Chapter 357-31 WAC
HOLIDAYS AND LEAVE

WAC

357-31-005 For the purpose of chapter 357-31 WAC, what days are recognized as holidays?
357-31-010 Which employees qualify for holiday compensation?
357-31-015 How many hours are general government employees compensated for on a holiday?
357-31-020 For general government part-time employees, how is holiday compensation prorated?
357-31-025 How many hours are higher education employees compensated for on a holiday?
357-31-030 What happens when a holiday falls on an employee's scheduled day off?
357-31-035 How is an employee who works on a holiday compensated?
357-31-040 What happens when a holiday as identified in WAC 357-31-005 falls on Saturday or Sunday?
357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday?
357-31-050 How is an employee's holiday determined when an employee works a night shift schedule which begins on one calendar day and ends on the next?
357-31-052 Is an employee entitled to any unpaid holidays?
357-31-053 Within what time frame must an employee notify their supervisor to request an unpaid holiday in accordance with WAC 357-31-052?
357-31-055 When does an employee qualify for a personal holiday?
357-31-060 How many hours are general government employees compensated for when taking a personal holiday?
357-31-065 How many hours are higher education employees compensated for when taking a personal holiday?
357-31-070 When is an employer required to approve an employee's request to use a personal holiday?
357-31-075 Within what time frame must the personal holiday be taken?
357-31-080 What happens if an employee requests to use his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request?
357-31-090 Can an employee request to donate or use part of a personal holiday?
357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours?
357-31-100 Must an employer have a policy for requesting and approving leave?
357-31-105 How will an unauthorized absence be treated?
357-31-110 What happens to an employee's accrued leave when the employee changes employers?
357-31-115 How many hours of sick leave does an employee earn each month?
357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?
357-31-125 For general government part-time employees, how is leave accrual prorated?
357-31-130 When can an employee use accrued sick leave?
357-31-135 When and how does an employee request the use of sick leave?
357-31-140 May an employee use sick leave before it is accrued?
357-31-145 When an employee is on vacation leave and a condition listed in WAC 357-31-130(1) arises, can the employee use sick leave in place of vacation leave?
357-31-150 Can an employee be paid for accrued sick leave?
357-31-155 Does an employee who separates for any reason other than retirement or death get paid for accrued sick leave?
357-31-160 When a former employee is re-employed, is sick leave restored?
357-31-165 At what rate do general government employees accrue vacation leave?
357-31-166 At what rate do higher education employees accrue vacation leave?
357-31-170 At what rate do part-time employees accrue vacation leave?
357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?
357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?
357-31-185 When and how does an employee request the use of vacation leave?
357-31-195 Can an employee use vacation leave before it is accrued?
357-31-200 When must an employer grant the use of vacation leave?
357-31-205 What must an employer consider in granting the use of vacation leave?
357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate?
357-31-215 When may vacation leave be accumulated above the maximum two hundred forty hours?
357-31-220 What must be included in the statement of necessity for excess vacation leave?
357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?
357-31-230 When can an employee use accrued compensatory time?
357-31-235 May an employee use leave if the employee sustains a work-related injury or illness that is compensable under the state workers' compensation law?
357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, or receives holiday pay during a period when he/she is receiving time loss compensation?
357-31-250 Are employees entitled to paid bereavement leave?
357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?
357-31-260 When may an agency head or institution president suspend operations?
357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?
357-31-270 When an employer has suspended operations, how are employees who are required to work during the closure affected?
357-31-275 What must be included in the employer's suspended operations procedure?
357-31-280 How long can operations be suspended?
357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies?
357-31-290 What qualifies as a family care emergency?
357-31-295 What type of leave may employees use for family care emergencies?
357-31-300 Is there a limit to how much leave can be used for a family care emergency?
357-31-305 Is advance approval required for an employee to take time off for a family care emergency?
357-31-310 If an employee is required to report for jury duty service, must the employee be granted a leave of absence with pay?
357-31-315 May employees keep compensation received for serving as a member of a jury?
357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay?
357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination?
357-31-326 When may an employer grant leave with pay?
357-31-327 When must an employer grant leave without pay?
357-31-330 For what reasons may an employer grant leave without pay?
357-31-335 How long can an employee remain on leave without pay?
357-31-340 When an employee returns from authorized leave without pay, what position will he/she be returned to?

357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date, periodic increment date, and seniority date?
357-31-346 Does leave without pay affect a higher education employee's periodic increment date?
357-31-347 Does leave without pay affect a higher education employee's seniority date?
357-31-350 How does leave without pay affect a general government employee's seniority date?
357-31-355 How does leave without pay affect the duration of an employee's probationary period, trial service period or transition review period?
357-31-357 How does leave without pay affect the six-year time period used to qualify for step M?
357-31-360 Must employees who have been ordered to required military duty, training, drills, or required to appear for a physical examination be granted paid military leave?
357-31-370 In addition to paid military leave, must an employee be granted a military leave of absence without pay?
357-31-373 Is an employee whose spouse or registered domestic partner is a member of the armed forces of the United States entitled to take leave from work when the military spouse or registered domestic partner has been called to active duty or when the military spouse or registered domestic partner is on leave from deployment?
357-31-375 What provisions exist for employees to participate in medical expense plans?
357-31-380 What is the purpose of the state leave sharing program?
357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave?
357-31-395 What definitions apply to shared leave?
357-31-400 How much shared leave may an employee receive?
357-31-405 What documentation may an employee seeking shared leave be required to submit?
357-31-410 May employees donate leave to employees in other agencies, institutions of higher education, related higher education boards, educational service districts, or school districts?
357-31-415 Can donated leave be used for any purpose?
357-31-420 What rate of pay is the employee receiving shared leave paid?
357-31-425 What types of leave can an employee donate for the purposes of the state leave sharing program?
357-31-430 How will shared leave be administered?
357-31-435 Must employees use their own leave before using shared leave?
357-31-440 How must employees who are receiving shared leave be treated during their absence?
357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient?
357-31-447 When must an employer approve a shared leave request for an employee?
357-31-450 Must an employee who receives shared leave repay the value of the leave that he or she used?
357-31-455 What records must an employer maintain pertaining to the state leave sharing program?
357-31-460 For what purposes must parental leave be granted?
357-31-465 Who qualifies for parental leave?
357-31-470 How and when can an employee request to be off work on parental leave?
357-31-475 How long can an employee request to be off work for parental leave?
357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?
357-31-485 If an employee's request for parental leave exceeds the provisions of WAC 357-31-525, how and when must an employer respond to an employee's request for parental leave?
357-31-490 Will time off for parental leave be paid or unpaid?
357-31-495 Will time off for parental leave be designated under the Family and Medical Leave Act?
357-31-500 When must disability leave due to pregnancy and/or childbirth be granted?
357-31-505 How does an employee request disability leave due to pregnancy and/or childbirth?
357-31-510 Is the employee required to provide the employer with medical certification during disability leave due to pregnancy and/or childbirth?
357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid?
357-31-520 How does the Family and Medical Leave Act of 1993 and the family leave law interact with the civil service rules?
357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993?
357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?
357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act?
357-31-540 Who chooses if an employee will use paid leave or leave without pay for absences granted under the Family and Medical Leave Act?
357-31-545 Under the Family and Medical Leave Act, can an employee request an intermittent or reduced schedule?
357-31-550 When an employee returns from an absence designated as FMLA, what position will the employee return to?
357-31-555 Must employers continue health insurance benefits when an employee is on leave designated as FMLA?
357-31-560 Must the employer have a family and medical leave policy?
357-31-565 May employers grant paid leave for purposes of recognition?
357-31-567 When must an employer grant the use of recognition leave?
357-31-570 What is the purpose of a sick leave pool?
357-31-575 Must an agency have a written policy regarding sick leave pools?
357-31-580 What criteria does an employee have to meet to be eligible to participate in a sick leave pool?
357-31-585 Is participation in a sick leave pool voluntary?
357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?
357-31-595 Is a participant eligible to use sick leave from a pool if his/her illness or injury is work-related?
357-31-600 Is there a limit to the amount of sick leave a participating employee may withdraw from a sick leave pool?
357-31-605 What rate of pay is the participant who withdraws sick leave from the pool paid?
357-31-610 How does a part-time participating employee withdraw sick leave credits from a sick leave pool?
357-31-615 When a participating employee uses leave from a sick leave pool will he/she be required to recontribute such sick leave to the pool?
357-31-620 When an agency has determined that abuse of a sick leave pool has occurred will the employee have to repay the sick leave credits drawn from the pool?
357-31-625 When an employee cancels his/her membership in a sick leave pool, can the employee withdraw the days of sick leave he/she had contributed to the pool?
357-31-630 Can a participant who moves from one general government position to a different general government position transfer from one sick leave pool to another sick leave pool?
357-31-635 What records must an employer maintain pertaining to sick leave pools?
357-31-640 What is the purpose of the uniformed service shared leave pool?
357-31-645 Who will administer the uniformed service shared leave pool?
357-31-650 What definitions apply to the uniformed service shared leave pool?
357-31-655 Must employers have a written policy regarding the uniformed service shared leave pool?
357-31-660 Is participation in the uniformed service shared leave pool voluntary?
357-31-665 What criteria does an employee have to meet to be eligible to request leave from the uniformed service shared leave pool?
357-31-670 How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence?
357-31-675 Is shared leave received under the uniformed service shared leave pool included in the shared leave limits specified in RCW 41.04.665?
357-31-680 May employees donating leave direct the donation to a specific individual?
357-31-685 What types of leave can an employee donate for the purposes of the uniformed service shared leave pool?

357-31-690 How much leave may an employee withdraw from the uniformed service shared leave pool?
357-31-695 How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated?
357-31-700 What documentation is required to verify military salary and status?
357-31-705 What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool?
357-31-710 What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests?
357-31-715 May employers establish restrictions on the amount of leave an employee may receive under this section?
357-31-720 May an employer establish restrictions on the amount of leave an employee may donate under this section?
357-31-725 When an employer has determined that abuse of the uniformed service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool?
357-31-730 When an employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and the employee is seeking to use accrued leave or unpaid leave what documentation may the employee be required to submit?
357-31-750 What is the purpose of the veterans' in-state service shared leave pool?
357-31-755 Who shall administer the veterans' in-state service shared leave pool?
357-31-760 What definitions apply to the veterans' in-state service shared leave pool?
357-31-765 Must employers have a written policy regarding the veterans' in-state service shared leave pool?
357-31-770 Is participation in the veterans' in-state service shared leave pool voluntary?
357-31-775 What criteria does an employee have to meet to be eligible to request leave from the veterans' in-state service shared leave pool?
357-31-780 How must employees who are receiving leave from the veterans' in-state service shared leave pool be treated during their absence?
357-31-785 Is shared leave received under the veterans' in-state service shared leave pool included in the shared leave limits specified in RCW 41.04.665?
357-31-790 May employees donating leave direct the donation to a specific individual?
357-31-795 What types of leave can an employee donate for the purposes of the veterans' in-state service shared leave pool?
357-31-800 How much leave may an employee withdraw from the veterans' in-state service shared leave pool?
357-31-805 What documentation may an employee seeking shared leave under the veterans' in-state service shared leave pool be required to submit?
357-31-810 What rate of pay is paid to the employee receiving leave under the veterans' in-state service shared leave pool?
357-31-815 What happens if the veterans' in-state service shared leave pool does not have sufficient balance to cover all leave requests?
357-31-820 May employers establish restrictions on the amount of leave an employee may receive under this section?
357-31-825 May an employer establish restrictions on the amount of leave an employee may donate under this section?
357-31-830 When an employer and/or the department of veterans' affairs has determined that abuse of the veterans' in-state service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

357-31-001 What definitions apply to this chapter of the civil service rules? [Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-001, filed 4/6/05, effective 7/1/05.] Repealed by WSR 05-12-093, filed 5/27/05, effective 7/1/05. Statutory Authority: Chapter 41.06 RCW.

