

Chapter 192-150 WAC

JOB SEPARATIONS

WAC

192-150-050	Leaving work to accept bona fide job offer—RCW 50.20.050 (1)(b)(i) and (2)(b)(i).
192-150-055	Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).
192-150-060	Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii).
192-150-085	How to qualify after benefits have been denied.
192-150-090	How to qualify for benefits after leaving work for marital or domestic reasons.
192-150-100	Employer-initiated layoffs or reductions in force.
192-150-110	Mandatory military transfers—RCW 50.20.050 (1)(b)(iii) and (2)(b)(iii).
192-150-112	Definitions—Domestic violence and stalking—RCW 50.20.050 (1)(b)(iv) and (2)(b)(iv).
192-150-113	Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv).
192-150-115	Reduction in compensation of twenty-five percent or more—RCW 50.20.050 (2)(b)(v).
192-150-120	Reduction in hours of twenty-five percent or more—RCW 50.20.050 (2)(b)(vi).
192-150-125	Change in worksite—RCW 50.20.050 (2)(b)(vii).
192-150-130	Worksite safety—RCW 50.20.050 (2)(b)(viii).
192-150-135	Illegal activities at the worksite—RCW 50.20.050 (2)(b)(ix).
192-150-140	Change in usual work that violates religious or sincere moral beliefs—RCW 50.20.050 (2)(b)(x).
192-150-145	Change in working conditions covered by RCW 50.20.050 (2)(b)(v) through (x).
192-150-150	When is a separation considered a refusal of new work?
192-150-160	Entering approved apprenticeship training—RCW 50.20.050 (2)(b)(xi).
192-150-180	Quitting part-time work—RCW 50.20.050(3).
192-150-200	General provisions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.
192-150-205	Definitions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.
192-150-210	Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2).
192-150-215	Discharges for gross misconduct—Responsibility for providing information.
192-150-220	Discharges for gross misconduct—Definitions—Canceling wage credits.
192-150-225	Examples of flagrant and wanton misconduct.
192-150-230	What happens if I am discharged prior to the effective date of my resignation?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-150-065	What constitutes an employer-initiated mandatory transfer under RCW 50.20.050 (1)(b)(iii)? [Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-065, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). WSR 01-11-085, § 192-150-065, filed 5/16/01, effective 6/16/01.] Repealed by WSR 07-22-055, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010 and 50.12.040.
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WAC 192-150-050 Leaving work to accept bona fide job offer—RCW 50.20.050 (1)(b)(i) and (2)(b)(i). If you leave work to accept a bona fide offer of employment, you will have good cause within the meaning of RCW 50.20.050 if you satisfactorily demonstrate that:

(1) Prior to leaving work, you received a definite offer of employment; and

(2) You had a reasonable basis for believing that the person making the offer had the authority to do so; and

(3) A specific starting date and the terms and conditions of the employment were mutually agreed upon; and

(4) You continued in your previous employment for as long as was reasonably consistent with whatever arrangements were necessary to start working at the new job; and

(5) The new job is in employment covered by Title 50 RCW or the comparable laws of another state or the federal government.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-050, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). WSR 01-11-085, § 192-150-050, filed 5/16/01, effective 6/16/01.]

WAC 192-150-055 Leaving work because of illness or disability—General rules and definitions—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) **General rule.** To establish good cause for leaving work voluntarily because of your illness or disability or the illness, disability, or death of a member of your immediate family, you must demonstrate that:

(a) You left work primarily because of such illness, disability, or death; and

(b) The illness, disability, or death made it necessary for you to leave work; and

(c) You first exhausted all reasonable alternatives prior to leaving work, including:

(i) Notifying your employer of the reason(s) for the absence as provided in WAC 192-150-060; and

(ii) Asking to be reemployed when you are able to return to work. (You are not required to request reemployment after the job separation has occurred to establish good cause.)

(2) For claims with an effective date of January 4, 2004, or later, you are not eligible for unemployment benefits unless, in addition to the requirements of subsections (1)(a)-(c) above, you terminate your employment and are not entitled to be reinstated in the same or similar position.

(3) **Exception.** You may be excused from failure to exhaust reasonable alternatives prior to leaving work as required by subsection (1)(c) if you can show that doing so would have been a futile act.

