Washington State Department of Social & Health Services

*Transforming lives*

# Administrative Policy No. 18.31

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| **Subject:** | Holidays and Leave |
| **Information Contact:** | DSHS Human Resources |
| **Authorizing Sources:** | Chapter 41.06 RCW<br>Chapter 357-31 WAC<br>Chapter 357-28 WAC<br>Chapter 357-40 WAC<br>Chapter 357- 46 WAC<br>Proclamation 20-05 |
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| **Revised:** | October 22, 2020 |
| **Approved By:** | Original signed by Wendy Long<br>Senior Director, Human Resources Division |

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## Purpose:

This policy outlines the Department of Social and Health Services requirements for holidays and leave procedures supplementing chapter 357-31 WAC.

## Scope:

This policy applies to all of the department's classified employees not covered by a collective bargaining agreement. All provisions of this policy also apply to civil service exempt employees.

## Additional Guidance:

Administrative Policy

- 18.87 DSHS modern and mobile workplace policy
- 09.16 prevention and control of occupational exposure to bloodborne or other potentially infectious materials that may contain bloodborne pathogens
- 18.85 lactating employees in the workplace

## Definitions:

**Classified employee:** Employees in Washington general service and Washington management service that are subject to the provisions of Revised Code of Washington, chapter 41.06 RCW.

**Covered service member:** A member of the armed forces, including the National Guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is in outpatient status, or is on a temporary disability retired list for a serious illness or injury.

**Domestic partner:** Two adults who meet the requirements for a valid state registered domestic partnership under RCW 26.60.030 and who have been issued a certificate of state registered domestic partnership by the secretary of state's office.

**Domestic violence:** As defined by RCW 26.50.010.

**Eligible employee:** An employee who has worked for the state for at least twelve months and at least 1,250 hours during the previous twelve month period. Vacation and sick leave, personal holiday, compensatory time, or shared leave are not counted toward meeting the 1,250-hour eligibility requirement to designate leave under the family medical leave act (FMLA).

**Family care emergency:** Minor and dependent child emergencies such as the unexpected absence of a regular care provider, unexpected closure of child's school, unexpected need to pick up child at school earlier than normal; or elder care emergencies such as the unexpected absence of a regular care provider or unexpected closure of an assisted living facility.

**Family members:** Includes parent, stepparent, sibling, parent-in-law, spouse, grandparent, grandchild, minor or dependent child, and child. For purposes of domestic violence, sexual assault, or stalking, family member also includes a registered domestic partner or a person with whom the employee has a dating relationship.

**Military salary:** The base, specialty, and other pay. Military salary does not include allowances such as the basic allowance for housing.

**Monthly salary:** Includes the base monthly salary, special pay and shift differential (or monthly equivalent) for employees. Monthly salary does not include overtime pay, callback pay, standby pay, or performance bonuses.

**Serious illness or injury:** An injury or illness incurred by a covered service member in the line of duty while on active duty that may render service member medically unfit to perform the duties of the service member's office, grade, rank, or rating.

**Service in the uniformed services:** The performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority, to include: active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty including

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state-ordered active duty, and a period when a person is absent for the purpose of an examination to determine the fitness of the person to perform any such duty.

**Sexual assault:** As defined by RCW 70.125.030.

**Shortly deplete**: The employee will have forty hours or less of the applicable leave types under policy point K.1.d of this policy. The employee is not required to deplete all of their leave and can maintain up to forty (40) hours of the applicable leave types in reserves.

**Stalking:** As defined by RCW 9A.46.110.

**Uniformed services:** The armed forces, Army National Guard, and Air National Guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time National Guard duty, or state active duty, the commissioned corps of the public health service, the Coast Guard, and any other category designated by the President of the United States in time of war or national emergency.

**Policy:**

## A. Requesting leave

1. The employee requesting leave must submit a request to their supervisor or designee, using the program area's approved request form or process.

2. If an employee takes unplanned leave, the employee must submit a leave request immediately upon return to work. Failure to submit a leave request may result in unauthorized leave without pay, which may result in disciplinary action.

3. When considering a request for vacation leave, the supervisor must consider the desires of the employee, but may require the leave to be taken at another time based on the organization's business need.

