



## 25.40 Leave

### 25.40.10

October 1, 2005

### Shared leave

#### 25.40.10.a

#### General guidelines

This program allows a state employee to donate annual, sick or personal holiday leave to another state employee to use for sick leave purposes or to another state employee called to service in the uniformed services. When taken, this leave is classified as Shared Leave and tracked separately over the state career of the recipient employee (donee). RCW 41.04.660 describes the program as follows:

“The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual leave, sick leave, or personal holidays, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition, or who has been called to service in the uniformed services, which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.”

Department of Personnel WAC 357-31-380 through 455, or the CBAs, establish the definition and eligibility requirements for the state leave sharing program.

Within these rules, the head of each agency determines the agency’s level of participation in the program. Agencies are strongly encouraged to establish policies that encompass these rules and that set internal procedures for managing the program.

#### 25.40.10.b

#### Definitions

**Employee** - Any employee entitled to accrue sick, annual, or personal holiday leave and for whom an agency has maintained leave records.

**Donor** - The employee making the donation of leave.

**Donee** - The employee receiving the donation of leave (recipient).

**Donated leave** - The dollar value of the leave hours a donor donates through the Shared Leave Program.

**Shared leave** - The donated leave converted to hours by the receiving agency at the donee's rate of pay. *This may be more or less than the literal hours donated, depending on the relative salary rates of the respective employees.*

25.40.10.c **Shared leave program requirements and restrictions**

25.40.10.c.(1) **Salaries and wages**

Employees on shared leave continue to receive the same salary, wage, and employee benefits that they normally receive when using **accrued** leave. (Refer to RCW 41.04.665(7).)

25.40.10.c.(2) **Shared leave requester**

- An agency shall require the employee requesting shared leave to submit a medical statement supporting the request. A licensed physician (or health care practitioner) should:
  - a) Verify the severity or extraordinary nature of the condition.
  - b) Verify the expected duration of the condition.
- An agency shall require an employee called to service in the uniformed services who is requesting shared leave to submit a copy of the military orders verifying the employee's required absence.

Refer to WAC 357-31-390 and 410, or CBAs.

25.40.10.c.(3) **Types and limitations on leave donations**

- **Vacation leave**

Employees may donate vacation leave if this does not cause their vacation leave balance to fall below eighty hours. For part-time employees, requirements for vacation leave balances are prorated.

Additionally, an employee may not donate excess vacation leave (hours in excess of 240) that the employee would not be able to take due to an approaching anniversary date. Prior to the donation, the donor's supervisor (or equivalent) determines how much of the excess leave the employee could use prior to the employee's anniversary date.

*Only the usable portion is donable.*

Because only *approved usable* excess leave can be donated, employees do not need a second approval to receive any remaining excess donated leave back should a reversion occur.

- **Sick leave**

Employees may donate any amount of sick leave provided the donation does not cause their sick leave balances to fall below 176 hours after the transfer.

*Note:* RCW 41.04.665 allows employees of higher education institutions who do not accrue annual leave but do accrue sick leave to donate sick leave. The donation cannot cause the employee's sick leave balance to fall below twenty-two days.

- **Personal holiday**

An employee may donate all or part of a personal holiday. Any portion of the personal holiday that is not used shall be returned to the donating employee, and may be used by the donor if the returned donation occurs and is then used in the same calendar year that it was donated.

#### 25.40.10.c.(4) **Limitations on receipt of shared leave**

- **Maximum shared leave per person**

An employee may not receive more than 261 days of shared leave for the entire duration of state employment. For this purpose, eight hours shall constitute a day (RCW 49.28.010) unless otherwise required by statute, regulations, or employment contract.

- **When shared leave can be used**

WAC 357-31-435 or the CBAs requires employees to use all compensatory time, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave for medical purposes.

For work related illness or injury, the employee must diligently pursue and be found to be ineligible for benefits under Chapter 51.32 RCW to qualify for shared leave for medical purposes.

