

**Director's Meeting Agenda
State Human Resources
Office of Financial Management**

Special

Meeting Date: Tuesday, November 23, 2021
Meeting Time: 9:30 a.m.
Hosted By: State Human Resources
Office of Financial Management
Special Note: Due to current COVID-19 safety and health recommendations, this meeting is via conference call only.
Audio Conferencing Only: · Dial-in: (888) 285-8919
· Enter pin: 8101730
Exhibits: The Rules items on the following pages have been submitted by staff for study and presentation to the State Human Resources Director at this quarterly scheduled public meeting.

Section A: Previous Minutes Approval

None

Section B: Exempt Compensation

None

Section C: Classification

None

Section D: Compensation

None

Section E: Rule Amendments

Rule Item 1 Leave with Pay and Quarantine ... E1-E3
Rule Item 2 HB 2669-Higher Education Part-time Holiday/Leave RulesE4-E19
Rule Item 3 LWOP Impacts on Service DatesE20-E24

Website Information

This publication and other State Human Resources Director's meeting related information is available at <http://hr.ofm.wa.gov/meetings/directors-meetings>.

Proposal Package Submittals

All proposal packages should be routed to your assigned classification analyst. Classification and compensation email address classandcomp@ofm.wa.gov.

Meeting Coordinator

For question and concerns, contact the Meeting Coordinator at classandcomp@ofm.wa.gov.

Individuals with Disabilities

If you are a person with a disability and require accommodation for attendance, contact the Meeting Coordinator no later than the first Thursday of the month.

Alternate Publication Formats

This publication will be made available in alternate formats upon request.

What is a Revision

When changes occur to an exhibit after the original Director's meeting agenda has been posted to the State HR website, a *revised exhibit* is created which reflects the most up-to-date information proposed for adoption. The revised exhibit appears in a separate Revised Agenda that will be available on the day of the meeting.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

There are no exempt compensation items for this meeting.

Section C: Classification

There are no classification items for this meeting.

Section D: Compensation

There are no compensation items for this meeting.

Section E: Rule Amendments

ITEM #1: Leave with Pay and Quarantine

Staff note: Staff is proposing to repeal WAC 357-31-325(5) to remove the requirement for a general government employer to grant leave with pay (LWP) when an employee is required by Centers of Disease Control and Prevention (CDC) guidelines to self-quarantine due to the novel coronavirus disease 2019 (COVID-19) but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework. Staff is also proposing to repeal WAC 357-31-326(4) to remove the option for higher education employers to grant LWP when an employee is required by CDC guidelines to self-quarantine due to COVID-19 but is otherwise healthy and has not tested positive for COVID-19 and the employer has determined the employee does not have the option to telework.

These proposed amendments are to align chapter 357-31 WAC with the progression of the COVID-19 response including increased availability of testing and vaccines along with updated CDC requirements/guidelines for preventing the spread of COVID-19. Based on these changed circumstances leave with pay is no longer needed for individuals to self-quarantine.

Staff is proposing permanent adoption effective January 1, 2022.

AMENDATORY SECTION

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 thirty 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.

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(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) ((When a general government employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

~~(6)) To allow a general government employee to take a reasonable amount of leave with pay for the employee to travel and receive each dose of COVID-19 immunization 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 unavailable locally. The employer may require that the request for leave be supported by documentation, which may include proof of the vaccination. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.~~

AMENDATORY SECTION

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.

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(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 ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

~~(4) ((When a higher education employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.~~

(5)) A general government employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization 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 is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

~~((6))~~ (5) A higher education employer may grant a reasonable amount of leave with pay for an employee to receive each dose of COVID-19 immunization 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 is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. This subsection no longer applies if state or federal law otherwise provides paid leave specifically for employees to receive the COVID-19 immunization.

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Item #2: HB 2669-Higher Education Part-time Holiday/Leave Rules

Staff note: RCW 41.06.070 previously exempted both part-time and temporary employees, as defined by the Office of Financial Management (OFM), from state civil service rules (Title 357 WAC). In 2018, the legislature amended RCW 41.06.070 by removing part-time employees from the exemption; only temporary employees, as defined by OFM, are now exempt from civil service rules. Title 357 WAC does not distinguish between part-time and temporary employees for higher education employers; therefore, OFM worked with both higher education employers and union organizations to amend Title 357 WAC to align with the new law. The rule amendments redefine temporary higher education appointments and expand the current general government nonpermanent rules to include higher education employers. These rules were proposed for permanent adoption at the June 10th Special Director's Meeting. David Schumacher, OFM Director, adopted these rules on permanent basis with an effective date of January 1, 2022.

