

WSR 21-20-114
PROPOSED RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed October 4, 2021, 5:03 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 357-01-1805
Holiday credit, 357-01-229 Part-time general government employee,
357-01-2290 Part-time higher education employee, 357-28-255 What con-
stitutes overtime for an overtime eligible employee?, 357-28-301 When
must holiday credit be paid in cash?, 357-31-010 Which employees qual-
ify for holiday compensation?, 357-31-021 For part-time higher educa-
tion employees, how is holiday credit prorated?, 357-31-022 For part-
time higher education employees, how is personal holiday prorated?,
357-31-025 How many hours are higher education employees compensated
for on a holiday?, 357-31-027 When must a higher education employer
allow a part-time employee to use accrued holiday credit?, 357-31-030
What happens when a holiday falls on an employee's scheduled day off?,
357-31-065 How many hours are higher education employees compensated
for when taking a personal holiday?, 357-31-115 How many hours of sick
leave does an employee earn each month?, 357-31-121 Do overtime eligi-
ble employees accrue sick leave if they have taken leave without pay
during the month?, 357-31-127 For higher education part-time employ-
ees, how is leave accrual prorated?, 357-31-166 At what rate do higher
education employees accrue vacation leave?, 357-31-170 At what rate do
part-time employees accrue vacation leave?, 357-31-175 Do employees
accrue vacation leave if they have taken leave without pay during the
month?, 357-31-245 What happens if an employee uses accrued vacation
leave, accrued sick leave, accrued compensatory time, accrued holiday
credit, recognition leave, or receives holiday pay during a period
when the employee is receiving time loss compensation?, 357-31-248 May
an employee use vacation leave, sick leave, personal holiday, compen-
satory time, holiday credit, recognition leave, or holiday pay as a
supplemental benefit during a period when the employee is receiving
partial wage replacement for paid family and/or medical leave under
Title 50A RCW?, 357-31-250 Are employees entitled to paid bereavement
leave?, 357-31-255 What types of leave may an employee use when absent
from work or arriving late to work because of inclement weather?,
357-31-265 What is the effect of suspended operations on employees who
are not required to work during the closure?, 357-31-295 What type of
leave may employees use for family care emergencies?, 357-31-490 Will
time off for parental leave be paid or unpaid?, 357-31-515 Will time
off during the period of disability leave due to pregnancy and/or
childbirth be paid?, 357-31-530 Under the Family and Medical Leave Act
of 1993, how is an eligible employee defined?, 357-31-590 When is an
employee who participates in a sick leave pool eligible to use sick
leave from the pool?, 357-31-595 Is a participant eligible to use sick
leave from a pool if the employee illness or injury is work-related?,
357-31-687 Must employees use their own leave before receiving shared
leave from the uniformed service shared leave pool?, 357-31-797 Must
employees use their own leave before receiving shared leave from the
veterans' in-state service shared leave pool?, and 357-31-895 Must em-
ployees use their own leave before receiving shared leave from the
foster parent shared leave pool?

Hearing Location(s): On November 11, 2021, at 8:30 a.m., at Office of Financial Management (OFM), audio conference only, Dial-in 888-285-8919, Enter pin 8101730, Code (if asked) 415.

Date of Intended Adoption: November 18, 2021.

Submit Written Comments to: Brandy Chinn, OFM, P.O. Box 47500, Olympia, WA 98501, email brandy.chinn@ofm.wa.gov, fax 360-586-4694, by November 4, 2021.

Assistance for Persons with Disabilities: Contact OFM, TTY 711 or 1-800-833-6384, by November 4, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To expand the current civil service rules so that part-time higher education employees can accrue holiday compensation, sick, and vacation leave.

Reasons Supporting Proposal: To align Title 357 WAC with the requirements in RCW 41.06.070.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Statute Being Implemented: RCW 41.06.070.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: [No information supplied by agency], governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Brandy Chinn, 128 10th Avenue, Olympia, WA 98501, 360-878-2901.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

Rules are related to internal government operations and are not subject to violation by a nongovernmental party. See RCW 34.05.328 (5)(b)(ii) for exemption.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

October 4, 2021

Roselyn Marcus

Assistant Director of Legal
and Legislative Affairs

OTS-3376.1

NEW SECTION

WAC 357-01-1805 Holiday credit. Holiday credit is a balance of leave that is received in lieu of holiday compensation for higher education part-time employees as defined in WAC 357-01-2290(2).