Employees called to service in the uniformed services must use all accrued vacation leave and paid military leave prior to using shared leave.

*Note:* Once an employee uses authorized shared leave, the employee shall not be required to repay to the agency the value of the leave used.



25.40.10.e **Recording donated leave transfer(s) in accounting and payroll systems:**

- Transfer the dollar value of donated leave using a Journal Voucher (A7) for transfers between treasury and/or treasury trust accounts.
- Use a warrant or a check for transfers between treasury and local accounts.
- Attach documentation to the JV or warrant or check, showing the name(s) of the employee(s) receiving the shared leave.
- Record the transfer in the appropriate accounting and payroll systems. *It is recommended agencies record the shared leave transactions, at a minimum, on a quarterly basis.* Refer to Subsection 85.34.20 for related accounting entries.

25.40.10.f **Shared leave records**

Code donated leave as shared leave and maintain it separately from all other leave balances. The agency head or designee must maintain the following shared leave information at a minimum:

- Number of leave requests received.
- Number of leave requests granted.
- Nature of requests.
- Medical statement (certificate) or military orders, as applicable.
- Name and agency of donors.
- Amount of leave transferred in or out.
- Value of leave transferred in or out.
- Date leave was taken **for each occurrence.**

25.40.10.g **Unused shared leave**

25.40.10.g.(1) Return any unused shared leave to the donor(s). Consider the shared leave ended when any one of the following events occurs:

- When the donee has not used the shared leave for a 30 calendar day period.

- When the donee voluntarily stops using the shared leave and instructs reversion of the remaining shared leave balance.
- When the donee is unable to use the remaining shared leave (i.e., the employee terminates employment).

The agency head or designee must approve in writing any exceptions to this reversion.

25.40.10.g.(2) Upon reversion, the *donee agency* completes the following steps:

- Determine the donee's shared leave hours remaining.
- Calculate the dollar value using the *donee's original TSR* and return the dollars to the appropriate donor agency or account (if applicable).

Any reversion *must* use the same TSR basis that was used to provide the shared leave hours to the donee. Otherwise, the dollar value per reverted hour returned to the donor agency or account will be more or less than received, depending on how a donee's current TSR may have changed.

Refer to Subsection 85.34.20 for accounting entries, including the entries to return shared leave valve within an account.

- Reduce the donee's shared leave balance to zero. Also, restore the donor's applicable reverted leave hours if in the same agency.

**Formula for calculating the return of shared leave to the donor:**

**Dollar Value of Reverting Shared Leave to Donor Agency and/or account = Shared Leave Hours Remaining x Donee's Original TSR**

**Reduce the donee's available shared leave balance to zero and prepare transfer of the remaining dollar value of the leave back to the donor agency and/or account.**

25.40.10.g.(3) Upon reversion, the *donor agency* completes the following steps:

- Receive the returned cash from another agency and/or account. If the donor was within the same agency and same account, then receive the dollar value only. (Refer to Subsection 85.34.20.)

- Calculate the number of hours to restore to the donor using the *donor's current TSR*. The donor's current salary rate is used because that reflects the current cost of re-establishing leave hours.
- Restore the calculated leave hours to the donor.

**Formula for converting the dollar value of returned leave to one donor:**

$$\text{Converting Dollar Value of Reverting Shared Leave to Donor Hours} = \frac{\text{Dollar value of reverting shared leave}}{\text{Donor's Current TSR}}$$

**Record the calculated hours returned to the donor's leave balance.**

25.40.10.g.(4) Calculating reverting shared leave hours from **multiple donors**

Where more than one employee donated leave to an individual, calculate reverting leave on a prorated basis using either the shared leave hours provided or dollars received by the donee. The following example uses dollars received.

This is a three-step process.