Based on the part-time/temporary/non-permanent rule changes mentioned above, it was determined additional rule amendments are required to expand the current civil service rules so that part-time higher education employees can accrue holiday credit, personal holiday compensation, sick leave and vacation leave.

Staff is proposing to amend WAC 357-01-229 so that it only applies to general government employees in order to maintain the current state for this workforce. Staff is proposing to create a new section (WAC 357-01-2290) to distinguish between the two different part-time employment types (scheduled and non-scheduled) at institutions of higher education. This differentiation is needed in order to maintain the current state for employees who are scheduled and to newly defined part-time employment for non-scheduled employees. Historically higher education employees were considered part-time if they were assigned to work more than half-time (50%) and less than that required for a full-time (100%). The non-scheduled definition (WAC 357-01-2290(2)) is required because historically higher education employees who worked less than half-time (50%) were exempt from civil service rules.

In addition, staff is proposing the following changes to these rules:

- Amend WAC 357-01-229 to apply only to general government employees in order to maintain the current state for this workforce.
- Create WAC 357-01-2290 to define part-time higher education employee and to distinguish between the two different part-time employment types (scheduled and non-scheduled) at institutions of higher education. This differentiation is needed in order to maintain the current state for employees who are scheduled and to newly define part-time employment for non-scheduled employees. Historically higher education employees were considered part-time if they were assigned to work more than half-time (50%) and less than that required for a full-time (100%). The non-scheduled definition (WAC 357-01-2290(2)) is required because

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historically higher education employees who worked less than half-time (50%) were exempt from civil service rules.

- Amend WAC 357-28-255 to state all paid holidays, including the use of holiday credit is considered time worked for the purposes of over-time calculation. Editing changes.
- Create WAC 357-28-301 to state when holiday credit must be paid in cash.
- Amend WAC 357-31-010(5) to reference WAC 357-01-2290(1) in order to maintain current state for existing part-time employees and to also apply to non-permanent employees who are assigned an FTE.
- Amend WAC 357-31-010 to create a new subsection (6) to address how holiday credit determined for part-time employees who do not have a fixed schedule (as defined in WAC 357-01-2290(2)). Editing changes.
- Create WAC 357-31-021 to state holiday credit for part-time higher education employees who do not have a set schedule (as defined in WAC 357-01-2290(2)) will be prorated.
- Create WAC 357-31-022 to state 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.
- Amend WAC 357-31-025(2) to reference WAC 357-01-2290(1) in order to maintain current state for existing part-time employees and to also apply to non-permanent employees who are assigned an FTE.
- Amend WAC 357-31-025 to create a new subsection (3) to address how many hours part-time higher education employees who do not have a fixed schedule (as defined in WAC 357-01-2290(2)) will receive as a holiday credit.
- Create WAC 357-31-027 to state when a higher education employer must allow a part-time employee to use accrued holiday credit.
- Amend WAC 357-31-030(3) to reference WAC 357-01-2290(1) in order to maintain current state for existing part-time employees and to also apply to non-permanent employees who are assigned an FTE.
- Amend WAC 357-31-030 to create a new subsection (4) to address what happens when a holiday falls on a part-time higher education employee's scheduled day off when the employee does not have a fixed scheduled (as defined in WAC 357-01-229(2)).
- Amend WAC 357-31-065(2) to reference WAC 357-01-2290(1) in order to maintain current state for existing part-time employees and to also apply to non-permanent employees who are assigned an FTE.
- Amend WAC 357-31-065 to create a new subsection (3) to state part-time higher education employees who do not have a fixed schedule (as defined in WAC 357-01-229(2)) are entitled to the number of paid hours on a pro rata basis.
- Amend WAC 357-31-115(3) to reference WAC 357-01-2290(1) in order to maintain current state for existing part-time higher education employees and to also apply to higher education non-permanent employees who are assigned an FTE.

