domestic partner

"Parent" means:

- A. An employee's biological parent, adoptive parent, stepparent, current or former foster parent, or a person who was or is the employee's legal guardian or with whom the employee was or is in a relationship of in loco parentis; or
- B. The parent of the employee's spouse or domestic partner who meets a description in (A) above.

5) (d) Sibling or stepsibling or the sibling's or stepsibling's spouse or domestic partner, a grandparent or the grandparent's spouse or domestic partner, a grandchild or the grandchild's spouse or domestic partner, a domestic partner, or any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship. A statement of Affinity may be required to show that such a bond exists.

• (e) As outlined in OAR 471-070-1000, "affinity," as the term is used in ORS 657B.010, 839-009-210, "Affinity" means a relationship that meets the following requirements:

- Therefor which there is a significant personal bond that, when examined under the totality of the circumstances, is like a family relationship, and;
- The bond under section (a) of this rulesubsection may be demonstrated by, but is not limited to the following factors, with no single factor being determinative:

- i.A. Shared personal financial responsibility, including shared leases, common ownership of real or personal property, joint liability for bills, or beneficiary designations;
- ii.B. Emergency contact designation of the claimant by the other individual in the relationship, or vice versa the emergency contact designation of the other individual in the relationship by the employee;
- iii.C. The expectation to provide care because of the relationship or the prior provision of care;
- iv.D. Cohabitation and its duration and purpose;
- v.E. Geographical proximity; and
- vi.F. Any other factor that demonstrates the existence of a family-like relationship.

e. c. Employees are entitled to take paid leave, in full day increments only, in the following situations under PLO:

- 1) To care for family members (as defined under OFLA) with a serious health condition.
- 2) To care for and bond with a child in the first year after birth, adoption, or when they're placed in your home through foster care.
- 3) To effectuate the legal process required for placement of a foster child or the adoption of a child.
- 4) Medical leave to care for yourself when you have a serious health condition.
- 5) Safe leave to care for yourself or your child if you or your child are survivors of sexual assault, domestic violence, harassment, or stalking.
- 6) Pre-placement leave for eligible employees who are planning to adopt of foster a child.

### **Serious Health Condition**

A serious health condition means an illness, injury, impairment or physical or mental condition that involves:

- 1) Inpatient care (overnight hospital stay).
- 2) A critical illness or injury diagnosed as terminal, or which possesses an imminent danger of death.
- 3) A period of incapacity for more than three consecutive calendar days, and any subsequent treatment period of incapacity relating to the same condition, which also involves:

- a. Two or more treatments by a health care provider, or
- b. Treatment by a health care provider on at least one occasion, with a regimen of continuing treatment (e.g., prescription drugs.)

**1)4)** Permanent or long-term incapacity due to a condition for which treatment may not be effective, such as Alzheimer's disease, severe stroke, clinical depression, or terminal stages of a disease.

**4)5)** Absences for pre-natal care or pregnancy-related disability.

**5)6)** Absences for "chronic" serious health conditions, including, but not limited to diagnosed migraines, asthma, diabetes or epilepsy.

**6)7)** Absences to receive multiple treatments for restorative surgery after an accident or injury, or conditions that, if not treated, would likely result in an incapacity of more than three consecutive calendar days without medical intervention or treatment.

### **Duration of the Leave**

Qualifying employees are entitled to 12 weeks of family medical leave in a one-year period, which means a period of 52 consecutive weeks beginning on the Sunday immediately preceding the date on which family leave commences.

~~For parental leave under OFLA, intermittent leave is subject to department approval and the leave must be taken and concluded within one (1) year from the date of birth or placement of the child.~~

Under OFLA and PLO, additional leave may be available for employees who suffer from a disability resulting from pregnancy or childbirth. Additionally, OFLA allows time off to care for a child with a non-serious health condition that requires home care. PLO allows for additional leave for employees who give birth to a child. Employees should contact the Human Resources Department to determine if they are eligible for extended leave under these circumstances.

When family members who are each employed by the county wish to take leave under this policy at the same time, their ability to do so may be limited in certain circumstances, such as when they wish to take parental leave together or when they wish to take leave at the same time to care for a parent suffering from a serious health condition. When family members who are each employed by the county wish to take leave at the same time, they should contact the Human Resources Department to determine if they are eligible to do so.

