

**WAC 296-128-600 Definitions.** (1) "Absences exceeding three days" means absences exceeding three consecutive days an employee is required to work. For example, assume an employee is required to work on Mondays, Wednesdays, and Fridays, and then the employee uses paid sick leave for any portion of those three work days in a row. If the employee uses paid sick leave again on the following Monday, the employee would have absences exceeding three days.

(2) "Commencement of his or her employment" as provided in RCW 49.46.210 (1)(d), means no later than the beginning of the first day on which the employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace. "Commencement of their employment" has the same meaning.

(3) "Construction industry employer" means an employer in the industry described in North American industry classification system industry code 23, except for residential building construction code 2361.

(4) "Construction worker" means a worker who performed service, maintenance, or construction work on a job site, in the field or in a fabrication shop using the tools of the worker's trade or craft.

(5) "Construction worker covered by a collective bargaining agreement" as provided in RCW 49.46.180, means a worker who performed service, maintenance, or construction work on a job site, in the field or in a fabrication shop using the tools of the worker's trade or craft who is covered by a collective bargaining agreement. To meet this definition, the union signatory to the collective bargaining agreement must be an approved referral union program authorized under RCW 50.20.010 and in compliance with WAC 192-210-110, the collective bargaining agreement must establish equivalent sick leave provisions, as provided in RCW 49.46.180(2), and the collective bargaining agreement or CBA addendum must expressly waive the requirements of RCW 49.46.200 through 49.46.830 in clear and unambiguous terms or in an agreed addendum to an existing agreement previously ratified.

(6) "Department" means the department of labor and industries.

(7) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(8) "Employee" has the same meaning as RCW 49.46.010(3). An employee includes a construction worker or construction worker covered by a collective bargaining agreement unless a more specific provision applies.

(9) "Employer" has the same meaning as RCW 49.46.010(4).

(10) "Frontloading" means providing an employee with paid sick leave before it has accrued at the rate required by RCW 49.46.210 (1)(a).

(11) "Health-related reason," as provided in RCW 49.46.210 (1)(b)(iii), means a serious public health concern that could result in bodily injury or exposure to an infectious agent, biological toxin, or hazardous material. Health-related reason does not include closures for inclement weather.

(12) "Hours worked" shall be interpreted in the same manner as WAC 296-126-002(8).

(13) "Normal hourly compensation" means the hourly rate that an employee would have earned for the time during which the employee used paid sick leave. For employees who use paid sick leave for hours that

would have been overtime hours if worked, employers are not required to apply overtime standards to an employee's normal hourly compensation. Normal hourly compensation does not include tips, gratuities, service charges, holiday pay, or other premium rates, unless the employer or a collective bargaining agreement allow for such considerations. However, where an employee's normal hourly compensation is a differential rate, meaning a different rate paid for the same work performed under differing conditions (e.g., a night shift), the differential rate is not a premium rate.

(14) "Qualifying immigration proceeding" means any judicial or administrative immigration proceeding involving the employee or employee's family member.

(15) "Regular and normal wage" has the same meaning as normal hourly compensation.

~~((15))~~ (16) "Separation" and "separates from employment" mean the end of the last day an employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace.

~~((16))~~ (17) "Verification" means evidence that establishes or confirms that an employee's use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b) and (c).

~~((17))~~ (18) "Workweek" means a fixed and regularly recurring period of 168 hours, or seven consecutive 24-hour periods. It may begin on any day of the week and any hour of the day, and need not coincide with a calendar week.

AMENDATORY SECTION (Amending WSR 17-21-092, filed 10/17/17, effective 1/1/18)

**WAC 296-128-660 Verification for absences exceeding three days.**

(1) For absences exceeding three days, an employer may require verification that an employee's use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b) and (c).

(2) If an employer requires verification for the use of paid sick leave under RCW 49.46.210 (1)(b) and (c), the employer must have a written policy or a collective bargaining agreement outlining any such requirements. The employer must notify the employee of such policy or agreement, including the employee's right to assert that the verification requirement results in an unreasonable burden or expense on the employee, prior to requiring the employee to provide verification. An employer must make this information readily available to all employees.

