**Item #1 Veterans Placement Program**

**Staff note:** Governor Jay Inslee’s [Executive Order 19-01](https://www.governor.wa.gov/sites/default/files/exe_order/19-01_VeteranAndMilitaryFamily%20.pdf), *Veteran and Military Family Transition and Readiness Support*, directs state agencies to bridge employment opportunities to increase veteran employment. Veteran placement programs are considered bridge employment opportunities and state agencies are strongly encouraged to use them. We are proposing to create WAC 357-01-357 to define Veterans Placement Program (VPP). The proposed amendment to WAC 357-19-400 is to state that when an agency uses a VPP to fill a nonpermanent position for any reason listed in WAC 357-19-360 the agency may change the status of the appointment to probationary or if the employee held permanent status prior to the nonpermanent appointment to trial service. We are proposing to amend WAC 357-58-065 to define VPP for Washington Management Service employees and to amend WAC 357-58-190 to state that an agency’s WMS recruitment and selection policy and/or procedure should consider making appointments from a VPP.

Lead: Caroline Kirk

REFERENCE ONLY

### Effective January 1, 2021

### WAC 357-19-360 For what reasons may an employer make nonpermanent appointments?

An employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

(1) A permanent employee is absent from the position;

(2) The employer is recruiting to fill a vacant position with a permanent appointment;

(3) The employer needs to address a short-term immediate workload peak or other short-term needs;

(4) The employer is not filling a position with a permanent appointment due to the impending or actual layoff of a permanent employee(s); or

(5) The nature of the work is sporadic and does not fit a particular pattern.

NEW SECTION

**WAC 357-01-357 Veterans Placement Program**

A program that is designed to grant transitioning service members and veterans additional support to attain state employment.

AMENDATORY SECTION

**WAC 357-19-400 May an employer convert a nonpermanent appointment to a probationary or trial service appointment?**

(1) When an employer uses a competitive process to make a nonpermanent appointment to fill a position in the absence of a permanent employee or fill a position nonpermanently due to the impending or actual layoff of a permanent employee(s), the employer may change the status of the appointment to probationary or if the employee held permanent status prior to the nonpermanent appointment to trial service if:

(a) The permanent employee does not return to the position or the layoff action has been implemented; and

(b) The employer needs to fill the position permanently.

(2) When an agency uses a veterans placement program to fill a nonpermanent position for any reason listed in WAC 357-19-360 the agency may change the status of the appointment to probationary or if the employee held permanent status prior to the nonpermanent appointment to trial service.

(3) At the discretion of the appointing authority, time spent in the nonpermanent appointment may count towards the probationary or trial service period for the permanent position.

AMENDATORY SECTION

**WAC 357-58-065 Definitions for WMS.**

The following definitions apply to chapter 357-58 WAC:

(1) **Break in service.** An employee has a break in continuous state service if the employee is separated, dismissed or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-58-550 is not considered a break in continuous state service.

(2) **Competencies.** Those measurable or observable knowledge, skills, abilities and behaviors critical to success in a key job role or function.

(3) **Director.** State human resources director within the office of financial management.

(4) **Dismissal.** The termination of an individual's employment for disciplinary reasons.

(5) **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

(6) **Evaluation points.** The points resulting from an evaluation of a position using the managerial job value assessment chart.

(7) **Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

(8) **Management bands.** A series of management levels included in the WMS. Placement in a band reflects the nature of management, decision-making environment and policy impact and scope of management accountability and control assigned to the position.

(9) **Performance management confirmation.** Approval granted by the director to an employer allowing the employer to factor in individual employee performance when granting recognition leave and when making layoff decisions.

(10) **Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions or circumstances associated with the job.

(11) **Reassignment.** An employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and the employee in that position from one section, department or geographical location to another section, department or geographical location.

(12) **Review period.** A period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

(13) **Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

(14) **Separation.** Separation from state employment for nondisciplinary reasons.

(15) **Suspension.** An absence without pay for disciplinary reasons.

(16) **Transfer.** An employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

(17) **Veterans placement program.** A program that is designed to grant transitioning service members and veterans additional support to attain state employment.

