

The following rule modifications and new rules were adopted on an emergency basis effective June 24, 2010.

WAC 357-01-174 Full-time employee. An employee who is scheduled to work:

- ! Forty hours in one workweek;
- ! For hospital personnel assigned to a fourteen-day schedule, eighty hours over a fourteen-day period; or
- ! For law enforcement positions, one hundred sixty hours in the twenty-eight-day work period.

For the purpose of this definition time spent on temporary layoff will count towards the hourly requirement.

WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave? An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(b) The employee has been called to service in the uniformed services;

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the

employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers ~~his/her~~ their services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(d) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655.

(e) During the 2009-2011 fiscal biennium only, an employee whose monthly full-time equivalent base salary is two thousand five hundred dollars or less is eligible to use shared leave in lieu of temporary layoff as described in chapter 32, Laws of 2010.

(2) The illness, injury, impairment, condition, call to service, or emergency volunteer service, or consequence of domestic violence, sexual assault, or stalking has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete ~~his or her~~ their:

(a) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and accrued vacation leave if the employee qualifies under (1)(c) or (d).

(d) Compensatory time, recognition leave as described in WAC 357-31-565, and accrued vacation leave if the employee qualifies under subsection (1)(e) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

WAC 357-31-435 Must employees use their own leave before using shared leave? Employees who qualify for shared leave under WAC 357-31-390 (1)(a) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave. Employees who qualify under WAC 357-31-390 (1)(b) must first use all of their compensatory time,

recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 before using shared leave. Employees who qualify under WAC 357-31-390 (1)(c) and (d) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and vacation leave that they have accrued before using shared leave. Employees who qualify under WAC 357-31-390(1)(e) must first use all compensatory time, recognition leave as described in WAC 357-31-565, and vacation leave that they have accrued before using shared leave.

WAC 357-31-190 When can an employee start to use accrued vacation leave? An employee (part-time or full-time) must complete six months of continuous state employment before ~~he/she~~ they can use vacation leave. The only exception to the six-month requirement is that during the 2009-2011 fiscal biennium if an employee's monthly full-time equivalent base salary is two thousand five hundred dollars or less and the employee's office or institution enacts a temporary layoff as described in chapter 32, Laws of 2010, the employee can use accrued vacation leave.

WAC 357-46-066 What is the notice requirement to temporarily layoff an employee? An employer must provide the employee seven calendar days' notice of temporary layoff. The temporary layoff notice must inform the employee of ~~his/her~~ their status during temporary layoff and the expected duration of the temporary layoff. Notice of temporary layoff may be provided by using

alternative methods as described in WAC 357-04-105.

WAC 357-46-067 What is an employee's status during temporary layoff? (1) The following applies during a temporary layoff:

(a) An employee's anniversary (~~(date)~~), seniority, (~~(or)~~) and unbroken service dates (~~(is)~~) are not adjusted for periods of time spent on temporary layoff;

(b) (~~An employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC~~) An employee's vacation and sick leave accruals will not be impacted by periods of time spent on temporary layoff; (~~and~~)

(c) An employee's holiday compensation will not be impacted by periods of time spent on temporary layoff; and

(d) The duration of an employee's probationary period or trial service period shall not be extended for periods of time spent on temporary layoff.

(2) An employee who is temporarily laid off is not entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for (~~(his/her)~~) their vacation leave balance; and

(c) Use of (~~(his/her)~~) their accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds.

(3) If the temporary layoff was not due to lack of funds, an employer may allow an employee to use accrued vacation leave in lieu of temporary layoff.

WAC 357-58-553 What is the notice requirement to temporarily layoff a WMS employee? An employer must provide the WMS employee seven calendar days' notice of temporary layoff. The temporary layoff notice must inform the WMS employee of ~~his/her~~ their status during temporary layoff and the expected duration of the temporary layoff. Notice of temporary layoff may be provided by using alternative methods as described in WAC 357-04-105.

WAC 357-58-554 What is a WMS employee's status during temporary layoff? (1) The following applies during a temporary layoff:

(a) ~~A WMS~~ An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff;

(b) ~~A WMS employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC~~ An employee's vacation and sick leave accruals will not be impacted by periods of time spent on temporary layoff; and

(c) An employee's holiday compensation will not be impacted by periods of time spent on temporary layoff; and

(ed) The duration of an employee's review period shall not be extended for periods of time spent on temporary layoff.

(2) A WMS employee who is temporarily laid off is not

entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for ~~his/her~~ their vacation leave balance; and

(c) Use of ~~his/her~~ their accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds.

(3) If the temporary layoff was not due to lack of funds, an employer may allow a WMS employee to use accrued vacation leave in lieu of temporary layoff.

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.

(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.

(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 who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

WAC 357-31-020 For general government part-time employees, how is holiday compensation ~~pro-rated~~ prorated? Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

WAC 357-31-120 Do employees accrue sick 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 sick 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 education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of sick leave.

WAC 357-31-125 For general government part-time employees, how is leave accrual pro rated? Vacation and sick leave accruals for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this section.

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 education employees who

have more than ten working days of leave without pay in a month do not earn a monthly accrual of vacation leave.

WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay? Leave without pay taken for military leave of absence without pay, for temporary layoff as provided in WAC 357-46-063, or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165.

NEW SECTION

WAC 357-46-069 How is an employee's temporary layoff day determined when an employee works a night shift schedule which begins one calendar day and ends on the next?

For employees working a shift which begins on one calendar day and ends on the next, the twenty-four hour period during which the temporary layoff occurs must be determined by the employer

to start either at the start of the shift that begins on the day of temporary layoff, or the start of the shift that precedes the day of temporary layoff. For example:

The employer has determined that July 12th will be a temporary layoff day. The employee's regular work schedule is 6:00 p.m. to 3:00 a.m. Sunday through Thursday. The employer must determine if the employee's temporary layoff will occur for the shift which begins at 6:00 p.m. on July 11th or the shift that begins at 6:00 p.m. on July 12th.

NEW SECTION

WAC 357-58-556 How is a WMS employee's temporary layoff day determined when an employee works a night shift schedule which begins one calendar day and ends on the next?

For WMS employees working a shift which begins on one calendar day and ends on the next, the twenty-four hour period during which the temporary layoff occurs must be determined by the employer to start either at the start of the shift that begins on the day of temporary layoff, or the start of the shift that precedes the day of temporary layoff. For example:

The employer has determined that July 12th will be a temporary layoff day. The employee's regular work schedule is 6:00 p.m. to 3:00 a.m. Sunday through Thursday. The employer must determine if the employee's temporary layoff will occur for the shift which begins at 6:00 p.m. on July 11th or the shift that

begins at 6:00 p.m. on July 12th.

NEW SECTION

WAC 357-52-012 Does an employee who has been temporarily laid off under chapter 32, Laws of 2010 have the right to appeal the temporary layoff?

An employee who has been temporarily laid off under chapter 32, Laws of 2010 does not have the right to appeal the temporary layoff.