(3) If an employer requires an employee to provide verification from a health care provider identifying the need for use of paid sick leave for an authorized purpose under RCW 49.46.210 (1)(b) and (c), the employer must not require that the information provided explain the nature of the condition. If the employer obtains any health information about an employee or an employee's family member, the employer must treat such information in a confidential manner consistent with applicable privacy laws.

(4) Employer-required verification may not result in an unreasonable burden or expense on the employee.

(a) If an employer requires verification, and the employee anticipates that the requirement will result in an unreasonable burden or

expense, the employee must be allowed to provide an oral or written explanation to their employer which asserts:

(i) That the employee's use of paid sick leave was for an authorized purpose under RCW 49.46.210 (1)(b) or (c); and

(ii) How the employer's verification requirement creates an unreasonable burden or expense on the employee.

(b) The employer must consider the employee's explanation. Within ~~((ten))~~ 10 calendar days of the employee providing an explanation to their employer about the existence of an unreasonable burden or expense, the employer must make a reasonable effort to identify and provide alternatives for the employee to meet the employer's verification requirement in a manner which does not result in an unreasonable burden or expense on the employee. A reasonable effort by the employer to identify and provide alternatives could include, but is not limited to:

(i) Accepting the oral or written explanation provided by the employee, as outlined in (a)(i) and (ii) of this subsection, as a form of verification which meets the employer's verification requirement; or

(ii) Mitigating the employee's out-of-pocket expenses associated with obtaining medical verification.

(c) If after the employer considers the employee's explanation, the employer and employee disagree that the employer's verification requirement results in an unreasonable burden or expense on the employee:

(i) The employer and employee may consult with the department regarding the verification requirement; and

(ii) The employee may file a complaint with the department.

(5) If an employer requires verification that the use of paid sick leave is for an authorized purpose under RCW 49.46.210 (1)(b), verification must be provided to the employer within a reasonable time period during or after the leave. For employee use of paid sick leave under RCW 49.46.210 (1)(b), "reasonable time period" is a period of time defined by a written policy or a collective bargaining agreement, but may not be less than ~~((ten))~~ 10 calendar days following the first day upon which the employee uses paid sick leave.

(6) For employee use of paid sick leave under RCW 49.46.210 (1)(b)(iv), an employee may submit, and the employer must accept:

(a) Documentation that the employee or the employee's family member is involved in a qualifying immigration proceeding from any of the following persons from whom the employee or employee's family member sought assistance in addressing the proceeding: An advocate for immigrants or refugees, an attorney, a member of the clergy, or other professional. The provision of documentation under this subsection does not waive or diminish the confidential or privileged nature of communications between an employee or an employee's family member and one or more of the individuals described in this subsection pursuant to RCW 5.60.060 or other applicable law; or

(b) An employee's written statement that the employee or the employee's family member is involved in a qualifying immigration proceeding and that the leave taken was for one of the purposes described in RCW 49.46.210 (1)(b)(iv).

The documentation or written statement must not disclose any personally identifiable information about a person's immigration status or underlying immigration protection.

(7) If an employer requires verification that the use of paid sick leave is for an authorized purpose under the Domestic Violence

Leave Act, chapter 49.76 RCW, any such verification requirements must comply with the provisions outlined in WAC 296-135-070.

((7)) (8) For use of paid sick leave for purposes authorized under federal, state, or other local laws that permit employers to make medical inquiries, an employer may require verification from an employee that complies with such certification requirements.

**WAC 296-128-99010 Definitions.** (1) "Absence" means any period of time in which the driver is unable to perform passenger platform time on the transportation network company's driver platform due to an authorized purpose defined in RCW 49.46.210.

(2) An "accessible system" is:

(a) A platform through which the driver accesses, receives, and sends notices and communications with the transportation network company in compliance with chapter 49.46 RCW;

(b) A platform through which the transportation network company accesses, receives, sends, and stores notices and communications with a driver in compliance with chapter 49.46 RCW;

(c) Available in a driver's preferred language and English;

(d) Provided in plain language;

(e) Available to the driver via smartphone application and online web portal; and

(f) Available from any location and must not be inaccessible due to geo-fencing.