((~~(17)~~))(18) **Washington general service (WGS).** The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

((~~(18)~~))(19) **Washington management service (WMS).** The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

AMENDATORY SECTION

**WAC 357-58-190 What must be addressed in agency's WMS recruitment and selection policy and/or procedure?**

An agency's WMS recruitment and selection policy must:

(1) Provide for the ability to consider any or all qualified candidates for hire, promotion, or internal movement;

(2) Ensure that hiring decisions are fair, objective, and based on the evaluation of leadership and other job related competencies and characteristics required for successful job performance and performance management;

(3) Support workforce diversity and affirmative action goals;

(4) Consider the career development of the agency's employees and other state employees;

(5) Consider making appointments from a veterans placement program;

(6) Ensure that hiring decisions are not based on patronage or political affiliation;

((~~(6)~~))(7) Ensure compliance with state and federal laws relating to employee selection and nondiscrimination;

((~~(7)~~))(8) Encourage decentralized and regional administration of the recruitment and selection processes when it is appropriate for the agency;

((~~(8)~~))(9) Ensure compliance with requirements governing wage and salary information in accordance with RCW 49.58.100, 49.58.110, WAC 357-16-017, 357-16-215, and 357-16-220.

# Explanation of Rule Items #2 through #5

RCW 41.06.070 previously exempted both part-time and temporary employees, as defined by the Office of Financial Management, 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 and these rules will be effective on January 1, 2022.

Based on the rule changes mentioned above, it was determined that additional rule amendments are required in order for higher education employers to implement these changes. The proposed rule items #1 through #4 below are stemming from the part-time/temporary/nonpermanent rule changes.

**Item #2 Part-Time Definitions**

**Staff note:** We are 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. We are 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.

Lead: Patricia Foshaug

Yellow highlighted text change since September rules meeting.

AMENDATORY SECTION

**WAC 357-01-229 Part-time general government employee.**

A((~~n~~)) 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 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) Non-scheduled: An employee who is not assigned a fixed schedule or amount of working time in a workweek.

# Holiday Credit in Lieu of Holiday Compensation

**ITEM #3 – Holiday Credit for part-time higher education institution employees**

### Staff note: We are proposing a change to our previous proposal for holiday compensation based off of feedback that we received from our higher ed stakeholders. The previous version required an employer to provide eligible part-time employees as defined in WAC 357-01-2290(1) with holiday pay on a pro rata basis. The feedback received indicated that the proposed rules did not offer flexibility to simplify the calculation of holiday compensation to mitigate the operational impact resulting in a highly manual and labor-intensive process. These employers remain concerned with the degree of transformation, the system’s ability to handle the calculation, the volume of retroactivity, and general change management based on the current holiday draft rules for those that do not hold a schedule. Six alternative options were considered, and a decision was made to provide eligible part-time employees with holiday credit in lieu of holiday.

### We are proposing the following changes to these rules:

### Create WAC 357-01-1805 to define holiday credit.

### 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.

### Create WAC 357-28-301 to state when holiday credit must be paid in cash.

* Amend WAC 357-31-010 to create a new subsection (6) to address how holiday credit is determined for part-time employees who do not have a fixed schedule (as defined in WAC 357-01-2290(2)).
* 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 357-31-245, 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, 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.

Lead: Patricia Foshaug

### NEW SECTION \*New

### 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 \*New

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

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

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

(b) Work on a holiday per WAC [**357-28-200**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 ~~time~~ 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 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**](http://app.leg.wa.gov/RCW/default.aspx?cite=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~~** ~~\*New~~

**~~WAC 357-28-2XX When may holiday credit off be used?~~**

~~The use of holiday credit must be in accordance with chapter~~[**~~357-31~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31)~~WAC.~~

**NEW SECTION** \*New

**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 ~~that is not used~~ by the annual date ~~set out~~ specified in the employer’s leave policy will ~~be cashed out~~ receive monetary compensation. Holiday credit must also be paid when:

(1~~2~~) ~~Holiday credit must also be paid when~~ The employee separates from state service for any reason.

(2~~3~~) ~~Holiday credit must be paid~~ wh~~en An~~ The employee ~~transfers~~ is appointed to a position with a different ~~to another~~ ~~state agency or higher education institution~~ employer.

(3~~4~~) ~~Holiday credit must be paid when An~~ The employee is appointed ~~employee transfers~~ to a position that has a different funding source within the same ~~in their~~ employer ~~with a different funding source~~.

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 eighty nonovertime hours during the month of the holiday; or

(b) For the entire work shift preceding the holiday.

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

(2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation ~~if they are employed before the holiday and in paid status in the month of the holiday~~ 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**](https://apps.leg.wa.gov/wac/default.aspx?cite=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 sectionq~~ualify for holiday compensation if they are employed before the holiday and in paid status in the month of the holiday and~~ 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**](https://apps.leg.wa.gov/wac/default.aspx?cite=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 ~~pay~~ 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 ~~compensation~~ for holidays that occur prior to their hire date.

