

Two New Unpaid Employee Holidays

The information contained in this Operations Update is compiled from the MRSC *Insight* Article entitled [Two New \(Unpaid\) Holidays for Government Employees](#), posted on [April 23, 2014](#) by [Paul Sullivan](#).

New legislation passed this past legislative session that became effective June 2014 allows for two new unpaid holidays for local government employees.

Background:

Districts should be aware of new legislation that passed the legislature this year. On June 12, 2014, [Chapter 168, Laws of 2014](#), went into effect which entitles state and local government employees “to two unpaid holidays per calendar year for a reason of faith or conscience or an organized activity conducted under the auspices of a religious denomination, church, or religious organization.”

Procedure:

A local government employee may select the specific days to take as unpaid holidays under this new law after consulting with his or her employer and under guidelines adopted by local ordinance or resolution. The employer *must allow* the employee to take these specific days as unpaid leave *unless* his or her absence on these days would impose an undue hardship on the employer or the employee is necessary to maintain public safety. The definition of an “undue hardship” has been defined by a rule adopted by the state Office of Financial Management. See [WAC 82-56-020](#).

Definition of “Undue Hardship”:

“Undue hardship” means an action requiring significant difficulty or expense to the employer. The following factors should be considered in determining whether approving unpaid leave results in an undue hardship to the employer:

(1) *The number, composition, and structure of staff employed by the employing entity or in the requesting employee’s program.*

(2) *The financial resources of the employing entity or the requesting employee’s program.*

(3) *The number of employees requesting leave for each day subject to such a request.*

(4) *The financial impact on the employing entity or requesting employee’s program resulting from the employee’s absence and whether that impact is greater than a de minimus cost to the employer in relation to the size of the employing entity or requesting employee’s program.*

(5) *Impact on the employing entity, the requesting employee’s program or public safety.*

(6) *Type of operations of the employing entity or requesting employee’s program.*

(7) *Geographic location of the employee or geographic separation of the particular program to the operations of the employing entity.*

(8) *Nature of the employee’s work.*

(9) *Deprivation of another employee’s job preference or other benefit guaranteed by a bona fide seniority system or collective bargaining agreement.*

(10) *Any other impact on the employing entity’s operation or requesting employee’s program due to the employee’s absence.*

Holidays:

There are currently 10 legal state holidays (RCW [1.16.050](#)): New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the day immediately following, and Christmas Day. The statutory holidays include an additional holiday, a "floating holiday," selected by the employee after consulting with the employer. These statutory holidays are *paid* holidays for state and local government employees, although they can be modified for local government employees by collective bargaining agreement or by ordinance or resolution adopted by the legislative authority. In other words, a local government can vary from the statutory paid holidays as provided in RCW [1.16.050](#) by providing for more, fewer, or even no paid holidays for its employees.

Unlike the 10 *paid* state holidays and floating holiday that are optional for local governments (that apply unless opted out of), the two new *unpaid* holidays provided for in [SSB 5173](#) are *required* to be available for local government employees.

What Should You Do?

Districts should adopt a policy that addresses this new legislation. A sample policy can be found [here](#).

Further Information

For more information, please see MRSC publications ["Two New \(Unpaid\) Holidays for Government Employees"](#) and ["OFM Defines "Undue Hardship" for Newly-Required Unpaid Holidays"](#).

Questions:

Contact your WSCC Regional Manager.