(3) "Account deactivation" means one or more of the following actions with respect to an individual driver or group of drivers that is implemented by a transportation network company and lasts for more than three consecutive days:

(a) Blocking access to the transportation network company driver platform;

(b) Changing a driver's status from eligible to provide transportation network company services to ineligible; or

(c) Any other material restriction in access to the transportation network company's driver platform.

(4) A "communication system" is:

(a) A platform through which the driver accesses, receives, and sends notices and communications with the transportation network company in compliance with chapter 49.46 RCW;

(b) A platform through which the transportation network company accesses, receives, sends, and stores notices and communications with a driver in compliance with chapter 49.46 RCW;

(c) Available in a downloadable comma-separated values file format, except as provided in WAC 296-128-99030(1);

(d) Available to the driver via smartphone application and online web portal; and

(e) Available from any location and must not be inaccessible due to geo-fencing.

(5) "Compensation" means payment owed to a driver by reason of providing network services including, but not limited to, the minimum payment for passenger platform time and mileage, incentives, and tips. Compensation does not include driver reimbursements.

(6) "Department" means the department of labor and industries.

(7) "Digital network" means any online-enabled application, website, or system offered or used by a transportation network company that enables the prearrangement of rides between drivers and passengers.

(8) "Director" means the director of the department of labor and industries, or the director's authorized representative.

(9) "Dispatch location" means the location of the driver at the time the driver accepts a trip request through the driver platform.

(10) "Dispatch platform time" means the time a driver spends traveling from a dispatch location to a passenger pick-up location. Dispatch platform time ends when a passenger cancels a trip or the driver begins the trip through the driver platform. A driver cannot simultaneously be engaged in dispatch platform time and passenger platform time for the same transportation network company. For shared rides, dispatch platform time means the time a driver spends traveling from the first dispatch location to the first passenger pick-up location.

(11) "Dispatched trip" means the provision of transportation by a driver for a passenger through the use of a transportation network company's application dispatch system.

(12) "Driver" has the same meaning as "commercial transportation services provider driver" in RCW 48.177.005. Except as otherwise specified in WAC 296-128-99010 through 296-128-99290, for purposes of Titles 48, 50A, 50B, and 51 RCW, and chapter 49.46 RCW, and any orders, regulations, administrative policies, or opinions of any state or local agency, board, division, or commission, pursuant to those titles, a driver is not an employee or agent of a transportation network company if the following factors are met:

(a) The transportation network company does not unilaterally prescribe specific dates, times of day, or a minimum number of hours during which the driver must be logged into the transportation network company's online-enabled application or platform;

(b) The transportation network company may not terminate the contract of the driver for not accepting a specific transportation service request;

(c) The transportation network company does not contractually prohibit the driver from performing services through other transportation network companies except while performing services through the transportation network company's online-enabled application or platform during dispatch platform time and passenger platform time; and

(d) The transportation network company does not contractually prohibit the driver from working in any other lawful occupation or business. Notwithstanding any state or local law to the contrary, any party seeking to establish that the factors in this subsection are not met bears the burden of proof. A driver for purposes of this section shall not include any person ultimately and finally determined to be an "employee" within the meaning of section 2(3) of the National Labor Relations Act, 29 U.S.C. Sec. 152(3).

(13) "Driver platform" means the driver-facing application dispatch system software or any online-enabled application service, website, or system, used by a driver, or which enables services to be delivered to a driver, that enables the prearrangement of passenger trips for compensation.

(14) "Driver resource center" or "center" or "DRC" means a nonprofit organization that provides services to drivers. The nonprofit organization must be registered with the Washington secretary of state, have organizational bylaws giving drivers right to membership in the organization, and have demonstrated experience:

(a) Providing services to drivers in Washington state, including representing drivers in deactivation appeals proceedings; and

(b) Providing culturally competent driver representation services, outreach, and education. The administration and formation of the driver resource center may not be funded, excessively influenced, or controlled by a transportation network company.