4. The supervisor will deny leave requests when the employee does not have sufficient leave to cover the absence.

5. Vacation leave for religious observances may be granted, depending on the department's business need.

6. Vacation and sick leave requests will be charged in one-tenth (1/10) of an hour increments.

7. An employee who is approved to receive partial wage replacement for paid family and medical leave under title 50 RCW may receive partial wage replacement for paid family

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and medical leave, use accrued paid leave, or combine the partial wage replacement for paid family and medical leave and use accrued paid leave as a supplemental benefit.

a. An employee may use accrued paid leave as a supplemental benefit, prior to receiving approval for paid family and medical leave under title 50 RCW.

8. If an employee is absent at the end of the pay cycle, the supervisor will submit a leave request on behalf of the employee for time and attendance processing.

B. Vacation leave accrual (WAC 357-31-165, WAC 357-31-175)

1. Full time employees accrue leave per (WAC 357-31-165.

   Part time employees accrue leave per WAC 357-31-170.

2. Full time general government employees who take leave without pay or are subject to temporary layoff during the month, accrue leave per WAC 357-31-175.

C. Vacation leave (WAC 357-31-175, WAC 357-31-180, WAC 357-31-195, WAC 357-31-200, WAC 357-31-205, WAC 357-31-210, WAC 357-31-215, WAC 357-31-220, WAC 357-31-225)

1. Annual leave must be earned before it may be used (WAC 351-31-195).

2. An employee's request to use vacation leave must be approved under the following conditions (WAC 357-31-200):
   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 or dependent child with a health condition that requires treatment or supervision;
   d. For parental leave as provided in WAC 357-31-460;
   e. When 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;or
   f. Per WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.
   g. When requested as a supplemental benefit while receiving a partial wage replacement for paid family and medical leave under title 50A RCW per WAC 357-31-248.

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The appointing authority or designee may require verification of the reasons for vacation leave for the conditions described in this section, per WAC 357-31- 730.

3. Requests for vacation leave must be submitted in advance with the exception of requests:
    a. To respond to family care emergencies or emergency health condition as provided in WAC 357-31-200; or
    b. When the employee is a victim or has a family member as defined in chapter 357- 01 WAC, who is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020.

    When advance notice cannot be given because of an emergency or unforeseen circumstance due to domestic violence, sexual assault, or stalking, the employee or the employee's designee must give notice to the department no later than the end of the first day that the employee takes such leave.

4. When considering requests for vacation leave, the department must consider the needs of the employee but may require that leave be taken when it least interferes with the department's operational needs (WAC 357-31-205).

5. An employee may accumulate a maximum of thirty working days (240 hours) of vacation leave. There are two exceptions in which vacation leave may be accumulated above the thirty working days (240 hours) maximum (WAC 357-31-215).
    a. If the department denies an employee's request for vacation leave, and the employee is close to the maximum vacation leave (240 hours), the department must grant an extension for each month that the department defers the employee's request for vacation leave.
        i. The department must justify the extension with a statement of necessity.
    b. As an alternative, employees may also accumulate vacation leave in excess of the maximum vacation leave (240 hours) as follows:
        i. An employee may accumulate the vacation leave between the time thirty days is accrued and their next anniversary date. Leave accumulated above the maximum vacation leave (240 hours) must be used by the next anniversary date.
        ii. A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of 240 hours as of the date of the statement of necessity cannot be deferred regardless of circumstances.

    Example:

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On June 15th, an employee is assigned to work on a special project. The assignment is expected to last six months. Due to an ambitious timeline and strict deadlines, the employee is not able to take any vacation leave during that time.

- On June 15th, the employee's vacation leave balance is two hundred sixty hours.
- The employee accrues ten hours monthly.
- The employee's anniversary date is October 16th.

Since the employee cannot use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The statement of necessity does not cover the employee's twenty hours of excess vacation leave from June 15th.

6. Requests for approval to accumulate leave in excess of 240 hours must be submitted by the appointing authority or designee to the senior director of human resources and include the following (WAC 357-31-220):
    a. The date on which the statement of necessity was authorized;
    b. Justification for denial of the employee's leave request;
    c. Date upon which the employee will resume leave usage;
    d. The employee's total leave balance on their anniversary date;
    e. The employee's accrual rate; and
    f. The employee's leave balance at the time of the request.

## D. Unauthorized leave (WAC 357-31-105)

1. Unauthorized absence will be treated as unauthorized leave without pay and may be grounds for separation (WAC 357-46-210), or discipline (chapter 357-40 WAC).

