

# Chapter 392-136 WAC

## FINANCE—CONVERSION OF ACCUMULATED SICK LEAVE

### WAC

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**WAC 392-136-003 Authority.** The authority for this chapter as applied to educational service districts is RCW 28A.310.490 which authorizes the superintendent of public instruction to adopt rules and regulations related to a mandatory attendance incentive program for all employees of educational service districts. The authority for this chapter as applied to school districts is RCW 28A.400.210 which authorizes the superintendent of public instruction to adopt rules and regulations related to a permissive attendance incentive program for employees of school districts.

[Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-136-003, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-003, filed 1/26/84.]

**WAC 392-136-005 Purpose.** The purpose of this chapter is to implement RCW 28A.400.210 and 28A.310.490 which provide for compensating school district and educational service district employees for accumulated sick leave. The rules set forth in this chapter are not intended to govern the leave policies of a district for other purposes.

[Statutory Authority: 1990 c 33. 90-16-002 (Order 18), § 392-136-005, filed 7/19/90, effective 8/19/90. Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-005, filed 1/26/84. Statutory Authority: RCW 28A.58.097. 82-16-036 (Order 82-6), § 392-136-005, filed 7/28/82. Statutory Authority: 1980 c 182 §§ 5 and 6. 80-12-029 (Order 80-23), § 392-136-005, filed 8/28/80.]

**WAC 392-136-010 Definitions.** As used in this chapter:

(1) The term "month of employment" shall mean each calendar month during which an individual is considered by a school or educational service district to be an employee of the district by virtue of the existence of an oral or written contractual relationship which either obligates the individual to perform services during the month or thereafter or obligates the district to provide compensation to the individual during the month or thereafter for services provided, or both.

(2) The terms "full day" and "full day of sick leave" shall each mean and be equivalent to one day of full-time employment for each employee or classification of employees as established by policies now or hereafter adopted by each individual school and educational service district board or by the pertinent terms of applicable collective bargaining contracts, or both.

(3) The term "full-time daily rate of compensation" shall mean the salary of an employee or classification of employees for each full day of employment exclusive of supplemental pay such as extracurricular pay, overtime pay, standby pay and premium pay, and exclusive of fringe benefits such as health insurance premiums and other forms of insurance premiums.

(4) The term "sick leave" shall mean leave granted to an employee for the purpose of absence from work with pay in the event of illness or injury, or both.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-010, filed 1/26/84. Statutory Authority: 1980 c 182 §§ 5 and 6. 80-12-029 (Order 80-23), § 392-136-010, filed 8/28/80.]

**WAC 392-136-015 Annual conversion of accumulated sick leave.** (1) Commencing in January 1981, and each January thereafter, each eligible, current employee of a school district and educational service district may elect to convert excess sick leave to monetary compensation as provided in this section.

(2) Eligible employees, excess sick leave and the conversion of excess sick leave to monetary compensation shall be determined as follows:

(a) Eligible employees: In order to be eligible to convert excess sick leave days to monetary compensation, an employee:

(i) Shall be an employee of an educational service district or an employee of a school district that has adopted an attendance incentive program covering such employee pursuant to WAC 392-136-065;

(ii) Shall have accumulated in excess of sixty full days of unused sick leave at a rate of accumulation no greater than one full day per month (a maximum of twelve days per year) as of the end of the previous calendar year; and

(iii) Shall provide written notice to his or her employer during the month of January of his or her intent to convert excess sick leave days to monetary compensation.

(b) Excess sick leave: The number of sick leave days which an eligible employee may convert shall be determined by:

(i) Taking the number of sick leave days in excess of sixty full days that were accumulated by the employee during the previous calendar year at a rate of accumulation no greater than one full day per month of employment as pro-

vided by the leave policies of the district(s) of employment (a maximum of twelve days per year); and

(ii) Subtracting therefrom the number of sick leave days used by the employee during the previous calendar year.

The remainder, if positive, shall constitute the number of sick leave days which may be converted to monetary compensation.

