

300 PERSONNEL, continued

310 Other Leaves

The Board of Directors will provide for all employees other leaves of a personal nature.

300 PERSONNEL, continued

- 310 Other Leaves, continued
- R310.1 Bereavement Leave
- R310.1a Bereavement leave of up to three (3) days per occurrence may be taken by full-time employees due to loss of a member of the immediate family without loss in pay. "Immediate family" includes spouse, registered domestic partner, parent, parent-in-law, grandparent, brother, sister, child or grandchild of an employee.
- R310.1b Employees working less than full-time shall be allowed bereavement leave for up to three (3) days of regularly scheduled work hours per occurrence.
- R310.1c Employees, upon finding it necessary to be absent from their assigned duties by reason of death in the family, will notify their immediate supervisor at the earliest possible time prior to the time at which they normally report to work.
- R310.1d This leave is nonaccumulative.

R310.1 amended 8-24-2010

R310.1a amended 1-20-77; 3-29-88; 6-21-88

R310.1b adopted 1-20-77; amended 6-21-88; 3-26-91

R310.1b renumbered R310.1c 1-20-77

R310.1c renumbered R310.1d 1-20-77

R310.1d amended 1-23-79

300 PERSONNEL, continued

310 Other Leaves, continued

R310.2 Jury Duty

R310.2a Employees who may be called for jury duty shall be paid the difference between their regular pay and the amount received for serving on the jury.

R310.2b Any employee who performs jury duty shall retain travel reimbursement and per diem, if any, which may be awarded the employee for the performance of jury duty.

R310.2 Amended 1-23-79; renumbered R310.2a 1-22-81

R310.2b adopted 1-22-81; deleted 3-29-88

R310.2b adopted 3-26-91

300 PERSONNEL, continued

310 Other Leaves, continued

R310.3 Leave for Temporary Disability Due to Pregnancy or Childbirth

R310.3a Employees may use accumulated sick and/or vacation leave for the period of actual disability attributable to pregnancy or childbirth. If an employee has exhausted sick and vacation leave, then the ESD shall, upon request, grant the employee a leave of absence without pay or fringe benefits for the period of actual disability due to pregnancy or childbirth.

R310.3b The superintendent or his/her designee may require the employee to furnish a written document from a health care provider stating that the employee is actually disabled, that the disability is attributable to pregnancy or childbirth, and the anticipated duration of the disability.

300 PERSONNEL, continued

310 Other Leaves, continued

R310.4 Family And Medical Leave

Eligible employees are entitled to twelve (12) work weeks of family leave in a twelve-month period. The twelve-month period is the twelve months preceding the family leave.

Family and medical leave may be taken for:

- (1) the birth of a child and to care for the newborn child;
- (2) adoption or foster placement of a child in the employee's home, and to care for the newly placed child;
- (3) the care of a child, a spouse, or parent with a serious health condition; or
- (4) when the employee is unable to work because of a serious health condition.

R310.4a For the purpose of family and medical leave the following terms are defined:

"Eligible Employee" is anyone who was employed as a regular employee by the ESD for the preceding twelve (12) months and who has worked a minimum of 1250 hours during the year preceding the start of the leave.

"Parent" is the biological parent of an employee or an individual who acted in place of a parent(s) to an employee when the employee was a child.

"Child" is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person acting in place of a parent(s); who is under 18 years of age; or 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Spouse" is a husband or wife, as the case may be.

300 PERSONNEL, continued

310 Other Leaves, continued

R310.4 Family And Medical Leave, continued

R310.4a Continued

"Serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that involves either:

- 1) any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical-care facility; and any period of incapacity or subsequent treatment in connection with such inpatient care; or,
- 2) continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
  - a) a health condition (including treatment or recovery) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition, that also includes:
    - (i) treatment two or more times by or under the supervision of a health care provider; or,
    - (ii) one treatment by a health care provider with a continuing regimen of treatment; or,
  - b) pregnancy or prenatal care; or,
  - c) a chronic serious health condition which continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (i.e., asthma, diabetes). A visit to a health care provider is not necessary for each absence; or,
  - d) a permanent or long-term condition for which treatment may not be effective (i.e., Alzheimer's, a severe stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment; or,
  - e) any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (i.e., chemotherapy or radiation treatments).