## E. Sick leave (WAC 357-31-115, WAC 357-31-120, WAC 357-31-125, WAC 357-31-130 WAC 357-31-135, WAC 357-31-140, WAC 357-31-145, WAC 357-31-150, WAC 357-31-155, WAC 357-31-160)

1. Sick leave must be accrued before an employee may use it. (WAC 357-31-140)

2. Supervisors must allow the use of accrued sick leave under the following circumstances:
    a. Due to and during mental or physical illness, disability, injury, or health condition that has incapacitated the employee from performing required duties;
    b. The employee is exposed to a contagious disease and their presence at work would jeopardize the health of others;

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i. Employees will contribute to a healthy workplace, including not knowingly exposing co-workers and the public to conditions that would jeopardize their health or the health of others. The department may direct employees to use sick leave when employees self-report a contagious health condition.

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

d. To care for a spouse, secretary of state registered domestic partner, parent, parent-in-law, or grandparent of the employee with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care for a family member who needs preventive medical care;

e. For family care emergencies such as minor or dependent child emergencies or elder care emergencies. (WAC 357-31-290, 295, 300, and 305);

f. For personal health care appointments;

g. For family members' health care appointments when the presence of the employee is required, if arranged in advance with the supervisor or designee;

h. When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse or registered domestic partner who experience an illness or injury;

i. Up to five days of accumulated sick leave must be approved for each occurrence. The supervisor or designee may approve additional days.

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

i. If the employee or a member of the employee's family is a victim of domestic violence, sexual assault, or stalking. The supervisor or designee may require verification (WAC 357-31-730); or

j. For the 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 and:

i. The military spouse or registered domestic partner has been notified of an impending call or order to active duty;

ii. Before the military spouse or registered domestic partner is deployed;

iii. The military spouse or registered domestic partner is on leave from deployment.

k. When requested as a supplemental benefit while receiving a partial wage replacement for paid family and medical leave under title 50A RCW per WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee is approved to receive benefits for paid family and medical leave under title 50A RCW.

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

3. The appointing authority or designee may require medical verification of the reason for sick leave use per WAC 296-128-660.
    a. An employee returning to work after any sick leave absence may be required to provide written certification from their health care provider to certify that the employee is able to return to work and perform the essential functions of the job with or without reasonable accommodation.
        i. The certification must not require that the information provided explain the nature of the health condition.
        ii. If any health information is provided, the department must treat such information in a confidential manner consistent with applicable privacy laws.
    b. If sick leave abuse is suspected, the appointing authority or designee may require a written medical certificate for any sick leave absence.

4. For anticipated absences, such as medical appointments, the employee must submit a request for leave using the program's approved form or process before the anticipated absence.
    a. If a request cannot be submitted prior to the absence, an employee must promptly notify their supervisor on the first day of sick leave and each day thereafter, unless there is mutual agreement to do otherwise.
    b. Upon returning to work after using unanticipated sick leave, the employee must immediately submit a leave request. Failure to do so may result in unauthorized leave without pay and may result in disciplinary action.

5. If the employee is on vacation leave the appointing authority or designee may allow the employee to use accrued sick leave in place of vacation leave if one or more of the factors listed in C.1., above occurs.

6. An employee may be denied the use of compensatory time or vacation leave for sick leave purposes if the employee has documented attendance problems.

## F. Bereavement leave (WAC 357-31-250)

1. If an employee's family or household member dies, the employee is authorized to use up to three days of paid bereavement leave for condolence or bereavement.

2. If additional leave is required beyond the three days of paid bereavement leave, the appointing authority or designee may allow the employee to use accrued compensatory

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time, sick leave, vacation leave, personal holiday, or leave without pay for bereavement purposes.

3. The appointing authority or designee may require verification of the request for bereavement leave.

## G. Military leave (WAC 357-31-360, WAC 357-31-370, WAC 357-31-373)

1. Employees must be granted military leave with pay not to exceed twenty one working days during each year, beginning October 1st and ending the following September 30th, in order to report for required military duty, training duty in the Washington National Guard or the Army, Navy, Air Force, Coast Guard, or Marine Corps reserves of the United States or any organized reserve or armed forces of the United States, or to report for drills including those in the National Guard under Title 10 U.S.C., or state active status. The employee is charged military leave only for the days that the employee is scheduled to work.
    a. Military leave with pay is in addition to any vacation and sick leave to which an employee is entitled and does not reduce benefits, performance ratings, privileges, or pay.
    b. During paid military leave, the employee must receive the normal base salary.
    c. Employees required to appear during working hours for a physical examination to determine physical fitness for military service must receive full pay for the time required to complete the examination.

