

WAC 192-700-005 When is an employee entitled to employment restoration after leave ends? (1) Subject to RCW 50A.35.010(3), an employee who meets the criteria listed in RCW 50A.35.010 (6)(a) who takes leave under Title 50A RCW is entitled, on return from the leave, to be restored by the employer to:

(a) The position of employment held by the employee when the leave commenced; or

(b) An equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

(i) "Equivalent position" means a position that is nearly identical to the employee's former position as if the employee did not take extended leave. This includes pay, benefits and working conditions, privileges, perks, location, and status. It must involve the same or substantially similar duties and responsibilities, which must entail substantially equivalent skill, effort, responsibility, and authority.

(ii) "Employment benefits" includes all benefits provided or made available to employees by an employer such as:

(A) Insurance;

(B) Paid time off;

(C) Educational benefits; or

(D) Retirement benefits.

(2) An employee is entitled to such reinstatement even if the employee has been replaced or the employee's position has been restructured to accommodate the employee's absence unless the employer can demonstrate the circumstances fall within WAC 192-700-010(1).

(3) The protections provided in RCW 50A.35.010 and this section apply to the employee beginning with the date the employee starts taking leave.

[Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-700-005, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 50A.04.215. WSR 19-16-081, § 192-700-005, filed 7/31/19, effective 8/31/19.]