(4) **Definitions.** For purposes of this chapter:

(a) "Disability" means a sensory, mental, or physical condition that:

(i) Is medically recognizable or diagnosable;

(ii) Exists as a record or history; and

(iii) Substantially limits the proper performance of your job;

(b) "Immediate family" means your spouse, domestic partner, and the children (including unborn children), siblings, step-children, foster children, or parents of either spouse or domestic partner, whether living with you or not,

and other relatives who temporarily or permanently reside in your household;

(c) "Necessary" means the conditions are of such degree or severity in relation to your particular circumstances that they would cause a reasonably prudent person acting under similar circumstances to quit work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. WSR 10-01-156, § 192-150-055, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-055, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 02-14-035, § 192-150-055, filed 6/25/02, effective 7/26/02.]

WAC 192-150-060 Leaving work because of disability—Notice to employer—RCW 50.20.050 (1)(b)(ii) and (2)(b)(ii). (1) If you leave work because of a disability you must notify your employer about your disabling condition before the date you leave work or begin a leave of absence. Notice to the employer shall include any known restrictions on the type or hours of work you may perform.

(2) Any restrictions on the type or hours of work you may perform must be supported by a physician's statement or by the terms of a collective bargaining agreement or individual hiring contract.

(3) Nothing in unemployment insurance law requires your employer to offer you alternative suitable work when you have a disability, or modify your duties so that you can perform your current job. However, any offer from your employer of other suitable work must be made prior to the date you leave work or begin a leave of absence. You are not required to request alternative work from your employer to be found available for work.

(4) If your employer offers you alternative work or otherwise offers to accommodate your disability, you must demonstrate good cause to refuse the offer. This may include, but is not limited to, information from your physician that the accommodation offered by your employer was inadequate to reasonably accommodate your medical condition, or information demonstrating that the alternative work offered you by your employer was not suitable.

(5) If you refuse an offer of work from any employer after your job separation or after beginning a leave of absence, the department will determine whether you refused an offer of suitable work as provided in RCW 50.20.080.

(6) If you are on a leave of absence due to your disability, you must promptly request reemployment from your employer when you are again able to return to work.

(7) This section also applies to individuals on a leave of absence because of a pregnancy-related disability.

(8) For claims with an effective date of January 4, 2004, or later, in addition to the requirements of this section you are not eligible for unemployment benefits unless you terminate your employment and are not entitled to be reinstated to the same or similar position.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-060, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010. WSR 02-08-072, § 192-150-060, filed 4/2/02, effective 5/3/02.]

WAC 192-150-085 How to qualify after benefits have been denied. (1) Benefits may be denied under RCW 50.20-050 for voluntarily leaving work, RCW 50.20.060 for being

discharged for misconduct, and RCW 50.20.080 for refusing an offer of suitable work or job referral. The denial of benefits will continue indefinitely until you show that:

(a) At least seven calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least seven times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

(2) For claims with an effective date of January 4, 2004, or later, benefits may be denied under RCW 50.20.066 for being discharged for misconduct or gross misconduct. The denial of benefits will continue indefinitely until you show that:

(a) At least ten calendar weeks have elapsed following the week the act occurred that resulted in the denial of benefits; and

(b) You have obtained bona fide work and earned wages of at least ten times your suspended weekly benefit amount. The wages earned must be in employment that is covered by Title 50 RCW or the comparable laws of another state or the federal government.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-085, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010, 50.20.010, and 50.22.150(10). WSR 01-11-085, § 192-150-085, filed 5/16/01, effective 6/16/01.]

WAC 192-150-090 How to qualify for benefits after leaving work for marital or domestic reasons. This section applies only to claims with an effective date prior to January 4, 2004. RCW 50.20.050 (1)(d) says that benefits will be denied if you quit your job for family reasons. In such cases, the law provides an alternative means for qualifying for benefits other than through work and earnings. Under this alternative method, you must report in person to your Work-Source office or local employment center in ten different weeks and establish that you are able to work, available for work, and actively seeking work each week.

If you are an interstate claimant or living in a remote area, you can qualify for benefits under this alternative method by calling the unemployment information and weekly claims line in each of ten different weeks and certifying that you are able to work, available for work, and actively seeking work each week. For purposes of this section, you are living in a remote area if a round trip of more than two hours by reasonably available public or private transportation is required to reach the nearest local employment center and return.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-090, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-150-090, filed 4/5/99, effective 5/6/99.]

WAC 192-150-100 Employer-initiated layoffs or reductions in force. (1) You will not be considered to have been separated from employment for a disqualifying reason when:

(a) Your employer takes the first action in the separation process by announcing in writing to its employees that:

(i) The employer plans to reduce its work force through a layoff or reduction in force, and

(ii) That employees can offer to be among those included in the layoff or reduction in force;

(b) You offer to be one of the employees included in the layoff or reduction in force; and

(c) Your employer takes the final action in the separation process by accepting your offer to be one of the employees included in the layoff or reduction in force, thereby ending your employment relationship.