357-31-190 When can an employee start to use accrued vacation leave? [Statutory Authority: Chapter 41.06 RCW. WSR 10-23-040, § 357-31-190, filed 11/10/10, effective 12/13/10; WSR 05-08-137, § 357-31-190, filed 4/6/05, effective 7/1/05.] Repealed by WSR 17-18-028, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 43.01 RCW.

357-31-240 What happens if an employee uses accrued sick leave during a period when he/she is receiving time loss compensation? [Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-240, filed 4/6/05, effective 7/1/05.] Repealed by WSR 09-17-062, filed 8/13/09, effective 9/16/09. Statutory Authority: Chapter 41.06 RCW.

357-31-740 What is temporary salary reduction (TSR) leave and which employees are eligible to earn TSR leave? [Statutory Authority: Chapter 41.06 RCW. WSR 11-19-091, § 357-31-740, filed 9/20/11, effective 10/24/11.] Repealed by WSR 15-11-102, filed 5/20/15, effective 6/22/15. Statutory Authority: Chapter 41.06 RCW.

357-31-745 What provisions apply to temporary salary reduction (TSR) leave? [Statutory Authority: Chapter 41.06 RCW. WSR 11-19-091, § 357-31-745, filed 9/20/11, effective 10/24/11.] Repealed by WSR 15-11-102, filed 5/20/15, effective 6/22/15. Statutory Authority: Chapter 41.06 RCW.

WAC 357-31-005 For the purpose of chapter 357-31 WAC, what days are recognized as holidays? The following days are designated as holidays for the purpose of chapter 357-31 WAC:

(1) The first day of January (New Year's Day);

(2) The third Monday of January (Martin Luther King, Jr.'s birthday);

(3) The third Monday of February (Presidents' Day);

(4) The last Monday of May (Memorial Day);

(5) The fourth day of July (Independence Day);

(6) The first Monday in September (Labor Day);

(7) The eleventh day of November (Veterans Day);

(8) The fourth Thursday in November (Thanksgiving Day);

(9) The Friday immediately following the fourth Thursday in November (Native American Heritage Day); and

(10) The twenty-fifth day of December (Christmas Day).

Higher education employers may designate other days to be observed in place of the above holidays. Holiday schedules for higher education employers may be determined on a calendar or fiscal year basis. When a higher education employer establishes a modified schedule, paid holidays must be granted based on the modified schedule.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-18-078, § 357-31-005, filed 9/3/14, effective 10/6/14; WSR 05-21-057, § 357-31-005, filed 10/13/05, effective 11/15/05; WSR 05-08-136, § 357-31-005, filed 4/6/05, effective 7/1/05.]

WAC 357-31-010 Which employees qualify for holiday compensation? (1) Full-time general government employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(c) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 12-04-016, § 357-31-010, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-010, filed 11/10/10, effective 12/13/10; WSR 09-03-013, § 357-31-010, filed 1/9/09, effective 2/13/09; WSR 06-11-049, § 357-31-010, filed 5/11/06, effective 6/12/06; WSR 05-08-136, § 357-31-010, filed 4/6/05, effective 7/1/05.]

WAC 357-31-015 How many hours are general government employees compensated for on a holiday? When a holiday designated under WAC 357-31-005 falls on a general government employee's scheduled work day:

(1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on that day.

(2) Part-time employees are entitled to the number of paid hours on a holiday on a pro rata basis in accordance with WAC 357-31-020 (General government pro rata).

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-015, filed 4/6/05, effective 7/1/05.]

WAC 357-31-020 For general government part-time employees, how is holiday compensation prorated? Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-040, § 357-31-020, filed 11/10/10, effective 12/13/10; WSR 05-08-136, § 357-31-020, filed 4/6/05, effective 7/1/05.]

WAC 357-31-025 How many hours are higher education employees compensated for on a holiday? When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-025, filed 11/17/10, effective 12/18/10; WSR 05-08-136, § 357-31-025, filed 4/6/05, effective 7/1/05.]

WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off? When a holiday (as identified in WAC 357-31-005) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

(1) For a full-time employee who is eligible for holiday compensation, the employer may:

(a) Designate the prior or the following work day as the holiday;

(b) Provide the employee with equivalent paid time off; or

(c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the employee request an alternate day off within the same pay period as the holiday.

(2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC 357-31-020.

(3) For a part-time higher education employee who is eligible for holiday compensation, the employee is entitled to the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-030, filed 4/6/05, effective 7/1/05.]

WAC 357-31-035 How is an employee who works on a holiday compensated? Time worked on a holiday must be compensated as provided in WAC 357-28-200.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-035, filed 4/6/05, effective 7/1/05.]

WAC 357-31-040 What happens when a holiday as identified in WAC 357-31-005 falls on Saturday or Sunday? When a holiday falls on Saturday, the preceding Friday is observed as the nonworking or legal holiday. When a holiday falls on Sunday, the following Monday is observed as the nonworking or legal holiday.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-040, filed 4/6/05, effective 7/1/05.]

WAC 357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday? Employees who resign or are dismissed or separated before a holiday do not qualify for holidays occurring after the effective date of resignation, dismissal or separation.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-045, filed 4/6/05, effective 7/1/05.]

WAC 357-31-050 How is an employee's holiday determined when an employee works a night shift schedule which begins on one calendar day and ends on the next? For employees working a shift which begins on one

calendar day and ends on the next, the twenty-four hour period during which the holiday occurs must be determined by the employer to start either at the start of the shift that begins on the legal or observed holiday, or at the start of the shift that precedes the legal or observed holiday.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-050, filed 4/6/05, effective 7/1/05.]

WAC 357-31-052 Is an employee entitled to any unpaid holidays? Employees are entitled to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization. The employer must allow the employee to take the unpaid holiday when requested unless the employee's absence would impose an undue hardship on the employer or the employee is necessary to maintain public safety. For this purpose "undue hardship" is defined in WAC 82-56-020.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-24-024, § 357-31-052, filed 11/21/14, effective 12/22/14.]

WAC 357-31-053 Within what time frame must an employee notify their supervisor to request an unpaid holiday in accordance with WAC 357-31-052? When requesting an unpaid holiday in accordance with WAC 357-31-052, an employee must give at least fourteen calendar days' notice to the supervisor in accordance with the employer's leave policy. The employee and supervisor may agree upon a shorter time frame. Unpaid leave for this purpose must not be denied due to not meeting the time frame. Leave may only be denied for undue hardship as defined in WAC 82-56-020.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-24-024, § 357-31-053, filed 11/21/14, effective 12/22/14.]

WAC 357-31-055 When does an employee qualify for a personal holiday? Employees are entitled to one paid personal holiday per calendar year in addition to those specified in WAC 357-31-005 if the employee is scheduled to be, or has been, continuously employed by the state of Washington for at least four months.

An employee who is scheduled to work less than six continuous months over a period covering two calendar years only receives one personal holiday during this period.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-055, filed 4/6/05, effective 7/1/05.]

WAC 357-31-060 How many hours are general government employees compensated for when taking a personal holiday? (1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on the day they select as their personal holiday.

(2) Part-time employees are entitled to the number of paid hours for a personal holiday on a pro rata basis in accordance with WAC 357-31-020.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-060, filed 4/6/05, effective 7/1/05.]

WAC 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday? (1) Full-time employees receive eight hours of regular holiday pay on a personal holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full time schedule.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-065, filed 4/6/05, effective 7/1/05.]

WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday? (1) An employer must approve the use of a personal holiday as long as:

(a) The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

(b) The employee has requested the personal holiday in accordance with the employer's leave procedures; and

(c) The employee's absence does not interfere with the operational needs of the employer.

(2) At any time, an employer must allow an employee to use part or all of the personal holiday for any of the following reasons:

(a) To care for a minor/dependent child with a health condition that requires treatment or supervision;

(b) To care for a spouse, registered domestic partner, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency health condition;

(c) If the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or

(d) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-057 and 09-18-112, § 357-31-070, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-013, § 357-31-070, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-070, filed 7/11/08, effective 10/1/08; WSR 07-03-054, § 357-31-070, filed 1/12/07, effective 2/15/07; WSR 05-08-136, § 357-31-070, filed 4/6/05, effective 7/1/05.]

WAC 357-31-075 Within what time frame must the personal holiday be taken? The personal holiday must be used within the calendar year.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-075, filed 4/6/05, effective 7/1/05.]

WAC 357-31-080 What happens if an employee requests to use his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request? If before the end of the calendar year the employee requests the use of his/her personal holiday in accordance with the employer's leave procedures and the

employer denies the request, the employee is entitled to carry over the personal holiday to the next calendar year.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-080, filed 4/6/05, effective 7/1/05.]

WAC 357-31-090 Can an employee request to donate or use part of a personal holiday? An employee is only allowed to use part of a personal holiday in these two circumstances:

(1) When donating a portion of the personal holiday to the shared leave program as provided in WAC 357-31-425 (3), or

(2) When using a portion of the personal holiday to provide care as provided in WAC 357-31-070(2).

Any portion of the personal holiday that remains and is not used for the purposes specified in WAC 357-31-070(2) must be taken by the employee in one absence not to exceed the work shift on the day of the absence.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-090, filed 4/6/05, effective 7/1/05.]

WAC 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours? An employee who has donated his/her personal holiday for purposes of shared leave and then has a portion of the personal holiday returned to him/her during the same calendar may use the remaining hours. If the hours are returned during a different calendar, the employee cannot use the remaining hours.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-16-044, § 357-31-095, filed 7/27/05, effective 9/1/05; WSR 05-08-136, § 357-31-095, filed 4/6/05, effective 7/1/05.]

WAC 357-31-100 Must an employer have a policy for requesting and approving leave? Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

(1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies, or for an emergency health condition as provided in WAC 357-31-200 (1)(b);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim, or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020;

(3) Address advance notice from the employee when the employee is seeking leave under subsection (2) of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave; and

(4) Allow an employee to use sick leave for qualifying absences under the Family and Medical Leave Act (FMLA) for parental leave for the purpose of baby bonding with his/her newborn, adoptive, or foster child in accordance with WAC 357-31-495. The policy must state the maximum amount of sick leave allowed to be used during the twelve-week FMLA period.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-11-035, § 357-31-100, filed 5/14/14, effective 6/16/14; WSR 10-11-071, § 357-31-100, filed 5/14/10, effective 6/15/10; WSR 09-03-013, § 357-31-100, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-100, filed 7/11/08, effective 10/1/08; WSR 05-08-136, § 357-31-100, filed 4/6/05, effective 7/1/05.]

WAC 357-31-105 How will an unauthorized absence be treated? Unauthorized absence must be treated as unauthorized leave without pay and may be grounds for separation under the provisions of WAC 357-46-210 or discipline under chapter 357-40 WAC.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-105, filed 4/6/05, effective 7/1/05.]

WAC 357-31-110 What happens to an employee's accrued leave when the employee changes employers? Unused sick and vacation leave credits of employees who change state employers without a break in service, as defined in WAC 357-01-145, transfer with the employee to the new employer.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-110, filed 4/6/05, effective 7/1/05.]