[]

AMENDATORY SECTION (Amending WSR 05-12-093, filed 5/27/05, effective 7/1/05)

WAC 357-01-229 Part-time general government employee. ((A)) A general government employee who is scheduled to work less than that required for a full-time employee.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-093, § 357-01-229, filed 5/27/05, effective 7/1/05.]

NEW SECTION

WAC 357-01-2290 Part-time higher education employee. A higher education employee who works less than that required for a full-time employee. A part-time employee may be considered one of the following:

(1) Scheduled: An employee who is assigned a schedule with a fixed number of working hours in a workweek that is less than full-time equivalent.

(2) Nonscheduled: An employee who is not assigned a fixed schedule or amount of working time in a workweek.

[]

OTS-3377.1

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-255 What constitutes overtime for an overtime eligible employee? (1) The following conditions constitute overtime for overtime eligible employees:

(a) Work in excess of forty hours in one workweek, except for law enforcement positions or hospital personnel assigned to a fourteen-day schedule.

(i) For hospital personnel assigned to a fourteen-day schedule, work in excess of eight hours in any workday or eighty hours in a fourteen-day period constitutes overtime.

(ii) For law enforcement positions, work in excess of the one hundred sixty-hour, twenty-eight-day work period constitutes overtime.

(b) Work on a holiday per WAC 357-28-200.

(c) For full-time employees, work on a scheduled day off when assigned by the employer.

(2) All paid holidays including the use of holiday credit during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked for purposes of determining overtime eligibility.

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of forty hours in either the previous or current workweek, the employee must receive overtime compensation.

(4) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections and department of social and health services who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-205, § 357-28-255, filed 12/21/04, effective 7/1/05.]

NEW SECTION

WAC 357-28-301 When must holiday credit be paid in cash? All holiday credit must be used annually in accordance with the employer's leave policy. An employee who does not use their accrued holiday credit by the annual date specified in the employer's leave policy will receive monetary compensation. Holiday credit must also be paid when:

(1) The employee separates from state service for any reason.

(2) The employee is appointed to a position with a different employer.

(3) The employee is appointed to a position that has a different funding source within the same employer.

[]

OTS-3378.2

AMENDATORY SECTION (Amending WSR 18-17-132, filed 8/20/18, effective 9/21/18)

WAC 357-31-010 Which employees qualify for holiday compensation?

(1) Full-time general government employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

(a) For at least eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

(c) Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month. Time spent

on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees as defined in WAC 357-01-2290(1) who satisfy the requirements of subsection (2) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(6) Part-time higher education employees as defined in WAC 357-01-2290(2) who are in pay status during the month of the holiday qualify for holiday credit on a pro rata basis in accordance with WAC 357-31-021 except that part-time employees hired during the month of the holiday will not receive credit for holidays that occur prior to their hire date.

[Statutory Authority: Chapter 41.06 RCW. WSR 18-17-132, § 357-31-010, filed 8/20/18, effective 9/21/18; WSR 12-04-016, § 357-31-010, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-010, filed 11/10/10, effective 12/13/10; WSR 09-03-013, § 357-31-010, filed 1/9/09, effective 2/13/09; WSR 06-11-049, § 357-31-010, filed 5/11/06, effective 6/12/06; WSR 05-08-136, § 357-31-010, filed 4/6/05, effective 7/1/05.]

NEW SECTION

WAC 357-31-021 For part-time higher education employees, how is holiday credit prorated? Holiday credit for part-time higher education employees who meet the definition in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the same month of the holiday to that required for full-time employment, excluding all holiday hours. Part-time employees hired during the month of the holiday will not receive compensation for holidays that occur prior to their hire date.

[]

NEW SECTION

WAC 357-31-022 For part-time higher education employees, how is personal holiday prorated? Personal holiday for part-time higher education employees who meet the definition in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the same month when the personal holiday is requested to that required for full-time employment, excluding all holiday hours.

[]

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-025 How many hours are higher education employees compensated for on a holiday? When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) are entitled to the equivalent paid time off in the form of holiday credit for the holiday on a pro rata basis in accordance with WAC 357-31-021.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-025, filed 11/17/10, effective 12/18/10; WSR 05-08-136, § 357-31-025, filed 4/6/05, effective 7/1/05.]

NEW SECTION

WAC 357-31-027 When must a higher education employer allow a part-time employee to use accrued holiday credit? Higher education employers must allow a part-time employee as defined in WAC 357-01-2290(2) to use accrued holiday credit for the following reasons:

(1) Employees must request to use accrued holiday credit in accordance with the employer's leave policy. When considering employees' requests to use accrued holiday credit, employers must consider their business needs and the wishes of the employee.

