

WAC 296-128-600 Definitions.

(1) "Absences exceeding three days" means absences exceeding three consecutive days an employee is required to work. For example, assume an employee is required to work on Mondays, Wednesdays, and Fridays, and then the employee uses paid sick leave for any portion of those three work days in a row. If the employee uses paid sick leave again on the following Monday, the employee would have absences exceeding three days.

(2) "Commencement of his or her employment" as provided in RCW 49.46.210 (1)(d), means no later than the beginning of the first day on which the employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace. "Commencement of their employment" has the same meaning.

(3) "Construction worker" is any nonexempt employee covered under the 2022 North American Industry Classification System (NAICS) industry code 23, except for those employees who perform only work described in NAICS 2361, residential building construction. This includes employees who work for an employer who performs construction-related work as described in NAICS 23, but are not directly engaged in the construction work itself, such as nonexempt administrative staff.

(4) "Construction worker covered by a collective bargaining agreement" as provided in RCW 49.46.180, means a nonexempt employee covered by a collective bargaining agreement, provided that the union signatory to the collective bargaining agreement is an approved referral union program authorized under RCW 50.20.010 and in compliance with WAC 192-210-110, the collective bargaining agreement establishes equivalent sick leave provisions, as provided in RCW 49.46.180(2), and the requirements of RCW 49.46.200 through 49.46.830 are expressly waived in the collective bargaining agreement in clear and unambiguous terms or in an addendum to an existing agreement including an agreement that is open for negotiation provided the sick leave portions were previously ratified by the membership. This does not include employees who are not directly engaged in construction work itself, such as nonexempt administrative staff.

(5) "Department" means the department of labor and industries.

(6) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(7) "Employee" has the same meaning as RCW 49.46.010(3). An employee includes a construction worker or construction worker covered by a collective bargaining agreement unless a more specific provision applies.

(8) "Employer" has the same meaning as RCW 49.46.010(4).

(9) "Frontloading" means providing an employee with paid sick leave before it has accrued at the rate required by RCW 49.46.210 (1)(a).

(10) "Health-related reason," as provided in RCW 49.46.210 (1)(b)(iii), means a serious public health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reason does not include closures for inclement weather.

(11) "Hours worked" shall be interpreted in the same manner as WAC 296-126-002(8).

(12) "Normal hourly compensation" means the hourly rate that an employee would have earned for the time during which the employee used paid sick leave. For employees who use paid sick leave for hours that would have been overtime hours if worked, employers are not required to apply overtime standards to an employee's normal hourly compensation. Normal hourly compensation does not include tips, gratuities,

service charges, holiday pay, or other premium rates, unless the employer or a collective bargaining agreement allow for such considerations. However, where an employee's normal hourly compensation is a differential rate, meaning a different rate paid for the same work performed under differing conditions (e.g., a night shift), the differential rate is not a premium rate.

(13) "Regular and normal wage" has the same meaning as normal hourly compensation.

(14) "Separation" and "separates from employment" mean the end of the last day an employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace.

(15) "Verification" means evidence that establishes or confirms that an employee's use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b) and (c).

(16) "Workweek" means a fixed and regularly recurring period of 168 hours, or seven consecutive 24 hour periods. It may begin on any day of the week and any hour of the day, and need not coincide with a calendar week.

[Statutory Authority: Chapter 49.46 RCW. WSR 23-24-044, § 296-128-600, filed 11/30/23, effective 1/1/24. Statutory Authority: RCW 49.46.810. WSR 17-21-092, § 296-128-600, filed 10/17/17, effective 1/1/18.]