WAC 357-31-115 How many hours of sick leave does an employee earn each month? (1) Full-time employees earn eight hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-115, filed 11/17/10, effective 12/18/10; WSR 05-08-136, § 357-31-115, filed 4/6/05, effective 7/1/05.]

WAC 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month? (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of sick leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 12-04-016, § 357-31-120, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-120, filed 11/10/10, effective 12/13/10; WSR 05-08-136, § 357-31-120, filed 4/6/05, effective 7/1/05.]

WAC 357-31-125 For general government part-time employees, how is leave accrual prorated? Vacation and sick leave accruals for part-time general government employ-

ees will be proportionate to the number of hours in pay status in the month to that required for full-time employment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-040, § 357-31-125, filed 11/10/10, effective 12/13/10; WSR 05-08-136, § 357-31-125, filed 4/6/05, effective 7/1/05.]

WAC 357-31-130 When can an employee use accrued sick leave? The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) Because of and during illness, disability, or injury that has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) To care for a minor/dependent child with a health condition requiring treatment or supervision.

(d) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or emergency health condition.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300, and 357-31-305.

(f) For personal health care appointments.

(g) For family members' health care appointments when the presence of the employee is required if arranged in advance with the employing official or designee.

(h) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(i) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.-020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(j) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(k) For qualifying absences under the Family and Medical Leave Act for parental leave for the purpose of bonding with his/her newborn, adoptive, or foster child in accordance with WAC 357-31-495. The amount of sick leave allowed to be used must be addressed in the employer's leave policy in accordance with WAC 357-31-100.

(2) Employers **may** allow the use of accrued sick leave under the following conditions:

(a) For condolence or bereavement.

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-11-035, § 357-31-130, filed 5/14/14, effective 6/16/14; WSR 09-17-057 and 09-18-112, § 357-31-130, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-013, § 357-31-130, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-130, filed 7/11/08, effective 10/1/08; WSR 05-08-136, § 357-31-130, filed 4/6/05, effective 7/1/05.]

WAC 357-31-135 When and how does an employee request the use of sick leave? All requests for sick leave must be made as specified in the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-135, filed 4/6/05, effective 7/1/05.]

WAC 357-31-140 May an employee use sick leave before it is accrued? An employee is not entitled to use sick leave in advance of its accrual.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-140, filed 4/6/05, effective 7/1/05.]

WAC 357-31-145 When an employee is on vacation leave and a condition listed in WAC 357-31-130(1) arises, can the employee use sick leave in place of vacation leave? When a condition listed in WAC 357-31-130(1) arises while the employee is on vacation leave, the employer may allow the employee to use accrued sick leave in place of vacation leave. The employee must request the use of accrued sick leave in place of vacation leave according to the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-145, filed 4/6/05, effective 7/1/05.]

WAC 357-31-150 Can an employee be paid for accrued sick leave? In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five percent. The employer may deposit equivalent funds for a retiring employee in a medical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-150, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-150, filed 9/20/11, effective 10/24/11; WSR 09-11-068, § 357-31-150, filed 5/14/09, effective 6/16/09; WSR 08-07-062, § 357-31-150, filed 3/17/08, effective 4/18/08; WSR 07-11-095, § 357-31-150, filed 5/16/07, effective 7/1/07; WSR 07-03-051, § 357-31-150, filed 1/12/07, effective 2/15/07; WSR 05-08-136, § 357-31-150, filed 4/6/05, effective 7/1/05.]

WAC 357-31-155 Does an employee who separates for any reason other than retirement or death get paid for accrued sick leave? Employees who separate for any reason other than retirement or death are **not** paid for their accrued sick leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-155, filed 4/6/05, effective 7/1/05.]

WAC 357-31-160 When a former employee is re-employed, is sick leave restored? Former employees who are re-employed within five years of their separation from service must be restored unused sick leave credits, if any, to which they were entitled at the time of separation. The employee may use the restored balance in accordance with WAC 357-31-130.

If the employee was retired from government service before being re-employed, when the employee subsequently retires again or dies, only that unused sick leave accrued since the date of reemployment minus that taken within the same period may be compensated per the conversion provisions of WAC 357-31-150.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-160, filed 4/6/05, effective 7/1/05.]

WAC 357-31-165 At what rate do general government employees accrue vacation leave? (1) Full-time general government employees accrue vacation leave at the following rates:

(a) During the first and second years of current continuous state employment - Nine hours, twenty minutes per month;

(b) During the third year of current continuous state employment - Ten hours per month;

(c) During the fourth year of current continuous state employment - Ten hours, forty minutes per month;

(d) During the fifth and sixth years of total state employment - Eleven hours, twenty minutes per month;

(e) During the seventh, eighth and ninth years of total state employment - Twelve hours per month;

(f) During the tenth, eleventh, twelfth, thirteenth and fourteenth years of total state employment - Thirteen hours, twenty minutes per month;

(g) During the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years of total state employment - Fourteen hours, forty minutes per month;

(h) During the twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth years of total state employment - Sixteen hours per month; and

(i) During the twenty-fifth and succeeding years of total state employment - Sixteen hours, forty minutes per month.

(2) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or incumbent for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(k) [(1)(i)] of this section.

(3) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-20-052, § 357-31-165, filed 9/29/17, effective 10/31/17. Statutory Authority: Chapter 41.06 RCW. WSR 09-03-012, § 357-31-165, filed 1/9/09, effective 2/13/09; WSR 05-21-059, § 357-31-165, filed 10/13/05, effective 11/15/05; WSR 05-12-080, § 357-31-165, filed 5/27/05, effective 7/1/05; WSR 05-08-137, § 357-31-165, filed 4/6/05, effective 7/1/05.]

WAC 357-31-166 At what rate do higher education employees accrue vacation leave? (1) Full-time higher education employees accrue vacation leave at the following rates:

(a) During the first year of continuous state employment - Twelve days (eight hours per month);

(b) During the second year of continuous state employment - Thirteen days (eight hours, forty minutes per month);

(c) During the third and fourth years of continuous state employment - Fourteen days (nine hours, twenty minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - Fifteen days (ten hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - Sixteen days (ten hours, forty minutes per month);

(f) During the eleventh year of total state employment - Seventeen days (eleven hours, twenty minutes per month);

(g) During the twelfth year of total state employment - Eighteen days (twelve hours per month);

(h) During the thirteenth year of total state employment - Nineteen days (twelve hours, forty minutes per month);

(i) During the fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month);

(j) During the fifteenth year of total state employment - Twenty-one days (fourteen hours per month);

(k) During the sixteenth and succeeding years of total state employment - Twenty-two days (fourteen hours, forty minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section. This does not apply to individual positions.

(3) The following applies for purposes of computing the rate of vacation leave accrual: Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-20-052, § 357-31-166, filed 9/29/17, effective 10/31/17.]

WAC 357-31-170 At what rate do part-time employees accrue vacation leave? (1) Part-time general government employees accrue vacation leave hours on a pro rata basis in accordance with WAC 357-31-125.

(2) Part-time higher education employees accrue on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-18-028, § 357-31-170, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-170, filed 11/17/10, effective 12/18/10; WSR 05-08-137, § 357-31-170, filed 4/6/05, effective 7/1/05.]

WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month? (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 12-04-016, § 357-31-175, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-175, filed 11/10/10, effective 12/13/10; WSR 05-08-137, § 357-31-175, filed 4/6/05, effective 7/1/05.]

WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay? Leave without pay taken for military leave of absence without pay, for temporary layoff as provided in WAC 357-46-063, or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 12-04-016, § 357-31-180, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-180, filed 11/10/10, effective 12/13/10; WSR 05-08-137, § 357-31-180, filed 4/6/05, effective 7/1/05.]

WAC 357-31-185 When and how does an employee request the use of vacation leave? All requests for vacation leave must be made in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-185, filed 4/6/05, effective 7/1/05.]

WAC 357-31-195 Can an employee use vacation leave before it is accrued? An employee is not entitled to use vacation leave in advance of its accrual.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-195, filed 4/6/05, effective 7/1/05.]

WAC 357-31-200 When must an employer grant the use of vacation leave? (1) An employee's request to use vacation leave must be approved under the following conditions:

(a) As a result of the employee's serious health condition.

(b) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.

(c) To care for a minor/dependent child with a health condition that requires treatment or supervision.

(d) For parental leave as provided in WAC 357-31-460.

(e) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.-020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(f) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) through (f) above may

be subject to verification that the condition or circumstance exists.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-057 and 09-18-112, § 357-31-200, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-013, § 357-31-200, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-200, filed 7/11/08, effective 10/1/08; WSR 05-08-137, § 357-31-200, filed 4/6/05, effective 7/1/05.]

WAC 357-31-205 What must an employer consider in granting the use of vacation leave? When considering requests for vacation leave, the employer must consider the needs of the employee but may require that leave be taken when it will least interfere with the operational needs of the employer.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-205, filed 4/6/05, effective 7/1/05.]

WAC 357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate? Vacation leave may be accumulated to a maximum of two hundred forty hours. Exceptions to this maximum are described in WAC 357-31-215.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-18-028, § 357-31-210, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-210, filed 4/6/05, effective 7/1/05.]

WAC 357-31-215 When may vacation leave be accumulated above the maximum two hundred forty hours? There are two circumstances in which vacation leave may be accumulated above the maximum of two hundred forty hours.

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave (two hundred forty hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of two hundred forty hours as follows:

(a) An employee may accumulate the vacation leave hours between the time the two hundred forty hours is accrued and his/her next anniversary date of state employment.

(b) Leave accumulated above two hundred forty hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of two hundred forty hours as of the date of the statement of necessity cannot be deferred regardless of circumstances. For example:

On June 15th, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time.

• On June 15th, the employee's vacation leave balance is two hundred sixty hours.

• The employee accrues ten hours monthly.

• The employee's anniversary date is October 16th.

Because the employee will not be able to use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The twenty hours of excess vacation leave the employee had on June 15th are not covered by the statement of necessity.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-18-028, § 357-31-215, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 09-23-057, § 357-31-215, filed 11/12/09, effective 12/15/09; WSR 09-11-065, § 357-31-215, filed 5/14/09, effective 6/16/09; WSR 05-08-137, § 357-31-215, filed 4/6/05, effective 7/1/05.]

WAC 357-31-220 What must be included in the statement of necessity for excess vacation leave? At a minimum, a statement of necessity for excess vacation leave must include all of the following:

(1) The date on which the statement of necessity was authorized;

(2) Justification of denial of the employee's leave request;

(3) Date upon which the employee will be able to resume leave usage;

(4) The employee's total leave balance on his/her anniversary date;

(5) The employee's accrual rate; and

(6) The employee's leave balance at the time of the request.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-220, filed 4/6/05, effective 7/1/05.]

WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave? (1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment; or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-225, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-225, filed 9/20/11, effective 10/24/11; WSR 05-08-137, § 357-31-225, filed 4/6/05, effective 7/1/05.]

WAC 357-31-230 When can an employee use accrued compensatory time? (1) Employees must request to use accrued compensatory time in accordance with the employer's leave policy. When considering employees' requests, employers must consider their business needs and the wishes of the employee.

(2) An employee must be granted the use of accrued compensatory time to care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued compensatory time may be subject to verification that the condition exists.

(3) An employee must be granted the use of accrued compensatory time if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued compensatory time to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(5) Compensatory time off may be scheduled by the employer during the final sixty days of a biennium.