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- Amend WAC 357-31-115 to create a new subsection (4) to address how many hours of sick leave a part-time higher education employee who does not have a fixed schedule (as defined in WAC 357-01-2290(2)) earns each month.
- Amend WAC 357-31-121(2) to reference WAC 357-01-2290(1) in order to maintain current state for existing higher education part-time employees and to also apply to non-permanent employees who are assigned an FTE. Based off of rule feedback received, we are proposing to change the calculation of sick leave for overtime eligible (full-time and part-time employees as defined in WAC 357-01-2290(1)) from accruing a minimum of one hour to every 40 hours worked to state these employees will earn a monthly accrual proportionate to the number of hours in pay status, in the month to that required for full-time employment. Note: This WAC applies only to employees who hold a schedule, not to employees that do not hold a schedule because they would not be submitting leave without pay.
- Create WAC 357-31-127 to address how vacation and sick leave accrual is prorated for part-time higher-education employees who do not have a fixed schedule (as defined in WAC 357-01-2290(2)).
- Amend WAC 357-31-166 to add subsection (4). This is to provide clarity on what employment is not credited towards the vacation leave accrual rate. For example, if an employee works in a 1050 appointment that time is not credited towards the rate of vacation leave accrual. This same language is included in WAC 357-31-165 which applies to general government employees. Editing changes.
- Amend WAC 357-31-170(1) to clarify that part-time general government employees will accrue vacation leave hours in accordance with WAC 357-31-165.
- Amend WAC 357-31-170(2) and (3) to clarify part-time higher education employees will accrue vacation leave in accordance with WAC 357-31-166.
- Amend WAC 357-31-170(2) to reference WAC 357-01-2290(1) in order to maintain current state for existing higher education part-time employees and to also apply to non-permanent employees who are assigned an FTE.
- Amend WAC 357-31-170 to create a new subsection (3) to address at what rate part-time higher education employees who do not have a fixed schedule (as defined in WAC 357-01-2290(2)) earn each month.
- Amend WAC 357-31-175(2) to reference WAC 357-01-2290(1) in order to maintain current state for existing higher education part-time employees and to also apply to non-permanent employees who are assigned an FTE. Note: This applies only to employees who hold a schedule, not to employees that do not hold a schedule because they would not be submitting leave without pay in accordance with WAC 357-31-180 (as referenced below). We are also proposing to amend subsection WAC 357-31-175(2) to mirror the changes to sick leave when i-1433 was implemented. This was oversight when the sick leave rules were updated from 10 working days to 80 hours as a result of i-1433. This change is based of feedback received from stakeholders. Editing changes.
- Amend WAC 357-31-245, WAC 357-31-248, WAC 357-31-250, WAC 357-31-255, WAC 357-31-265, WAC 357-31-295, WAC 357-31-490, WAC 357-31-515,

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WAC 357-31-530, WAC 357-31-590, WAC 357-31-595, WAC 357-31-687, WAC 357-31-797, WAC 357-31-895 to add holiday credit as an eligible leave type and to remove gender specific terms. Editing changes.

Staff is proposing permanent adoption effective January 1, 2022.

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

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.

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 higher education 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.

AMENDATORY SECTION

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

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

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

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of (~~forty~~) 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.

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 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.

AMENDATORY SECTION

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 (~~eight~~) 80 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.

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(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.

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 holiday credit 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.

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AMENDATORY SECTION

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.

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 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.

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(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

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.

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AMENDATORY SECTION

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.

AMENDATORY SECTION

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.

AMENDATORY SECTION

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))~~ 80 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))~~ 80 hours in a month (prorated for part-time) will ~~((accrue a minimum of one~~

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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.

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

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))~~ 12 days (eight hours per month);
 - (b) During the second year of continuous state employment - ~~((Thirteen))~~ 13 days (eight hours, ~~((forty))~~ 40 minutes per month);
 - (c) During the third and fourth years of continuous state employment - ~~((Fourteen))~~ 14 days (nine hours, ~~((twenty))~~ 20 minutes per month);
 - (d) During the fifth, sixth, and seventh years of total state employment - ~~((Fifteen))~~ 15 days ~~((ten))~~ 10 hours per month);
 - (e) During the eighth, ninth, and tenth years of total state employment - ~~((Sixteen))~~ 16 days ~~((ten))~~ 10 hours, ~~((forty))~~ 40 minutes per month);
 - (f) During the eleventh year of total state employment - ~~((Seventeen))~~ 17 days ~~((eleven))~~ 11 hours, ~~((twenty))~~ 20 minutes per month);
 - (g) During the twelfth year of total state employment - ~~((Eighteen))~~ 18 days ~~((twelve))~~ 12 hours per month);
 - (h) During the thirteenth year of total state employment - ~~((Nineteen))~~ 19 days ~~((twelve))~~ 12 hours, ~~((forty))~~ 40 minutes per month);
 - (i) During the fourteenth year of total state employment - ~~((Twenty))~~ 20 days ~~((thirteen))~~ 13 hours, ~~((twenty))~~ 20 minutes per month);
 - (j) During the fifteenth year of total state employment - ~~((Twenty-one))~~ 21 days ~~((fourteen))~~ 14 hours per month);
 - (k) During the sixteenth and succeeding years of total state employment - ~~((Twenty-two))~~ 22 days ~~((fourteen))~~ 14 hours, ~~((forty))~~ 40 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

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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.