(2) This section does not apply to situations where an employer modifies benefits or otherwise encourages early retirement or early separation, but the employer and employee do not follow the steps in subsection (1)(a) through (c).

[Statutory Authority: RCW 50.12.010, 50.12.040. WSR 01-12-009, § 192-150-100, filed 5/24/01, effective 6/24/01.]

WAC 192-150-110 Mandatory military transfers—RCW 50.20.050 (1)(b)(iii) and (2)(b)(iii). (1) Any military transfer is considered mandatory if your spouse or domestic partner receives orders from the military to relocate to a new duty station, regardless of whether the transfer is temporary or permanent.

(2) You may show good cause to quit work if you relocate for your spouse or domestic partner's employment that was due to a mandatory military transfer if:

(a) Your spouse or domestic partner's new duty station is outside your existing labor market. For claims with an effective date prior to July 2, 2006, the new duty station must be in Washington or another state (including the District of Columbia, Puerto Rico, and the U.S. Virgin Islands) that allows benefits to individuals who quit work to accompany their military spouse; and

(b) You continued to work for your previous employer for as long as was reasonable prior to the move.

(3) For purposes of this section, the term "military" includes the following: U.S. Navy, U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Coast Guard, activated reserve members of any of these service branches, activated members of the National Guard, commissioned officers of the National Oceanographic and Atmospheric Administration, and commissioned officers of the regular or reserve corps of the U.S. Public Health Service.

(4) Good cause for quitting work is not established under this section if:

(a) You quit work to return to your home of record or to another location rather than accompanying your spouse or domestic partner to a new duty location; or

(b) Your spouse or domestic partner leaves military service and you elect to relocate to your home of record or elsewhere.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. WSR 10-01-156, § 192-150-110, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-110, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-110, filed 12/9/04, effective 1/9/05.]

WAC 192-150-112 Definitions—Domestic violence and stalking—RCW 50.20.050 (1)(b)(iv) and (2)(b)(iv). To constitute good cause for leaving work, your job separation

must have been necessary to protect yourself or a member of your immediate family from domestic violence or stalking.

(1) **Immediate family** is defined in WAC 192-150-055 and means your spouse, domestic partner, and [the] children (including your unborn children), siblings, stepchildren, foster children, or parents of either spouse or domestic partner, whether living with you or not, and other relatives who temporarily or permanently reside in your household.

(2)(a) **Domestic violence** is defined in RCW 26.50.010. It includes the following acts committed between family or household members:

(i) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault;

(ii) Sexual assault; or

(iii) Stalking.

(b) The perpetrator of domestic violence must be a family or household member, which means:

(i) Spouses, domestic partners, former spouses, and former domestic partners,

(ii) Persons who have a child in common regardless of whether they have been married or have lived together at any time,

(iii) Adult persons related by blood or marriage,

(iv) Adult persons who are presently residing together or who have resided together in the past,

(v) Persons sixteen years of age or older who are presently residing together or who have resided together in the past and who have or have had a dating relationship,

(vi) Persons sixteen years of age or older with whom a person sixteen years of age or older has or has had a dating relationship, and

(vii) Persons who have a biological or legal parent-child relationship, including stepparents, stepchildren, grandparents, and grandchildren.

(c) "Dating relationship" means a social relationship of a romantic nature.

(3) **Stalking** is defined by RCW 9A.46.110. It means:

(a) Intentionally and repeatedly harassing or following another person; and

(b) Placing the person being harassed or followed in fear of injury to self or property, or to another person or the property of another person; and

(c) Intending to frighten, intimidate, or harass the other person; or

(d) Knowing or having reason to know that the person is afraid, intimidated, or harassed even if the stalker did not intend to place the person in fear or intimidate or harass the person.

(i) "Harass" means a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, harasses, or is detrimental to such person, and which serves no legitimate or lawful purpose.

(ii) "Repeatedly" means on two or more separate occasions.

(iii) "Follows" means deliberately maintaining visual or physical proximity to a specific person over a period of time. A finding that the alleged stalker repeatedly and deliberately appears at the person's home, school, place of employment, business, or any other location to maintain visual or physical proximity to the person is sufficient to find that the alleged stalker follows the person. It is not necessary to establish that

the alleged stalker follows the person while in transit from one location to another.