(6) Employers may require that accumulated compensatory time be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

(7) During the 2009-2011 fiscal biennium only, an employee whose monthly full-time equivalent base salary is two thousand five hundred dollars or less is eligible to use compensatory time in lieu of temporary layoff as described in chapter 32, Laws of 2010.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-31-230, filed 11/10/11, effective 12/13/11; WSR 10-23-120, § 357-31-230, filed 11/17/10, effective 12/18/10; WSR 09-17-056 and 09-18-113, § 357-31-230, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-013, § 357-31-230, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-230, filed 7/11/08, effective 10/1/08; WSR 05-08-137, § 357-31-230, filed 4/6/05, effective 7/1/05.]

WAC 357-31-235 May an employee use leave if the employee sustains a work-related injury or illness that is compensable under the state workers' compensation law? An employee who sustains a work related injury or illness that is compensable under the workers' compensation law may choose to receive time-loss compensation exclusively, use accrued paid leave exclusively, or combine time loss compensation and accrued paid leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-235, filed 4/6/05, effective 7/1/05.]

WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, or receives holiday pay during a period when he/she is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, recognition leave, and holiday pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-245, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-245, filed 9/20/11, effective 10/24/11; WSR 09-17-062, § 357-31-245, filed 8/13/09, effective 9/16/09; WSR 05-08-137, § 357-31-245, filed 4/6/05, effective 7/1/05.]

WAC 357-31-250 Are employees entitled to paid bereavement leave? (1) If an employee's family member or household member dies, the employee is entitled to three days of paid bereavement leave. An employee may request less than three days of paid bereavement leave.

(2) In accordance with the employer's leave policy, the employer may require verification of the family member's or household member's death.

(3) In addition to paid bereavement leave, the employer may approve an employee's request to use paid leave (accrued compensatory time, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-250, filed 4/6/05, effective 7/1/05.]

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather? When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-255, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-255, filed 9/20/11, effective 10/24/11; WSR 07-11-093, § 357-31-255, filed 5/16/07, effective 7/1/07; WSR 05-08-137, § 357-31-255, filed 4/6/05, effective 7/1/05.]

WAC 357-31-260 When may an agency head or institution president suspend operations? When it is determined that public safety, health, or property is jeopardized due to emergency conditions, the agency head or institution president may suspend operations for the entire agency,

higher education institution, related board, or any portion of the organization, in accordance with the employer's suspended operations procedure.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-260, filed 4/6/05, effective 7/1/05.]

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday, or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-265, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-265, filed 9/20/11, effective 10/24/11; WSR 07-11-096, § 357-31-265, filed 5/16/07, effective 7/1/07; WSR 05-08-137, § 357-31-265, filed 4/6/05, effective 7/1/05.]

WAC 357-31-270 When an employer has suspended operations, how are employees who are required to work during the closure affected? Employees required to work during the closure must receive their regular rate of pay for work performed during the period of suspended operations. Overtime worked during the closure must be compensated in accordance with chapter 357-28 WAC. The employer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operations.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-270, filed 4/6/05, effective 7/1/05.]

WAC 357-31-275 What must be included in the employer's suspended operations procedure? Each employer must develop a suspended operations procedure. The procedure must at a minimum address all of the following:

(1) How employees will be notified of suspended operations.

(2) What happens when prior notification has not been given and employees are released until further notice after reporting to work.

(3) How employees who are not required to work during suspended operations are affected.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-275, filed 4/6/05, effective 7/1/05.]

WAC 357-31-280 How long can operations be suspended? The period of suspended operations must not exceed fifteen calendar days without director approval.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-280, filed 4/6/05, effective 7/1/05.]

WAC 357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies? Absence because of an employee's inability to report for or continue scheduled work due to a family care emergency:

(1) **Must** be authorized for care of the employee's spouse, registered domestic partner, household member or the employee's/spouse's/registered domestic partner's minor/dependent child, parent or grandparent up to the limits specified in WAC 357-31-300.

(2) **May** be authorized for care of others, including a child over the age of eighteen who is capable of self care, in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-057 and 09-18-112, § 357-31-285, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 07-03-054, § 357-31-285, filed 1/12/07, effective 2/15/07; WSR 05-08-137, § 357-31-285, filed 4/6/05, effective 7/1/05.]

WAC 357-31-290 What qualifies as a family care emergency? The employer's leave policy must define what qualifies as a family care emergency. At a minimum, the employer's definition must include:

(1) Minor/dependent child care emergencies such as unexpected absence of regular care provider, unexpected closure of child's school, or unexpected need to pick up child at school earlier than normal.

(2) Elder care emergencies such as the unexpected absence of a regular care provider or unexpected closure of an assisted living facility.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-290, filed 4/6/05, effective 7/1/05.]

WAC 357-31-295 What type of leave may employees use for family care emergencies? (1) After an employee has used all accrued compensatory time, the employee may choose any of following leave categories to use to account for time away from work for family care emergencies:

(a) Vacation leave.

(b) Sick leave in accordance with WAC 357-31-130.

(c) Leave without pay.

(d) Personal holiday.

(2) Use of any of these leave categories is dependent on the employee's eligibility to use that leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-295, filed 4/6/05, effective 7/1/05.]

WAC 357-31-300 Is there a limit to how much leave can be used for a family care emergency? (1) For purposes of family care emergencies, each calendar year an employee must be allowed to use up to three work days of:

(a) Vacation leave,

(b) Sick leave, and

(c) Leave without pay.

(2) At the employer's discretion, additional leave in excess of three days for each category of leave may be granted.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-300, filed 4/6/05, effective 7/1/05.]

WAC 357-31-305 Is advance approval required for an employee to take time off for a family care emergency? No advance approval is required for an employee to take time off for a family care emergency; however, the employee must notify the employer at the beginning of the absence. In accordance with the employer's leave policy, the employee may be required to provide verification of the need to take leave and that the situation was such that advance notice was not possible.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-305, filed 4/6/05, effective 7/1/05.]

WAC 357-31-310 If an employee is required to report for jury duty service, must the employee be granted a leave of absence with pay? The employer must grant a leave of absence with pay when an employee is required to report for jury duty service. Employers may require documentation or verification of jury service.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-310, filed 4/6/05, effective 7/1/05.]

WAC 357-31-315 May employees keep compensation received for serving as a member of a jury? Employees are allowed to keep any compensation they receive for serving as a member of a jury in addition to their regular pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-315, filed 4/6/05, effective 7/1/05.]

WAC 357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay? The employer **must** grant a leave of absence with pay for the employee to respond to a subpoena when:

(1) The employee has been subpoenaed on the employer's behalf; or

(2) The subpoena is for a legal proceeding which is unrelated to the personal or financial matters of the employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-320, filed 4/6/05, effective 7/1/05.]

WAC 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination? Leave with pay **must** be granted to an employee:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-11-033, § 357-31-325, filed 5/14/14, effective 6/16/14; WSR 10-23-041, § 357-31-325, filed 11/10/10, effective 12/13/10; WSR 09-03-014, § 357-31-325, filed 1/9/09, effective 2/13/09; WSR 08-07-062, § 357-31-325, filed 3/17/08, effective 4/18/08; WSR 05-21-055, § 357-31-325, filed 10/13/05, effective 11/15/05; WSR 05-08-138, § 357-31-325, filed 4/6/05, effective 7/1/05.]

WAC 357-31-326 When may an employer grant leave with pay? (1) An employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including but not limited to firefighting, search and rescue efforts, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(2) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

[Statutory Authority: Chapter 41.06 RCW. WSR 17-18-029, § 357-31-326, filed 8/28/17, effective 10/2/17. Statutory Authority: RCW 41.06.133. WSR 17-11-049, § 357-31-326, filed 5/15/17, effective 6/19/17. Statutory Authority: Chapter 41.06 RCW. WSR 09-03-014, § 357-31-326, filed 1/9/09, effective 2/13/09.]

WAC 357-31-327 When must an employer grant leave without pay? An employer must grant leave without pay under the following conditions:

(1) When an employee who is a volunteer firefighter is called to duty to respond to a fire, natural disaster, or medical emergency;

(2) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or

(3) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(4) When an employee requests a day off for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization in accordance with WAC 357-31-052.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-24-024, § 357-31-327, filed 11/21/14, effective 12/22/14; WSR 09-17-057 and 09-18-112, § 357-31-327, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-014, § 357-31-327, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-327, filed 7/11/08, effective 10/1/08; WSR 07-17-129, § 357-31-327, filed 8/20/07, effective 9/20/07.]

WAC 357-31-330 For what reasons may an employer grant leave without pay? Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

(1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;

(2) Educational leave;

(3) Leave for government service in the public interest;

(4) Military leave of absence as required by WAC 357-31-370;

(5) Parental leave as required by WAC 357-31-460;

(6) Family care emergencies as required by WAC 357-31-295;

(7) Bereavement or condolence;

(8) Absence due to inclement weather as provided in WAC 357-31-255;

(9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;

(10) Serious health condition of an eligible employee's child, spouse, registered domestic partner, or parent as required by WAC 357-31-525;

(11) Leave taken voluntarily to reduce the effect of an employer's layoff;

(12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability; or

(13) Employees receiving time loss compensation.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-056 and 09-18-113, § 357-31-330, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-014, § 357-31-330, filed 1/9/09, effective 2/13/09; WSR 05-08-138, § 357-31-330, filed 4/6/05, effective 7/1/05.]

WAC 357-31-335 How long can an employee remain on leave without pay? The employer determines the length of time an employee may remain on leave without pay. The employer's leave policy must address any limitations on the length of time for which leave without pay will be approved.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-335, filed 4/6/05, effective 7/1/05.]

WAC 357-31-340 When an employee returns from authorized leave without pay, what position will he/she be returned to? Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to layoff.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-340, filed 4/6/05, effective 7/1/05.]

WAC 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date, periodic increment date, and seniority date? (1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:

(a) Military leave of absence without pay as provided in WAC 357-31-370;

(b) Compensable work-related injury or illness leave;

(c) Government service leave not to exceed two years and one month;

(d) Educational leave, contingent upon successful completion of the coursework; and/or

(e) Voluntarily reducing the effect of an employer's layoff.

(2) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(3) For a general government employee the seniority date is adjusted for leave without pay in accordance with WAC 357-46-055.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-11-068, § 357-31-345, filed 5/14/09, effective 6/16/09; WSR 05-08-138, § 357-31-345, filed 4/6/05, effective 7/1/05.]

WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date? For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten working days in a month except when the leave without pay is taken for:

(1) Military leave of absence without pay as provided in WAC 357-31-370;

(2) Compensable work-related injury or illness leave; and/or

(3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-055, § 357-31-346, filed 5/13/16, effective 6/20/16; WSR 05-12-081, § 357-31-346, filed 5/27/05, effective 7/1/05.]

WAC 357-31-347 Does leave without pay affect a higher education employee's seniority date? In accordance with WAC 357-46-053, each higher education employer's layoff procedure defines how seniority is determined including any adjustments made for periods of leave without pay. As provided by WAC 357-19-297, scheduled cyclic leave without pay for an employee in cyclic year positions does not affect the employee's seniority date.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-081, § 357-31-347, filed 5/27/05, effective 7/1/05.]

WAC 357-31-350 How does leave without pay affect a general government employee's seniority date? WAC 357-46-055 describes how leave without pay affects a general government employee's seniority date.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-350, filed 4/6/05, effective 7/1/05.]

WAC 357-31-355 How does leave without pay affect the duration of an employee's probationary period, trial service period or transition review period? If an employee uses leave without pay for an entire workshift while serving a probationary period, trial service period or transition review period, the probationary period, trial service period or transition review period is extended by one work day for each

workshift of leave without pay. The duration of an employee's probationary period, trial service period, or transition review period shall not be extended for periods of time spent on temporary layoff.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-355, filed 11/17/10, effective 12/18/10; WSR 09-11-063, § 357-31-355, filed 5/14/09, effective 6/16/09; WSR 05-08-138, § 357-31-355, filed 4/6/05, effective 7/1/05.]