(15) "Driver resource center fund" or "fund" means the dedicated fund created in RCW 49.46.310, the sole purpose of which is to administer funds collected from transportation network companies to provide services, support, and benefits to drivers.

(16) "Earned paid sick time" is the time provided by a transportation network company to a driver as calculated under RCW 49.46.210 and associated rules. For each hour of earned paid sick time used by a driver, the transportation network company shall compensate the driver at a rate equal to the driver's average hourly compensation.

(17) "Eligible account deactivation" means one or more of the following actions with respect to an individual driver that is implemented by a transportation network company:

(a) Blocking or restricting access to the transportation network company driver platform for more than three consecutive days; or

(b) Changing a driver's account status from eligible to provide transportation network company services to ineligible for more than three consecutive days; but

(c) An eligible account deactivation does not include any change in a driver's access or account status that is:

(i) Related to an allegation of discrimination, harassment, including sexual harassment or harassment due to someone's membership in a protected class, or physical or sexual assault, or willful or knowing commitment of fraud;

(ii) Related to an allegation that the driver was under the influence of drugs or alcohol while a related active investigation that takes no longer than 10 business days is under way; or

(iii) Any other categories the transportation network company and the driver resource center may agree to.

(18) "Geo-fencing" means the use of technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

(19) "Minimum compensation" means the minimum payment for passenger platform time and mileage set forth in RCW 49.46.300(4). "Minimum compensation" may include incentives or premium pay specific to a particular trip in which the incentive or premium pay is earned if the transportation network company discloses to the driver upon each offer of such pay the amount and terms of such pay and that such pay will be used to satisfy part or all of the minimum compensation requirement in RCW 49.46.300 for that particular trip. "Minimum compensation" does not include any incentive or premium pay not specific to a particular trip, any incentive or premium pay offered without the above disclosure, any bonuses, or any tips.

(20) "Network services" means services related to the transportation of passengers through the driver platform that are provided by a driver while logged in to the driver platform, including services provided during available platform time, dispatch platform time, and passenger platform time.

(21) "Passenger" has the same meaning as "commercial transportation services provider passenger" in RCW 48.177.005.

(22) "Passenger drop-off location" means the location of a driver's vehicle when the passenger leaves the vehicle.

(23) "Passenger pick-up location" means the location of the driver's vehicle at the time the driver starts the trip in the driver platform.

(24) "Passenger platform miles" means all miles driven during passenger platform time as recorded in a transportation network company's driver platform.

(25) "Passenger platform time" means the period of time when the driver is transporting one or more passengers on a trip, or portion of a trip, as follows:

(a) For a dispatched trip with a passenger pick-up location in Washington the entirety of the trip, regardless of the passenger drop-off location; and

(b) For a dispatched trip with a passenger pick-up location outside of Washington, the portion of passenger platform time and mileage that occurs within Washington.

(26) "Payday" means a specific day or date established by the transportation network company on which compensation, bonuses, incentives, tips, and other owed amounts are paid to a driver during a pay period.

(27) "Payment interval" means the amount of time between established paydays. A payment interval may be instant, daily, weekly, or bi-weekly.

(28) "Pay period" means a defined time frame for which a driver will receive a payment. A pay period may be instant, daily, weekly, or bi-weekly.

(29) "Personal vehicle" has the same meaning as "personal vehicle" in RCW 48.177.005.

(30) "Plain language" is language that is clear, concise, and visually easy to read. It must use common words, rather than jargon, acronyms, or unnecessary legal language.

(31) "Preferred language" is the driver's language choice provided in response to a transportation network company's request for their preferred language. Each transportation network company must make a good faith effort to learn a driver's preferred language. A transportation network company must translate documents available via an accessible system into the driver's preferred language, provided that the preferred language has been identified as the preferred language of at least two percent of drivers who utilize the transportation network company's driver platform in Washington. The transportation network companies and the driver resource center must work with the department to identify the preferred languages that meet the two percent threshold(s), at least every two years.

(32) "Qualifying immigration proceeding" means any judicial or administrative immigration proceeding involving the employee or employee's family member.