(iv) "Contact" includes, in addition to any other form of contact or communication, the sending of an electronic communication to the person.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 34.05.120. WSR 10-01-156, § 192-150-112, filed 12/22/09, effective 1/22/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. WSR 05-13-156, § 192-150-112, filed 6/21/05, effective 7/22/05.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 192-150-113 Domestic violence or stalking—RCW 50.20.050 (2)(b)(iv). (1) As a condition of eligibility for benefits, you are not required to exhaust reasonable alternatives prior to leaving work.

(2) The amount of notice you provide to your employer will not be a factor in evaluating whether you had good cause to leave work under this section. You will not be penalized for:

- (a) Failing to provide notice to your employer prior to leaving work;
- (b) Providing several weeks advance notice because you are making preparations to leave the situation;
- (c) Not disclosing the domestic violence or stalking to your employer;
- (d) Enduring domestic violence or stalking for an extended period of time before the job separation; or
- (e) Leaving work when there has not been a recent act of domestic violence or stalking, provided you had a reasonable fear of future domestic violence or stalking.

(3) The following factors will be considered in evaluating whether you had good cause to leave work under this section:

- (a) Domestic violence or stalking is the primary reason you left work, even if you gave a different reason for separation to your employer;
- (b) Your separation was necessary which, for purposes of this section, means you had a good faith belief that you needed to leave work based upon:
 - (i) Your fear of domestic violence or stalking;
 - (ii) Avoiding domestic violence or stalking; or
 - (iii) The consequences of domestic violence or stalking, including but not limited to legal proceedings, health care, counseling, child custody, or child protection matters.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, and 50.20.010. WSR 05-13-156, § 192-150-113, filed 6/21/05, effective 7/22/05.]

WAC 192-150-115 Reduction in compensation of twenty-five percent or more—RCW 50.20.050 (2)(b)(v). (1) "Compensation" means remuneration as defined in RCW 50.04.320.

(2) "Usual" includes amounts actually paid to you by your employer or, if payment has not yet been made, the compensation agreed upon by you and your employer as part of your hiring agreement.

(3) To constitute good cause for quitting work under this section, employer action must have caused the reduction in your usual compensation.

[Ch. 192-150 WAC p. 4]

(4) All reductions in compensation occurring since the beginning of your base period to the date of separation will be included in the determination as to whether your compensation was reduced by twenty-five percent or more.

(5) The percentage of reduction will be based on your most recent pay grade, salary, or other benefits you received or have accepted on a permanent basis. It does not include any temporary raises or other compensation for performing temporary duties.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-115, filed 12/9/04, effective 1/9/05.]

WAC 192-150-120 Reduction in hours of twenty-five percent or more—RCW 50.20.050 (2)(b)(vi). (1) Your "usual hours" will be determined based on:

- (a) The hours of work agreed on by you and your employer as part of your individual hiring agreement;
- (b) For seasonal jobs, the number of hours you customarily work during the season; or
- (c) For piecework, the number of hours you customarily work to complete a fixed volume of work.

(2) To constitute good cause for quitting under this section, employer action must have caused the reduction in your usual hours.

(3) All reductions in hours occurring since the beginning of your base period through the date of separation will be included in the determination as to whether your hours were reduced by twenty-five percent or more.

(4) In determining the percentage of reduction, the department will not consider any temporary overtime or additional hours performed on a temporary basis.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-120, filed 12/9/04, effective 1/9/05.]

WAC 192-150-125 Change in worksite—RCW 50.20.050 (2)(b)(vii). (1) The location of your employment must have changed due to employer action. The change must have:

- (a) Substantially increased the distance you travel to the new worksite or increased the difficulty or inconvenience of travel; and
- (b) Resulted in a commute distance or time that is greater than is customary for workers in your job classification and labor market area.

(2) For purposes of this section:

(a) "Job classification" means your occupation at the time you quit work;

(b) "Labor market area" means the geographic area in which workers in your location and occupation customarily work. In determining whether a labor union's jurisdictional area is consistent with an individual member's labor market, the department will determine where the majority of union members in that member's location and occupation customarily work.

(3) Good cause for quitting work cannot be established under this section if the worksite location and distance to work was known at the time of hire.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-125, filed 12/9/04, effective 1/9/05.]

WAC 192-150-130 Worksite safety—RCW 50.20.050

(2)(b)(viii). (1) At the time of hire, you can reasonably expect that your worksite complies with applicable federal and state health and safety regulations. If, after beginning work or accepting the job offer, you become aware of a safety issue that was not previously disclosed by your employer, the department will consider the safety of the worksite to have deteriorated.