(c) Rate of conversion: Sick leave days that are eligible for conversion shall be converted to monetary compensation at the rate of twenty-five percent of an employee's current, full-time daily rate of compensation for each full day of eligible sick leave. Partial days of eligible sick leave shall be converted on a pro rata basis.

(3) All sick leave days converted pursuant to this section shall be deducted from an employee's accumulated sick leave balance.

(4) Compensation received pursuant to this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-015, filed 1/26/84. Statutory Authority: 1980 c 182 §§ 5 and 6. 80-12-029 (Order 80-23), § 392-136-015, filed 8/28/80.]

**WAC 392-136-020 Conversion of sick leave upon separation from district employment.** (1) Eligible employees: Upon separation from district employment the following employees may personally, or through their estate in the event of death, elect to convert all eligible, accumulated, unused sick leave up to a maximum of one hundred eighty days to monetary compensation as provided in this section:

(a) Eligible educational service district employees are those who terminate employment with the educational service district due to either retirement or death.

(b) Eligible school district employees are those who qualify under an attendance incentive program established by the school district board of directors pursuant to WAC 392-136-065 and who:

(i) Separate from employment with the school district due to death or retirement; or

(ii) After June 7, 2000, separate from employment with the school district and are at least age fifty-five and:

(A) Have at least ten years of service under teachers' retirement plan 3 as defined in RCW 41.32.010(40), or under the Washington school employees' retirement system plan 3 as defined in RCW 41.35.010(31); or

(B) Have at least fifteen years of service under teachers' retirement system plan 2 as defined in RCW 41.32.010(39), under Washington school employees' retirement system plan 2 as defined in RCW 41.35.010(30), or under public employees' retirement system plan 2 as defined in RCW 41.40.010(34).

(c) In order to receive reimbursement for unused sick leave, by virtue of retirement pursuant to subsection (1)(a) or (1)(b)(i) of this section the employee must have separated from such employment and have been granted a retirement allowance under the laws governing the teachers' retirement system, the public employees' retirement system, or the school employees' retirement system whichever applies; however, it is not necessary that the employee actually file for retirement prior to the date of his or her separation so long as the application is thereafter filed within a reasonable

period of time and without the occurrence of any intervening covered employment.

(d) Eligible school district employees who qualify under an attendance incentive program established by the school district board of directors pursuant to WAC 392-136-065 and who have previously separated from a school district due to retirement may cash out subsequent earned sick leave under the following exceptions:

(i) The employee ceases receipt of retirement benefits and reestablishes membership in the retirement system, including resuming payments into the system; or

(ii) The employee establishes, and makes payment into, a second retirement system from which they may subsequently retire.

(2) Eligible sick leave days include all unused sick leave days that have been accumulated from year to year up to a maximum of the number of contracted days agreed to in a given contract, but not greater than one year, by an eligible employee, less sick leave days previously converted pursuant to WAC 392-136-015 and those credited as service rendered for retirement purposes.

(3) Rate of conversion: Sick leave days that are eligible for conversion shall be converted to monetary compensation at the rate of twenty-five percent of an employee's full-time daily rate of compensation at the time of termination of employment for each full day of eligible sick leave. Partial days of eligible sick leave shall be converted on a pro rata basis.

(4) Deduction of converted days: All sick leave days converted pursuant to this section shall be deducted from an employee's accumulated sick leave balance.

(5) Exclusion from retirement allowance: Compensation received pursuant to this section shall not be included for the purpose of computing a retirement allowance under any public retirement system in this state.

[Statutory Authority: Chapter 28A.150 RCW. 05-17-175, § 392-136-020, filed 8/23/05, effective 9/23/05. Statutory Authority: RCW 28A.400.210. 01-11-098, § 392-136-020, filed 5/18/01, effective 6/18/01. Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-020, filed 1/26/84. Statutory Authority: RCW 28A.58.100(2). 82-16-038 (Order 82-8), § 392-136-020, filed 7/28/82. Statutory Authority: 1980 c 182 §§ 5 and 6. 80-12-029 (Order 80-23), § 392-136-020, filed 8/28/80.]