2. Employees who are not yet in the military may use paid miscellaneous leave for this purpose. Employees who are already in the military may use paid military leave as described in this section. An employee who is currently in the military may use paid miscellaneous leave for this purpose if they do not have paid military leave available.

3. No adjustments are made to the seniority date, leave accrual rate, periodic increment date, performance ratings, privileges, or pay while an employee is on paid military leave or a military leave of absence without pay.

## H. Inclement weather (WAC 357-31-255)

1. When the department's secretary or designee determines inclement weather conditions exist, refer to DSHS Administrative Policy 09.16 Emergency Closures and Suspension of Operations. Department employees are responsible for arranging how they travel to and from work.

2. If a work location remains fully operational but an employee is unable to report to work or remain at work because of severe inclement weather or conditions caused by severe inclement weather, the employee's leave will be charged in the following order:

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a. Any earned compensatory time or previously accumulated exchange time;
b. Any accrued vacation leave;
c. Any accrued sick leave, up to a maximum of three (3) days in any calendar year;
d. Leave without pay.

3. The paid leave types are used in the order listed within subsection 2, and each type of paid leave is exhausted before using another type of leave. Employees are permitted to use leave without pay rather than vacation or sick leave.

4. Employees at the special commitment center will be granted up to 2 hours of paid time for severe inclement weather.

5. When severe inclement weather prevents an employee in official travel status from returning to their official duty station or residence, the employee remains in official travel status. The employee must notify their supervisor of the inability to return from travel status. Travel costs are reimbursed per department and office of financial management (OFM) travel policies.

6. Appointing authorities are delegated authority to authorize reimbursement of costs for lodging and per diem for employees who are asked to remain close to their work site during severe inclement weather.

7. The local administrator or designee may allow employees to use options listed in the DSHS Modern and Mobile Workplace Policy 18.87 during inclement weather.

I. **Leave without pay** (WAC 357-31-327, WAC 357-31-330, WAC 357-31-335, WAC 357-31-340)

1. Leave without pay is limited to twelve months in any consecutive five year period, except for:
   a. Compensable work-related injury or illness;
   b. Educational leave;
   c. Government service;
   d. Military leave;
   e. Seasonal career employment leave;
   f. Leave for a serious health condition taken under the provision of the Family and Medical Leave Act (FMLA);
   g. Leave taken voluntarily to reduce the effect of a layoff;
   h. Leave authorized in advance by an appointing authority or designee as part of a plan to reasonably accommodate a person with a disability; or
   i. When an employee is approved to receive benefits for approved paid family and medical leave under title 50A RCW and qualifies for employment protection per

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RCW 50A.35.010, an employee must remain on leave without pay or use accrued leave as a supplemental benefit while receiving a partial wage replacement.

2. The appointing authority or designee may require verification supporting the request for leave without pay.

3. Leave without pay, in excess of 15 consecutive workdays, affects an employee's probationary and trial service period (WAC 357-31-355), anniversary date, unbroken service date, periodic increment date, and seniority date (WAC 357-31-345 and 347).

4. Leave without pay must be granted for (WAC 357-31-327):
   a. An employee who is a volunteer firefighter called to duty to respond to a fire, natural disaster, or medical emergency;
   b. An employee or the employee's family member who is a victim of domestic violence, sexual assault, or stalking;
   c. An employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States National Guard or reserves, after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment; or
   d. An employee requests a day off for a reason of faith or conscience, or to participate in an organized activity with a religious denomination, church, or religious organization per WAC 357-31-052.
   e. An employee who is on approved paid family and medical leave under title 50A RCW. Leave taken under this subsection may be subject to verification that the employee is approved to receive benefits for paid family and medical leave under title 50A RCW, and qualifies for employment protection per RCW 50A.35.010.

5. Leave without pay may be granted for:
   a. Any reason that leave with pay may be granted, when meeting the conditions for leave with pay;
   b. Educational leave;
   c. Leave for government service in the public interest;
   d. Military leave of absence;
   e. Parental leave;
   f. Family care emergency;
   g. Bereavement or condolence;
   h. Absence due to inclement weather;
   i. Serious health condition of an eligible employee's child, spouse, registered domestic partner, or parent;
   j. Leave taken voluntarily to reduce the effect of an employer's layoff;
   k. Leave that is authorized in advance by the appointing authority or designee as part of a plan to reasonably accommodate a person with a disability; or

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l. Employees receiving time loss compensation.

6. Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class and in the same geographical area, provided the return to employment does not conflict with layoff rules.

## J. Miscellaneous paid leave

1. **Jury duty** (WAC 357-31-315)
   a. An employee must be granted a leave of absence with pay when required to report for jury duty service. The appointing authority or designee may require documentation or verification of jury duty service.
   b. Employees are allowed to keep any compensation they receive for serving as a member of a jury in addition to their regular pay.
   c. The department must grant a leave of absence with pay for the employee to respond to a subpoena when:
      i. The employee is subpoenaed on the employer's behalf; or
      ii. The subpoena is for a legal proceeding that is unrelated to the employee's personal or financial matters.

2. **Exam interview/civil duty** (WAC 357-31-325, WAC 357-31-326)
   a. Leave with pay must be granted to an employee:
      i. To allow an employee to receive assessment from the employee assistance program;
      ii. 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; or
      iii. When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.
   b. Appointing authority's may limit the number of occurrences or the total amount of paid leave that is granted to an employee to participate in an interview or take an examination during scheduled work hours.
   c. Appointing authorities may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.
   d. The department 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.

## K. Shared leave (WAC 357-31-380, WAC 357-31-390, WAC 357-31-395, WAC 357-31-400)

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1. An employee may be eligible to receive shared leave if the appointing authority or designee determines that the employee meets the following criteria:
    a. The employee:
        i. Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition that is extraordinary or severe nature;
        ii. Has been called to service in the uniformed services;
        iii. Has the needed skills to assist in responding to a state of emergency declared anywhere within the United States by the federal or any state government or its aftermath, and volunteers their services to either a governmental agency or a nonprofit organization engaged in humanitarian relief in the devastated area. The governmental agency or nonprofit organization accepts the employee's offer of volunteer services;
        iv. Is a victim of domestic violence, sexual assault, or stalking;
        v. Is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;
        vi. Is the spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a current member or veteran, for a service connected injury or disability and requires assistance while attending appointments or treatments;
        vii. Needs the time for parental leave as defined in WAC 357-31-395 (3); or
        viii. Is sick or temporarily disabled because of a pregnancy disability as defined in WAC 357-31-395 (4).
    b. The illness, injury, impairment, condition, call to service, emergency volunteer service, or consequences of domestic violence, sexual assault, or stalking has caused, or is likely to cause the employee to either:
        i. Go on leave without pay status; or
        ii. Terminate state employment.
    c. The employee's absence and the use of shared leave are justified.
    d. The employee depleted, or will shortly deplete their compensatory time, personal holiday, accrued vacation leave, and accrued sick leave (WAC 357-31-435).

2. The employee has abided by the departments rules regarding:
    a. Sick leave use;
    b. Military service;

3. The appointing authority or designee may permit an employee to receive shared leave under this section as a result of the 2019 Coronavirus (COVID-19).
    a. Shared leave may be authorized until the expiration of proclamation 20-05 that will be provided by the governor per RCW 41.04.665.

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4. The appointing authority or designee determines the amount of leave, if any, that an employee may receive.
    a. The department may not prevent an employee from using shared leave intermittently or on non-consecutive days.
    b. An employee must not receive more than 522 days of shared leave during total state employment. The department's secretary or designee may authorize leave in excess of 522 days in extraordinary circumstances for an employee qualifying for shared leave because they are suffering from illness, injury, impairment, or physical or mental condition, that is of an extraordinary or severe nature.
    c. A nonpermanent employee who is eligible to use accrued leave or a personal holiday may not use shared leave beyond the expected end date of the appointment.
    d. An employee receiving industrial insurance wage replacement benefits may not receive greater than twenty five percent (25%) of their base salary from the receipt of share leave under this section.

5. The appointing authority or designee is encouraged to consider other methods of accommodating the employee's needs. Other methods include modified duty, modified hours, flex-time, or special assignments in place of shared leave.

