

WAC 162-32-020 Leave policies and reasonable accommodation. (1)

Leave. When an employer grants leave or time off of work to employees for medical or health reasons, the employer shall treat leave requests to address medical or health care needs related to an individual's gender expression or gender identity in the same manner as requests for all other medical conditions. For example:

(a) If an employer provides paid sick leave for periods of disability that require medical leave, the employer must provide paid sick leave for periods of disability related to an individual's gender expression or gender identity that require medical leave;

(b) If the employer's policy requires a medical provider's statement to verify the leave period as a reasonable accommodation, a medical provider's statement may be required to verify the leave period as a reasonable accommodation when the disabling condition is related to the individual's gender expression or gender identity, however, an employer may not inquire if the leave is related to gender expression or gender identity or gender transition, nor can the employer require that the note specify if the leave is related to gender expression or gender identity or gender transition;

(c) If the employer's policy permits the retention and accrual of benefits, such as seniority, retirement, and pension rights, during the leave period for other disabilities, the policy must also permit such accrual of benefits during leave for disabling conditions related to an individual's gender expression or gender identity;

(d) If an employer allows an employee to use shared leave for disabling conditions, the employer must apply the same policies and procedures for disabling conditions related to an individual's gender expression or gender identity.

(2) **Reasonable accommodation.** An employer shall provide reasonable accommodation for a disability when the disability is related to the individual's gender expression or gender identity, absent undue hardship to the employer. Such reasonable accommodation includes, but is not limited to, medical leave for medical and counseling appointments, surgery, and recovery from surgery that are related to gender reassignment procedures and treatments. An undue hardship as a reason for denying an accommodation in situations involving disabilities related to gender expression or gender identity shall be analyzed in the same manner as with accommodations for any other disability. To the extent consistent with personal medical information connected to other disabilities, personal medical information connected to disabilities related to a person's gender expression or gender identity must be kept confidential.

(3) Nothing in this section is intended to suggest that a person's sexual orientation or gender expression or gender identity itself is a disabling condition.

[Statutory Authority: RCW 49.60.120(3). WSR 15-24-071, § 162-32-020, filed 11/25/15, effective 12/26/15.]