

AMENDATORY SECTION Amending WSR 09-17-057 and 09-18-112, filed 8/13/09 and 9/2/09, effective 12/3/09

**WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?** 1 An employer must approve the use of a personal holiday as long as:

a The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

b The employee has requested the personal holiday in accordance with the employer's leave procedures; and

c The employee's absence does not interfere with the operational needs of the employer.

2 At any time, an employer must allow an employee to use part or all of the personal holiday for any of the following reasons:

a To care for a minor/dependent child with a health condition that requires treatment or supervision;

b 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;

c If the employee or the employee's family member 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; ~~or~~

d In accordance with WAC 357-31-373, for an employee 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; or

e If the employee requests to use their personal holiday as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW.

AMENDATORY SECTION Amending WSR 19-11-135, filed 5/22/19, effective 7/1/19

**WAC 357-31-100 Must an employer have a policy for requesting and approving leave?** Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

1 Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies or for an emergency health condition as provided in WAC 357-31-200 1 b ;

2 Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020;

3 Allow an employee to use accrued leave as a supplemental benefit as provided in WAC 357-31-248;

4 Address advance notice from the employee when the employee is seeking leave under subsections 2 and 3 of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave;

~~4~~ 5 Allow an employee to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child. The policy must state the total amount of sick leave allowed to be used beyond eighteen weeks in accordance with WAC 357-31-130;

~~5~~ 6 Address overtime eligible employees that are required to provide medical certification or verification to their employer for the use of paid sick leave under chapter 296-128 WAC; and

~~6~~ 7 Address overtime eligible employees that are required to provide reasonable notice to their employer for an absence from work for the use of paid sick leave under chapter 296-128 WAC.

AMENDATORY SECTION Amending WSR 19-11-135, filed 5/22/19, effective 7/1/19

**WAC 357-31-130 When may an employee use accrued sick leave?** The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy and in compliance with chapter 296-128 WAC.

1 Employers **must** allow the use of accrued sick leave under the following conditions:

a An employee's mental or physical illness, disability, injury or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.

b By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

c When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such reason.

d To allow an employee to provide care for a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care for a family member who needs preventive medical care.

e For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300 and 357-31-305.

f When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection 1 d of this section.

i The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

ii For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

g 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 paid family and/or medical leave under Title 50A RCW.

h 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.

~~h~~ i In accordance with WAC 357-31-373, for an employee 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.

~~i~~ j When an employee requests to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child for a period up to eighteen weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

2 Employers **may** allow the use of accrued sick leave under the following conditions:

a For condolence or bereavement;

b When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255; or

c To bond with a newborn, adoptive or foster child for a period beyond eighteen weeks as allowed in subsection 1 i of this section. Sick leave for this purpose must be taken during the first year following the child's birth or placement. The total amount of sick leave allowed to be used, beyond subsection 1 i of this section must be addressed in the employer's leave policy in accordance with WAC 357-31-100.

AMENDATORY SECTION Amending WSR 09-17-057 and 09-18-112, filed 8/13/09 and 9/2/09, effective 12/3/09

**WAC 357-31-200 When must an employer grant the use of vacation leave?** 1 An employee's request to use vacation leave must be approved under the following conditions:

a As a result of the employee's serious health condition.

b 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.

c To care for a minor/dependent child with a health condition that requires treatment or supervision.

d For parental leave as provided in WAC 357-31-460.

e 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.

f In accordance with WAC 357-31-373, for an employee 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.

g 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.

2 In accordance with the employer's leave policy, approval for the reasons listed in 1 a through ~~f~~ g above may be subject to verification that the condition or circumstance exists or that paid family and/or medical leave under Title 50A RCW has been approved.

AMENDATORY SECTION Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11

**WAC 357-31-230 When can may an employee use accrued compensatory time?** 1 Employees must request to use accrued compensatory time in accordance with the employer's leave policy. When considering employees' requests, employers must consider their business needs and the wishes of the employee.

2 An employee must be granted the use of accrued compensatory time 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 compensatory time may be subject to verification that the condition exists.

3 An employee must be granted the use of accrued compensatory time 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 compensatory time 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 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 Compensatory time off may be scheduled by the employer during the final sixty days of a biennium.

~~6~~ 7 Employers may require that accumulated compensatory time be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

~~7~~ 8 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 compensatory time in lieu of temporary layoff as described in chapter 32, Laws of 2010.

