

WAC 415-104-3203 Paid leave is LEOFF Plan I basic salary. Payments from an employer for authorized paid absences from work are basic salary.

(1) **Leave payments earned for services rendered:** Most LEOFF members earn a certain number of leave hours per month, such as sick leave. The leave hours are earned by rendering service during the month the leave was accumulated. The payment a member receives when he or she uses an earned leave day is a deferred salary or wage for services previously rendered. It is basic salary.

Example: Assume a member accrues eight hours sick leave per month. The accrued leave in the member's sick leave balance is earned for personal services rendered during a payroll period. When the member is absent from work and uses the sick leave, the sick leave payment is basic salary.

Leave payments earned for services rendered are basic salary only to the extent that they are equivalent to the basic salary a member would have earned had the member been working. The portion of any leave payment that exceeds that amount is not basic salary.

(2) **Leave payments not earned for services rendered:** If an employer authorizes a period of paid leave but does not require the use of leave previously earned for services rendered, the payment is not a salary or wage for services rendered. However, RCW 41.26.197 authorizes service credit for all periods of paid leave. Because the periods are creditable, the pay received is considered basic salary to the extent that it is equal to the basic salary the member would have earned had he or she been working. The portion of a leave payment that exceeds that amount is not basic salary.

Example: An officer is placed on administrative leave with pay pending an investigation. Although the officer is not rendering services, the period is creditable as an authorized paid leave period under RCW 41.26.197.

(3) **Payments upon reinstatement or in lieu of reinstatement are paid leave and therefore qualify as basic salary.** The payment will count as basic salary for the payroll periods when the person would have earned the payment had he or she been working.

(a) In order for a payment in lieu of reinstatement to qualify as paid leave the person's termination date must occur after the payroll period(s) when the payment would have been earned.

(b) Payments under WAC 391-45-410 are basic salary for the period(s) covered by the reinstatement.

(c) Payments upon reinstatement or in lieu of reinstatement are basic salary only to the extent that they equal the basic salary a member would have earned had the member been working.

(4) **Union leave.** Periods of authorized leave to serve as an elected official of a labor organization which meet the requirements of RCW 41.26.197 qualify for service credit. The salary payments provided by the employer subject to reimbursement from the union qualify as basic salary for LEOFF Plan I to the extent that the payments do not exceed the basic salary for the highest paid job class covered by the collective bargaining agreement negotiated between the labor organization and the employer. The portion of any payment identified as paid leave in excess of that amount is not basic salary.

[Statutory Authority: RCW 41.50.050 and 41.50.055. WSR 97-01-016, § 415-104-3203, filed 12/6/96, effective 1/6/97.]