### FOR REFERENCE ONLY

### WAC 357-31-020 For general government part-time employees, how is holiday compensation prorated?Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours. Time spent on temporary layoff as provided in WAC [357-46-063](https://apps.leg.wa.gov/wac/default.aspx?cite=357-46-063) is considered time in pay status for the purpose of this section.

New Section

### WAC 357-31-021 For part-time higher education employees, how is holiday credit ~~compensation and compensation for personal holiday~~ prorated?

~~Compensation~~ Holiday credit ~~for holidays~~ ~~(compensation for including 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 of the holiday ~~(or in the same month when the personal holiday is requested)~~ to that required for full-time employment, excluding all holiday hours. Part-time employees hired during the month of the holiday will not receive compensation 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.

### FOR REFERENCE ONLY

### WAC 357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday?

### Employees who resign or are dismissed or separated before a holiday do not qualify for holidays occurring after the effective date of resignation, dismissal or separation.

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 ~~number of paid hours on a holiday~~ on a pro rata basis in accordance with WAC 357-31-021.

**NEW SECTION** \*New

**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 time 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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-01) WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW [**49.76.020**](http://app.leg.wa.gov/RCW/default.aspx?cite=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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-730).

(4) In accordance with WAC [**357-31-373**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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**](http://app.leg.wa.gov/RCW/default.aspx?cite=50A) RCW as provided in WAC [**357-31-248**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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**](http://app.leg.wa.gov/RCW/default.aspx?cite=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 ~~compensate or provide the employee with equivalent the employee~~ on a pro rata basis in accordance with WAC 357-31-021.

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~~1~~.

### AMENDATORY SECTION \*New

### 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?

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 the employee ~~he/she~~ 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 \*New

### 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](http://app.leg.wa.gov/RCW/default.aspx?cite=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**](http://app.leg.wa.gov/RCW/default.aspx?cite=50A) RCW as a supplemental benefit.

### AMENDATORY SECTION \*New

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

### AMENDATORY SECTION \*New

### 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.

### AMENDATORY SECTION \*New

### 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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28-255), [**357-28-260**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28-260), and [**357-28-265**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28-265) if it causes the employee to work in excess of forty 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 \*New

### 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 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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 \*New

### 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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 \*New

### 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 \*New

### 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 months and for at least one thousand two hundred fifty hours during the previous twelve-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 hour eligibility requirement.

### AMENDATORY SECTION \*New

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

### AMENDATORY SECTION \*New

### WAC 357-31-595 Is a participant eligible to use sick leave from a pool if the employee ~~his/her~~ 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**](http://app.leg.wa.gov/RCW/default.aspx?cite=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 personal holiday and all of his/her sick, vacation, ~~and~~ compensatory time, and holiday credit.

### AMENDATORY SECTION \*New

### 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, holiday credit, recognition leave as described in WAC [**357-31-565**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-565), personal holiday, vacation leave, and paid military leave allowed under RCW [**38.40.060**](http://app.leg.wa.gov/RCW/default.aspx?cite=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**](http://app.leg.wa.gov/RCW/default.aspx?cite=38.40.060) and can maintain up to forty hours of vacation leave and forty hours of paid military leave.

### AMENDATORY SECTION \*New

### 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, holiday credit, recognition leave as described in WAC [**357-31-565**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 hours of vacation leave and forty hours of sick leave.

### AMENDATORY SECTION \*New

### 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, holiday credit, recognition leave as described in WAC [**357-31-565**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 hours of vacation leave and forty hours of sick leave.

**Item #4 – Sick Leave for part-time higher education employees**

**Staff note:** We are proposing to amend WACs 357-31-115 and 357-31-121 and to create a new section, WAC 357-31-026, to align with the new part-time definition (WAC 357-01-2290)for higher education employers. We are proposing the following changes:

* 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 357-31-115(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.
* 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 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.**

Lead: Patricia Foshaug

New Section

### WAC 357-31-~~026~~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 357-31-115 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 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 hours in a month (prorated for part-time) will ~~accrue a minimum of one 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.

**Item #5 –Vacation Leave for part-time higher education employees**

**Staff note:** We are proposing to amend WACs 357-31-170 and 357-31-175 to align with the new part-time definition (WAC 357-01-2290) for higher education employers. We are proposing the following changes:

* 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.
* 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 oversite 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.