300 PERSONNEL, continued

- 310 Other Leaves, continued
- R310.4 Family Leave, continued
- R310.4b Leave taken to care for a newborn or newly-adopted child must be completed within twelve (12) months after the birth or adoption.
- R310.4c Family leave may be taken in addition to any leave for sickness or temporary disability due to pregnancy or childbirth.
- R310.4d The employee is required to use total accumulated vacation and/or sick leave as defined in R309.1a prior to leave without pay being granted.
- R310.4e If husband and wife are employed by the ESD, they together will be entitled to a total of twelve (12) weeks of leave during any twelve- (12) month period for the birth, adoption, or foster care of a child and/or for care of a sick parent. Leave may be granted to only one spouse at a time.
- R310.4e1 A full 12 weeks of family leave are available to each spouse for his/her own serious health condition or for that of a child or the other spouse.
- R310.4f Continuation of Health Benefits
- While on family leave, employees are entitled to continue their health benefits on the same terms and conditions as active employees with the same benefits and employer contributions during the 12-week period.
- R310.4f1 Arrangements must be made with the Payroll Department prior to commencement of the leave for the employee to pay his/her share of the health insurance contribution while on family leave.
- R310.4f2 If the employee fails to return from leave, the employee may be required to reimburse ESD for all premiums paid during the unpaid portion of the leave.

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310 Other Leaves, continued

R310.4 Family Leave, continued

R310.4g Notice

Eligible employees are required to provide 30 days advance notice before foreseeable leave is scheduled to begin and such notice is practicable. If this isn't possible, employees must give notice as soon as is practicable. If leave is for planned medical treatment (of the employee or employee's family member), an employee must make a reasonable effort to schedule the treatment to minimize disruption of the ESD's business.

R310.4g1 The ESD may defer the start of family and medical leave until 30 days after receiving the request/notice if the leave was foreseeable and the employee did not provide the required thirty (30) days notice.

R310.4h Medical Certification

Eligible employees may be required to provide medical certification supporting the need for leave due to a serious health condition affecting the employee or an immediate family member; second or third medical opinions and period recertification; and periodic reports during family and medical leave regarding the employee's status and intent to return to work. Certification must be made by the employee's or the ill family member's health care provider. Certification must state:

- 1) When the serious health condition began;
- 2) how long it is expected to last;
- 3) medical facts surrounding the condition;
- 4) if leave is for a family member's serious health condition, that the employee is needed to care for the ill family member (and for how long);
- 5) if leave is for the employee's serious health condition, that the employee is unable to perform the functions of his/her job;

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310 Other Leaves, continued

R310.4 Family Leave, continued

R310.4h Medical Certification, continued

6) for intermittent or reduced hours leave for the employee's illness, that the leave is medically necessary and how long it is expected to last; and

7) for intermittent or reduced hours leave for a family member's illness, that the employee's leave is necessary to care for the ill family member or will help the family member's recovery. The schedule and duration of leave must be specified.

R310.4h1 If the ESD has reason to doubt the validity of the medical certification, it reserves the right to require a second medical opinion at ESD expense.

R310.4i Intermittent or Reduced Leave

Eligible employees can take leave for a family member's or their own serious health condition all at once, or if medically necessary, on an intermittent or reduced hours basis. Example: If the employee took four hours of leave, only four hours of the 12 weeks of leave entitlement would have been used. Offering intermittent or reduced hours leave for births and adoption is optional and must be agreed upon between both employee and the ESD.

R310.4j Employees returning from family leave are entitled to reinstatement to their former position or to a job with benefits, salary, and other employment conditions equivalent to those of the former position.

Nothing in this section shall be construed to entitle any employee to any right, benefit, or position of employment other than any right, benefit, or position to which the employee would have been entitled had the employee not taken the leave.

R310.4k Any leave desired or necessitated following the family leave will be considered under R308.1 and R310.6 as appropriate.