(2) An employee must be granted the use of accrued holiday credit to care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued holiday credit time may be subject to verification that the condition exists.

(3) An employee must be granted the use of accrued holiday credit if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued holiday credit to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or

order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(5) An employee must be granted the use of accrued holiday credit when requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW.

(6) Employers may require that accumulated holiday credit be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

[]

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off? When a holiday (as identified in WAC 357-31-005) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

- (1) For a full-time employee who is eligible for holiday compensation, the employer may:
 - (a) Designate the prior or the following work day as the holiday;
 - (b) Provide the employee with equivalent paid time off; or
 - (c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the employee request an alternate day off within the same pay period as the holiday.
- (2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC 357-31-020.
- (3) For a part-time higher education employee as defined in WAC 357-01-2290(1) who is eligible for holiday compensation, the employee is entitled to the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.
- (4) For a part-time higher education employee as defined in WAC 357-01-2290(2) who is eligible for holiday compensation, the employer must provide the employee with equivalent paid time off in the form of holiday credit for the holiday. The amount of holiday credit is calculated on a pro rata basis in accordance with WAC 357-31-021.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-030, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 05-08-136, filed 4/6/05, effective 7/1/05)

WAC 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday? (1) Full-time employees receive eight hours of regular holiday pay on a personal holiday. Any differences between the scheduled shift for the day and eight

hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) are entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full-time schedule.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) are entitled the number of paid hours on a personal holiday on a pro rata basis in accordance with WAC 357-31-022.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-136, § 357-31-065, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 10-23-120, filed 11/17/10, effective 12/18/10)

WAC 357-31-115 How many hours of sick leave does an employee earn each month? (1) Full-time employees earn eight hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees as defined in WAC 357-01-2290(1) earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(4) Part-time higher education employees as defined in WAC 357-01-2290(2) earn sick leave on a pro rata basis in accordance with WAC 357-31-127.

[Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-115, filed 11/17/10, effective 12/18/10; WSR 05-08-136, § 357-31-115, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 18-05-032, filed 2/10/18, effective 3/13/18)

WAC 357-31-121 Do overtime eligible employees accrue sick leave if they have taken leave without pay during the month? (1) Full-time overtime eligible general government employees who are in pay status for less than eighty hours in a month, earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

(2) Full-time and part-time (part-time employee as defined in WAC 357-01-2290(1)) overtime eligible higher education employees with leave without pay exceeding eighty hours in a month (prorated for part-time) will ((~~accrue a minimum of one hour for every forty hours worked~~) earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

[Statutory Authority: Chapter 41.06 RCW. WSR 18-05-032, § 357-31-121, filed 2/10/18, effective 3/13/18.]

NEW SECTION

WAC 357-31-127 For higher education part-time employees, how is leave accrual prorated? Vacation and sick leave accruals for part-time higher education employees as defined in WAC 357-01-2290(2) will be proportionate to the number of hours in pay status in the month to that required for full-time employment. Sick leave accruals must not exceed eight hours in a month.

[]

AMENDATORY SECTION (Amending WSR 17-20-052, filed 9/29/17, effective 10/31/17)

WAC 357-31-166 At what rate do higher education employees accrue vacation leave? (1) Full-time higher education employees accrue vacation leave at the following rates:

(a) During the first year of continuous state employment - Twelve days (eight hours per month);

(b) During the second year of continuous state employment - Thirteen days (eight hours, forty minutes per month);

(c) During the third and fourth years of continuous state employment - Fourteen days (nine hours, twenty minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - Fifteen days (ten hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - Sixteen days (ten hours, forty minutes per month);

(f) During the eleventh year of total state employment - Seventeen days (eleven hours, twenty minutes per month);

(g) During the twelfth year of total state employment - Eighteen days (twelve hours per month);

(h) During the thirteenth year of total state employment - Nineteen days (twelve hours, forty minutes per month);

(i) During the fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month);

(j) During the fifteenth year of total state employment - Twenty-one days (fourteen hours per month);

(k) During the sixteenth and succeeding years of total state employment - Twenty-two days (fourteen hours, forty minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section. This does not apply to individual positions.

(3) The following applies for purposes of computing the rate of vacation leave accrual: Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.

(4) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, and 357-04-055 is not credited for the purposes of computing the rate of vacation leave accrual.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-20-052, § 357-31-166, filed 9/29/17, effective 10/31/17.]