**Step 1: Calculate this percentage for each donor:**

$$\text{Percentage of residual shared leave returned to donor} = \frac{\text{Shared leave dollars received from Employee 1}}{\text{Total dollar value of shared leave received}}$$

**Step 2: Calculate the dollar value of shared leave reverting back to the donor:**

$$\text{Dollar Value of Shared Leave Reverting Back to Donors} = \% \text{ calculated in Step 1} \times \text{Shared Leave Hours Remaining} \times \text{Donee's Original TSR}$$

**Step 3: Calculate leave hours returned to the donor:**

$$\text{Residual Shared leave returned to donor converted to donor hours} = \frac{\text{Dollar value of reverting shared leave from Step 2}}{\text{Donor's Current TSR}}$$

**Note:** A special reversion situation occurs when a donee depletes the initial shared leave hours received, and then receives additional donations. In this case, should there be a reversion of the additional leave received; do not include in the reversion proration *the donors(s) and the hours of the initial donation*. In effect, batches of donated shared leave are used on a first-in, first-out basis and reversion is limited to the remaining batch. Each batch (pool) is considered closed at the time its available shared leave balance reaches zero.

To comply with the cost containment provisions of RCW 41.04.670(3), accounting batches may be restricted to record only the amount of shared leave actually needed by donees on a payroll period by payroll period basis from a list of potential donors maintained on a first-in, first-out basis.

Agencies should communicate to potential donors the agency’s shared leave policy in regard to how shared leave donations will be applied.

25.40.10.h **Donation and reversion calculation examples**

Refer to Administration and Accounting Resources at <http://www.ofm.wa.gov/resources/default.asp> for a sample donation and reversion case.

25.40.10.i **Direct questions on shared leave calculations to OFM**

Direct any questions arising due to the transfer of funds or the adjustment of appropriation authority with regard to the Shared Leave Program to the agency’s assigned OFM financial consultant.

25.40.10.j **Formula for fringe benefit rate**

<b><u>Formula for Deriving the Fringe Benefit Rate:</u></b>	
Benefits (Object B) as a percentage of Salaries and Wages	<b>25.6%</b>
Accrued holidays, sick leave, vacation leave	<b><u>13.5%**</u></b>
	<b>Total 39.1% (Rounded to 39%)</b>
**The additional 13.5% provides for holidays, sick leave, and vacation leave that an employee could potentially earn while on shared leave. The following formula is the method OFM has historically used to derive the percentage.	
Holidays	11 days a year
Sick Leave	12 days a year
Vacation Leave	<u>12 days a year</u>
Total	35 days a year
	X <u>8 hours per day</u>
Total	280 hours



**25.40.20**

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**Vacation leave buyout at termination**

Compute termination leave payments by multiplying an average hourly rate times the number of vacation leave hours accumulated. Determine the average hourly rate by multiplying .0063\* times the monthly salary rate. The fraction of .0063 is based upon the number of work hours in an average month. Do not include premium pay such as standby, shift differential, and overtime in the monthly salary rate used as the basis for termination leave payment.

\*The formula for deriving the .0063 factor follows.

**Formula for Deriving the Vacation Leave Buyout Termination Factor:**

$$\begin{array}{rcl}
 \frac{\text{(8 hours)}}{\text{(1 Day)}} & \times & \frac{1}{\text{(365 days - 104 Saturdays and Sundays - 11 Holidays - 12 days of vacation leave)}} \\
 & & \text{12 Months} \\
 & = & \frac{1}{158.66} \\
 & = & .0063
 \end{array}$$

**25.40.30**

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**Accrued sick leave buyout**

25.40.30.a

**Authority**

In order to provide eligible state employees an attendance incentive program, RCW 41.04.340 establishes rules when monetary compensation may be paid for accrued sick leave. Compensation is permitted for only that portion of sick leave accumulated at a rate of one day (8 hours) per month.

WAC 357-31-150 or the CBAs provide additional rules and guidance.

