

**WAC 296-128-690 Separation and reinstatement of accrued paid sick leave upon rehire.** Except as provided for construction workers by RCW 49.46.210 (1)(1) (effective January 1, 2024) and applicable rules, and provided for construction workers covered by collective bargaining agreements by RCW 49.46.180 and applicable rules:

(1) When an employee separates from employment and is rehired within 12 months of separation by the same employer, whether at the same or a different business location of the employer, the employer must comply with the provisions of RCW 49.46.210 (1)(k). If an employee separates from employment, the employer is not required to provide financial or other reimbursement to the employee for accrued, unused paid sick leave at the time of separation.

(2) An employer may choose to reimburse an employee for any portion of their accrued, unused paid sick leave at the time the employee separates from employment.

(a) If an employer chooses to reimburse an employee for any portion of their accrued, unused paid sick leave at the time the employee separates from employment, any such terms for reimbursement must be mutually agreed upon in writing by both the employer and the employee, unless the right to such reimbursement is set forth elsewhere in state law or through a collective bargaining agreement.

(b) If an employee is rehired by the same employer, whether at the same or a different business location of the employer, within 12 months after the date the employee separates from employment, the employer must reinstate the employee's previously accrued, unused paid sick leave. An employer need not reinstate any hours of paid sick leave previously provided to the employee through financial or other reimbursement at the time of separation, as long as the value of the paid sick leave was established and paid at a rate that was at least equal to the employee's normal hourly compensation.

(3) When an employee separates from employment and the employee is rehired within 12 months of separation by the same employer, whether at the same or a different business location of the employer, an employee who reached the 90th calendar day of employment prior to separation shall have their previously accrued, unused paid sick leave balance available for use upon rehire. If the employee did not reach the 90th calendar day of employment prior to separation, the previous period of employment must be counted for purposes of determining the date upon which the employee is entitled to use paid sick leave.

(4) Upon rehire, an employer must provide notification to the employee of the amount of accrued, unused paid sick leave available for use by the employee.

(5) If the period of time an employee separates from employment extends into the following year ("year" as defined at WAC 296-128-620(6)), the employer is not required to reinstate more than 40 hours of the employee's accrued, unused paid sick leave.

[Statutory Authority: Chapter 49.46 RCW. WSR 23-24-044, § 296-128-690, filed 11/30/23, effective 1/1/24. Statutory Authority: RCW 49.46.810. WSR 17-21-092, § 296-128-690, filed 10/17/17, effective 1/1/18.]