6. Employees may be required to submit documentation to receive approval. The appointing authority or designee may require the following types of documentation based on the purpose of the shared leave.
    a. Employees seeking shared leave under WAC 357-31-390 (1)(a), the appointing authority or designee will require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition before the employer approves or disapproves the request. ***Exception:*** During a pandemic, the appointing authority or designee may waive the requirement for a medical certificate.
    b. Employees seeking shared leave under WAC 357-31-390 (1)(b), the appointing authority will require the employee to submit a copy of the military orders verifying the employee's required absence before the employer approves or disapproves the request.
    c. Employees seeking shared leave under WAC 357-31-390 (1)(c), the appointing authority will require proof of acceptance of an employee's offer to volunteer for either a governmental agency or a nonprofit organization during a declared state of emergency.
    d. Employees seeking shared leave under WAC 357-31-390 (1)(d), the appointing authority or designee may require that the request be supported by documentation. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

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i. A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking;
ii. A court order protecting or separating the employee from the perpetrator of the act of domestic violence, sexual assault, or stalking;
iii. Evidence from the court or prosecuting attorney that the employee appeared or is scheduled to appear in court in connection with an incident of domestic violence, sexual assault, or stalking;
iv. An employee's written statement that the employee is a victim of domestic violence, sexual assault, or stalking; or
v. Documentation that the employee is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional.

e. Employees seeking shared leave under WAC 357-31-390 (1)(e), the appointing authority or designee may require that the request be supported by documentation.
f. Employees seeking shared leave under WAC 357-31-390 (1)(f), the appointing authority or designee may require that the request be supported by documentation.
g. Employees seeking shared leave under WAC 357-31-390 (1)(g), the appointing authority designee may not require the employee to submit a medical certificate from a licensed physician or health care practitioner when requesting leave pursuant to ESHB 1434 & chapter 41.04 RCW.
h. Employees seeking shared leave under WAC 357-31-390 (1)(h), the appointing authority or designee may not require the employee to submit a medical certificate from a licensed physician or health care practitioner when requesting leave pursuant to ESHB 1434 & chapter 41.04 RCW.

7. An employee may donate leave to employees in other agencies, institutions of higher education, or related higher education boards with approval from heads of both agencies (WAC 357-31-410).

8. An employee using shared leave remains classified as a state employee. If an employee is on shared leave during a probationary or trial service period, then the review period is extended by the number of calendar days on shared leave (WAC-31-440).

9. The appointing authority or designee may deny a shared leave request, if the request does not meet the conditions outlined within the previous subsections.
   a. The appointing authority or designee may deny a shared leave request, if the employee has documented attendance issues or leave abuse within the last three years. Documentation includes performance evaluations and disciplinary

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documents within the employee's personnel files, or communication records, attendance records, and other documents relevant to performance expectations in the supervisors files (WAC 357-31-455).

b. The appointing authority or designee must notify the employee of any shared leave request denial in writing.

L. **Family care emergency leave** (WAC 357-31-285, WAC 357-31-290, WAC 357-31-295, WAC 357-31-300, WAC 357-31-305)

1. Leave under this section must be authorized for a family care emergency to care for the employee's spouse, registered domestic partner, household member, or employee's/spouse's/registered domestic partner's minor or dependent child, parent or grandparent.

   Leave may be authorized to care for other family members, including children over the age of 18 who are incapable of self-care.

2. Advance notice is not required for family care emergency leave. However, the employee must notify the supervisor at the beginning of the absence.

3. The appointing authority or designee may require the employee to provide verification of the need to take leave and that the situation was such that advance notice was not possible.

   Each calendar year an employee is allowed to use up to three workdays of the following leave types for qualifying family care emergencies (WAC 357-31-295):

   a. Compensatory time;
   b. Vacation leave;*
   c. Sick leave per WAC 357-31-130;*
   d. Leave without pay;*
   e. Personal holiday.

   *The appointing authority or designee **may** grant additional leave in excess of three days for each category of leave (WAC 357-31-300).

M. **Parental leave** (WAC 357-31-465, WAC 357-31-470, WAC 357-31-475, WAC 357-31-480, WAC 357-31-485, WAC 357-31-490, WAC 357-31-495)

1. Parental leave is only available to permanent employees or employees who have worked for the state for at least twelve months and worked at least 1250 hours during the previous twelve-month period.

2. Employees must be granted parental leave for purposes of:

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a. The birth and care of a newborn child of the employee;
b. Placement of a minor or dependent child with the employee for adoption or foster care; or
c. Bonding with a newborn child, or a minor or dependent child during adoption or foster care placement.

3. Parental leave must be taken during the first year following the child's birth or placement of the minor or dependent child with the employee for adoption or foster care.

4. The employee must submit a written request for parental leave with not less than thirty days' notice, except when a child's birth or placement requires leave with less notice. In that circumstance, the employee must provide notice as soon as possible.