25.40.30.b **Eligibility Rules**

25.40.30.b.(1) **Continuing Employees**

- In January of the year following any year in which a minimum of sixty days (480 hours) of sick leave is accrued, and at no other time, an eligible employee may elect to receive compensation for the unused sick leave *accumulated only in the previous year*.
- Compensation is payable at 25% for any of the prior year's unused sick leave hours the employee elects to receive. However, no sick leave hours may be converted which would reduce the calendar year-end balance below 480 hours. Payment is based on the employee's current salary.
- Sick leave for which compensation has been received is deducted from accrued sick leave at the rate of 4 days for every 1 day paid.

25.40.30.b.(2) **Terminating Employees**

Eligible employees (or their estates) who separate from state service due to retirement or death may elect to receive compensation for unused sick leave at the rate of 25% of accumulated accrued sick leave. The compensation is based on the employee's salary at the time of separation.

25.40.30.c **Medical Expense Plans**

RCW 41.04.340 (7-9) authorizes retiring state employees to participate in medical expense plans, subject to conditions provided in statute, WAC 357-31-375, or the CBAs.

In lieu of remuneration for unused sick leave at retirement, agencies may, with equivalent funds, provide eligible employees with a benefit plan that provides for reimbursement for medical expenses.

25.40.30.d **Determination of the Current Hourly Rate**

The appropriate current hourly rate for sick leave buyout compensation depends on how an eligible employee is paid. Most situations are addressed in the following examples.

For an employee paid a monthly salary based upon an official Washington State Personnel System Salary Schedule, divide the monthly salary rate by 174 (average number of hours in a month).

- For an employee paid a salary based on a contract stating the number of contract days, divide the contracted salary by the number of contracted days to obtain a daily rate. Then divide the daily rate by the appropriate number of hours per day established for that contract to derive the hourly rate.
- For an employee paid a salary based on a *yearly* contract, divide the yearly salary by 12. The hourly rate is then calculated by dividing the computed monthly salary by 174 hours.
- If an employee is paid an hourly rate in accordance with an agreement negotiated between an employee organization and the state or based on an hourly rate from an official Washington State Personnel System Salary Schedule, that hourly rate is the official rate for computing sick leave compensation.

25.40.30.e

**Exemption from Retirement Credit**

Do not take retirement contributions on payments for sick leave buyouts. Compensation for unused sick leave is not used in computing retirement allowances.

25.40.30.f

**Buyout Upon Disability or Death**

Per IRS Publication 15-A, sick leave buyouts made to employees who retire due to disability, or to deceased employees' survivors, are exempt from OASI and Medicare taxes.

25.40.30.g

**Buyout Calculation****Calculation for a Continuing Employee:**

**Sick Leave hours unused in previous year in excess of 480 hours elected for buyout x 25% x Employee's current hourly salary rate\* = Buyout**

**Calculation for a Terminating Employee:**

**All unused Sick Leave hours remaining x 25% x Employee's current hourly salary rate\* = Buyout**

**\*Refer to Subsection 25.40.30.d for determination of the current hourly rate**

**Example:** An eligible employee has 650 hours of unused sick leave as of January 1, 19xx. The employee has 48 hours of unused prior year sick leave.

Calculation for a *Continuing* Employee: (25% x 48 hours) Pay 12 hours

Calculation for a *Terminating* Employee: (25% x 650 hours) Pay 162.5 hours

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**25.40.40**

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**Workers' compensation time loss payments**

25.40.40.a

**Purpose**

This subsection pertains to determining when a state agency needs to recover time loss compensation received by employees while absent from work and in approved disability status under the state workers' compensation law.

25.40.40.b

**Authority**

25.40.40.b.(1)

RCW 51.32.090 prohibits employees from receiving time loss payments and regular salary or wages during the period covered by the disability. Regular salary or wages include sick leave, but exclude other paid leave.