(33) "Shared ride" means a dispatched trip in which, prior to its commencement, a passenger requests through the transportation network company's digital network to share the dispatched trip with one or more passengers and each passenger is charged a fare that is calculated, in whole or in part, based on the passenger's request to share all or a part of the dispatched trip with one or more passengers, regardless of whether the passenger actually shares all or a part of the dispatched trip.

~~((+33+))~~ (34) "Tips" means a verifiable sum to be presented by a passenger as a gift or gratuity in recognition of service performed for the passenger by the driver receiving the tip.

~~((+34+))~~ (35) "Transportation network company" has the same meaning as defined in RCW 46.04.652. A transportation network company does not provide for hire transportation service and includes a third-party administrator when a transportation network company contracts with a third-party administrator for the purposes of providing paid sick time.



~~((35))~~ (36) "Verification" means evidence that establishes or confirms that a driver's use of paid sick time is for an authorized purpose under RCW 49.46.210.

AMENDATORY SECTION (Amending WSR 23-07-124, filed 3/21/23, effective 4/21/23)

**WAC 296-128-99030 Driver electronic receipts and weekly trip notices.** (1) **Electronic receipts.** Within 24 hours of each dispatched trip, a transportation network company must transmit to the driver an electronic receipt, available in a communication system, for each unique trip or portion of a unique trip. For the purposes of an electronic receipt, a transportation network company may either provide a downloadable comma-separated values file or searchable PDF format containing a table with rows for each unique trip or portion of the trip and columns for each itemized element contained in the trip receipt. Electronic receipts must be available to the driver for at least two years following the date the transportation network company provided the receipt to the driver. The electronic receipt must itemize the following information for each unique trip, or portion of a unique trip:

- (a) The total amount of passenger platform time;
- (b) The total mileage driven during passenger platform time;
- (c) The applicable rate(s) of pay including, but not limited to, the rate(s) per minute, rate(s) per mile, percentage of passenger fare, and any applicable ~~((price multiplier(s) or variable pricing policy in effect))~~ trip-based financial incentives, promotions, or bonuses paid to the driver that resulted directly from the specific trip, rather than any aggregated trip activity, including variable rates based on geographic location;
- (d) Any tip compensation paid by the passenger within 24 hours of the dispatched trip;
- (e) Gross payment;
- (f) Net payment after deductions, fees, tolls, surcharges, lease fees, or other charges;
- (g) Itemized deductions or fees, including any tolls, surcharges, commissions, lease fees, and other charges;
- (h) The applicable date and time frame for each trip and each portion of a trip; and
- (i) The passenger pick-up and passenger drop-off locations for each trip and each portion of a trip as described by the street, city, and state in which the passenger pick-up and passenger drop-off occurred; however, if the passenger is an unaccompanied minor, only the city and state need be disclosed.

(2) **Weekly trip notices.** At least once a week, a transportation network company must transmit to the driver a written notice, available in a communication system, that contains the following information for trips, or portions of trips, which occurred in the prior week:

- (a) The driver's total passenger platform time;
- (b) Total mileage driven by the driver during passenger platform time;
- (c) The driver's total tip compensation received from passengers within the prior week, itemized by the date of each dispatched trip or portion of a dispatched trip;

(d) The driver's gross payment, itemized by:

- (i) Rate(s) per minute;
- (ii) Rate(s) per mile; and
- (iii) Any other method used to calculate pay including, but not limited to, base pay, percentage of passenger fare, or any applicable (~~price multiplier(s) or variable pricing policy in effect for the trip~~) financial incentives, promotions, or bonuses paid to the driver related to any of the driver's activity on the platform, including variable rates based on geographic location;

(e) The driver's net payment after deductions, fees, tolls, surcharges, lease fees, or other charges;

(f) An itemization of deductions or fees, including all tolls, surcharges, commissions, lease fees, and other charges, from the driver's payment; and

(g) The total passenger platform time performed within the past 365 calendar days or the last 12 full calendar months immediately prior to the date the weekly notice is provided to the driver.