(2) To establish good cause for quitting work under this section, you must notify your employer of the safety issue and give your employer a reasonable period of time to correct the situation. For purposes of this section:

(a) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the safety condition at issue;

(b) "Reasonable period of time" means the amount of time a reasonably prudent person would have remained at the worksite or continued working in the presence of the condition at issue. In addition:

(i) For health or safety issues that present imminent danger of serious bodily injury or death to any person, your employer must take immediate steps to correct the situation;

(ii) If your employer has been issued a citation by a regulatory agency charged with monitoring health or safety conditions, the employer must correct the condition within the time period specified in the citation.

(c) "Serious bodily injury" means bodily injury which creates a probability of death, or which causes serious permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ whether permanent or temporary.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 13-09-010, § 192-150-130, filed 4/5/13, effective 5/6/13. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-130, filed 12/9/04, effective 1/9/05.]

WAC 192-150-135 Illegal activities at the worksite—

RCW 50.20.050 (2)(b)(ix). (1) Illegal activities include violations of both civil and criminal law.

(2) To establish good cause for quitting work under this section, you must notify your employer of the illegal activity and give your employer a reasonable period of time to correct the situation. You are not required to notify your employer before quitting when your employer is conducting the illegal activity and notifying your employer could jeopardize your safety or is contrary to other federal and state laws (for example, whistleblower protection laws).

(3) "Employer" means your supervisor, manager, or other individual who could reasonably be expected to have authority to correct the illegal activity at issue;

(4) A "reasonable period of time" is the period a reasonably prudent person would be expected to continue working in the presence of the activity at issue.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-135, filed 12/9/04, effective 1/9/05.]

WAC 192-150-140 Change in usual work that violates religious or sincere moral beliefs—RCW 50.20.050

(2)(b)(x). (1) For purposes of this section, "usual work" means job duties or conditions:

(a) Originally agreed upon by you and your employer in your hiring agreement; or

(b) Customary for workers in your job classification; or

(c) You consistently performed during your base period; or

(d) Mutually agreed to by you and your employer prior to the employer action changing your job duties.

(2) The following criteria will be used to determine whether you had good cause for quitting work under this section:

(a) The change in your usual work must be the result of action taken by your employer;

(b) The work must require you to violate your religious beliefs or sincere moral convictions; mere disapproval of the employer's method of conducting business is not good cause for leaving work under this section;

(c) You must notify your employer that the work violates your religion or sincere moral beliefs, unless doing so would be futile;

(d) The work or activity must directly, rather than indirectly, affect your religious or moral beliefs; and

(e) The objectionable condition must exist in fact, rather than be a matter of speculation.

(3) You will not have good cause for quitting work under this section if:

(a) You are inconsistent or insincere in your objections;

(b) The objection is raised as a sham or a means of avoiding work; or

(c) You knew of the objectionable aspects of the work at the time of hire, or you continued working under the objectionable conditions longer than a reasonably prudent person holding similar beliefs would have continued.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-140, filed 12/9/04, effective 1/9/05.]

WAC 192-150-145 Change in working conditions covered by RCW 50.20.050 (2)(b)(v) through (x).

(1) If you quit work due to a change in working conditions that meets the requirements of RCW 50.20.050 (2)(b)(v) through (x), the department will not deny benefits solely on the basis that you continued working for a brief period of time following the change. However, you must demonstrate to the department that the change in working conditions was the motivating factor for quitting work.

(2) "Brief period of time" means the amount of time a reasonably prudent person would have continued working after the change in circumstances.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-150-145, filed 5/12/10, effective 6/12/10.]

WAC 192-150-150 When is a separation considered a refusal of new work?

(1) Section 3304 (a)(5) of the Federal Unemployment Tax Act and RCW 50.20.110 state that you cannot be denied benefits if you refuse to accept new work when the wages, hours, or other working conditions are substantially less favorable than those prevailing for similar work in your local labor market.

(2) For purposes of this chapter, "new work" includes an offer by your present employer of:

(a) Different duties than those you agreed to perform in your current employment contract or agreement; or

(b) Different terms or conditions of employment from those in the existing contract or agreement.

(3) When you resign rather than accept changes in working conditions that are different from those under which you had been working, the department will decide whether you left work voluntarily or refused an offer of new work.

(a) If the changes in working conditions are not substantial, the department will consider you to have voluntarily quit work.

(b) If there is a substantial change in working conditions so as to constitute an offer of new work and the change is not authorized or implied by the original employment agreement, the department will treat the separation as a layoff due to lack of work and adjudicate the refusal of new work under RCW 50.20.080.

(i) If the change in working conditions is a reduction in your pay or hours of ten percent or less, the department will presume the change is not substantial. You can overcome this presumption by providing additional information to the department showing the job was not suitable under RCW 50.20.110.