Policy No. HR-12, Family and Medical Leave

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## Concurrent Leaves

To the extent permissible under the law, OFLA, FMLA, and PLO leave will run concurrently. Whenever these laws differ, the county will apply the standard which is most beneficial to the employee.

~~OFLA and~~ PLO leave cannot run concurrently when the employee is eligible to receive worker's compensation under ORS chapter 656. ~~OFLA leave can run concurrently only if the worker's compensation claim is denied, or if the employee has refused a suitable offer of light duty or modified employment.~~

FMLA leave will run concurrently with a worker's compensation leave if the leave meets the criteria for a serious health condition under FMLA.

## Notice Required by Employee

When the leave is foreseeable, the employee must apply for family medical leave **at least thirty (30) calendar days** in advance of the leave by completing and providing to the county a "~~Family and Medical Leave Request Form.~~Protected Leave Request Form," ~~which is available on the Human Resources internet page here:~~ <https://www.deschutes.org/hr/page/family-and-medical-leave> under Supporting Documents. Furthermore, if the leave is foreseeable, the employee must make reasonable efforts to schedule leave in a way that does not unduly disrupt the operation of the employee's department. If an employee fails to give at least thirty (30) ~~days~~days of notice of foreseeable leave, and has no reasonable excuse, the county may delay the start of leave until at least 30 days after the notice was actually given by the employee. If leave is required because of a medical emergency or other unforeseeable event, the employee must inform their supervisor within three working days ~~so the form can be provided to the employee.~~ Employees applying for PLO benefits must also notify the state within its established timeframes to avoid a possible reduction in the PLO benefit.

Completed forms are to be returned to the employee's supervisor and then forwarded to the Human Resources Department to determine if the employee and leave request meets the qualification criteria. It is the responsibility of the employee, and the employee's supervisor to ensure ~~Family and Medical~~Protected Leave Request Forms are completed and submitted to the Human Resources Department as quickly as possible.

Human Resources staff will review the ~~Family and Medical~~Protected Leave Request Form and provide the employee with a Family and Medical Leave Designation Notice or request additional ~~certification forms~~information if needed. If the employee or family member has Policy No. HR-12, Family and Medical Leave

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a serious health condition, the county may require the completion of a Health Care Provider Certification Form, which will be sent to the employee by the Human Resources Department. (HCPC) form, which is also available on the Human Resources internet page here: <https://www.deschutes.org/hr/page/family-and-medical-leave-under-Supporting-Documents>.

~~The Health Care Provider Certification Form~~ The HCPC form must be completed by the employee's health care provider and returned to the Human Resources Department within fifteen (15) calendar days from the date of the leave request. Failure to provide the ~~Health Care Provider Certification Form~~ HCPC form may result in denial of the rights and protections of FMLA and OFLA.

If the serious illness is related to a family member, the attending health care provider must indicate on the ~~Health Care Provider Certification Form~~ HCPC form that the employee is needed to provide care.

When the medical certification is unclear, or its validity is in question, the county may require the employee or family member to obtain a second or third opinion at the county's expense.

If the need for leave extends beyond a period of one (1) year, such as with intermittent serious health condition leave, the county may require periodic re-certifications by a health care provider that there is a continuing need for leave.

If the family medical leave is for the employee's own serious health condition, the employee will be required to furnish a "Release to Return to Work" from their health care provider upon requesting to return to work.

Employees applying for PLO benefits will be required to provide documentation directly to PLO in accordance with PLO's claim request process. The county will not supply medical documentation to PLO on behalf of an employee or their family member.

### **Obligation to Designate Leave**

Deschutes County is obligated under the law to designate family medical leave when it becomes aware of a situation that clearly meets the leave criteria. It is the policy of Deschutes County that employees are to follow the above procedures for notifying the county of their potential leave. However, if the leave clearly meets the leave criteria, the county reserves the right to designate protected leave beginning with the first day of absence for the qualifying leave. The employee cannot delay the start date of family medical leave by declaring the first part of leave as "vacation" leave.

## Confidentiality

Supervisors and Human Resources staff are required to keep medical information confidential, and Family and Medical Leave documents and forms in a file separate from the employee's personnel file.