WAC 357-31-357 How does leave without pay affect the six-year time period used to qualify for step M? The six-year time period used to qualify for step M will not be extended for periods of leave without pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 13-23-036, § 357-31-357, filed 11/14/13, effective 12/16/13.]

WAC 357-31-360 Must employees who have been ordered to required military duty, training, drills, or required to appear for a physical examination be granted paid military leave? (1) Employees must be granted military leave with pay not to exceed twenty-one working days during each year, beginning October 1st and ending the following September 30th, in order to report for required military duty, training duty in the Washington National Guard or the Army, Navy, Air Force, Coast Guard, or Marine Corps reserves of the United States or any organized reserve or armed forces of the United States, or to report for drills including those in the National Guard under Title 10 U.S.C., or state active status. The employee is charged military leave only for the days that they are scheduled to work.

(2) Military leave with pay is in addition to any vacation and sick leave to which an employee is entitled and does not reduce benefits, performance ratings, privileges, or pay.

(3) During paid military leave, the employee must receive the normal base salary.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service must receive full pay for the time required to complete the examination.

Employees who are not yet in the military may use paid miscellaneous leave for this purpose. Employees who are already in the military may use paid military leave as described in this section. An employee who is currently in the military may use paid miscellaneous leave for this purpose if they do not have paid military leave available.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-041, § 357-31-360, filed 11/10/10, effective 12/13/10; WSR 10-11-075, § 357-31-360, filed 5/14/10, effective 6/15/10; WSR 08-15-043, § 357-31-360, filed 7/11/08, effective 10/1/08; WSR 05-08-138, § 357-31-360, filed 4/6/05, effective 7/1/05.]

WAC 357-31-370 In addition to paid military leave, must an employee be granted a military leave of absence without pay? (1) Employees must be granted a military leave of absence without pay for service in the uniformed services of the United States or the state, and to reinstatement as provided in chapter 73.16 RCW.

(2) No adjustments are made to the seniority date, anniversary date, unbroken service date, vacation leave accrual rate, or periodic increment date while an employee is on paid military leave or a military leave of absence without pay or any combination thereof.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-370, filed 4/6/05, effective 7/1/05.]

WAC 357-31-373 Is an employee whose spouse or registered domestic partner is a member of the armed forces of the United States entitled to take leave from work when the military spouse or registered domestic partner has been called to active duty or when the military spouse or registered domestic partner is on leave from deployment? (1) During a period of military conflict, an employee who is a spouse or registered domestic partner of a member of the armed forces of the United States, National Guard, or reserves who has been notified of an impending call or order to active duty or has been deployed is entitled to a total of fifteen days of unpaid leave per deployment. The employee is entitled to the fifteen days of unpaid leave after the military spouse or registered domestic partner has been notified of an impending call or order to active duty and before deployment or when the military spouse or registered domestic partner is on leave from deployment. The employee may choose to substitute accrued leave to which the employee is entitled for any part of the leave without pay.

(2) An employee who seeks leave under this section must provide the employer with notice:

(a) Within five business days of the employee's spouse or registered domestic partner receiving official notice of an impending call or order to active duty; or

(b) Within five business days of the employee's spouse or registered domestic partner receiving official notice of leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-056 and 09-18-113, § 357-31-373, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 08-15-043, § 357-31-373, filed 7/11/08, effective 10/1/08.]

WAC 357-31-375 What provisions exist for employees to participate in medical expense plans? (1) Employers may provide a medical expense plan to eligible employees that provides for reimbursement of medical expenses. Instead of cash out of sick leave at retirement as provided in WAC 357-31-150(2), employers may deposit equivalent funds in a medical expense plan for eligible employees. The medical expense plan must meet the requirements of the Internal Revenue Code.

(2) Medical expense plans must be implemented only after consultation with affected groups of employees.

(3) As a condition of participation, the medical expense plan must require that each covered eligible employee sign an agreement with the employer. The agreement must include the following provisions.

(a) A provision to hold the employer harmless should the United States government find that the employer or the employee is indebted to the United States as a result of:

(i) The employee not paying income taxes due on the equivalent funds placed into the plan, or

(ii) The employer not withholding or deducting a tax, assessment, or other payment on funds placed into the plan as required by federal law.

(b) A provision to require each covered eligible employee to forfeit remuneration for accrued sick leave at

retirement if the employee is covered by a medical expense plan and the employee refuses to sign the required agreement.

(4) Each medical expense plan offered by an agency must apply to all eligible employees in any one of the following groups:

(a) Employees in a state agency or higher education institution;

(b) Employees in a major organizational subdivision of a state agency or higher education institution;

(c) Employees at a major operating location of a state agency or higher education institution;

(d) Classified employees in a bargaining unit established by the Public Employees Relations Commission;

(e) Another group of employees defined by the employer that is not designed to provide an individual-employee choice regarding participation in a medical expense plan.

(5) The following definitions are used for the medical expense plan:

(a) "Eligible employees" means all employees in a designated group in (4) of this section.

(b) "Covered eligible employee" means an eligible employee who is in a group for which the employer has established a medical expense plan.

(6) An established medical expense plan must be applicable to all retirements of covered eligible employees within a calendar year. The medical expense plan may be discontinued in any future year, but once discontinued it may not be reinstated for the same group of eligible employees within the same calendar year as it was discontinued.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-138, § 357-31-375, filed 4/6/05, effective 7/1/05.]

WAC 357-31-380 What is the purpose of the state leave sharing program? The purpose of the state leave sharing program is to permit state employees, at no significantly increased cost to the state for providing leave, to come to the aid of another state employee who is likely to take leave without pay or terminate his or her employment because:

(1) The employee has been called to service in the uniformed services;

(2) The employee is volunteering with a governmental agency or a nonprofit organization when a state of emergency has been declared within the United States;

(3) The employee or a relative or household member is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition; or

(4) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655.

[Statutory Authority: Chapter 41.06 RCW. WSR 08-15-043, § 357-31-380, filed 7/11/08, effective 10/1/08; WSR 08-07-063, § 357-31-380, filed 3/17/08, effective 4/18/08; WSR 05-08-139, § 357-31-380, filed 4/6/05, effective 7/1/05.]

WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave? An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(b) The employee has been called to service in the uniformed services;

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers their services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(d) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655;

(e) The employee is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability; or

(f) The employee is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointments or treatments.

(2) The illness, injury, impairment, condition, call to service, emergency volunteer service, consequence of domestic violence, sexual assault, or stalking, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete their:

(a) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and accrued vacation leave if the employee qualifies under (1)(c) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-390, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-390, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-390, filed 9/20/11, effective 10/24/11; WSR 10-23-120, § 357-31-390, filed 11/17/10, effective 12/18/10; WSR 08-15-043, § 357-31-390, filed 7/11/08, effective 10/1/08; WSR 08-07-063, § 357-31-390, filed 3/17/08, effective 4/18/08; WSR 07-17-126, § 357-31-390, filed 8/20/07, effective 9/20/07; WSR 05-08-139, § 357-31-390, filed 4/6/05, effective 7/1/05.]

WAC 357-31-395 What definitions apply to shared leave? (1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(2) "Employee's relative" normally must be limited to the employee's spouse, registered domestic partner, child, grandchild, grandparent, or parent.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

(4) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(5) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the President of the United States in time of war or national emergency.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-056 and 09-18-113, § 357-31-395, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 05-08-139, § 357-31-395, filed 4/6/05, effective 7/1/05.]

WAC 357-31-400 How much shared leave may an employee receive? The employer determines the amount of leave, if any, which an employee may receive under these rules. However, an employee must not receive more than five hundred twenty-two days of shared leave during total state employment. An employer may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for shared leave because they are suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. A nonpermanent employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the expected end date of the appointment. Leave used under the sick leave pool program, as described in WAC 357-31-570, is included in the five hundred twenty-two day limit.

Employers are encouraged to consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time, or special assignments in place of shared leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-11-074, § 357-31-400, filed 5/14/10, effective 6/15/10; WSR 07-11-095, § 357-31-400, filed 5/16/07, effective 7/1/07; WSR 05-08-139, § 357-31-400, filed 4/6/05, effective 7/1/05.]

WAC 357-31-405 What documentation may an employee seeking shared leave be required to submit? (1) For employees seeking shared leave under WAC 357-31-390 (1)(a), the employer may require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition before the employer approves or disapproves the request.

(2) For employees seeking shared leave under WAC 357-31-390 (1)(b), the employer may require the employee to submit a copy of the military orders verifying the employee's required absence before the employer approves or disapproves the request.

(3) For employees seeking shared leave under WAC 357-31-390 (1)(c), proof of acceptance of an employee's offer to volunteer for either a governmental agency or a nonprofit organization during a declared state of emergency.

(4) For employees seeking shared leave under WAC 357-31-390 (1)(d), the employer may require that the request be supported by documentation. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

(a) A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee from the perpetrator of the act of domestic violence, sexual assault, or stalking;

(c) Evidence from the court or prosecuting attorney that the employee appeared or is scheduled to appear in court in connection with an incident of domestic violence, sexual assault, or stalking;

(d) An employee's written statement that the employee is a victim of domestic violence, sexual assault, or stalking; or

(e) Documentation that the employee is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional.

[Statutory Authority: Chapter 41.06 RCW. WSR 08-15-043, § 357-31-405, filed 7/11/08, effective 10/1/08; WSR 07-17-126, § 357-31-405, filed 8/20/07, effective 9/20/07; WSR 05-08-139, § 357-31-405, filed 4/6/05, effective 7/1/05.]

WAC 357-31-410 May employees donate leave to employees in other agencies, institutions of higher education, related higher education boards, educational service districts, or school districts? Leave donated under the civil service rules and shared leave statutes may be transferred from employees of one employer to an employee of the same employer or, with the approval of the heads of both employers, to an employee of another state employer, educational service district, or an employee of a school district.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-11-074, § 357-31-410, filed 5/14/10, effective 6/15/10; WSR 05-08-139, § 357-31-410, filed 4/6/05, effective 7/1/05.]

WAC 357-31-415 Can donated leave be used for any purpose? Vacation leave, sick leave, or all or part of a personal holiday transferred from a donating employee under these rules must be used solely for the purpose stated in WAC 357-31-380.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-415, filed 4/6/05, effective 7/1/05.]

WAC 357-31-420 What rate of pay is the employee receiving shared leave paid? The receiving employee is paid his/her regular rate of pay. Therefore, the value of one hour of shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-420, filed 4/6/05, effective 7/1/05.]

WAC 357-31-425 What types of leave can an employee donate for the purposes of the state leave sharing program? An employee may donate vacation leave, sick leave, or all or part of a personal holiday to another employee for purposes of the state leave sharing program under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to an employee authorized to receive shared leave and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to an employee authorized to receive shared leave and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

Any portion of a personal holiday that is accrued, donated as shared leave, and then returned during the same calendar year to the donating employee, may be taken by the donating employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-425, filed 4/6/05, effective 7/1/05.]

WAC 357-31-430 How will shared leave be administered? The calculation of the recipient's leave value must be in accordance with applicable office of financial management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received is coded as shared leave and is maintained separately from all other leave balances.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-430, filed 4/6/05, effective 7/1/05.]

