

WSR 25-12-067
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed May 30, 2025, 10:21 a.m., effective July 1, 2025]

Effective Date of Rule: July 1, 2025.

Purpose: To align the civil service rules, Title 357 WAC, with the changes stemming from the 2025-2027 tentative collective bargaining agreements for represented employees. A policy decision was made to extend the rest and recuperation leave, pandemic vaccination leave, and the wildfire disaster leave to nonrepresented employees, provided this leave is funded in the 2025 enacted budget. A policy decision was also made to repeal the COVID-19 vaccination leave to mirror the leave provisions for represented employees. The amendment to WAC 357-28-255(2) is to clarify the exceptions provided in WAC 357-28-265. The amendment to WAC 357-28-265(1) is to state that leave with pay (LWP) during the employee's regular work schedule is not considered time worked except for when leave is taken to travel and receive the Centers for Disease Control and Prevention (CDC) recommended vaccine(s) and remove the requirement to provide LWP for an employee to travel and receive each dose or booster of COVID-19 vaccine. The amendments to WAC 357-28-265(2) are to state LWP during the employee's regular work schedule is not considered time worked except for when leave is taken on the employee's regularly scheduled workday for the purpose of rest and recuperation in accordance with WAC 357-31-326, and clarify that if LWP falls on the employee's regularly scheduled day off, it is not considered hours worked for the calculation of the overtime rate. The amendment to WAC 357-31-325(5) is to remove the requirement for an employer to grant LWP for a general government employee to take a reasonable amount of LWP to travel and receive each dose or booster of COVID-19 vaccine if the vaccine is not offered at the workplace and instead require an employer to grant LWP for an employee, not limited to only general government, to take a reasonable amount of LWP to travel and receive the CDC recommended vaccine(s) during a declared state of emergency due to a pandemic if the vaccine is not offered in the workplace. The amendment to WAC 357-31-326(3) is to state the department of natural resources may grant two additional days of LWP for rest and recuperation after 14 consecutive calendar days performing emergency work under an incident command system and that additional days may only be granted if they fall on the employee's regularly scheduled workday and are taken consecutively. LWP under this subsection is subject to the overtime provisions in WAC 357-28-265. The amendments to WAC 357-31-326 (4) and (5) are to remove the ability for an employer to grant LWP to an employee to receive each dose or booster of COVID-19 vaccine if the vaccine is or is not offered in the workplace. The amendment to WAC 357-31-326(4) is to add new language to allow an employer to grant up to 24 hours of LWP per occurrence to employees who are experiencing extraordinary or severe impacts of a wildfire disaster in the event the governor declares a state of emergency in any area of the state of Washington where the employee resides. LWP must be used within three months from the date the state of emergency was declared, an employer may require verification of the extraordinary or severe impacts regarding the use of LWP, and the employer may consider emergency operations requirements and/or program and staffing replacement requirements in the approval and

scheduling of LWP in order to ensure continued essential services to the public.

Citation of Rules Affected by this Order: Amending WAC 357-28-255, 357-28-265, 357-31-325, and 357-31-326.

Statutory Authority for Adoption: RCW 41.06.133.

Other Authority: RCW 41.06.133.

Adopted under notice filed as WSR 25-08-076, 25-08-079, and 25-08-080 on April 1, 2025.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 4, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 4, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 4, Repealed 0.

Date Adopted: May 30, 2025.

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RDS-6241.4

AMENDATORY SECTION (Amending WSR 22-01-022, filed 12/3/21, effective 7/1/22)

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 40 hours in one workweek, except for law enforcement positions or hospital personnel assigned to a 14-day schedule.

(i) For hospital personnel assigned to a 14-day schedule, work in excess of eight hours in any workday or 80 hours in a 14-day period constitutes overtime.

(ii) For law enforcement positions, work in excess of the 160-hour, 28-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, except as provided in WAC 357-28-265.

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in ex-

cess of 40 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.