(ii) If you continue working after your working conditions have changed, but later quit work because of these changes, the department will presume you voluntarily left work for personal reasons. This does not apply when:

(A) You give notice of your intent to quit but continue to work during an agreed upon notice period; or

(B) You continue working during an employer-provided grievance or arbitration period in response to the change in working conditions.

(iii) This subsection does not apply when the change in working conditions was caused by your own misconduct. The department will treat your refusal of the new working conditions as a separation from work under RCW 50.20.050 or 50.20.066.

(c) If the department decides you were separated due to a layoff but you refused an offer of new work, the department will issue a written decision even if you do not claim benefits for the week in which the refusal occurred. The employer offering the new work is an interested party to the work refusal decision.

(4) For purposes of this section, the following definitions apply:

(a) "Conditions of work" includes fringe benefits such as life and health insurance; paid sick, vacation, and annual leave; provisions for leaves of absence and holiday leave; pensions, annuities and retirement provisions; and severance pay. It also includes job security and reemployment rights; training and promotion policies; wage guarantees; unionization; grievance procedures; work rules, including health and safety rules; medical and welfare programs; physical conditions such as heat, light and ventilation; shifts of employment; and permanency of work.

(b) "Prevailing" means the most typical or customary in a particular occupation for a given area. The department will decide if a wage rate is prevailing for your labor market area based on information provided by its labor market and economic analysis branch.

(c) "Similar work" means similarity of the operations performed, the skill, ability and knowledge required, and the responsibilities involved.

(d) "Substantial change in working conditions" means a material change that is significant in terms of amount, degree, or impact as opposed to a change that is relatively minor or trivial. A change in working conditions is not substantial if the conditions prevailing after the change are those generally prevailing for other workers performing the same or similar work in your local labor market area.

(e) "Substantially less favorable" means the work is materially reduced below the standard under which the majority of individuals in your occupation and local labor market area customarily work.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-150-150, filed 5/12/10, effective 6/12/10. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-150, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-150, filed 12/9/04, effective 1/9/05.]

WAC 192-150-160 Entering approved apprenticeship training—RCW 50.20.050 (2)(b)(xi). (1) **Effective date.** RCW 50.20.050 (2)(b)(xi) and this section apply to job separations that occur on or after June 12, 2008.

(2) **Application.** This section applies only if you quit work to enter into related/supplemental (classroom) instruction that is part of an apprenticeship program. If you quit work to begin employment for an employer who is a party to an apprenticeship agreement, the department will review the separation under RCW 50.20.050 (2)(b)(i) and WAC 192-150-050 to determine if you left work to accept a bona fide job offer.

(3) **Definitions.** For purposes of this chapter:

(a) "To enter" means to begin participation in the apprenticeship program.

(i) The term "to enter" includes:

(A) Apprentices who accept temporary work with an employer who is not a party to the apprenticeship agreement and quit work to reenter training.

(B) Apprentices who quit work for a participating employer to enter a different apprenticeship program.

(ii) The term "to enter" does not include:

(A) Claimants applying for an apprenticeship program who at the time of quitting work are not enrolled in apprenticeship or preapprenticeship training. Their eligibility for benefits will be reviewed under RCW 50.20.050(2).

(B) Current apprentices who temporarily stop work for a participating employer to attend related/supplemental instruction that is a required component of their apprenticeship agreement. Claimants in this situation are considered to be on temporary layoff from work. Their eligibility for commissioner approved training will be reviewed under WAC 192-200-020(3).

(b) "Active participation" means attending classes, engaging in other activities that are part of the related/supplemental instruction, and working or seeking work in accordance with the apprenticeship agreement.

(c) The terms "apprentice," "apprenticeship agreement," "apprenticeship program," "approved," and "related/supplemental instruction" have the meanings described in WAC 296-05-003.

(4) **Establishing good cause.** If you quit work to enter an apprenticeship program, you will have good cause within

the meaning of RCW 50.20.050 (2)(b)(xi) if you satisfactorily demonstrate that:

(a) You have been accepted into and are entering an apprenticeship program approved by the Washington state apprenticeship training council;

(b) Prior to leaving work, you had a confirmed start date for related/supplemental instruction; and

(c) You continued in your employment for as long as was reasonably consistent with whatever arrangements were necessary to begin the related/supplemental instruction. In any event, you will not be eligible for benefits until the week prior to the week the related/supplemental instruction begins.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010. WSR 09-07-011, § 192-150-160, filed 3/5/09, effective 4/5/09.]

WAC 192-150-180 Quitting part-time work—RCW 50.20.050(3). (1) **Effective date.** RCW 50.20.050(3) and this section apply to job separations that occur on or after July 26, 2009.