(3) **Aggregate data.** Beginning on July 1, 2026, a transportation network company shall make available to a driver a downloadable record containing the data from the driver's per-trip receipts for all trips in the reference period contained in this section. The record required by this section must be provided in a single aggregated, searchable, downloadable format, such as a comma separated values file or searchable PDF file. The reference period for the record required by this section must be the previous 24 months. The record required by this section must be made available for download within three business days from the date that the driver requests the record. The record required by this section must contain a table with rows for each unique trip and columns for each itemized element contained in each trip receipt. The record required by this section may contain additional information at the discretion of the transportation network company.

AMENDATORY SECTION (Amending WSR 24-15-118, filed 7/23/24, effective 8/23/24)

**WAC 296-128-99140 Paid sick time usage.** (1) A driver is entitled to use earned paid sick time for the following purposes authorized in RCW 49.46.210(5):

(a) An absence resulting from the driver's mental or physical illness, injury, or health condition; to accommodate the driver's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or a driver's need for preventive medical care;

(b) To allow the driver to provide care for an authorized family member under RCW 49.46.210 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;

(c) When the driver's child's school or place of care has been closed by order of a public official for any health-related reason or, beginning January 1, 2025, after the declaration of an emergency by a local or state government or agency, or by the federal government;

(d) For absences for which an employee would be entitled to leave under RCW 49.76.030;

(e) During an account deactivation or other status that prevents the driver from performing network services on the transportation network company's platform, unless the deactivation or status is due to a verified allegation of sexual assault or physical assault perpetrated by the driver; ((and))

(f) To allow the driver to prepare for, or participate in, any judicial or administrative immigration proceeding involving the driver or driver's family member; and

(g) A transportation company may provide more generous paid sick time policies or permit use of paid sick time for additional purposes or family members.

(2) After three consecutive days of account deactivation, a driver may request paid sick time for any portion of the deactivation period, unless the deactivation or status is due to a verified allegation of sexual assault or physical assault perpetrated by the driver.

(3) A driver is entitled to use accrued earned paid sick time upon recording 90 hours of passenger platform time on the transportation network company's driver platform. Transportation network companies may allow drivers to use accrued, unused paid sick time prior to recording 90 hours of passenger platform time.

(4) Upon recording 90 hours of passenger platform time on the transportation network company's driver platform, a transportation network company must make earned accrued paid sick time available for use to the driver.

(5) A driver is entitled to use earned paid sick time if the driver has recorded passenger platform time as a driver within 90 calendar days preceding the driver's request to use earned paid sick time.

(6) Earned paid sick time must be made available for use within a communication system for drivers.

(7) A transportation network company must allow drivers to use paid sick time in four-hour increments, not to exceed eight hours within one day. A transportation network company may allow paid sick time usage in shorter increments.

(8) A transportation network company must allow drivers to claim earned paid sick time through a communication system within a time frame during which a driver was eligible to use their earned paid sick time and projected absences, so long as the absence is for an authorized purpose under RCW 49.46.210.

(9) A driver may choose to use earned paid sick time simultaneously for multiple transportation network companies during the same time period for a purpose authorized under RCW 49.46.210.

**Chapter 296-135 WAC**  
**LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, ((OR)) STALK-**  
**ING, OR HATE CRIMES**

AMENDATORY SECTION (Amending WSR 10-14-099, filed 7/6/10, effective 9/1/10)

**WAC 296-135-001 Purpose.** The purpose of these rules is to administer and enforce the provisions of chapter 49.76 RCW, leave for victims of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes.

AMENDATORY SECTION (Amending WSR 10-14-099, filed 7/6/10, effective 9/1/10)

**WAC 296-135-010 Definitions.** (1) "Department" means the department of labor and industries.

(2) "Director" means the director of the department of labor and industries, or the director's designated representative.

(3) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation. See RCW 49.12.005.

(4) "Employee" means an employee who is employed in the business of the employee's employer, whether by way of manual labor or otherwise. See RCW 49.12.005.

(5) "Child" means a biological, adopted, or foster child, a step-child, a legal ward, or a child of a person standing in loco parentis who is:

(a) Under ~~((eighteen))~~ 18 years of age; or

(b) Eighteen years of age or older and incapable of self-care because of a mental or physical disability. See RCW 49.12.265(1).