## Intermittent or Reduced Schedule Leaves

For serious health conditions, family medical leave may be taken on an intermittent basis or a reduced schedule if medically necessary. Details of the proposed schedule will be verified by the certifying medical professional on the Health Care Provider Certification FormHCPC form.

## Status Reports

While on family medical leave, the employee's supervisor is entitled to periodic reports of status, and intent ofto return to work from the employee, at intervals determined by the supervisor. The supervisor must take into account all of the relevant facts and circumstances related to the individual employee's leave situation when considering such reports, how often such reports are required, and how such reports will affect the length of the employee's leave.

## Use of Accrued Leave

Employees who take leave under FMLA and/or OFLA, and who apply for, and are approved for PLO by the state, may elect to use their accrued paid leave to replace their wages up to approximately 100% of their average weekly wage, consistent with applicable law. The average weekly wage is the employee's total gross wages divided by the number of weeks the employee has worked for Deschutes County over the prior 12 months, consistent with applicable law. An employee choosing to supplement their PLO benefits with accrued leave must make their election for each leave bank during the payroll period in which they wish to use the hours. The county will report all supplemental benefits paid to employees to the state in accordance with applicable rules. It should be understood that the county is not responsible for an employee's PLO repayment obligations, penalties, or reduction in benefits assessed by the state due to the employee's decision to use their accrued leave. If an employee chooses not to use available accrued leave, the employee will be considered on an unpaid leave of absence.

If an employee is approved for PLO benefits and has requested to use leave accruals, any period of absence when they are not using any leave accruals will be considered an unpaid leave of absence. The county may request documentation

~~of PLO benefits received when an employee elects to supplement with their accrued leave while on PLO so the appropriate amount of accrued leave to be used can be determined. An employee's regular salary will not be paid when on leave under PLO, even if their PLO benefit has not yet been received.~~

If an employee's leave does not qualify or apply for PLO, but qualifies for other protected leaves, employees are required to use all available accrued paid leave before going into leave without pay. ~~If in accordance with current policies, practices and/or collective bargaining agreements, if the day before and after a county paid holiday are coded as leave without pay on the employee's timesheet, the holiday will also be unpaid. An employee will not earn paid leave accruals on any time coded as unpaid leave for any reason.~~

## Tracking of Leave

Employees are responsible for informing their supervisors of absences that are related to a FMLA, OFLA, or PLO event. Both employees and supervisors are responsible for ensuring such absences are clearly noted on timesheets so the amount of FMLA/OFLA/PLO leave may be accurately tracked.

## Benefit Continuation

Employees on leave who are eligible for leave under FMLA and/or OFLA will have their benefits ~~continued under the same terms and conditions as when they were an active~~ ~~continued under the same terms and conditions as when they were an active~~ employee during the period of qualified leave. Employees who are eligible for protected leave under PLO will have their benefits continued after (90) consecutive days of employment.

Employee contributions towards benefits will be made either through payroll deduction (when using paid leave) or by direct payment to the county (while on unpaid leave). ~~or by catching up through payroll deduction upon their return from leave.~~ The employee will be advised in writing as to the method of payment and due date of premiums. Employee contribution amounts are subject to any change in rates that occur while the employee is on leave.

## Reinstatement

Employees returning from leave will be reinstated to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment, and employment status (for example, if the employee was on a work plan or had progressive discipline before the leave, these corrective steps will resume), unless their former

positions have been eliminated in circumstances under which the law does not require reinstatement. The employee's restoration rights are the same as they would have been had the employee not been on leave. Therefore, if an employee's position would have been eliminated, or the employee would have been terminated but for the family and/or medical leave, the employee would not have the right to be reinstated upon return from leave.

If an employee is on probationary status while on approved family and/or medical leave, and the leave exceeds more than two weeks, the employee's probationary period will be extended by the length of the leave.

### **Failure to Return from Leave**

When an employee fails to return to work after exhausting family medical leave, their employment may be terminated in accordance with applicable laws, county policies, and union contracts. When an employee is unable to return to work due to their own serious health condition, the county will work with the employee to determine any protections that they may be afforded under the Americans with Disabilities Act (ADA).