AMENDATORY SECTION (Amending WSR 17-18-028, filed 8/28/17, effective 10/2/17)

WAC 357-31-170 At what rate do part-time employees accrue vacation leave? (1) Part-time general government employees accrue vacation leave hours in accordance with WAC 357-31-165 on a pro rata basis. Proration will be calculated in accordance with WAC 357-31-125.

(2) Part-time higher education employees as defined in WAC 357-01-2290(1) accrue on the same pro rata basis that their appointment bears to a full-time appointment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(3) Part-time higher education employees as defined in WAC 357-01-2290(2) accrue vacation leave in accordance with WAC 357-31-166 on a pro rata basis. Proration will be calculated in accordance with WAC 357-31-127.

[Statutory Authority: Chapter 43.01 RCW. WSR 17-18-028, § 357-31-170, filed 8/28/17, effective 10/2/17. Statutory Authority: Chapter 41.06 RCW. WSR 10-23-120, § 357-31-170, filed 11/17/10, effective 12/18/10; WSR 05-08-137, § 357-31-170, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 12-04-016, filed 1/24/12, effective 2/24/12)

WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month? (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

(2) Full-time and part-time higher (part-time employee as defined in WAC 357-01-2290(1)) education employees (~~who have more than ten working days of~~) with leave without pay exceeding eighty hours in a month (prorated for part-time) do not earn a monthly accrual of vacation leave. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.

[Statutory Authority: Chapter 41.06 RCW. WSR 12-04-016, § 357-31-175, filed 1/24/12, effective 2/24/12; WSR 10-23-040, § 357-31-175, filed 11/10/10, effective 12/13/10; WSR 05-08-137, § 357-31-175, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, accrued holiday credit, recognition leave, or receives holiday pay during a period when ((he/she)) the employee is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, accrued holiday credit, recognition leave, or receives holiday pay during a period when ((he/she)) the employee is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, holiday credit, recognition leave, and holiday pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-245, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-245, filed 9/20/11, effective 10/24/11; WSR 09-17-062, § 357-31-245, filed 8/13/09, effective 9/16/09; WSR 05-08-137, § 357-31-245, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-248 May an employee use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, or holiday pay as a supplemental benefit during a period when the employee is receiving partial wage replacement for paid family and/or medical leave under Title 50A RCW? An employee may use vacation leave, sick leave, personal holiday, compensatory time, holiday credit, recognition leave, or holiday pay during a period when the employee is receiving partial wage replacement under Title 50A RCW as a supplemental benefit.

[Statutory Authority: Chapter 41.06 RCW and RCW 50A.15.060. WSR 20-06-008, § 357-31-248, filed 2/20/20, effective 5/1/20.]

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-250 Are employees entitled to paid bereavement leave?

(1) If an employee's family member or household member dies, the employee is entitled to three days of paid bereavement leave. An employee may request less than three days of paid bereavement leave.

(2) In accordance with the employer's leave policy, the employer may require verification of the family member's or household member's death.

(3) In addition to paid bereavement leave, the employer may approve an employee's request to use paid leave (accrued compensatory time, holiday credit, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-250, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather? When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave (~~and~~), compensatory time, and holiday credit may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-255, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-255, filed 9/20/11, effective 10/24/11; WSR 07-11-093, § 357-31-255, filed 5/16/07, effective 7/1/07; WSR 05-08-137, § 357-31-255, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure? At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday, accrued holiday credit, or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-265, filed 5/20/15, effective 6/22/15; WSR 11-19-091, § 357-31-265, filed 9/20/11, effective 10/24/11; WSR 07-11-096, § 357-31-265, filed 5/16/07, effective 7/1/07; WSR 05-08-137, § 357-31-265, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 05-08-137, filed 4/6/05, effective 7/1/05)

WAC 357-31-295 What type of leave may employees use for family care emergencies? (1) After an employee has used all accrued compensatory time and accrued holiday credit, the employee may choose any of the following leave categories to use to account for time away from work for family care emergencies:

- (a) Vacation leave.
- (b) Sick leave in accordance with WAC 357-31-130.
- (c) Leave without pay.
- (d) Personal holiday.

(2) Use of any of these leave categories is dependent on the employee's eligibility to use that leave.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-08-137, § 357-31-295, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-490 Will time off for parental leave be paid or unpaid? (1) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, holiday credit, shared leave and leave of absence without pay. Sick leave may be used if the criteria in WAC 357-31-130 are met. The combination and use of paid and unpaid leave during a parental leave is at the employee's choice.