(2) **Definitions.** For purposes of this section:

(a) "Part-time work" means fewer than 35 hours of work per week.

(b) "Full-time work" means work of 35 or more hours per week.

(3) If you are simultaneously employed in a part-time job and a full-time job, you will not be denied benefits for quitting the part-time job under the following circumstances:

(a) You quit the part-time job before losing your full-time job;

(b) You did not know in advance that your full-time job would be ending; and

(c) You are eligible for benefits based on the separation from your full-time job.

(4) If you are denied benefits under RCW 50.20.050(3), the period of denial is the same as that under RCW 50.20.050 (2)(a). This means you will be denied for a period of seven weeks and until you earn at least seven times your weekly benefit amount in covered employment.

(5) **Examples.** The following are examples only and do not mean that the department would rule the same in similar situations.

(a) *You quit a part-time job two weeks before being laid off from your full-time job.* Benefits are allowed because you meet the criteria of subsection (3).

(b) *You quit a part-time job before the hours at your full-time job were reduced.* Benefits are allowed because you meet the criteria of subsection (3).

(c) *You quit a part-time job two weeks before the end of a temporary full-time job.* You had prior knowledge that the full-time job was ending. Benefits would be denied unless you had good cause for quitting the part-time job under RCW 50.20.050(2).

(d) *You quit a part-time job two weeks before being discharged from the full-time job.*

(i) If the separation from the full-time job was for misconduct, benefits would be denied for quitting the part-time job because you are not eligible for benefits based on the separation from the full-time job.

(ii) If the separation from the full-time job was not misconduct, benefits would be allowed because you meet the criteria of subsection (3).

(4/5/13)

(e) *You quit the part-time job and the full-time job on the same day.* The department will determine if you had good cause to quit both jobs under RCW 50.20.050(2).

(f) *You quit a part-time job but are still employed full-time at your other job.* The department will determine if you had good cause to quit under RCW 50.20.050(2).

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 09-24-008, § 192-150-180, filed 11/20/09, effective 12/21/09.]

WAC 192-150-200 General provisions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066.

(1) The action or behavior that resulted in your discharge or suspension from employment must be connected with your work to constitute misconduct or gross misconduct.

(2) For purposes of this section, the action or behavior is connected with your work if it results in harm or creates the potential for harm to your employer's interests. This harm may be tangible, such as damage to equipment or property, or intangible, such as damage to your employer's reputation or a negative impact on staff morale.

(3) RCW 50.04.294, subsections (1)(c) and (3)(b), will be distinguished as follows:

(a) Subsection (1)(c) "Carelessness or negligence that causes or would likely cause serious bodily harm to your employer or fellow employee" means that your action results in serious bodily injury or a reasonably prudent person would know it is likely to result in serious bodily injury.

(b) Subsection (3)(b) "Inadvertence or ordinary negligence in isolated instances" means that your action is an accident or mistake and is not likely to result in serious bodily injury.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-200, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-200, filed 12/9/04, effective 1/9/05.]

WAC 192-150-205 Definitions—Misconduct and gross misconduct—RCW 50.04.294 and 50.20.066. For purposes of this chapter, the following definitions will apply:

(1) "Willful" means intentional behavior done deliberately or knowingly, where you are aware that you are violating or disregarding the rights of your employer or a co-worker.

(2) "Wanton" means malicious behavior showing extreme indifference to a risk, injury, or harm to another that is known or should have been known to you. It includes a failure to act when there is a duty to do so, knowing that injury could result.

(3) "Carelessness" and "negligence" mean failure to exercise the care that a reasonably prudent person usually exercises.

(4) "Serious bodily harm" means bodily injury which creates a probability of death, or which causes significant permanent disfigurement, or which causes a significant loss or impairment of the function of any bodily part or organ.

(5) "Criminal act" means any act classified as a felony, gross misdemeanor, or misdemeanor under state or federal law.

(6) "Flagrant" means conspicuously bad or offensive behavior showing contemptuous disregard for the law, morality, or the rights of others. This blatant behavior must

be so obviously inconsistent with what is right or proper that it can neither escape notice nor be condoned.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-205, filed 12/9/04, effective 1/9/05.]

WAC 192-150-210 Willful or wanton disregard—RCW 50.04.294 (1)(a) and (2). (1) "Repeated inexcusable tardiness" means repeated instances of tardiness that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be tardy. Your employer must have warned you at least twice, either verbally or in writing, about your tardiness, and violation of such warnings must have been the immediate cause of your discharge.