WAC 357-31-435 Must employees use their own leave before using shared leave? Employees who qualify for shared leave under WAC 357-31-390 (1)(a) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave. Employees who qualify under WAC 357-31-390 (1)(b) must first use all of their compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 before using shared leave. Employees who qualify under WAC 357-31-390 (1)(c) and (d) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and vacation leave that they have accrued before using shared leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-435, filed 5/20/15, effective 6/22/15; WSR 11-23-052, § 357-31-435, filed 11/10/11, effective 12/13/11; WSR 10-23-040, § 357-31-435, filed 11/10/10, effective 12/13/10; WSR 08-15-043, § 357-31-435, filed 7/11/08, effective 10/1/08; WSR 08-07-063, § 357-31-435, filed 3/17/08, effective 4/18/08; WSR 05-08-139, § 357-31-435, filed 4/6/05, effective 7/1/05.]

WAC 357-31-440 How must employees who are receiving shared leave be treated during their absence? An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

Employees who, during their probationary period or trial service period, go on shared leave must have their probationary period or trial service period extended by the number of calendar days they are on shared leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-440, filed 4/6/05, effective 7/1/05.]

WAC 357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient? (1) Any shared leave not used by the recipient during each incident/occurrence as determined by the employer must be returned to the donor(s).

(a) If shared leave has been granted for an employee that suffers from an illness, injury, impairment, or physical mental condition which is of an extraordinary or severe nature unused shared leave may not be returned to the donor until one of the following occurs:

(i) The employer receives a statement from the affected employee's licensed physician or health care practitioner verifying that the illness or injury is resolved; or

(ii) The employee is released by their licensed physician or health care practitioner to return to their normal schedule; has not received additional medical treatment for his or her current condition or any other qualifying condition for at least six months; and the employee's licensed physician or health care practitioner has declined, in writing, the employee's request for a statement indicating the employee's condition has been resolved.

(b) The remaining shared leave must be returned to the donors and reinstated to the respective donors' appropriate leave balances based on each employee's current salary rate at the time of the reversion. The shared leave returned must be returned in accordance with office of financial management policies.

(2) Unused shared leave may not be cashed out by a recipient.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-17-092, § 357-31-445, filed 8/18/16, effective 9/20/16; WSR 07-17-126, § 357-31-445, filed 8/20/07, effective 9/20/07; WSR 05-08-139, § 357-31-445, filed 4/6/05, effective 7/1/05.]

WAC 357-31-447 When must an employer approve a shared leave request for an employee? An employer must approve a shared leave request for an employee:

(1) If a shared leave account is closed and an employee later has a need to use shared leave due to the same condition listed in the closed account; or

(2) To allow employees that are veterans as defined under RCW 41.04.005, and employees that are spouses of veterans who are required to provide assistance for their spouses to attend medical appointments or treatments for a service connected injury or disability, to access shared leave from the veterans' in-state service shared leave pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-447, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 16-17-092, § 357-31-447, filed 8/18/16, effective 9/20/16.]

WAC 357-31-450 Must an employee who receives shared leave repay the value of the leave that he or she used? An employee who uses leave that is donated under the state leave sharing program is not required to repay the value of the leave that he or she used.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-450, filed 4/6/05, effective 7/1/05.]

WAC 357-31-455 What records must an employer maintain pertaining to the state leave sharing program? Agencies must maintain records which contain sufficient information to provide for any state review.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-139, § 357-31-455, filed 4/6/05, effective 7/1/05.]

WAC 357-31-460 For what purposes must parental leave be granted? (1) Employers must grant parental leave to employees for purposes of:

(a) The birth and care of a newborn child of the employee; or

(b) Placement of a minor/dependent child with the employee for adoption or foster care.

(2) Parental leave must be taken during the first year following the child's birth or placement of the minor/dependent child with the employee for adoption or foster care.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-03-054, § 357-31-460, filed 1/12/07, effective 2/15/07; WSR 05-08-140, § 357-31-460, filed 4/6/05, effective 7/1/05.]

WAC 357-31-465 Who qualifies for parental leave? Only permanent employees or employees who have worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period qualify for parental leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-465, filed 4/6/05, effective 7/1/05.]

WAC 357-31-470 How and when can an employee request to be off work on parental leave? The employee must submit a written request for parental leave in accordance with the employer's leave policy. The employee must provide not less than thirty days' notice, except when a child's birth or placement requires leave to begin in less than thirty days, in which case the employee must provide notice as soon as is practicable.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-470, filed 4/6/05, effective 7/1/05.]

WAC 357-31-475 How long can an employee request to be off work for parental leave? Employees are entitled to request six months of parental leave for the purposes specified WAC 357-31-460. Employers may only deny requests for that portion of the parental leave that exceeds the provisions of WAC 357-31-525. The only basis for denial is operational necessity. Employers may approve requests for more than six months of parental leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-475, filed 4/6/05, effective 7/1/05.]

WAC 357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth? Under RCW 49.78.390, the family leave required by the Federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) must be in addition to any leave for sickness or temporary disability because of pregnancy or childbirth as provided in WAC 357-31-500.

[Statutory Authority: Chapter 41.06 RCW. WSR 08-07-062, § 357-31-480, filed 3/17/08, effective 4/18/08; WSR 07-17-124, § 357-31-480, filed 8/20/07, effective 9/20/07; WSR 07-11-094, § 357-31-480, filed 5/16/07, effective 7/1/07; WSR 05-08-140, § 357-31-480, filed 4/6/05, effective 7/1/05.]

WAC 357-31-485 If an employee's request for parental leave exceeds the provisions of WAC 357-31-525, how and when must an employer respond to an employee's request for parental leave? If the employee's parental leave request is for time off which exceeds the provisions of WAC 357-31-525, the employer must respond in writing to the employee's request within ten working days of the receipt of the request. If the leave is denied, the employer must provide a rationale supporting the operational necessity.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-485, filed 4/6/05, effective 7/1/05.]

WAC 357-31-490 Will time off for parental leave be paid or unpaid? (1) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay. Sick leave may be used if the criteria in WAC 357-31-130 are met. The combination and use of paid and unpaid leave during a parental leave is at the employee's choice.

(2) If necessary while on approved parental leave, the employee must be allowed to use a minimum of eight hours per month of the accrued paid leave identified in subsection (1) of this section during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer designates when during the month paid leave will be interspersed to maintain benefits.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-490, filed 4/6/05, effective 7/1/05.]

WAC 357-31-495 Will time off for parental leave be designated under the Family and Medical Leave Act? Employers may designate a total of twelve work weeks of accrued paid leave or leave without pay for purposes of parental leave as family and medical leave under the Family and Medical Leave Act. These twelve weeks are in addition

to any paid or unpaid leave the employee is eligible for and takes for sickness or temporary disability due pregnancy or childbirth.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-495, filed 4/6/05, effective 7/1/05.]

WAC 357-31-500 When must disability leave due to pregnancy and/or childbirth be granted? Leave of absence must be granted for the period of time that a permanent employee is sick or temporarily disabled because of pregnancy and/or childbirth.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-500, filed 4/6/05, effective 7/1/05.]

WAC 357-31-505 How does an employee request disability leave due to pregnancy and/or childbirth? The employee must submit a written request for disability leave due to pregnancy and/or childbirth in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-505, filed 4/6/05, effective 7/1/05.]

WAC 357-31-510 Is the employee required to provide the employer with medical certification during disability leave due to pregnancy and/or childbirth? In accordance with the employer's leave policy, the employee may be required to submit medical certification or verification for the period of disability leave due to pregnancy and/or childbirth.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-510, filed 4/6/05, effective 7/1/05.]

WAC 357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid? Disability leave due to pregnancy and/or childbirth may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-515, filed 4/6/05, effective 7/1/05.]

WAC 357-31-520 How does the Family and Medical Leave Act of 1993 and the family leave law interact with the civil service rules? Benefits provided through state laws and civil service rules must not be diminished or withheld in complying with the Family and Medical Leave Act of 1993 (FMLA).

Washington's family leave law (chapter 49.78 RCW) generally is similar to and runs concurrently with the federal FMLA for those provisions outlined in WAC 357-31-525 (1)(a) through (c) but also allows leave to be taken for the care of an employee's registered domestic partner with a serious health condition. However, Washington's family leave law does not address exigency leave, described in WAC 357-31-525 (1)(d), or leave for a covered service member, described in WAC 357-31-525(2). Therefore, an employer is not required to provide exigency leave or leave for a covered service member for a registered domestic partner.

Because the FMLA does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the FMLA entitlement described in WAC 357-31-525. For example:

If an employee uses twelve weeks of leave to care for their registered domestic partner during a twelve-month period, and no other FMLA leave was used, the employee is still entitled to his or her full twelve-week FMLA entitlement during the same twelve-month period, as the leave used was provided for a purpose not covered by FMLA; however, if an employee uses twelve weeks of leave to care for their parent or for another FMLA qualifying reason, then during that same twelve-month period the employer would not be required to provide additional leave under Washington's family leave law to care for the employee's registered domestic partner because the twelve-week entitlement under FMLA and Washington's family leave law has been exhausted.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-056 and 09-18-113, § 357-31-520, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 05-08-140, § 357-31-520, filed 4/6/05, effective 7/1/05.]

WAC 357-31-525 What is an employee entitled to under the Family and Medical Leave Act of 1993? (1) The Family and Medical Leave Act (FMLA) of 1993 (29 U.S.C. 2601 et seq.) and its implementing rules, 29 C.F.R. Part 825, and additional amendments and subsequent regulations provide that an eligible employee must be granted, during a twelve-month period, a total of twelve work weeks of absence:

(a) As a result of the employee's serious health condition;

(b) To care for an employee's parent, spouse, or minor/dependent child who has a serious health condition;

(c) For the birth of and to provide care to an employee's newborn, adopted or foster child as provided in WAC 357-31-460; and/or

(d) Due to a qualifying exigency (as described in the Family and Medical Leave Act of 1993 and its amendments (29 U.S.C. 2601 et seq.) and its implementing rules, 29 C.F.R. Part 825) arising from the fact that the employee's spouse, child of any age, or parent is on covered active duty or has been notified of pending call to covered active duty in the armed forces.

(i) Subsection (1)(d) only applies if the spouse, child, or parent of the employee is a member of the National Guard, Reserves, or regular armed forces.

(ii) Subsection (1)(d) only applies to federal calls to active duty and the deployment must be to a foreign country.

(2) An eligible employee who is the spouse, son, daughter, parent of a child of any age, or next of kin of a covered service member shall be entitled to a total of twenty-six work weeks of leave during a twelve-month period to care for the service member who is suffering from a serious illness or injury arising from injuries incurred in the line of duty. The leave described in this paragraph shall only be available during a single twelve-month period. This twelve-month period begins on the first day leave is taken pursuant to this subsection.

(a) For purposes of this section, "covered service member" is:

(i) A current member of the armed forces, including National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient

status, or is otherwise on the temporary disability retired list for a serious injury or illness; or

(ii) A covered veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness. A covered veteran is one who was a member of the armed forces, including National Guard or Reserves, and was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

(b) For purposes of this section, "next of kin" with respect to an individual means the nearest blood relative of that individual other than the individual's spouse, parent, or child in the following order of priority:

(i) Blood relatives who have been granted legal custody of the service member;

(ii) Siblings;

(iii) Grandparents;

(iv) Aunts and uncles;

(v) Cousins;

(vi) The service member can designate another blood relative as the "nearest blood relative" and that designation takes precedent over the above list.