NEW SECTION

**WAC 357-31-247 May an employee use leave if the employee is approved to receive partial wage replacement for paid family and/or medical leave under Title 50A RCW?** An employee who is approved to receive partial wage replacement for paid family and/or medical leave under Title 50A RCW may choose to receive partial wage replacement for paid family and/or medical leave exclusively, use accrued paid leave exclusively, or combine the partial wage replacement for paid family and/or medical leave and accrued paid leave as a supplemental benefit.

NEW SECTION

**WAC 357-31-248 May an employee use vacation leave, sick leave, personal holiday, compensatory time, 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, recognition leave, or holiday pay during a period when the employee is receiving partial wage replacement under Title 50A RCW as a supplemental benefit.

NEW SECTION

**WAC 357-31-249 May a higher education employer deny an employee's request to use accrued leave in accordance with WAC 357-31-248 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?** A higher education employer may deny an employee's request to use accrued leave in accordance with WAC 357-31-248 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 from May 1, 2020, to August 1, 2020, to allow for system readiness.

AMENDATORY SECTION Amending WSR 14-24-024, filed 11/21/14, effective 12/22/14

**WAC 357-31-327 When must an employer grant leave without pay?**

An employer must grant leave without pay under the following conditions:

1 When an employee who is a volunteer firefighter is called to duty to respond to a fire, natural disaster, or medical emergency;

2 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; or

3 In accordance with WAC 357-31-373, for an employee 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.

4 When an employee requests a day off for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization in accordance with WAC 357-31-052.

5 When an employee is on approved paid family and/or medical leave under Title 50A RCW. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW and qualifies for employment protection in accordance with RCW 50A.35.010.

AMENDATORY SECTION Amending WSR 05-08-138, filed 4/6/05, effective 7/1/05

**WAC 357-31-335 How long can an employee remain on leave without pay?**

The employer determines the length of time an employee may remain on leave without pay. The employer's leave policy must address any limitations on the length of time for which leave without pay will be approved. When an employee has been approved to receive benefits for approved paid family and/or medical leave under Title 50A RCW and qualifies for employment protection in accordance with RCW 50A.35.010, an employee must remain on leave without pay while receiving a partial wage replacement.

AMENDATORY SECTION Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05

**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, 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.

AMENDATORY SECTION Amending WSR 05-08-140, filed 4/6/05, effective 7/1/05

**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, shared leave and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

AMENDATORY SECTION Amending WSR 09-17-056 and 09-18-113, filed 8/13/09 and 9/2/09, effective 12/3/09

**WAC 357-31-520 How does the Family and Medical Leave Act of 1993 and the ~~family leave law~~ Washington Paid Family and Medical Leave Act interact with the civil service rules?** Benefits provided through state laws and civil service rules must not be diminished or withheld in complying with the Family and Medical Leave Act of 1993 ~~-FMLA-~~.

~~Washington's family leave law chapter 49.78 RCW generally is similar to and runs concurrently with the federal FMLA for those provisions outlined in WAC 357-31-525 1 a through c but also allows leave to be taken for the care of an employee's registered domestic partner with a serious health condition. However, Washington's family leave law does not address exigency leave, described in WAC 357-31-525 1 d, or leave for a covered service member, described in WAC 357-31-525 2. Therefore, an employer is not required to provide exigency leave or leave for a covered service member for a registered domestic partner.~~

~~Because the FMLA does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the FMLA entitlement described in WAC 357-31-525. For example:~~

~~If an employee uses twelve weeks of leave to care for their registered domestic partner during a twelve-month period, and no other FMLA leave was used, the employee is still entitled to his or her full twelve-week FMLA entitlement during the same twelve-month period, as the leave used was provided for a purpose not covered by FMLA; however, if an employee uses twelve weeks of leave to care for their parent or for another FMLA qualifying reason, then during that same twelve-month period the employer would not be required to provide additional leave under Washington's family leave law to care for the employee's~~

~~registered domestic partner because the twelve-week entitlement under FMLA and Washington's family leave law has been exhausted or the Washington Paid Family and Medical Leave Act.~~

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

**WAC 357-31-567 When must an employer grant the use of recognition leave?** 1 An employee's request to use recognition leave must be approved under the following conditions:

a An employee must be granted the use of recognition leave 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; and

b In accordance with WAC 357-31-373, an employee must be granted the use of recognition leave 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; and

c 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.

2 In accordance with the employer's leave policy, approval for the reasons listed in 1 a and b above may be subject to verification that the condition or circumstance exists.

3 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 recognition leave in lieu of temporary layoff as described in chapter 32, Laws of 2010.