## **Amendments to R310.4**

R310.4 Maternity Leave removed 2-20-09

R310.4 Paternity Leave removed 2-20-90

R310.4 Family Leave adopted 2-20-90

R310.4 amended 2-24-98

R310.4 amended 8-24-93

R310.4 renumbered R310.3 6-21-88

R310.4a amended 9-26-95; 2-24-98

R310.4b amended 3-26-91

R310.4b4 amended 3-26-91

R310.4b5 amended 3-26-91

R310.4b6 amended 3-26-91

R310.4b6a amended 3-26-91

R310.4g amended 2-24-98

R310.4g1 amended 2-24-98

R310.4h amended 2-24-98

R310.4i amended 2-24-98

300 PERSONNEL, continued

310 Other Leaves, continued

310.5 Military Leave

R310.5a Definitions

Military –Applies to all types of military “uniformed services.” This includes the Armed Forces, the Army National Guard, and the Air National Guard, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in the case of a war or emergency (38USC section 4303(16),

Service- means the performance of duty on a voluntary or involuntary basis in a uniformed service that includes active duty, active duty for training, inactive duty training, full-time National Guard duty, and time an employee may be absent for a fitness-for-duty service exam.

R310.5b Eligibility

Employees, other than temporary, who enlist in the military will be granted leave for initial training, periodic training (weekend duty, summer camp, etc) and if called to active duty.

R310.5b1

Military leave without loss of pay is available for a maximum of fifteen (15) calendar days during each calendar year in order that the person may take part in active training duty in such manner and at such time as he/she may be ordered to active training duty. Additional military leave may be charged against vacation leave.  
RCW 38.40.060

R310.5b2

The cumulative period of military service while employed by the ESD must not exceed five years, with the exception of time served in the event of a war or national emergency.

R310.5b3

Employees, upon finding it necessary to be absent from their assigned duties for military active training, will notify their immediate supervisor at the earliest possible time prior to the time at which they normally report to work.

R310.5c

Reinstatement of Employment

Employees who are required to take leave for military duty will have the right to return to work within applicable laws.

R310.5c1

Employees returning from military leave qualify for re-employment rights if they meet the following criteria, have not served more than five years, have been honorably discharged, and notify the ESD in a timely manner as follows:

- 1) For periods of military service up to 30 consecutive days, the employee must report back to work on the first regularly scheduled work day following the completion of the period of service and safe transportation home, plus an 8-hour rest period.
- 2) For periods of military service of 31-180 days the employee is to submit an oral or written application for re-employment not later than 14 days after completion of the period of service.
- 3) For periods of military service of 181 days or more, the employee must submit application for re-employment not later than 90 days after completion of the period of service.

Employees returning from military leave have the right to continued employment for up to one year, except for termination for cause.

Employees returning from military leave retain seniority as if the employee had remained continuously employed.

#### R310.5c2

##### Re-employment Rights

- 1) Service of 1 to 90 days:  
The ESD must reinstate the veteran in the job s/he would have held had s/he remained continuously employed.
- 2) Service of 91 or more days:  
The ESD must reinstate the veteran in the job s/he would have held absent military leave or to a job with similar seniority, status and pay, as long as s/he is qualified to perform that job.

#### R310.5c3

##### Protection of Benefits

- 1) For periods of military service up to 30 days, the employee will pay the established contribution for health benefits.
- 2) For 31 days to 18 months of military service, the employee may retain coverage by paying the entire premium under COBRA continuation coverage provisions. After 18 months, the ESD is not required to continue to provide health insurance coverage. Health insurance coverage will immediately be reinstated upon the employee's return to work.

#### R310.5d

Employees who are required to take leave for military duty will have the right to work within applicable laws.

**Amendment to R310.5**

R310.5a amended 12-14-01

R310.5b amended 12-14-01

R310.5b1 adopted 12-14-01

R310.5b2 adopted 12-14-01

R310.5c amended 12-14-01

R310.5c1 adopted 12-14-01

R310.5c2 adopted 12-14-01

R310.5c3 adopted 12-14-01

R310.5d removed 2-22-05

R310.5e adopted 3-26-91

R310.5e renumbered R310.5d

300 PERSONNEL, continued

310 Other Leaves, continued

R310.6 Leaves of Absence

R310.6a Leaves of absence due to personal reasons will be handled on an individual basis. Normally, they will not be considered unless work load permits.

R310.6b These leaves will be without pay.

R310.6 renumbered R310.5 2-20-90

R310.6 renumbered R310.7 6-21-88

R310.6b amended and renumbered R310.5 6-21-88

R310.7 renumbered R310.6 6-21-88

R310.8 renumbered R310.7 6-21-88