5. A request for parental leave request must be granted to the employee for the purpose of bonding with their natural newborn, adoptive, or foster child during the first year after the child's birth or placement:
   a. Parental leave may extend up to six months, including time covered by the FMLA;
   b. Leave beyond the period covered by the FMLA may only be denied due to the organization's business needs.

6. If the employee's parental leave request exceeds the twelve weeks allowed under FMLA, the appointing authority or designee must respond to the employee, in writing, within ten working days of receiving the request. If the leave is denied, reasons supporting the organization's business needs must be provided to the employee.

7. If a permanent employee is sick or temporarily disabled because of pregnancy or childbirth:
   a. A request to use sick leave must be granted;
   b. Pregnancy disability leave, under Washington's Family Care Act, is in addition to the twelve weeks of FMLA leave.

8. Disability leave due to pregnancy and/or childbirth may combine sick leave, vacation leave, personal holiday, compensatory time, or leave without pay, at the discretion of the employee.

9. The appointing authority or designee may require verification to support the request for leave.

10. The department must make arrangements available to lactating employees as established in administrative policy 18.85 lactating employees in the workplace.

N. **Family and Medical Leave Act of 1993 (FMLA)** (WAC 357-31-525, WAC 357-31-530, WAC 357-31-535, WAC 357-31-540)

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1. The department cannot diminish or withhold benefits provided through state laws and civil service rules, when complying with FMLA.

2. An eligible employee must be granted up to, but may not exceed, twelve work weeks of absence during a twelve-month period for one or more of the following:
    a. The employee has a serious health condition;
    b. The employee cares for a parent, spouse, minor or dependent child who has a serious health condition;
    c. The birth of, and to provide care to, the employee's newborn, adopted, or foster child. (WAC 357-31-460);
    d. Due to a qualifying exigency (as described in the Family and Medical Leave Act of 1993 and its amendments (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825) arising from the fact that the employee's spouse, child of any age, or parent is on active duty or is notified of pending call to active duty in the armed forces in support of a contingency operation.
        i. This subsection only applies if the spouse, child, or parent of the employee is a member of the National Guard or reserves, and certain retired members of the regular armed forces and retired reserves. This section does not apply if the spouse, child, or parent of the employee is a member of the regular armed forces on active duty.
        ii. This section only applies to federal calls to active duty.

3. An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member is entitled up to a maximum of twenty-six work weeks of leave during a twelve-month period to care for the service member who is suffering from a serious illness or injury arising from injuries incurred in the line of duty. The leave described in this section is only available during a single twelve-month period.
    a. For purposes of this section, "next of kin" is the nearest blood relative of that individual other than the individual's spouse, parent, or child in the following order of priority:
        i. Blood relatives who have been granted legal custody of the service member;
        ii. Siblings;
        iii. Grandparents;
        iv. Aunts and uncles;
        v. Cousins;
        vi. The service member can designate another blood relative as the "nearest blood relative" and that designation takes precedence over the above list.
    b. For purposes of this section, "covered service member" is a member of the armed forces, including the National Guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on a temporary disability retired list for a serious illness or injury.

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c. For purposes of this section, "serious illness or injury" is an injury or illness incurred by the covered service member in the line of duty while on active duty in the armed forces that may render the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating.

4. The human resources division designates absences that meet the FMLA criteria. Any paid or unpaid leave used for an FMLA designated absence must count toward the twelve week total FMLA entitlement.
   a. The use of any paid or unpaid leave for a FMLA-qualifying event runs concurrently with, not in addition to, the use of the FMLA for that event. Leave taken for a work-related illness or injury covered by workers' compensation or assault benefits and compensatory time is excluded from the twelve week limit.
   b. The employee may use appropriate accrued paid leave or leave without pay for an FMLA absence. The leave use must comply with civil service rules.

5. An employee may request, and must be granted an intermittent or reduced schedule when medically necessary for one or more of the following reasons:
   a. The employee has a serious health condition;
   b. The employee cares for a parent, spouse, registered domestic partner, or minor or dependent child who has a serious health condition;
   c. The employee is the spouse, registered domestic partner, son, daughter, parent of a child of any age, or next of kin of a covered service member who is suffering from a serious illness or injury arising from injuries incurred in the line of duty.

6. An employee returning from an absence designated as FMLA must be returned to the same or equivalent position held prior to the absence.