(2) "Dishonesty related to employment" means the intent to deceive the employer on a material fact. It includes, but is not limited to, making a false statement on an employment application and falsifying the employer's records.

(3) "Repeated and inexcusable absences" means repeated absences that are unjustified or that would not cause a reasonably prudent person in the same circumstances to be absent. Previous warnings from your employer are not required, but your repeated absences must have been the immediate cause of your discharge.

(4) A company rule is reasonable if it is related to your job duties, is a normal business requirement or practice for your occupation or industry, or is required by law or regulation.

(5) The department will find that you knew or should have known about a company rule if you were provided an employee orientation on company rules, you were provided a copy or summary of the rule in writing, or the rule is posted in an area that is normally frequented by you and your co-workers, and the rule is conveyed or posted in a language that can be understood by you.

(6) You are considered to be acting within your "scope of employment" if you are:

- (a) Representing your employer in an official capacity;
- (b) On your employer's property whether on duty or not;
- (c) Operating equipment under your employer's ownership or control;
- (d) Delivering products or goods on behalf of your employer; or
- (e) Acting in any other capacity at the direction of your employer.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-210, filed 12/9/04, effective 1/9/05.]

WAC 192-150-215 Discharges for gross misconduct—Responsibility for providing information. In any job separation where there is a potential disqualification under RCW 50.20.066(3), the employer is responsible for notifying the department in a timely manner when the issue is resolved.

If an employer notifies the department of a potential disqualification under RCW 50.20.066(3) within ten days of receiving the notice required by WAC 192-130-060, the department will review the claimant's eligibility for benefits.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-215, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-215, filed 12/9/04, effective 1/9/05.]

WAC 192-150-220 Discharges for gross misconduct—Definitions—Canceling wage credits. (1) Definitions.

(a) "Criminal act" means every action defined as a crime by the applicable state or federal statutes, including felonies and gross misdemeanors.

(b) "Felony" means every crime that is defined as such by the applicable state or federal statutes.

(c) "Gross misdemeanor" means every crime which is defined as such by the applicable state or federal statutes.

(d) A "competent authority" is:

(i) A court (including magistrate or court commissioner), prosecuting attorney, or law enforcement agency; or

(ii) An administrative law judge; or

(iii) A regulatory agency or professional association charged by law with maintaining professional standards or codes of conduct; or

(iv) Any other person or body, other than your employer, with authority to administer disciplinary action against you.

(e) An admission to your employer or to an employee of the department that you have committed a criminal act is not considered an admission to a competent authority for the purposes of RCW 50.20.066.

(2) Canceling wage credits.

(a) If you have been discharged for gross misconduct connected with your work:

(i) The department will cancel all your hourly wage credits based on that employment since the beginning of your base period;

(ii) If your wage credits with this employer are fewer than 680 hours, the balance of wage credits up to 680 hours will be canceled proportionately among your base period employers according to each employer's share of your base period wages. Wages from each employer will be removed from the most recent quarter in which wages were reported.

(b) Wage credits may only be canceled based upon an admission of a criminal act if:

(i) You admit to each and every element of a criminal act which caused you to be discharged; and

(ii) The admission is made to a competent authority.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-150-220, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-150-220, filed 12/9/04, effective 1/9/05.]

WAC 192-150-225 Examples of flagrant and wanton misconduct. (1) Examples of behaviors that may constitute flagrant and wanton conduct resulting in a finding of gross misconduct include, but are not limited to:

(a) A medical provider under the influence of illegal narcotics while at work;

(b) A health care worker who steals money or valuables from patients;

(c) A commercial truck driver under the influence of alcohol while operating the employer's vehicle;

(d) A school employee convicted of conduct that requires the individual to register as a sex offender;

(e) An attorney convicted of conduct that results in being disbarred or suspended from the practice of law; or

(f) A department store employee who secretly films or photographs customers in the store's fitting rooms.

(2) These behaviors are examples only and do not require the department to find gross misconduct in similar situations.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-150-225, filed 5/12/10, effective 6/12/10.]

WAC 192-150-230 What happens if I am discharged prior to the effective date of my resignation? (1) Except as provided in subsection (2) of this section, if you notify your employer that you are resigning from your job and the employer discharges you prior to the end of the notice period, the separation is treated as a discharge. The department will not deny benefits unless the employer can show that you were discharged for misconduct.

(2) If your employer pays you through the notice period but requires no work, the separation is treated as a quit. The separation date is the last day of the notice period. Payment for the notice period is deductible from benefits as payment in lieu of notice.

[Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-150-230, filed 5/12/10, effective 6/12/10.]