(2) If necessary while on approved parental leave, the employee must be allowed to use a minimum of eight hours per month of the accrued paid leave identified in subsection (1) of this section during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer designates when during the month paid leave will be interspersed to maintain benefits.

[Statutory Authority: Chapter 41.06 RCW and RCW 50A.15.060. WSR 20-06-008, § 357-31-490, filed 2/20/20, effective 5/1/20. Statutory Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-490, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 20-06-008, filed 2/20/20, effective 5/1/20)

WAC 357-31-515 Will time off during the period of disability leave due to pregnancy and/or childbirth be paid? Disability leave due to pregnancy and/or childbirth may be a combination of sick leave, vacation leave, personal holiday, compensatory time, holiday credit, shared leave and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

[Statutory Authority: Chapter 41.06 RCW and RCW 50A.15.060. WSR 20-06-008, § 357-31-515, filed 2/20/20, effective 5/1/20. Statutory

Authority: Chapter 41.06 RCW. WSR 05-08-140, § 357-31-515, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 15-11-102, filed 5/20/15, effective 6/22/15)

WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined? In accordance with 29 C.F.R. Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period. Paid time off such as vacation leave, sick leave, personal holiday, compensatory time off, holiday credit, or shared leave and unpaid leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

[Statutory Authority: Chapter 41.06 RCW. WSR 15-11-102, § 357-31-530, filed 5/20/15, effective 6/22/15; WSR 14-06-008, § 357-31-530, filed 2/20/14, effective 3/24/14; WSR 11-19-091, § 357-31-530, filed 9/20/11, effective 10/24/11; WSR 05-21-061, § 357-31-530, filed 10/13/05, effective 11/15/05; WSR 05-12-090, § 357-31-530, filed 5/27/05, effective 7/1/05; WSR 05-08-140, § 357-31-530, filed 4/6/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 07-11-095, filed 5/16/07, effective 7/1/07)

WAC 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool? A participating employee is eligible to use sick leave from a pool only when the employee has a personal illness, accident, or injury and the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, ~~((and))~~ compensatory time, and holiday credit.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-590, filed 5/16/07, effective 7/1/07.]

AMENDATORY SECTION (Amending WSR 07-11-095, filed 5/16/07, effective 7/1/07)

WAC 357-31-595 Is a participant eligible to use sick leave from a pool if ~~((his/her))~~ the employee illness or injury is work-related? If the illness or injury is work-related and the participant has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW the participant may be eligible to use leave from a pool if ~~((he/she))~~ the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, ~~((and))~~ compensatory time, and holiday credit.

[Statutory Authority: Chapter 41.06 RCW. WSR 07-11-095, § 357-31-595, filed 5/16/07, effective 7/1/07.]

AMENDATORY SECTION (Amending WSR 20-24-017, filed 11/20/20, effective 12/28/20)

WAC 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool? Employees who are eligible to receive shared leave from the uniformed service shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565, personal holiday, vacation leave, and paid military leave allowed under RCW 38.40.060 before receiving shared leave from the uniformed service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 and can maintain up to forty hours of vacation leave and forty hours of paid military leave.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.04.655. WSR 20-24-017, § 357-31-687, filed 11/20/20, effective 12/28/20. Statutory Authority: Chapter 41.06 RCW. WSR 18-03-080, § 357-31-687, filed 1/15/18, effective 2/16/18.]

AMENDATORY SECTION (Amending WSR 20-24-017, filed 11/20/20, effective 12/28/20)

WAC 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool? Employees who are eligible to receive shared leave from the veterans' in-state service shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave before receiving shared leave from the veterans' in-state service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.04.655. WSR 20-24-017, § 357-31-797, filed 11/20/20, effective 12/28/20. Statutory Authority: Chapter 41.06 RCW. WSR 18-03-080, § 357-31-797, filed 1/15/18, effective 2/16/18.]

AMENDATORY SECTION (Amending WSR 18-03-081, filed 1/15/18, effective 2/16/18)

WAC 357-31-895 Must employees use their own leave before receiving shared leave from the foster parent shared leave pool? Employees who are eligible to receive shared leave from the foster parent shared leave pool must first use all accrued compensatory time, holiday credit, recognition leave as described in WAC 357-31-565, and personal holiday before requesting shared leave from the foster parent shared leave pool. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

[Statutory Authority: Chapter 41.04 RCW. WSR 18-03-081, § 357-31-895, filed 1/15/18, effective 2/16/18.]