25.40.40.b.(2)

WAC 357-31-235, 240, and 250, or the CBAs, contain the rules for determining time loss payment recoveries. The following procedures provide guidance in complying with these rules.

25.40.40.c

**Agency procedures for time loss recovery determinations**

25.40.40.c.(1)

**Department of Labor and Industries notification**

The Department of Labor and Industries (L & I) notifies the agency of time loss payment amounts made to the agency's employees and the time periods covered.

25.40.40.c.(2)

**Agency receipt of notice**

When an agency receives notice of time loss payments, the agency determines the nature of paid leave used by the employee, if any, during the disability period covered by workers' compensation.

25.40.40.c.(3) **Employee options**

Under WAC 357-31-240, and 245, or the CBAs, *employees elect one* of the following options:

- They can choose to receive time loss payments exclusively.
- They can choose to receive leave payments exclusively (excluding Shared Leave).
- They can choose a combination of time loss payments and leave payments.

25.40.40.c.(4) **An employee can elect to receive both time loss payments and pay for time taken as:**

- Vacation leave
- Compensatory time
- Exchange time
- Holidays

An employee is *entitled to both payments* for the same time period without any deductions for the time loss payments.

Note: It is the position of the Department of Personnel that buy-back of annual leave is not allowable.

25.40.40.c.(5) **Shared leave**

An employee who qualifies for time loss cannot use shared leave for the same time period. WAC 357-31-390(6) or the CBAs require an employee to have diligently pursued and been found to be ineligible for benefits under Chapter 51.32 RCW for a work related illness or injury in order to be eligible for the shared leave program for medical purposes.

Note: If an employee inadvertently receives shared leave and is subsequently approved for benefits under Chapter 51.31 RCW, the employee shall not be required to repay to the agency the value of the shared leave used.

25.40.40.c.(6) **Sick leave**

**If an employee elects to receive regular salary or sick leave for a disability period where time loss payments were also received, *the agency must recover the time loss payments.***

25.40.40.d **Time loss recovery procedures**

Upon notification by the Department of Labor & Industries (L&I) that an employee has received time loss payments, the agency is to determine if the employee received paid sick leave during the temporary disability period.

If the employee received paid sick leave for a period covered by time loss payments, the agency is to recover the dollar value of the sick leave by having the employee select one of the following:

- The employee keeps the time loss payment and has a comparable salary reduction, or
- The employee reimburses the agency for the amount of the time loss payment.

For a sample calculation worksheet, contact your agency's assigned OFM accounting consultant.

Note: The L&I daily rate is based on a calendar month basis, not on the workday basis used for payroll calculations.

25.40.40.d.(1) **The employee keeps the time loss payment but has a comparable salary reduction**

- Compute the employee's gross salary less the amount of the applicable time loss payment.
- Compute federal income tax (FIT), OASI, and Medicare taxes on the employee's reduced gross salary. Time loss payments are not subject to these taxes.
- For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.(3).
- Restore sick leave to the nearest 10th of an hour using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.d.(4).

25.40.40.d.(2) **The employee reimburses the agency for the amount of the applicable time loss payment**

- Treat the reimbursement from the employee as a recovery of current biennium salary expenditures/expenses.
- *For payment purposes*, compute the employee's gross salary without reduction for the time loss payment. However, OASI and Medicare taxes must be reduced so as not to tax the effect of the time loss payment recovered through a different reimbursement process.
- Compute federal income tax withholding on the employee's gross salary without reduction for the time loss payment. This becomes a self-adjusting item when the federal income tax return is filed by the employee.
- Compute OASI and Medicare on the employee's gross salary after reduction for the time loss payment.
- For retirement contribution calculation and service credit, refer to Subsection 25.40.40.d.(3).
- Make *year-to-date adjustments* to the following:
  - ⇒ Reduce year-to-date earnings subject to federal income tax, OASI and Medicare by the amount of the time loss payment.
  - ⇒ Adjust year-to-date OASI and Medicare taxes to reflect the OASI and Medicare adjustment made for reduction of the time loss payment.
- Restore sick leave to the nearest 10<sup>th</sup> of an hour using the employee's hourly rate effective during the time loss period. Refer to Subsection 25.40.40.d.(4).