If the employee has given unequivocal notice of the intent not to return from leave, the employer's obligation to reinstate the employee ceases. Under FMLA only, the employment relationship generally ends after the employee clearly abandons future employment. The employee may be required to repay the county for the employer-paid portion of the health insurance premium during any unpaid FMLA period. Health insurance premium repayment under this provision will not apply if the need for leave still exists, the employee cannot return for a reason that is beyond their control, or the employee elects retirement.

Regardless of the employee's notification of their decision to not return to work, under OFLA protected leave only, the county will continue the employee's previously approved OFLA leave until it is exhausted. The employee remains entitled to all rights and protections under OFLA for the balance of the leave, including the right to the continuation of group health coverage. ~~If failure to return is due to continuation, recurrence or onset of a serious health condition, medical certification may be required within thirty (30) days from the date the county requests the information.~~

### **Retaliation or Discrimination**

Employees are protected against retaliation or discrimination in any manner as a result of ~~the exercise~~exercising of the right to FMLA, OFLA, or PLO leave. Any employee violating this provision is subject to discipline.

Approved, as updated, by the Deschutes County Board of Commissioners effective  
September 3, 2023XXXX.

Erik Kropp  
Erik Kropp

**Acting**

County Administrator

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**Deschutes County Administrative Policy No. HR-13**  
**Effective Date: September 24, 2008**

## **EMPLOYEE LEAVE DONATION**

### **STATEMENT OF POLICY**

It is the policy of Deschutes County to allow employees to voluntarily donate time management leave, vacation leave, or compensatory time to other employees who are out of leave due to an Oregon Family Leave Act (OFLA) / Family Medical Leave Act (FMLA) qualifying event.

### **APPLICABILITY**

This policy applies to all regular County employees who accrue leave and have completed their initial probationary period.

### **POLICY AND PROCEDURE**

#### **General**

To be eligible to receive donated leave, an employee must have been approved for OFLA/FMLA leave. OFLA/FMLA requires that the employee or employee's immediate family member have a serious and extended illness or injury (immediate family member and serious/extended illness are defined in the County's OFLA/FMLA policy).

#### **Procedure**

##### **Eligibility for Employee to Receive Donated Leave**

An employee interested in leave donation shall contact the Personnel Department. The Personnel Department will determine whether an employee is eligible for donated leave. A physician's statement may be requested of the employee requesting donated leave. The employee requesting the donated leave must first use (or plan to use and have available) 40 hours of paid leave and then exhaust all available paid leave including time management, sick leave (if applicable), floating holidays, and compensatory time.

If an employee does not have a minimum of 40 hours of paid leave accrued (when the leave is requested), they are not eligible for the donated leave program. The County Administrator may waive the 40 hour requirement in unusual circumstances where an employee falls below 40 hours of leave due to one occurrence of OFLA/FMLA leave and does not have sufficient time to build up his/her leave bank before another occurrence of OFLA/FMLA leave.

Employees with a serious and extended illness are encouraged to apply for long term disability if the illness is expected to last for several months. An employee using donated leave will continue to accrue benefits and leave time, but must exhaust all leave as accrued.

### Eligibility for an Employee to Donate Leave

Employees who would like to donate leave must have a leave balance of at least 80 hours remaining (this includes all types of leave, with the exception of the floating holiday) after the donation. Part time employees must have a minimum prorated balance (for example, an employee working as a 0.5 FTE would need 40 hours).

### Donating Leave

The Personnel Department will administer the leave donations. Solicitations by department heads, supervisors, or co-workers are not permitted. Once an employee receives approval to use donated leave, the Personnel Department will send out a notice to County employees of the request for donated leave. The notice will include the name and department of the employee requesting the leave.

Donated leave shall only include time management leave, vacation leave, and compensatory time. It shall not include sick leave or the floating holiday. To donate leave, an employee must sign a release document (Leave Donation Form – available on the intranet). Donors shall remain anonymous and all contribution records shall be retained in confidential files. Donations of leave will be on an hour-for-hour basis. The minimum contribution is eight hours for full-time employees and four hours for part-time employees. Donations cannot be retroactive.

Once approved, the contributions will be placed in the recipient's leave bank in the order they were received, but only as the recipient needs leave each pay period. In the event a request is processed but the recipient does not use the leave, the leave will be restored to the donor's leave bank.

