

**TEMPORARY SALARY REDUCTION AND
TEMPORARY SALARY REDUCTION (TSR) LEAVE RULES
ADOPTED ON AN EMERGENCY BASIS, EFFECTIVE JULY 1, 2011**

WAC 357-31-225

When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?

(1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. Payments made between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment, or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

WAC 357-31-150

Can an employee be paid for accrued sick leave?

In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary. Monetary compensation for converted hours which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

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(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five percent. The employer may deposit equivalent funds for a retiring employee in a medical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. Compensation for unused sick leave which is paid between July 1, 2011, and June 29, 2013, will not be subject to a temporary salary reduction. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

WAC 357-28-285

When must compensatory time be paid in cash?

- (1) The accumulation of unused compensatory time of any amount that exceeds two hundred forty hours, or four hundred eighty hours for employees engaged in public safety or emergency response activity, must be paid in cash at the regular rate earned by the employee at the time the employee receives such payment. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under ESSB 5860.
- (2) Upon termination of employment, an employee must be paid for unused compensatory time in accordance with applicable state and federal law. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under ESSB 5860.

WAC 357-28-260

At what rate must overtime be compensated?

Overtime worked by an overtime eligible employee must be compensated at a rate of one and one-half times the employee's regular rate. Compensation for overtime worked between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under ESSB 5860.

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WAC 357-31-245

What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation?

An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, accrued temporary salary reduction leave, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, sick leave, compensatory time, recognition leave, temporary salary reduction leave, and holiday pay.

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 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, accrued temporary salary reduction leave, 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.

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 ~~or~~, accrued vacation leave, or accrued temporary salary reduction 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 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.

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WAC 357-31-390

What criteria does an employee have to meet to be eligible to receive shared leave?

An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

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

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

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers their services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

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

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

(2) The illness, injury, impairment, condition, call to service, emergency volunteer service, consequence of domestic violence, sexual assault, or stalking, or temporary layoff under chapter 32, Laws of 2010, has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

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

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

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

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

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(c) Compensatory time, recognition leave as described in WAC [357-31-565](#), personal holiday, accrued temporary salary reduction leave, and accrued vacation leave if the employee qualifies under (1)(c) or (d) of this section; or

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

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

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

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

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

WAC 357-31-535

Who designates absences which meet the criteria of the Family and Medical Leave Act?

The employer designates absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave used for that designated absence must be counted towards the twelve weeks of the Family and Medical Leave Act entitlement. Time spent on temporary salary reduction leave will not count towards the twelve weeks of the Family and Medical Leave Act entitlement.

Because the Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.) does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

NEW SECTION

WAC 357-31-740 What is temporary salary reduction (TSR) leave and which employees are eligible to earn TSR leave?

Temporary salary reduction (TSR) leave is paid leave prescribed under ESSB 5860. Employees who are subject to the three percent temporary salary reduction under ESSB 5860 may be credited up to a maximum of 5.2 hours of TSR leave per month.

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NEW SECTION

WAC 357-31-745 What provisions apply to temporary salary reduction (TSR) leave?

- (1) Full-time employees whose pay has been reduced in accordance with ESSB 5860 and who have been in pay status for 80 nonovertime hours in a month will accrue 5.2 hours of TSR 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) Part-time employees earn TSR leave on a pro rata basis in accordance with WAC [357-31-125](#).
- (3) Employees may use TSR leave as soon as it is accrued.
- (4) Employers must identify how employees will request the use of TSR leave.
- (5) There is no requirement for TSR leave to be used prior to sick leave or vacation leave unless the employer specifies otherwise.
- (6) An employee's request to use TSR leave must be approved under the following conditions:
 - (a) As a result of the employee's serious health condition.
 - (b) To care for a spouse, registered domestic partner, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.
 - (c) To care for a minor/dependent child with a health condition that requires treatment or supervision.
 - (d) For parental leave as provided in WAC [357-31-460](#).
 - (e) If the employee or the employee's family member, as defined in chapter [357-01](#) WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW [49.76.020](#). An employer may require the request for leave under this section be supported by verification in accordance with WAC [357-31-730](#).
 - (f) In accordance with WAC [357-31-373](#), for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

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(7) In accordance with the employer's leave policy, approval for the reasons listed in (6)(a) through (f) above may be subject to verification that the condition or circumstance exists.

(8) TSR leave has no cash value and balances must be used by July 1, 2013; however, employees may carry forward up to 16 hours of TSR leave that must be used prior to September 1, 2013.

(9) TSR leave may not be donated as shared leave.

(10) TSR leave may be approved for any reason vacation leave and sick leave may be approved.

(11) Unused TSR leave transfers with an employee when the employee changes state employers, without a break in service, and moves to a position which earns TSR leave.

(12) Time spent on temporary layoff as provided in WAC [357-46-063](#) will not impact an employees TSR leave accrual.