(c) For purposes of this section, "serious illness or injury" means:

(i) In the case of a current member of the armed forces, including a member of the National Guard or Reserves, an illness or injury incurred by the covered service member in the line of duty while on active duty in the armed forces or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the armed forces and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

(ii) In the case of a covered veteran an illness or injury that was incurred by the member in the line of duty while on active duty in the armed forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty while on active duty in the armed forces) and manifested itself before or after the member became a veteran and meets one of the four criteria outlined in 29 C.F.R. 825.102.

(3) During the twelve-month period described in subsection (2) above, an eligible employee shall be entitled to a combined total of twenty-six work weeks of leave under subsections (1) and (2) above. Nothing in this section shall be construed to limit the availability of leave under subsection (1) during any other twelve-month period.

(4) For general government employers, the twelve-month period in subsections (1) and (2) above is measured forward from the date the requesting employee begins leave under the Family and Medical Leave Act of 1993. The employee's next twelve-month period would begin the first time leave under the Family and Medical Leave Act is taken after completion of the previous twelve-month period. Higher education employers must define within their family and medical leave policy how the twelve months are measured. With respect to leave to care for a covered service member in subsection (2) of this section, higher education institutions must measure the twelve-month period forward from the day the leave begins regardless of what method is used for other FMLA purposes.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-06-008, § 357-31-525, filed 2/20/14, effective 3/24/14; WSR 09-17-056 and 09-18-113, § 357-31-525, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-11-066, § 357-31-525, filed 5/14/09, effective 6/16/09; WSR 08-11-008, § 357-31-525, filed 5/9/08, effective 6/10/08; WSR 05-12-086, § 357-31-525, filed 5/27/05, effective 7/1/05; WSR 05-08-140, § 357-31-525, filed 4/6/05, effective 7/1/05.]

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 C.F.R. Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period. Paid time off such as vacation leave, sick leave, personal holiday, compensatory time off, or shared leave and unpaid leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-530, filed 5/20/15, effective 6/22/15; WSR 14-06-008, § 357-31-530, filed 2/20/14, effective 3/24/14; WSR 11-19-091, § 357-31-530, filed 9/20/11, effective 10/24/11; WSR 05-21-061, § 357-31-530, filed 10/13/05, effective 11/15/05; WSR 05-12-090, § 357-31-530, filed 5/27/05, effective 7/1/05; WSR 05-08-140, § 357-31-530, filed 4/6/05, effective 7/1/05.]

WAC 357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act? The employer designates absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave used for that designated absence must be counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

Because the Family and Medical Leave Act of 1993 (29 U.S.C 2601 et seq) does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-17-056 and 09-18-113, § 357-31-535, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 05-08-140, § 357-31-535, filed 4/6/05, effective 7/1/05.]

WAC 357-31-540 Who chooses if an employee will use paid leave or leave without pay for absences granted under the Family and Medical Leave Act? The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay must be in accordance with the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-540, filed 4/6/05, effective 7/1/05.]

WAC 357-31-545 Under the Family and Medical Leave Act, can an employee request an intermittent or reduced schedule? Employee absence granted for the purpose of WAC 357-31-525 (1)(a) and (b) must be granted on an intermittent or reduced schedule at the employee's request when medically necessary. Employee absence granted for the purpose of WAC 357-31-525(2) must also be granted on an intermittent or reduced schedule at the employee's request.

[Statutory Authority: Chapter 41.06 RCW. WSR 08-11-008, § 357-31-545, filed 5/9/08, effective 6/10/08; WSR 05-08-140, § 357-31-545, filed 4/6/05, effective 7/1/05.]

WAC 357-31-550 When an employee returns from an absence designated as FMLA, what position will the employee return to? Following absence designated as FMLA the employee must be returned to the same or equivalent position held prior to the absence.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-550, filed 4/6/05, effective 7/1/05.]

WAC 357-31-555 Must employers continue health insurance benefits when an employee is on leave designated as FMLA? The employer must continue an eligible employee's existing employer-paid health insurance benefits during paid or unpaid leave granted in accordance with the Family and Medical Leave Act. The employee is responsible for any existing employee-paid premiums necessary to maintain health insurance benefits.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-555, filed 4/6/05, effective 7/1/05.]

WAC 357-31-560 Must the employer have a family and medical leave policy? Each employer must develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, the civil service rules, and the Family and Medical Leave Act of 1993 law and regulations found in 29 C.F.R. Part 825.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-560, filed 4/6/05, effective 7/1/05.]

WAC 357-31-565 May employers grant paid leave for purposes of recognition? Employers who have received performance management confirmation may grant employees up to five days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of predefined work goals by individual employees or units. Leave granted under this provision:

(1) Is not payable upon layoff, dismissal, separation, or resignation or transferable between employers;

(2) Must be used within twelve months of the leave being granted.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-124, § 357-31-565, filed 8/20/07, effective 9/20/07; WSR 06-23-091, § 357-31-565, filed 11/14/06, effective 12/18/06; WSR 05-08-140, § 357-31-565, filed 4/6/05, effective 7/1/05.]

WAC 357-31-567 When must an employer grant the use of recognition leave? (1) An employee's request to use recognition leave must be approved under the following conditions:

(a) An employee must be granted the use of recognition leave if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.-020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; and

(b) In accordance with WAC 357-31-373, an employee must be granted the use of recognition leave to be with a spouse or registered domestic partner who is a member of the Armed Forces of the United States, National Guard, or Reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) and (b) above may be subject to verification that the condition or circumstance exists.

(3) During the 2009-2011 fiscal biennium only, an employee whose monthly full-time equivalent base salary is two thousand five hundred dollars or less is eligible to use recognition leave in lieu of temporary layoff as described in chapter 32, Laws of 2010.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-567, filed 11/17/10, effective 12/18/10; WSR 09-17-056 and 09-18-113, § 357-31-567, filed 8/13/09 and 9/2/09, effective 12/3/09; WSR 09-03-013, § 357-31-567, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-567, filed 7/11/08, effective 10/1/08.]

WAC 357-31-570 What is the purpose of a sick leave pool? The purpose of a sick leave pool is to allow general government state employees, within an agency, to pool sick leave to be used by participating employees who have a personal illness, accident, or injury. Sick leave contributed to a sick leave pool will be deducted from the contributing employee's sick leave balance.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-570, filed 5/16/07, effective 7/1/07.]

WAC 357-31-575 Must an agency have a written policy regarding sick leave pools? Prior to creating a sick leave pool, an agency that decides to participate in the sick leave pool program must appoint an administrator for each sick leave pool and develop a written policy which at a minimum addresses:

(1) Eligibility requirements for employees who wish to participate;

(2) Enrollment process including when open enrollment will occur;

(3) Amount of sick leave an employee must initially contribute to become a participant;

(4) Amount of sick leave a participating employee must contribute when a pool becomes depleted;

(5) When a pool will be considered to be "depleted";

(6) What happens when a participating employee does not have enough leave to contribute to the pool;

(7) The process and criteria that will be used when a sick leave pool participant needs to withdraw sick leave from the pool;

(8) What happens when there is not enough leave in a pool to cover pool participants' requests to withdraw leave;

(9) The manner in which alleged abuse of the sick leave pool will be investigated and what actions will be taken if it has been determined that abuse has occurred;

(10) The manner in which employees can request an internal review of a finding of wrongdoing under subsection (9) of this section;

(11) Transferring of sick leave credits when a pool participant moves from one pool to another pool; and

(12) What happens to leave credits that are in a pool if the pool is disbanded.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-575, filed 5/16/07, effective 7/1/07.]

WAC 357-31-580 What criteria does an employee have to meet to be eligible to participate in a sick leave pool? An employee is eligible to participate in a sick leave pool after one continuous year of state employment and after accruing at least forty-eight hours of unused sick leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-580, filed 5/16/07, effective 7/1/07.]

WAC 357-31-585 Is participation in a sick leave pool voluntary? Participation in a sick leave pool must, at all times, be voluntary on the part of the employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-585, filed 5/16/07, effective 7/1/07.]

WAC 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool? A participating employee is eligible to use sick leave from a pool only when the employee has a personal illness, accident, or injury and the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-590, filed 5/16/07, effective 7/1/07.]

WAC 357-31-595 Is a participant eligible to use sick leave from a pool if his/her illness or injury is work-related? If the illness or injury is work-related and the participant has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW the participant may be eligible to use leave from a pool if he/she has exhausted all of his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-595, filed 5/16/07, effective 7/1/07.]

WAC 357-31-600 Is there a limit to the amount of sick leave a participating employee may withdraw from a sick leave pool? A participating employee may not withdraw more than five hundred twenty-two days from a sick leave pool for the entire duration of state employment. The five hundred twenty-two days includes any days an employee has received under the Washington shared leave program. One day equals eight hours of leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-17-063, § 357-31-600, filed 8/13/10, effective 9/15/10; WSR 07-11-095, § 357-31-600, filed 5/16/07, effective 7/1/07.]

WAC 357-31-605 What rate of pay is the participant who withdraws sick leave from the pool paid? A participant who withdraws sick leave from a sick leave pool will be paid his/her regular rate of pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-605, filed 5/16/07, effective 7/1/07.]

WAC 357-31-610 How does a part-time participating employee withdraw sick leave credits from a sick leave pool? A part-time participating employee withdraws sick leave credits from a sick leave pool on a pro rata basis.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-610, filed 5/16/07, effective 7/1/07.]

WAC 357-31-615 When a participating employee uses leave from a sick leave pool will he/she be required to recontribute such sick leave to the pool? When a participating employee uses leave from a sick leave pool he/she will not be required to recontribute such leave to the pool unless the agency has determined that abuse of the pool has occurred.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-615, filed 5/16/07, effective 7/1/07.]

WAC 357-31-620 When an agency has determined that abuse of a sick leave pool has occurred will the employee have to repay the sick leave credits drawn from the pool? Alleged abuse of the use of a sick leave pool will be investigated, and, on a finding of wrongdoing, the employee must repay all of the sick leave credits drawn from the sick leave pool. The employee may be subject to disciplinary action as determined by the agency head. The only time an employee will have to repay sick leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-620, filed 5/16/07, effective 7/1/07.]

WAC 357-31-625 When an employee cancels his/her membership in a sick leave pool, can the employee withdraw the days of sick leave he/she had contributed to the pool? An employee who cancels his/her membership in a sick leave pool is not eligible to withdraw the hours of sick leave he/she had contributed to the pool.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-625, filed 5/16/07, effective 7/1/07.]

WAC 357-31-630 Can a participant who moves from one general government position to a different general government position transfer from one sick leave pool to another sick leave pool? A participant who moves between general government positions within his/her agency or with a different agency may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-630, filed 5/16/07, effective 7/1/07.]

WAC 357-31-635 What records must an employer maintain pertaining to sick leave pools? Each agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and available to sick leave pool participants and the amount of leave that has been used by participants.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-635, filed 5/16/07, effective 7/1/07.]

WAC 357-31-640 What is the purpose of the uniformed service shared leave pool? The uniformed service shared leave pool was created so that state employees who are called to service in the uniformed services will be able to maintain a level of compensation and employee benefits consistent with the amount they would have received had they remained in active state service. The pool was also created to allow general government and higher education employees to voluntarily donate their leave to be used by any eligible employee who has been called to service in the uniform services for the purpose set forth herein.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-640, filed 8/20/07, effective 10/1/07.]

WAC 357-31-645 Who will administer the uniformed service shared leave pool? The military department, in consultation with the office of financial management, shall administer the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. WSR 11-23-054, § 357-31-645, filed 11/10/11, effective 12/13/11; WSR 07-17-123, § 357-31-645, filed 8/20/07, effective 10/1/07.]