(6) "Spouse" means a husband or wife, and individuals in state registered domestic partnerships. See RCW 49.12.265(6) and 1.12.080.

(7) "Parent" means a biological or adoptive parent of an employee or an individual who stood in loco parentis to an employee when the employee was a child. See RCW 49.12.265(3).

(8) "Parent-in-law" means a parent of the spouse or of a partner in a state registered domestic partnership of an employee. See RCW 49.12.265(4) and 1.12.080.

(9) "Grandparent" means a parent of a parent of an employee. See RCW 49.12.265(2).

(10) "Sick leave and other paid time off" means "sick leave or other paid time off." "Sick leave or other paid time off" means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for illness, vacation, and personal holiday. If paid time is not al-

lowed to an employee for illness, "sick leave or other paid time off" also means time allowed under the terms of an appropriate state law, collective bargaining agreement, or employer policy, as applicable, to an employee for disability under a plan, fund, program, or practice that is:

(a) Not covered by the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.; and

(b) Not established or maintained through the purchase of insurance. See RCW 49.12.265(5).

(11) "Dating relationship" means a social relationship of a romantic nature. Factors for consideration in making this determination include:

(a) The length of time the relationship has existed;

(b) The nature of the relationship; and

(c) The frequency of interaction between the parties. See RCW 26.50.010.

(12) "Family member" means any individual whose relationship to the employee can be classified as a child, spouse, partner in a state registered domestic partnership, parent, parent-in-law, grandparent, or person with whom the employee has a dating relationship. See RCW 49.76.020(5) and 1.12.080.

(13) "Intermittent leave" means leave taken in separate blocks of time due to a single qualifying reason. See RCW 49.78.020(9).

(14) "Reduced leave schedule" or "reduced work schedule" means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee. See RCW 49.78.020(15).

(15) "Domestic violence" means:

(a) Physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members;

(b) Sexual assault of one family or household member by another; or

(c) Stalking as defined in RCW 9A.46.110 of one family or household member by another family or household member. See RCW 26.50.010.

(16) "Sexual assault" means any sexual assault as defined in RCW 70.125.030.

(17) "Stalking" means stalking as defined in RCW 9A.46.110.

(18) "Victim" means a person against whom domestic violence, sexual assault, or stalking has been committed. See RCW 41.04.655(9).

(19) "Health care provider" means:

(a) A person licensed as a physician under chapter 18.71 RCW or an osteopathic physician and surgeon under chapter 18.57 RCW;

(b) A person licensed as an advanced registered nurse practitioner under chapter 18.79 RCW; or

(c) Any other person((7)) including, but not limited to, a licensed mental health counselor under chapter 18.225 RCW and a licensed dentist under chapter 18.32 RCW, determined by the director to be capable of providing health care services. See RCW 49.78.020(8).

(20) "Advocate for victims of domestic violence, sexual assault, or stalking" includes, but is not limited to:

(a) A sexual assault advocate under RCW 5.60.060 (7)(a); and

(b) A domestic violence advocate under RCW 5.60.060 (8)(a).

(21) "Filed" or to "file" means actual receipt of the document during office hours at the office of the director, or at such other place designated by the department for filing of the document.

(22) "Service," "served," or to "serve" means service under RCW 34.05.010(19).

(23) "Issue" or "issuance" means service under RCW 34.05.010(19).

(24) "Hate crime" means the commission, attempted commission, or alleged commission of an offense described in RCW 9A.36.080. "Hate crime" includes, but is not limited to, offenses that are committed through online or internet-based communication.

AMENDATORY SECTION (Amending WSR 10-14-099, filed 7/6/10, effective 9/1/10)

**WAC 296-135-020 Reasons for taking leave.** An employee may take leave under these rules to:

(1) Seek legal or law enforcement assistance or remedies to ensure the employee's or family member(s)' health and safety including, but not limited to, preparing for, or participating in, any civil or criminal legal proceeding related to or derived from domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes. "Related to or derived from" means any civil or criminal legal proceeding that is triggered, in whole or in part, by an act of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes against any employee or family member covered by these rules. Whether a legal proceeding is "related to or derived from" domestic violence, sexual assault, or hate crimes depends on the facts and must be reviewed on an individual basis.