**WAC 392-136-025 Conversion of sick leave upon retirement or death for postretirement medical benefits.**

School districts and educational service districts may, in lieu of monetary compensation, as provided for in WAC 392-136-020, make payment to an organization for postretirement medical benefits when each of the following conditions have been met:

(1) The organization is authorized under law to engage in the receipt and management of moneys for postretirement medical benefits; and

(2) The organization and the employee have furnished a signed statement holding the school district or educational service district harmless for any loss, liability, or damages that may occur arising from making the payment to the organization for postretirement medical benefits.

Moneys paid under this section for postretirement medical benefits shall not be included for the purpose of comput-

ing a retirement allowance under any public retirement system in this state.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 90-16-043 (Order 20), § 392-136-025, filed 7/24/90, effective 8/24/90.]

**WAC 392-136-060 Application to school districts.**

The provisions of this chapter as applied to school districts are applicable only to school district employees included within an incentive attendance program established pursuant to WAC 392-136-065. The provisions of WAC 392-136-060 through 392-136-085 are applicable only to school districts.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-060, filed 1/26/84.]

**WAC 392-136-065 School districts—Board authority—Subject to collective bargaining if applicable.** Every school district board of directors may establish an attendance incentive program as provided for in this chapter for any or all certificated and noncertificated employees: Provided, That the terms and conditions of an attendance incentive program for employees represented by a bargaining representative pursuant to either chapter 41.56 or 41.59 RCW, shall be established and implemented in accordance with chapter 41.56 or 41.59 RCW, whichever chapter is applicable.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-065, filed 1/26/84.]

**WAC 392-136-070 School districts—Basis of accounting for accumulated sick leave balance for buy out purpose.** Sick leave for buy out purpose shall be earned, used, and converted to monetary compensation on a last-in first-out (LIFO) basis in accordance with the provisions of this chapter. The reduction to one hundred eighty days on December 31, 1983 and each year thereafter, as provided in WAC 392-136-075, shall be on a LIFO basis, after the December 31 balance has first been reduced for any front end loaded unearned days which may be posted for sick leave purpose but not earned for sick leave buy out purpose.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-070, filed 1/26/84.]

**WAC 392-136-075 School districts—Annual one hundred eighty-day limitation on accumulated sick leave balance for buy out purpose.** The maximum accumulated sick leave balance for buy out purpose shall be controlled as follows:

(1) Commencing at midnight December 31, 1983 and on each midnight December 31 thereafter, and prior to the addition of sick leave earned for January, but after the transactions for sick leave earned and used for December and after reductions of sick leave balance due to conversion of sick leave during January, each employee of a school district shall be limited for sick leave buy out purpose to a maximum earned sick leave balance of one hundred eighty days on such date and time. This balance does not include any front end loaded or other days which may be posted for sick leave purpose but not earned for sick leave buy out purpose.

(2) Commencing on January 31, 1984 and on the end of each month thereafter there shall be added to the accumulated

sick leave balance of each employee for sick leave buy out purpose sick leave earned during that month.

(3) Each employee whose sick leave balance for buy out purpose exceeds one hundred eighty days on midnight December 31, computed in accordance with the first paragraph of this section, shall lose days accumulated that are in excess of this maximum in January of each year if such employee fails to exercise the annual buy out option provided for in this chapter or if such employee's sick leave buy out balance exceeds this maximum for any other reason.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-075, filed 1/26/84.]

**WAC 392-136-085 School districts—Previous payments in connection with excess accumulations of sick leave disregarded.** Nothing in this chapter shall be construed as requiring or allowing, on account of a previous accumulation of sick leave in excess of one hundred eighty days, the recovery of payments for either used or converted sick leave made during the period of June 13, 1980, through July 23, 1983, to any school district employee who had been allowed by his or her school district of employment to accumulate an unused sick leave balance in excess of one hundred eighty days. And nothing in this chapter shall be construed as requiring or allowing the accumulated unused and unconverted sick leave balance of any employee of a school district to be reduced on account of any such payment.

[Statutory Authority: RCW 28A.21.360 and 28A.58.096. 84-04-034 (Order 84-2), § 392-136-085, filed 1/26/84.]