AMENDATORY SECTION (Amending WSR 23-24-021, filed 11/28/23, effective 1/1/24)

WAC 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked? For purposes of computing eligibility for overtime compensation, paid holidays 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 except for:

(1) When leave is taken to travel and receive (~~each dose or booster of COVID-19~~) the Centers for Disease Control and Prevention recommended vaccine(s) in accordance with WAC 357-31-325; or

(2) When leave is taken (~~to receive each dose or booster of COVID-19 vaccine in accordance with WAC 357-31-326~~) on the employee's regularly scheduled workday for the purpose of rest and recuperation in accordance with WAC 357-31-326. However, if leave falls on the employee's regularly scheduled day off, it is not considered hours worked for the calculation of the overtime rate.

RDS-6226.3

AMENDATORY SECTION (Amending WSR 22-12-076, filed 5/27/22, effective 7/1/22)

WAC 357-31-325 When must an employer grant leave with pay for other miscellaneous reasons? Leave with pay **must** be granted to an employee in accordance with WAC 357-31-320 and for the following reasons:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

(4) To allow a general government employee to take paid leave, not to exceed 30 days in a two-year period to participate in life-giving procedures, such as medical procedures, including testing, sampling, or donation of organs, tissues, and other body components for the purpose of donation, without compensation. For this subsection blood or plasma donations are not considered life-giving procedures.

(a) General government employers may take operational necessity into account and require the employee to provide reasonable advance notice.

(b) Employees must provide written proof from an accredited medical institution, physician, or other medical professional that the employee will or has participated in a life-giving procedure.

(5) To allow ~~((a general government))~~ an employee to take a reasonable amount of leave with pay ~~((for the employee))~~ to travel and receive ~~((each dose or booster of COVID-19 vaccine))~~ the Centers for Disease Control and Prevention (CDC) recommended vaccine(s) during a declared state of emergency due to a pandemic if the vaccine is not offered at the workplace. An employer may authorize leave in excess of one day in extraordinary circumstances, such as to accommodate travel where the ~~((vaccine is))~~ CDC recommended vaccines are unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. ~~((This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 vaccine.))~~

AMENDATORY SECTION (Amending WSR 22-12-076, filed 5/27/22, effective 7/1/22)

WAC 357-31-326 When may an employer grant leave with pay? (1) A general government employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, or donating blood. Leave granted to participate in blood and plasma donations must not exceed five days in a two-year period.

(2) A higher education employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, participating in life-giving procedures, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(3) In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after 10 consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant ~~((one))~~ two additional days of leave with pay for rest and recuperation after ~~((21))~~ 14 consecutive calendar days performing emergency work under an incident command system. Additional days may only be granted if they fall on the employee's regularly scheduled workday and are taken consecutively. Leave with pay under this subsection is subject to the overtime provisions in WAC 357-28-265.

~~(4) ((A general government employer may grant a reasonable amount of leave with pay for an employee to receive each dose or booster of COVID-19 vaccine if the vaccine is offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 vaccine.~~

~~(5) A higher education employer may grant a reasonable amount of leave with pay for an employee to receive each dose or booster of COVID-19 vaccine if the vaccine is not offered at the workplace. An employer may authorize leave in excess of one day for receipt of the vaccine in extraordinary circumstances, such as to accommodate travel where the vaccine is unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 vaccine.))~~ An employer may grant up to 24 hours of leave with pay per occurrence to employees who are experiencing extraordinary or severe impacts of a wildfire disaster in the event the governor declares a state of emergency in any area of the state of Washington where the employee resides. Examples of extraordinary or severe impacts are displacement from their home temporarily or permanently through evacuation, or significant damage or loss.

The employer may require verification of the extraordinary or severe impacts regarding the use of leave with pay. In order to ensure continued essential services to the public, the employer may consider emergency operations requirements and/or program and staffing replacement requirements in the approval and scheduling of leave under this subsection. Leave under this subsection must be used within three months from the date the state of emergency was declared.