The maximum amount of donated leave that can be received by an employee in a rolling 12 month period is 480 hours (prorated for part-time employees). If the employee using donated leave is eligible for long-term disability, the employee is limited to the amount of donated leave that is required to begin long-term disability. Once on long-term disability, an employee is not eligible for any type of donated leave.

Approved by the Deschutes County Board of Commissioners September 24, 2008.

  
 Dave Kanner  
 County Administrator



**Deschutes County Administrative Policy No. HR-13**  
**Effective Date: September 24, 2008**

## **EMPLOYEE LEAVE DONATION**

### **STATEMENT OF POLICY**

It is the policy of Deschutes County to allow employees to voluntarily donate time management leave, vacation leave, or compensatory time to other employees who are out of leave due to an Oregon Family Leave Act (OFLA) / Family Medical Leave Act (FMLA) qualifying event. Employees are eligible for Employee Leave Donation, only after all other paid leave options have been exhausted.

### **APPLICABILITY**

This policy applies to all regular County employees who accrue leave and have completed their initial probationary period.

### **POLICY AND PROCEDURE**

#### **General**

To be eligible to receive donated leave, an employee must have been approved for OFLA/FMLA leave. OFLA/FMLA requires that the employee or employee's immediate family member have a serious and extended illness or injury (immediate family member and serious/extended illness are defined in the County's OFLA/FMLA policy).

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If an employee does not have a minimum of 40 hours of paid leave accrued (when the leave is requested), they are not eligible for the donated leave program. The County Administrator may waive the 40 hour requirement in unusual circumstances where an employee falls below 40 hours of leave due to one occurrence of OFLA/FMLA leave and does not have sufficient time to build up his/her leave bank before another occurrence of OFLA/FMLA leave.

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Approved by the Deschutes County Board of Commissioners DATE

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Nick Lelack  
County Administrator



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** January 5, 2026

**SUBJECT:** Destiny Court PA/ZC Remand Record Decision

**RECOMMENDED MOTION:**

Either:

- A) Move to approve Order No. 2026-002, an order to reopen the record for remand File No. 247-25-000759-A to consider new evidence related to the evaluation of whether the subject property is suitable for the farm uses Petitioner identified in the record.

OR

- B) Move to approve Order No. 2026-002, an order to reopen the record for remand File No. 247-25-000759-A to consider new evidence related to all remand issues for LUBA No. 2025-015.

**BACKGROUND AND POLICY IMPLICATIONS:**

On December 23, 2025, Destiny Court Properties, LLC (the “Applicant”) initiated a Land Use Board of Appeals (“LUBA”) remand application (ref. File No. 247-25-000759-A). In advance of the Board of County Commissioners (“Board”) remand hearing, staff needs direction from the Board on whether the record should be reopened to accept new evidence to help inform the Board’s review and final decision.

Please see the attached memorandum for more background.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Caroline House, Senior Planner



## MEMORANDUM

**DATE:** January 30, 2026

**TO:** Board of County Commissioners

**FROM:** Caroline House, Senior Planner

**RE:** Destiny Court PA/ZC Remand Record Decision

On December 23, 2025, Destiny Court Properties, LLC (the "Applicant") initiated a Land Use Board of Appeals ("LUBA") remand application (ref. File No. 247-25-000759-A). In advance of the Board of County Commissioners ("Board") remand hearing, staff needs direction from the Board on whether the record should be reopened to accept new evidence to help inform the Board's review and final decision.

## I. BACKGROUND

The subject property is assigned address 19975 Destiny Court, Bend, OR 97703, and is located in Deschutes County's jurisdiction between the City of Bend and the Unincorporated Community of Tumalo. In 2022, the Applicant initiated several land use applications including a Comprehensive Plan Amendment to change the designation of this property from Agricultural ("AG") to Rural Residential Exception Area ("RREA") and Zone Change to rezone this property from Exclusive Farm Use ("EFU") to Multiple Use Agricultural ("MUA-10"). In January 2025, the Board voted 2-1 to approve the Comprehensive Plan Amendment and Zone Change request, which aligned with the Hearings Officer's Recommendation.