WAC 357-31-650 What definitions apply to the uniformed service shared leave pool? The following definitions apply to the uniformed service shared leave pool:

(1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained. This does not include employees of school districts and educational service districts.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(3) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(4) "Military salary" means the base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(5) "Monthly salary" means the monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. Monthly salary does not include overtime pay, callback pay, standby pay or performance bonuses.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-650, filed 8/20/07, effective 10/1/07.]

WAC 357-31-655 Must employers have a written policy regarding the uniformed service shared leave pool? Each employer must have a written policy which at a minimum addresses:

(1) Eligibility requirements for use of the uniformed service shared leave pool;

(2) Donation of leave;

(3) Use of pool leave; and

(4) Abuse of pool.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-655, filed 8/20/07, effective 10/1/07.]

WAC 357-31-660 Is participation in the uniformed service shared leave pool voluntary? Participation in the uniformed service shared leave pool, must at all times, be voluntary on the part of the donating and receiving employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-660, filed 8/20/07, effective 10/1/07.]

WAC 357-31-665 What criteria does an employee have to meet to be eligible to request leave from the uniformed service shared leave pool? Employees are eligible to request leave from the uniformed service shared leave pool if they are called to service in one of the uniformed services and eligible for shared leave under RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-665, filed 8/20/07, effective 10/1/07.]

WAC 357-31-670 How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence? An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-670, filed 8/20/07, effective 10/1/07.]

WAC 357-31-675 Is shared leave received under the uniformed service shared leave pool included in the shared leave limits specified in RCW 41.04.665? Shared leave received under the uniformed service shared leave pool is not included in the five hundred twenty-two day total specified in RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-11-074, § 357-31-675, filed 5/14/10, effective 6/15/10; WSR 07-17-123, § 357-31-675, filed 8/20/07, effective 10/1/07.]

WAC 357-31-680 May employees donating leave direct the donation to a specific individual? Leave donated under this section is "pooled" and is withdrawn from the pool by eligible employees according to priorities established by the military department. Leave donated cannot be directed to a specific individual.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-680, filed 8/20/07, effective 10/1/07.]

WAC 357-31-685 What types of leave can an employee donate for the purposes of the uniformed service shared leave pool? An employee may donate vacation leave, sick leave, or all or part of a personal holiday for purposes of the uniformed service shared leave pool under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to the uniformed service shared leave pool and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to the uniformed service shared leave pool and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his/her personal holiday to an employee authorized to receive leave under the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-685, filed 8/20/07, effective 10/1/07.]

WAC 357-31-690 How much leave may an employee withdraw from the uniformed service shared leave pool? Shared leave paid under this section, in combination with military salary, as defined in WAC 357-31-650(4), shall not exceed the level of the employee's state monthly salary as defined in WAC 357-31-650(5). However, up to eight hours per month of shared leave under this section may be withdrawn and used to continue coverage under the public employees' benefits board, regardless of the employee's monthly salary and military salary.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-690, filed 8/20/07, effective 10/1/07.]

WAC 357-31-695 How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated? The basis for calculating the maximum shared leave pay granted from the uniformed service shared leave pool is the greater of:

(1) The difference between the employee's current monthly salary (as defined in WAC 357-31-650(5)) and his/her monthly military salary (as defined in WAC 357-31-650(4)) or;

(2) The dollar value associated with the number of hours required to maintain eligibility for employee benefits.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-695, filed 8/20/07, effective 10/1/07.]

WAC 357-31-700 What documentation is required to verify military salary and status? Employees must provide the military department earnings statements verifying military salary and a copy of their orders of service. Employees must notify the military department of any changes to orders of service or military salary and shall submit updated copies of their earnings statements and orders of service when requested by the military department.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-700, filed 8/20/07, effective 10/1/07.]

WAC 357-31-705 What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool? The receiving employee is paid his/her regular rate of pay. Therefore, the value of one hour of donated shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-705, filed 8/20/07, effective 10/1/07.]

WAC 357-31-710 What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests? The uniformed service shared leave pool cannot grant more leave than the leave balance available at the time a request is received.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-710, filed 8/20/07, effective 10/1/07.]

WAC 357-31-715 May employers establish restrictions on the amount of leave an employee may receive under this section? Except in the event of a violation of rule or statute, an employer is required to permit an eligible employee to receive leave from the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-715, filed 8/20/07, effective 10/1/07.]

WAC 357-31-720 May an employer establish restrictions on the amount of leave an employee may donate under this section? An employer may limit the amount of leave an employee may donate under this section, if authorization of such donation would be in violation of rule or statute.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-720, filed 8/20/07, effective 10/1/07.]

WAC 357-31-725 When an employer has determined that abuse of the uniformed service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool? Employers shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-17-123, § 357-31-725, filed 8/20/07, effective 10/1/07.]

WAC 357-31-730 When an employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and the employee is seeking to use accrued leave or unpaid leave what documentation may the employee be required to submit? (1) When an employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking, as defined in RCW 49.76.020, and the employee is seeking to use their accrued leave or take leave without pay the employer may require that the request be supported by verification. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

(a) A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking;

(c) Evidence from the court or prosecuting attorney that the employee or the employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;

(d) An employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking; or

(e) Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional.

(2) If the victim of domestic violence, assault, or stalking is the employee's family member, as defined in chapter 357-01 WAC, verification of the familial relationship between the employee and the victim may include but is not limited to: A statement from the employee; a birth certificate; a court document; or other similar documentation.

[Statutory Authority: Chapter 41.06 RCW. WSR 09-03-013, § 357-31-730, filed 1/9/09, effective 2/13/09; WSR 08-15-043, § 357-31-730, filed 7/11/08, effective 10/1/08.]

WAC 357-31-750 What is the purpose of the veterans' in-state service shared leave pool? The veterans' in-state service shared leave pool was created to allow general government and higher education employees to voluntarily donate their leave to be used for:

(1) An employee who is a veteran as defined in RCW 41.04.005 to attend medical appointments or treatments for a service connected injury or disability; or

(2) An employee who is a spouse of a veteran as defined in RCW 41.04.005 that requires assistance while attending medical appointments or treatments for a service connected injury or disability.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-750, filed 8/28/17, effective 10/2/17.]

WAC 357-31-755 Who shall administer the veterans' in-state service shared leave pool? The department of veterans' affairs shall administer the veterans' in-state service shared leave pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-755, filed 8/28/17, effective 10/2/17.]

WAC 357-31-760 What definitions apply to the veterans' in-state service shared leave pool? The following definitions apply to the veterans' in-state service shared leave pool:

(1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained. This does not include employees of school districts and educational service districts or those employees called to service in the uniformed services.

(2) "Monthly salary" means the monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. Monthly salary does not include overtime pay, callback pay, standby pay or performance bonuses.

(3) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(4) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(5) "Veteran" has the meaning provided in RCW 41.04.005.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-760, filed 8/28/17, effective 10/2/17.]

WAC 357-31-765 Must employers have a written policy regarding the veterans' in-state service shared leave pool? Each employer must have a written policy which at a minimum must address:

(1) Eligibility requirements for use of the veterans' in-state service shared leave pool;

(2) Donation of leave;

(3) Use of pool leave; and

(4) Abuse of pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-765, filed 8/28/17, effective 10/2/17.]

WAC 357-31-770 Is participation in the veterans' in-state service shared leave pool voluntary? Participation in the veterans' in-state service shared leave pool, must at all times, be voluntary on the part of the donating and receiving employee.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-770, filed 8/28/17, effective 10/2/17.]

WAC 357-31-775 What criteria does an employee have to meet to be eligible to request leave from the veterans' in-state service shared leave pool? Employees are eligible to request leave from the veterans' in-state service shared leave pool if:

(1) The employee is a veteran and is attending medical appointments or treatments for a service connected injury or disability; or

(2) The employee is a spouse of a veteran who requires assistance while attending medical appointments or treatments for a service connected injury or disability.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-775, filed 8/28/17, effective 10/2/17.]

WAC 357-31-780 How must employees who are receiving leave from the veterans' in-state service shared leave pool be treated during their absence? An employee using shared leave under the veterans' in-state services shared leave pool receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-780, filed 8/28/17, effective 10/2/17.]

WAC 357-31-785 Is shared leave received under the veterans' in-state service shared leave pool included in the shared leave limits specified in RCW 41.04.665? Shared leave received under the veterans' in-state service shared leave pool is not included in the five hundred twenty-two day total specified in RCW 41.04.665.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-785, filed 8/28/17, effective 10/2/17.]

WAC 357-31-790 May employees donating leave direct the donation to a specific individual? Leave donated under this section is "pooled" and is withdrawn from the pool by eligible employees according to priorities established by the department of veterans' affairs. Leave donated cannot be directed to a specific individual. All employees who donate must specify their intent to donate to the veterans' in-state service shared leave pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-790, filed 8/28/17, effective 10/2/17.]

WAC 357-31-795 What types of leave can an employee donate for the purposes of the veterans' in-state service shared leave pool? An employee may donate vacation leave, sick leave, or all or part of a personal holiday for purposes of the veterans' in-state service shared leave pool under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to the veterans' in-state service shared leave pool and the full-time employee's request to donate leave will not cause their vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to the veterans' in-state service shared leave pool and the employee's request to donate leave will not cause their sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of their personal holiday to an employee authorized to receive leave under the veterans' in-state service shared leave pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-795, filed 8/28/17, effective 10/2/17.]

WAC 357-31-800 How much leave may an employee withdraw from the veterans' in-state service shared leave pool? Shared leave paid under this section, in combination with an employee's salary will not exceed the level of the employee's state monthly salary as defined in WAC 357-31-760(2).

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-800, filed 8/28/17, effective 10/2/17.]

WAC 357-31-805 What documentation may an employee seeking shared leave under the veterans' in-state service shared leave pool be required to submit? Employees seeking shared leave under the veterans' in-state service shared leave pool must provide a veterans affairs benefits summary letter from the U.S. Department of Veterans Affairs and a copy of "DD Form 214" verifying that:

(1) The employee has a service connected injury or disability; or

(2) The employee is a spouse of a veteran who requires assistance while attending medical appointments or treatments for a service connected injury or disability.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-805, filed 8/28/17, effective 10/2/17.]

WAC 357-31-810 What rate of pay is paid to the employee receiving leave under the veterans' in-state service shared leave pool? The receiving employee is paid their regular rate of pay.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-810, filed 8/28/17, effective 10/2/17.]

WAC 357-31-815 What happens if the veterans' in-state service shared leave pool does not have sufficient balance to cover all leave requests? The veterans' in-state service shared leave pool cannot grant more leave than the leave balance available at the time a request is received by the department of veterans' affairs.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-815, filed 8/28/17, effective 10/2/17.]

WAC 357-31-820 May employers establish restrictions on the amount of leave an employee may receive under this section? Except in the event of a violation of rule or statute, an employer is required to permit an eligible employee to receive leave from the veterans' in-state service shared leave pool.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-820, filed 8/28/17, effective 10/2/17.]

WAC 357-31-825 May an employer establish restrictions on the amount of leave an employee may donate under this section? An employer may limit the amount of leave an employee may donate under this section, if authorization of such donation would be in violation of rule or statute.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-825, filed 8/28/17, effective 10/2/17.]

WAC 357-31-830 When an employer and/or the department of veterans' affairs has determined that abuse of the veterans' in-state service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool? Employers and/or the department of veterans' affairs shall investigate any alleged abuse

of the veterans' in-state service shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the veterans' in-state service shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

[Statutory Authority: 2017 c 173. WSR 17-18-030, § 357-31-830, filed 8/28/17, effective 10/2/17.]