7. Existing employer-paid health insurance benefits must continue to be paid by the department during an eligible employee's paid or unpaid leave granted under FMLA.

## O. Paid family medical leave (PFML) (Title 192 WAC, title 50A RCW)

1. The Washington Family Leave Act (WAC 357-31-520, chapter 49.78 RCW) sunset on December 31, 2019. Effective January 1, 2020, Washington workers who need leave for a serious health condition, to care for a family member, to welcome a new child into the employee's family or for a military-related event may apply for paid leave through the Employment Security Department (ESD) (WAC 192-500-035, WAC 192-610-005).

2. PFML does not replace FMLA. PFML and FMLA are separate entitlements. The department cannot interfere with, restrain or deny an employee's use of PFML (WAC 192-570-020, WAC 192-610-075).

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Generally, if the employee qualifies for FMLA for a condition that also qualifies under PFML, then PFML and FMLA run concurrently.

3. PFML functions as a partial wage replacement insurance program (RCW 50A.05.005). The PFML program is administered by ESD. The program is funded by premiums paid by employees and employers, which began in January 2019 (RCW 50A.10.030, WAC 192-510-065). Employees file a weekly claim to receive payments through ESD (WAC 192-620-010). Payment is based on a percentage of the employee's weekly earnings, and is determined and administered by ESD (WAC 192-630-015, WAC 192-610-051).

4. An employee may use vacation leave, sick leave, personal holiday, compensatory time, or holiday pay as a supplemental benefit while the employee is receiving partial wage replacement under title 50A RCW.

5. An employee is eligible for PFML, if the employee has worked at least 820 hours for a Washington state employer during the qualifying period, experiences a qualifying event and can provide proof of identification. ESD determines if an employee, and the employee's application, qualifies for PFML (WAC 192-630-015).

    a. Qualifying events (WAC 192-500-080) include:
        i. Bonding with a newborn, adopted, or foster child;
        ii. Recovering from a serious health condition which may include surgery, illness, or injury;
        iii. Supporting a family member with a serious medical condition;
        iv. Certain events that are connected to a family member's active duty military service
    b. Family members (WAC 192-610-035) that qualify for PFML include:
        i. Spouses and domestic partners;
        ii. Children (biological, adopted, foster, or stepchild);
        iii. Parents and legal guardians (or spouse's parents);
        iv. Siblings;
        v. Grandchildren; and
        vi. Grandparents (or spouse's grandparents).

6. An employee may take up to twelve (12) weeks of PFML within a year. In some instances, an employee may qualify for up to sixteen (16) or eighteen (18) weeks a year for applicable multiple qualifying events and pregnancy complications. ESD determines the total PFML leave entitlement (WAC 192-610-010, WAC 192-610-055).

7. An employee must provide the immediate supervisor with a written notice of a PFML absence within 30 days of a foreseeable absence (WAC 192-600-005). Written notice includes an e-mail or a written letter. If the PFML absence is unforeseeable, then an employee must provide written notice to the immediate supervisor as soon as

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practicable (WAC 192-600-010, WAC 192-600-015). The written notice must include the planned start date of the PFML absence, the expected duration and frequency of the PFML absence, and the intended return to work date (WAC 192-600-020).

Employees should provide a copy of the written notice to human resources, as ESD will contact the department to verify this information (WAC 192-610-060).

8. An employee is entitled to job restoration upon returning from a PFML absence, if the employee has been employed by the state of Washington for at least twelve (12) months, and has worked for the state of Washington for at least 1,250 hours in the twelve (12) months immediately preceding the start of the PFML absence. If an employee uses FMLA at the same time as PFML, then existing employer-paid health insurance benefits must continue to be paid by the department during the paid or unpaid leave granted under FMLA. An employee must be returned to the same or equivalent position held prior to the absence (WAC 192-700-005).

   Job restoration denial is only permissible, if the department can prove that the employee would not have otherwise been employed at the time of restoration, or as defined in RCW 50A.35.010 (6)(b) (WAC 192-700-010).

## P. Uniformed service shared leave pool (WAC 357-31-660)

1. The uniformed service shared leave pool is established to maintain a level of compensation and employee benefits consistent with the amount that an employee would receive, if the employee remained in active state service.
   a. Participation by eligible employees to receive shared leave is voluntary.
   b. Employees may voluntarily donate their leave to be used by an employee who is called to the uniform services.

2. Guidelines for implementing the uniformed service shared leave pool are available for additional information and directions.

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