## II. REMAND

The County's decision was appealed to LUBA and LUBA remanded<sup>1</sup> the County's decision back for further review on June 26, 2025 (ref. LUBA No. 2025-015). The Applicant submitted the subject remand application within 180 days of LUBA's Final Order and Opinion pursuant to ORS 215.435(2)(a). As described by the Applicant, LUBA affirmed the County's approval on multiple grounds but remanded on two discrete issues:

1. Alleged Inconsistency with Comprehensive Plan Policy. Specifically, LUBA found remand was necessary to address an apparent inconsistency regarding the County's Comprehensive Plan

<sup>1</sup> LUBA's Final Opinion and Order was not appealed to the Court of Appeals.

and the MUA-10 zone, in particular the minimum new lot size for rural residential lots in that zone. LUBA stated:

"...the response does not explain why the equivalent densities of one dwelling per 7.5 acres or 5 acres allowed in the MUA-10 zone, which apparently would allow creation of parcels as small as 1.7 acres in size, are consistent with the 10-acre minimum parcel size specified in DCCP Policy 3.3.1.

...

Accordingly, we deem it appropriate under this first assignment of error to remand so that the county may address the alleged conflict between DCCP Policy 3.3.1. and DCC 18.32.040(A) in the first instance."<sup>2</sup>

2. Complete Analysis Regarding Proposed Farm Uses on the Property. While LUBA rejected the Petitioner's claims that an applicant must disprove that any and all farm uses could occur on the property, LUBA did find that "we agree with petitioner that remand is necessary for the county to evaluate whether the subject property is suitable for the farm uses petitioner identified in the record, including various types of animal husbandry and equine facilities listed in ORS 215.203(2)(a)."<sup>3</sup>

Notably, LUBA found that the issue of conjoined use was settled (id., slip op 32-33), and so the inquiry before the BOCC relates only to use on the subject property, alone.

### **III. APPLICANT'S REQUEST TO REOPEN THE RECORD**

DCC 22.34.040(A) establishes on remand the Board shall review those issues that LUBA required to be addressed. In addition, the Board shall have the discretion to reopen the record in instances in which it deems it to be appropriate.

As part of the Applicant's remand application, the Applicant has requested for the record to be reopened to accept new evidence related to Remand Issue 2 only. The Applicant believes Remand Issue 1 does not require new evidence for the Board to make an informed decision.

If the record is not reopened, the Board must rely on the LUBA No. 2025-015 record, and the Board will only accept additional *arguments* from parties based on the evidence in the LUBA No. 2025-015 record.

### **IV. NEXT STEPS**

As noted above, the Board has the discretion to reopen the record to allow for the submittal of additional evidence related to the remand issue(s). Staff needs direction from the Board on whether they wish to do so.

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<sup>2</sup> Central Oregon LandWatch v. Deschutes County, \_\_ Or LUBA \_\_ (LUBA Nos. 2025-015) (slip op at 9-10, Jun 26, 2025) (hereinafter "Destiny Court").

<sup>3</sup> *Destiny Court*, slip op 23.

The Board has three options:

1. Keep the record closed.
2. Reopen the record as requested by the Applicant and only accept new evidence on Remand Issue 2.
3. Reopen the record to accept information on Remand Issues 1 and 2.

If Option 2 or Option 3 are selected, the Board must approve Board Order No. 2026-002 (see attached draft Orders).

#### **V. 120-DAY REVIEW CLOCK**

Remand applications have a 120-day review clock<sup>4</sup>, and this review clock cannot be extended in most circumstances<sup>5</sup>. Therefore, the 120<sup>th</sup> day on which the County must take final action on this application is April 22, 2026.

To ensure the Board has sufficient time to complete their review, staff is planning to schedule the remand hearing before the Board on Wednesday, January 28, 2026.

If the Board elects to reopen the record, staff respectfully requests that Board Order 2026-002 be executed at the beginning of the Board's Regular Meeting on January 7, 2026, to ensure staff has sufficient time to mail out the Notice of Public Hearing.

#### **VI. RECORD**

The record for this remand application is as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-25-000759-remand-destiny-court-properties-l1c-comprehensive-plan-amendment-zone-change>

Attachments:

- 1) Board Order 2026-002 (Remand Issue 2 Only)
- 2) Board Order 2026-002 (Remand Issues 1 and 2)

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<sup>4</sup> Most land use applications have a 150-day review clock, and the Applicant can extend the clock for up to 215 days or waive the review clock entirely.

<sup>5</sup> Ref. ORS 215.435(2)(b).