AMENDATORY SECTION

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 vacation leave in accordance with WAC 357-31-166 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.

AMENDATORY 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))~~ 80 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 (part-time employee as defined in WAC 357-01-2290(1)) higher education employees ~~((who have more than ten working days of))~~ with leave without pay exceeding 80 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.

AMENDATORY SECTION

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?

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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.

AMENDATORY SECTION

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.

AMENDATORY SECTION

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, accrued holiday credit, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

AMENDATORY SECTION

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.

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AMENDATORY SECTION

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))~~ 40 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.

AMENDATORY SECTION

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.

AMENDATORY SECTION

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.

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(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

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.

AMENDATORY SECTION

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))~~ 12 months and for at least ~~((one thousand two hundred fifty))~~ 1,250 hours during the previous ~~((twelve-month))~~ 12-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))~~ 1,250 hour eligibility requirement.

AMENDATORY SECTION

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))~~ their personal holiday and all of ~~((his/her))~~ their sick, vacation, ~~((and))~~ compensatory time, and holiday credit.

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AMENDATORY SECTION

WAC 357-31-595 Is a participant eligible to use sick leave from a pool if ((his/her)) the employee's 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)) their personal holiday and all of ((his/her)) their sick, vacation, ((and)) compensatory time, and holiday credit.

AMENDATORY SECTION

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, accrued 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)) 40 hours of vacation leave and ((forty)) 40 hours of paid military leave.

AMENDATORY SECTION

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, accrued 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)) 40 hours of vacation leave and ((forty)) 40 hours of sick leave.

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AMENDATORY SECTION

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, accrued 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~~) 40 hours of vacation leave and ((~~forty~~) 40 hours of sick leave.

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Item #3 LWOP Impacts on Service Dates

Staff note: Staff is proposing to amend WACS 357-01-023, 357-01-348, 357-28-055, and 357-31-345 to remove the requirement for a general government employer to adjust an employee's anniversary date, unbroken service date and periodic increment date (PID) for any period of leave without pay (LWOP) which exceeds fifteen consecutive calendar days. Staff is also proposing to amend WACs 357-28-056 and repeal WAC 357-31-346 to adjust an employee's PID and vacation leave accrual date for any period of LWOP which ten working days consecutive calendar days.

Staff is proposing to amend WAC 357-31-180 to state that LWOP does not affect the rate at which employees accrue vacation leave.

The purpose of these proposed amendments is to address the following:

- More equal treatment between employees who submit LWOP and hourly employees (who are not required to submit LWOP because they positively report their time).
- Equal treatment between hourly employees across the enterprise if an agency requires an hourly employee to submit LWOP.
 “Hourly employees (who positively time reporting) do not need to submit LWOP; **although some do when required by agency policy**. If an hourly employee does not work for period of 15 consecutive days or more, and no LWOP was submitted, **then typically** their anniversary, unbroken, and PID dates are not adjusted.
- Easier for Employers to administer, not requiring employers to decipher which employees need to have anniversary, unbroken service and PID dates manual adjusted.
- Less manual date adjustments for Employers. Manual date adjustments are a pain for employers. There is not an easy way to identify and count the LWOP days (because LWOP is reported as hours not days), so it is a manual and time-consuming process. (This is different than adjusting seniority dates for actual worked because a general government employer can run a report that provides the number of actual hours worked in a given time period).
- Easier application of anniversary and PID for transfers between General Government non-represented and represented employees.
- Easier application of anniversary and PID for transfers between General Government and Institutions of Higher Education.

Staff is also proposing to amend WAC 357-28-056(3) to clarify that a PID will be set 12 months from the employee's appointment date if they hired into the appointment at step L. Staff solicited feedback from Higher Education employers asking how PIDs were being set for employees at step L and the institutions that who provided feedback indicated a PID is set when a higher ed employee is hired at step L.

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Staff is proposing permanent adoption effective January 1, 2022.