25.40.40.d.(3) **Per the Department of Retirement Systems (DRS), calculate retirement contributions based on the following 3 situations:**

- Employee elects to have full service credit for the duration of the claim or up to two year limit and the **agency has an agreement with the employee**. The agency must choose to assume liability for full employee and employer contributions. **Calculate retirement on the regular compensation the member would have received if the disability had not occurred.** Report to DRS: Contributions reported

on the transmittal must be based on the *regular compensation*. The employee contribution is deferred from Federal Income Tax (FIT).

- Employee elects to have full service credit for the duration of the claim up to the two year limit and the agency chooses not to assume liability for the employee contribution. **Calculate retirement on the gross regular compensation less repayment amount**. Refund the employee the applicable retirement contribution. Agency will complete a JV for a refund from DRS for the employee and employer contributions. Report to DRS: Reduced salary and reduced hours worked/paid for the appropriate earnings period. **At the end of the disability the employee has the option to purchase up to 24 months (PERS 1-3), 6 months (LEOFF), for WSP (contact DRS) of lost service credits due to the disability.** Upon receipt of payment for service credits by employee, DRS will invoice employer for employer contributions, plus interest. Note: The employee cannot contact DRS until after returning to work.
- Employee elects not to have full service credit for the duration of the claim. **Calculate retirement on the gross salary less repayment amount**. Refund the employee the applicable retirement contribution. Agency will complete a JV for a refund from DRS for the employee and employer contributions. Report to DRS: Reduced salary and reduced hour's worked/paid for the appropriate earnings period.

Refer to Administrative and Accounting Resources at <http://www.ofm.wa.gov/policy/resource.htm> for DRS and payroll processing information regarding the employee's options and instructions on adjustments associated with optional retirement service credit for unpaid leave.

25.40.40.d.(4) **Formula to calculate sick leave to be restored**

$\frac{\text{Semi-monthly Salary}}{\text{Hours Available For Pay Period When Time Loss Payment Made}} = \text{Actual Hourly Rate}$
$\frac{\text{Time Loss Payment Dollar Value}}{\text{Actual Hourly Rate During Payment Period}} = \text{Amount of Sick Leave Hours to be restored (nearest 10th of an hour)}$



**Example:** Time loss payment of \$400 received or refunded to the agency. The employee's semi-monthly salary was \$850 and the number of available hours in the 11 day pay period when the time loss payment was calculated was 88 (8 x 11).\*

$$(1) \quad \frac{\$850}{88} = \$9.66 \quad \text{Actual hourly rate}$$

$$(2) \quad \frac{\$400}{\$9.66} = 41.40 \quad \text{Sick Leave hours to restore}$$

\***Note:** Available hours are based on how many days are in a particular semi-monthly pay period and may vary depending on the pay period.

#### **FTE adjustment for restored sick leave hours**

When sick leave hours are restored in a sick leave recovery situation, a comparable FTE reduction is to be recorded if the sick leave is taken and recovered in the same fiscal period. The calculation for the monthly FTE adjustment, based on the example in Subsection 25.40.40.d.(3) is:

$$\frac{41.40 \text{ hours}}{174} = .24 \text{ FTEs}$$

### **25.40.50**

October 1, 2005

### **Recognition leave**

WAC 357-31-565 authorizes employers who have received performance management confirmation to grant employees up to five (5) days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of pre-defined work goals by individual employees or units.

Leave granted under this provision is not payable upon layoff, dismissal, separation, or resignation or transferable between employers. Accordingly, it need not be accrued at fiscal year end.

This provision is for non-represented employees only.