The highlighted changes below are the updated rule amendments per the discussion at the September 14, 2021 rules meeting.

Lead: Patricia Foshaug

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 days (eight hours per month);

(b) During the second year of continuous state employment - Thirteen days (eight hours, forty minutes per month);

(c) During the third and fourth years of continuous state employment - Fourteen days (nine hours, twenty minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - Fifteen days (ten hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - Sixteen days (ten hours, forty minutes per month);

(f) During the eleventh year of total state employment - Seventeen days (eleven hours, twenty minutes per month);

(g) During the twelfth year of total state employment - Eighteen days (twelve hours per month);

(h) During the thirteenth year of total state employment - Nineteen days (twelve hours, forty minutes per month);

(i) During the fourteenth year of total state employment - Twenty days (thirteen hours, twenty minutes per month);

(j) During the fifteenth year of total state employment - Twenty-one days (fourteen hours per month);

(k) During the sixteenth and succeeding years of total state employment - Twenty-two days (fourteen hours, forty 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 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**](https://apps.leg.wa.gov/wac/default.aspx?cite=357-04-040), [**357-04-045**](https://apps.leg.wa.gov/wac/default.aspx?cite=357-04-045), [**357-04-050**](https://apps.leg.wa.gov/wac/default.aspx?cite=357-04-050), and [**357-04-055**](https://apps.leg.wa.gov/wac/default.aspx?cite=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 ~~earn~~ 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 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(~~0~~1)) higher education employees ((~~who have more than ten working days of~~)) with leave without pay exceeding eighty 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.

**Item #6 LWOP Impacts on Anniversary, Unbroken and Periodic Increment Dates for General Government Employees**

**Staff note:** We are proposing to amend the following WACs 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.

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

* Equal treatment between employees who submit LWOP and hourly employees (who are not required to submit LWOP).
* 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.

The highlighted changes below are the updated rule amendments per the discussion at the September 14, 2021 rules meeting.

Lead: Caroline Kirk

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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28-070); or

~~(b) The periodic increment date is adjusted for leave without pay in accordance with WAC~~[**~~357-31-345~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-345)~~.~~

(~~c~~b) 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 357-31-180 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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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)) eighty hours (prorated for part-time) of leave without pay, that month does not qualify as a month of employment under WAC 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~~**](https://app.leg.wa.gov/WAc/default.aspx?cite=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 ef-fect 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~~ A general government employee’s ~~the~~ seniority date is adjusted for leave without pay in accordance with WAC [**357-46-055**](https://app.leg.wa.gov/WAc/default.aspx?cite=357-46-055).

### 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**](https://app.leg.wa.gov/WAc/default.aspx?cite=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**](https://app.leg.wa.gov/WAc/default.aspx?cite=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.

**Item #7 LWOP Impacts on vacation leave accrual date and periodic increment date for Higher Education Employees**

**Staff note:** We are proposing to amend the following WACs to remove the requirement for a higher education employer to adjust an employee’s vacation leave accrual date and PID for any period of leave without pay (LWOP) which ten working days consecutive calendar days.

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

* Equal treatment between employees who submit LWOP and hourly employees (who are not required to submit LWOP because they positively report their time)
* 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.
* Easier application of anniversary and PID dates for transfers between General Government and Institutions of Higher Education.
* The proposed amendment to WAC 357-28-056(3) is 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. We 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.

The highlighted changes below are the updated rule amendments per the discussion at the September 14, 2021 rules meeting.

Lead: Brandy Chinn

###

### 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.

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**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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)) eighty hours (prorated for part-time) of leave without pay, that month does not qualify as a month of employment under WAC 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.~~

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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=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~~**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-295)~~.~~

**Item #8 Leave with Pay and Quarantine**

**Staff note:** We are proposing to amend the following WACs 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. We are 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 resulting from a change in circumstances including increased availability of testing and vaccine along with updated CDC requirements/guidelines for preventing the spread of COVID-19. Based on the updated guidelines and the availability and effectiveness of the COVID-19 vaccine, leave with pay is no longer needed for individuals to self-quarantine.

This was filed with the Code Reviser’s Office as expedited rule making (CR-105) on August 9, 2021, as WSR 21-17-041. We received an objection to the expedited rule making therefore we are beginning the normal rule making process which means that we will be required to hold a public hearing. We are planning to present these at the November 11, 2021 Director’s meeting which means that we will file the proposed rules (CR-102) with the CRO by October 5, 2021 at noon.

Lead: Caroline Kirk

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.

(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.

(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.