((Note: ~~Whether a legal proceeding is "related to or derived from" domestic violence, sexual assault, or stalking depends on the facts and must be reviewed on an individual basis.~~))

(2) Seek treatment by a health care provider for physical or mental injuries caused by domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes.

(3) Attend to health care treatment for a victim who is the employee's family member.

(4) Obtain, or assist the employee's family member(s) in obtaining, services from:

(a) A domestic violence shelter; or

(b) A rape crisis center; or

(c) A social services program for relief from domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes.

(5) Obtain, or assist a family member in obtaining, mental health counseling related to an incident of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes in which the employee or the employee's family member was a victim of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes.

(6) Participate, for the employee's own self or for the employee's family member(s), in:

(a) Safety planning; or

(b) Temporary or permanent relocation; or

(c) Other actions to increase the safety from future incidents of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes.

AMENDATORY SECTION (Amending WSR 10-14-099, filed 7/6/10, effective 9/1/10)

**WAC 296-135-060 Advance notice and timing.** (1) **Advance notice for foreseeable leave.** As a condition of taking foreseeable leave, an employee shall give advance oral or written notice of the employee's intention to take leave under RCW 49.76.030 and these rules, subject to subsection (2) of this section.

(a) If the employer has a stated policy that requires advance notice for foreseeable leave then the employee shall follow that policy. A "stated policy" means a written policy communicated to the employee prior to the employee requesting leave under these rules.

(b) If the employer does not have a stated policy that requires advance notice for foreseeable leave under these rules by a certain time, then the employee must give advance notice as soon as practicable for the leave requested.

(2) **Exemption from advance notice for unforeseeable leave.** When an employee is unable to give advance notice to the employer because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes, the employee or ~~((his or her))~~ their designee must give oral or written notice to the employer no later than the end of the first day that the employee takes such leave.

AMENDATORY SECTION (Amending WSR 10-14-099, filed 7/6/10, effective 9/1/10)

**WAC 296-135-070 Verification.** (1) An employer may require an employee requesting leave to verify that:

(a) The employee or the employee's family member is a victim; and

(b) The leave taken was for one of the activities described in RCW 49.76.030 and WAC 296-135-020.

(2) Timing of verification:

(a) An employee must provide verification in a timely manner from when the employee receives the request for verification.

(b) When an employee is unable to give advance notice because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes, and the employer requires verification, an employee must provide verification to the employer within a reasonable time period during or after the leave.

(3) An employer cannot request that an employee submit a specific type of document to verify the need for leave under these rules. An employee may submit his or her choice of any of the following documents, or any combination thereof, to satisfy an employer's request for verification:

(a) A police report indicating that the employee or employee's family member was a victim; or

(b) A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, ~~((or))~~ stalking, or hate crimes; or

(c) Other evidence from the court or the prosecuting attorney showing that the employee or employee's family member appeared, or is scheduled to appear, in court in connection with ~~((an incident of))~~ a

case involving domestic violence, sexual assault, ((or)) stalking, or hate crimes; or

(d) Documentation that the employee or employee's family member is a victim 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, or hate crimes:

(i) An advocate for victims of domestic violence, sexual assault, ((or)) stalking, or hate crimes; or

(ii) An attorney; or

(iii) A member of the clergy; or

(iv) A medical or other professional, such as a social services provider, paralegal, realtor, or other professional determined by the director to be capable of assisting with a protected activity as described in RCW 49.76.030 and WAC 296-135-020; or

(e) An employee's written statement that the employee or family member is a victim and that the leave was taken for one of the activities described in RCW 49.76.030 and WAC 296-135-020.

(4) Verification of familial relationship. An employee may verify a victim is a family member by providing:

(a) A written statement from the employee;

(b) A birth certificate;

(c) A court document; or

(d) Other similar documents showing a familial relationship between the employee and the victim.