

# Chapter 192-540 WAC

## EMPLOYER RESPONSIBILITIES

### WAC

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**WAC 192-540-010 When must an employer send notice to employees who may need paid family and medical leave?** (1) Employers must provide a written notice of employee rights to any employee when an employer becomes aware that the employee is taking family leave, medical leave, or a combination of both for a duration of more than seven consecutive days of work. The employer must use a notice provided by the department.

(2) The notice must be sent to the employee by the fifth business day after the employee's seventh consecutive missed day of work due to family or medical leave, or by the fifth business day after the employer becomes aware that the employee's absence is due to family or medical leave, whichever is later.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-010, filed 11/2/18, effective 12/3/18.]

**WAC 192-540-020 What are the employer requirements for posting notice in a work place?** (1) Employers must post and keep posted a notice regarding pertinent provisions of Title 50A RCW and filing of complaints in a common area, such as a break room or other area where such notices are customarily posted.

(2) Employers must use a standard notice that the department makes available or a notice developed by the employer, which must be approved by the department. The notice developed by the employer must be submitted to the department and contain the following:

- (a) Information on how an employee may file a claim;
- (b) Information about filing a complaint against an employer;
- (c) Responsibilities for premium payments;
- (d) Information including rights to the paid family and medical leave program as provided by the state or the employer's voluntary plan; and
- (e) The minimum and maximum provisions available for paid family or medical leave, including:
  - (i) Weekly benefit amount;
  - (ii) Maximum weeks available under paid family or medical leave; and
  - (iii) How long the benefit is available after the employee applies.

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(3) Employers can be audited to determine if a proper notice with pertinent information is displayed.

(4) Failure to post this notice may result in a penalty of one hundred dollars for each instance in which the department determines the employer has willfully failed to comply with this requirement. The department will deposit any penalties collected in accordance with this section into the paid family and medical leave enforcement account.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-020, filed 11/2/18, effective 12/3/18.]

**WAC 192-540-025 Is notice required if an employer reduces the portion of employee premiums it is electing to pay?** An employer that elects to pay all or a portion of its employees' premiums, must give written notice at least one pay period in advance of any reduction to its elected payment.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-025, filed 11/2/18, effective 12/3/18.]

**WAC 192-540-030 What are employers required to report to the department?** (1) Each calendar quarter, every employer must file a complete report with the department. The report must include each employee's:

- (a) Full name;
- (b) Social Security number; and
- (c) Wages paid during that quarter and the associated hours.

(2) The report must include the total amount of premiums deducted from all employees' wages, if any, during the calendar quarter.

(3) If an employee does not have a Social Security number but does have an individual taxpayer identification number (ITIN), the ITIN qualifies as a Social Security number. If the employee later obtains a Social Security number, the employer should use the Social Security number when filing the report of the employee's wages.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-030, filed 11/2/18, effective 12/3/18.]

**WAC 192-540-040 How should employers report hours worked for each calendar quarter?** Each calendar quarter, employers must report to the department the number of hours worked by each employee. Employers must include the following hours in the report.

(1) **Hourly employees.** Report the total number of hours worked by each employee.

(2) **Employees on salary.** Report forty hours for each week in which a salaried employee worked.

(3) **Vacation pay, sick leave pay, paid time off.** Report the number of hours an employee is on paid leave. Do not report hours for a cash out of leave.

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(4) **Overtime.** Report the number of hours actually worked for which overtime pay or compensatory time is provided, without regard to the amount of wages or compensation paid.

(5) **Commissioned or piecework employees.** Report the actual number of hours worked by employees paid by commission or by piecework. If there are no reliable time keeping records, report a full-time commissioned or piecework employee at forty hours worked for each week in which any of their duties were performed.

(6) **Wages in lieu of notice.** Report the actual number of hours for which an employee was paid.

(7) **Faculty employees.**

(a) To be considered full time, faculty members of community and technical colleges must meet the definition of "full time" as defined in RCW 28B.50.489.

(i) For full-time faculty members, report thirty-five hours per week.

(ii) For part-time faculty members, multiply thirty-five hours by the percentage that is equal to the percentage of hours worked in relation to a full-time faculty member consistent with RCW 28B.50.4891.

**Example:** A technical college deems a teaching workload of fifteen hours per week to be full time. An instructor teaches a workload of twelve hours per week. Twelve divided by fifteen is eighty percent. Eighty percent of thirty-five is twenty-eight. Report twenty-eight hours per week.

(b) Part-time faculty members may overcome the presumption of hours established by this formula by providing the department with sufficient evidence of hours worked that exceeds the hours reported by employer.

(8) **Severance pay.** Do not report hours for severance pay.

(9) **Payment in kind.** Report the actual hours worked for performing services which are compensated only by payment in kind.

(10) **Fractions of hours.** If the employee's total number of hours for the quarter results in a fraction amount, round the total to the next higher whole number.

(11) **Practice, preparation, and rehearsal time.** If an employee who is part of a performing group is paid for a performance but is also required by the employer to attend practice, preparation, and rehearsal on an organized group basis, report the hours spent in the required practice, preparation, and rehearsal as well as the performance.

(12)(a) **On-call and standby hours.** Report the number of actual hours for which an employee receives wages for being on call or on standby with the employer. Do not report hours for which an employee is scheduled to check in before work, and if not required to work, has no further obligations.

(b) For the purpose of this section, "on-call" and "standby" hours are defined as paid hours when employees must comply with employer requirements, such as maintaining physical or mental status, remaining in a specified location, or being required to report to work within a specific time frame.

**WAC 192-540-050 When are employers required to submit quarterly reports to the department?** The quarterly reports referenced in WAC 192-540-030 must be submitted by the last day of the month following the end of the calendar quarter being reported. If a reporting date falls on a Saturday, Sunday, or a legal holiday, the reports will be due on the next business day.

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-050, filed 11/2/18, effective 12/3/18.]

[Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-540-040, filed 11/2/18, effective 12/3/18.]