FOR REFERENCE ONLY

WAC 357-01-022 Anniversary date (higher education).

For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee promotes, demotes, or transfers to another higher education employer.

FOR REFERENCE ONLY

WAC 357-46-055 How is a general government employee's seniority date determined?

(1) For a full-time general government employee, the seniority date is the employee's most recent date of hire into state service (including exempt service) as adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:

- (a) Military leave as provided in WAC [357-31-370](#);
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;
- (d) Educational leave, contingent upon successful completion of the coursework;

and/or

- (e) Reducing the effects of layoff.

(f) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's seniority date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(2) For a part-time general government employee, the seniority date is calculated by determining the number of actual hours worked and/or in paid status, excluding compensatory time off. Actual hours worked includes overtime hours regardless of whether or not the employee receives monetary payment or compensatory time for the hours worked. Time spent in leave without pay status is not credited unless the leave without pay is taken for:

- (a) Military leave as provided in WAC [357-31-370](#);
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;
- (d) Educational leave, contingent upon successful completion of the coursework;

and/or

- (e) Reducing the effects of layoff.

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AMENDATORY SECTION

WAC 357-01-023 Anniversary date (general government).

For employees of general government agencies, anniversary date is the unbroken service date plus prior state service (~~((minus leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345))~~). The anniversary date is used to determine when vacation leave over two hundred forty hours is lost and for computing the rate of vacation leave accrual beginning with the fifth year of total state employment.

AMENDATORY SECTION

WAC 357-01-348 Unbroken service date (general government).

The date a general government employee began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth year of continuous service. (~~((The unbroken service date is adjusted by leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345.))~~)

AMENDATORY SECTION

WAC 357-28-055 How is the periodic increment date determined for a general government employee?

(1) For a general government employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005, is retained.

(2) For a general government employee appointed to a position on or after July 1, 2005, whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a general government employee appointed to a position on or after July 1, 2005, whose base salary is set above the minimum but below step L of the salary range, the periodic increment date is twelve months from date of appointment.

(4) A general government employee appointed to a position on or after July 1, 2005, whose base salary is set at step L of the range will not have a periodic increment date set. If the employee later receives a new appointment, the periodic increment date will be set at that time, as described in this section.

(5) Once a general government employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070; or

(b) (~~((The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-345.~~)

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~~(e))~~ The periodic increment date is reset in accordance with subsections (2) and (3) of this section when an employee is rehired after a break in service.

AMENDATORY SECTION

WAC 357-28-056 How is the periodic increment date determined for a higher education employee?

(1) For a higher education employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005, is retained.

(2) For a higher education employee appointed to a position on or after July 1, 2005, whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a higher education employee appointed to a position on or after July 1, 2005, whose base salary is set above the minimum ~~((but))~~ and at or below step L of the salary range, the periodic increment date is twelve months from date of appointment.

(4) Once a higher education employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070; or

(b) The employee is appointed to another position with a different salary range maximum. Upon subsequent appointment, the provisions of subsection (2) and (3) of this section apply.

(c) The periodic increment date is reset in accordance with subsections (2) and (3) of this section when an employee is rehired after a break in service.

~~((d) The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-346.)~~

AMENDATORY SECTION

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))~~ does 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~~

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~~357-31-165. Time spent on temporary layoff as provided in WAC 357-46-063 is considered time in pay status for the purpose of this subsection.))~~

AMENDATORY SECTION

WAC 357-31-345 How does leave without pay affect a general government employee's ~~((anniversary date, unbroken service date, periodic increment date, and))~~ seniority date?

~~((1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:~~

- ~~(a) Military leave of absence without pay as provided in WAC 357-31-370;~~
- ~~(b) Compensable work-related injury or illness leave;~~
- ~~(c) Government service leave not to exceed two years and one month;~~
- ~~(d) Educational leave, contingent upon successful completion of the coursework;~~

~~and/or~~

~~(e) Voluntarily reducing the effect of an employer's layoff.~~

~~(2) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.~~

~~(3) For))~~ A general government employee's ~~((the))~~ seniority date is adjusted for leave without pay in accordance with WAC 357-46-055.

REPEAL

~~WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?~~

~~For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten working days in a month except when the leave without pay is taken for:~~

- ~~(1) Military leave of absence without pay as provided in WAC [357-31-370](#);~~
- ~~(2) Compensable work-related injury or illness leave; and/or~~
- ~~(3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC [357-19-295](#).~~