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

## BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Allowing the Board of County Commissioners to Consider New Evidence Relevant to LUBA No. 2025-015 and Remand File No. 247-25-000759-A \* \* \* ORDER NO. 2026-002

WHEREAS, the Oregon Land Use Board of Appeals ("LUBA") issued a Final Opinion and Order in LUBA No. 2025-015 remanding Deschutes County's approval of a Comprehensive Plan Amendment and Zone Change request by Destiny Court Properties, LLC ("Applicant"); and

WHEREAS, the Applicant timely requested in writing that the County proceed with the remand application (ref. File No. 247-25-000759-A); and

WHEREAS, Section 22.34.040(A) of the Deschutes County Code ("DCC") allows the Board of County Commissioners ("Board") discretion to reopen the record in instances in which it deems to be appropriate; and

WHEREAS, the Applicant has requested the reopened record be limited to only one remand issue, evaluation of whether the subject property is suitable for the farm uses Central Oregon LandWatch ("Petitioner") identified in the record.

WHEREAS, the Board wishes to clarify that parties may present new evidence regarding the issue remanded to the County by LUBA in this matter and described above; and

WHEREAS, the Board does not wish to reopen the record to allow parties to raise new issues; any additional testimony and evidence submitted by the parties must comply with DCC 22.34.040(C); now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. The Board hereby reopens the record for remand File No. 247-25-000759-A to consider new testimony and evidence related to the evaluation of whether the subject property is suitable for the farm uses Petitioner identified in the record.

Section 2. The County on remand shall not accept new testimony and evidence on any other issues unless allowed by DCC 22.34.040(C).

Dated this 7th of January, 2026

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

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PHIL CHANG, Chair

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ANTHONY DeBONE, Vice Chair

ATTEST:

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Recording Secretary

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PATTI ADAIR, Commissioner

REVIEWED

LEGAL COUNSEL

For Recording Stamp Only

## BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON

An Order Allowing the Board of County Commissioners to Consider New Evidence Relevant to LUBA No. 2025-015 and Remand File No. 247-25-000759-A

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WHEREAS, the Applicant timely requested in writing that the County proceed with the remand application (ref. File No. 247-25-000759-A); and

WHEREAS, Section 22.34.040(A) of the Deschutes County Code ("DCC") allows the Board of County Commissioners ("Board") discretion to reopen the record in instances in which it deems to be appropriate; and

WHEREAS, the Board wishes to clarify that the parties may present new evidence regarding the issues remanded to the County by LUBA in this matter; now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF DESCHUTES COUNTY, OREGON, HEREBY ORDERS as follows:

Section 1. The Board hereby reopens the record for remand File No. 247-25-000759-A to consider new testimony and evidence related to all remand issues for LUBA No. 2025-015.

Section 2. The County on remand shall not accept new testimony and evidence on any other issues unless allowed by DCC 22.34.040(C).

Dated this 7th of January, 2026

BOARD OF COUNTY COMMISSIONERS  
OF DESCHUTES COUNTY, OREGON

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PHIL CHANG, Chair

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ANTHONY DeBONE, Vice Chair

ATTEST:

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Recording Secretary

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PATTI ADAIR, Commissioner



## BOARD OF COMMISSIONERS

# AGENDA REQUEST & STAFF REPORT

**MEETING DATE:** January 5, 2026

**SUBJECT:** Discussion regarding process and timing of assigning Commissioner districts

**RECOMMENDED MOTION:**

N/A—discussion only.

**BACKGROUND AND POLICY IMPLICATIONS:**

The Board will hold public hearings on January 20<sup>th</sup> and January 21<sup>st</sup> regarding the draft Commissioner District Map recommended by the District Map Advisory Committee.

If approved, a District Map would assign one Commissioner position to each district. Because the current positions on the Commission are at-large, assigning the positions to districts could, potentially, assign current Commissioners to represent a district outside of their current residence.

Staff is seeking direction for possible assignment of Commissioner positions to each district prior to the January 20<sup>th</sup> and 21<sup>st</sup> public hearings. If assignment is to occur, formal action will be scheduled for the January 14<sup>th</sup> BOCC meeting.

**BUDGET IMPACTS:**

None

**ATTENDANCE:**

Jen Patterson, Strategic Initiatives Manager