

**Chapter 357-37 WAC
PERFORMANCE MANAGEMENT**

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WAC

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WAC 357-37-010 What is the purpose of an employee performance management process? An employee performance management process is part of a positive, performance-based culture. It fosters employee competence and productivity, supports achievement of organizational goals and objectives, and provides documentation of employee's strengths and areas in need of improvement.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-010, filed 12/21/04, effective 7/1/05.]

WAC 357-37-015 What is the employer's responsibility for an employee performance management process? Each employer must develop and implement an employee performance management process. Employers must develop a performance management policy that documents the key points of the process.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-015, filed 12/21/04, effective 7/1/05.]

WAC 357-37-020 What objectives must an employee performance management process satisfy? The employee performance management process must:

- (1) Explain the employee's responsibility for successfully performing assigned job duties and responsibilities;
- (2) Assess how well the employee has contributed to efficiency and effectiveness in fulfilling the objectives of the organization and the position; and
- (3) Recognize an employee's successful job performance and identify any necessary changes in job performance.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-020, filed 12/21/04, effective 7/1/05.]

WAC 357-37-025 What is the employee's responsibility within the performance management process? The employee has the responsibility to:

- (1) Request clarification of any job duty, standard, or expectation that is unclear;
- (2) Perform work as assigned and meet job standards and expectations;
- (3) Participate in the performance evaluation process; and
- (4) Communicate with supervisor and share successes and problems so the supervisor can better measure progress and provide assistance.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-025, filed 12/21/04, effective 7/1/05.]

WAC 357-37-030 When and how often must performance feedback be provided to an employee through the formal evaluation process? Employers must provide feedback and formally evaluate the performance of:

- (1) A probationary employee or a permanent employee serving a trial service period or transition review period before the employee attains permanent status in the position; and
- (2) A permanent employee on an annual basis.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-030, filed 12/21/04, effective 7/1/05.]

WAC 357-37-035 How should an employee be notified of unsatisfactory performance? A probationary or permanent employee whose work performance is determined to be unsatisfactory must be notified in writing of the deficiency(ies). Unless the deficiency is extreme, the employee must be given an opportunity to demonstrate improvement.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-035, filed 12/21/04, effective 7/1/05.]

WAC 357-37-040 What forms and procedures must employers use to plan for and evaluate employee performance? Employers must use standardized employee performance planning and evaluation procedures and forms developed by the director or alternate procedures and forms approved by the director.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-040, filed 12/21/04, effective 7/1/05.]

WAC 357-37-045 Can an employer supplement the standardized employee performance evaluation procedures and forms? Employers may supplement the standardized planning and evaluation forms and procedures with special performance factors and assessment approaches that are specific to organizational needs. Employers do not need approval to supplement the standardized forms or procedures.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-045, filed 12/21/04, effective 7/1/05.]

WAC 357-37-050 May an employer factor in employee performance when granting recognition leave and when making layoff decisions? An employer may factor in an employee's performance when granting recognition leave and when making layoff decisions if the employer has received performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-05-056, § 357-37-050, filed 2/12/16, effective 3/14/16; WSR 05-01-194, § 357-37-050, filed 12/21/04, effective 7/1/05.]

WAC 357-37-055 How does an employer receive performance management confirmation which enables them to factor in employee performance when granting recognition leave and when making layoff decisions? Employers may request performance management confirmation from the director. The director will use the elements listed in WAC 357-37-060 to assess and evaluate an employer's readiness to fairly and objectively factor in employee performance when granting recognition leave and when making layoff decisions. If the director determines that the employer has developed a performance management program that encompasses the necessary elements, the employer will be granted performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-05-056, § 357-37-055, filed 2/12/16, effective 3/14/16; WSR 05-01-194, § 357-37-055, filed 12/21/04, effective 7/1/05.]

WAC 357-37-060 What elements will the director evaluate to determine if an employer should be granted performance management confirmation? The director will evaluate the following elements to determine if an employer should receive performance management confirmation:

- (1) Executive commitment to a performance-based culture;
- (2) Present status of performance management in the organization;
- (3) Defined roles and responsibilities for implementing and sustaining a performance management system;
- (4) Policy and process for holding managers accountable for properly carrying out their roles and responsibilities in performance management;
- (5) Internal policies and procedures for a performance management system;
- (6) Strategy for communicating to employees regarding policies, procedures and timelines for performance management;
- (7) Performance management orientation and training for managers and supervisors;
- (8) Internal mechanisms for managing funding for performance-based recognition leave;
- (9) Implementation of a performance and development plan for all employees subject to performance factor decisions; and
- (10) Process for monitoring and measuring success.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-05-056, § 357-37-060, filed 2/12/16, effective 3/14/16; WSR 05-01-194, § 357-37-060, filed 12/21/04, effective 7/1/05.]

WAC 357-37-065 May employers develop employee recognition programs? Employers may develop employee recognition and reward programs, utilizing tools available in RCW 41.60.150 and chapter 357-28 WAC.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-065, filed 12/21/04, effective 7/1/05.]

WAC 357-37-070 What factors should employers consider in developing employee recognition programs? Employee recognition programs must be designed to recognize verifiable accomplishments. Programs may be linked to individual or group accomplishments as described in RCW 41.60.150 or to accomplishments that further the employer's mission, strategic goals or objectives.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-070, filed 12/21/04, effective 7/1/05.]

WAC 357-37-075 Can an employee request the employer to review the performance evaluation process or procedure used for the employee's evaluation? If the employer has developed an internal review procedure, an employee may request the employer to review alleged irregularities in the use of the approved performance evaluation form and/or procedures. Employees must be notified in writing of the results of the employer's review.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-01-194, § 357-37-075, filed 12/21/04, effective 7/1/05.]

WAC 357-37-080 Can an employee request the director to review the performance evaluation process or procedure used for the employee's evaluation? (1) As provided in WAC 357-49-010, and within thirty days of receipt of a completed and signed performance evaluation or the results of an employer review as provided in WAC 357-37-075, a WGS employee may request a director's review of alleged irregularities in the use of the approved performance evaluation form and/or procedures outlined in the civil service rules. The content of an evaluation is not subject to review.

(2) A WMS employee may request an internal agency review of alleged irregularities in the use of the approved performance evaluation form and/or procedures outlined in the civil service rules in accordance with the agency's WMS performance management procedures. The content of an evaluation is not subject to review.

[Statutory Authority: Chapter 41.06 RCW. WSR 06-15-070, § 357-37-080, filed 7/13/06, effective 8/14/06; WSR 05-01-194, § 357-37-080, filed 12/21/04, effective 7/1/05.]

WAC 357-37-200 Can an employer require an employee to submit to drug/alcohol testing? In addition to drug/alcohol testing required by state or federal law, an employer may require a specific employee to submit to drug/alcohol testing designed to identify the presence in

the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

- (1) The employer has a policy that:
 - (a) Complies with legal requirements;
 - (b) Establishes procedures under which the test may be conducted;
 - (c) Provides for the confidential treatment of drug and or alcohol test results as required by law or in an action or proceeding challenging any disciplinary action arising from the circumstances which led to the test; and
- (2) One of the following conditions apply:
 - (a) The employee is subject to testing because:
 - (i) The employer has specific, objective grounds to believe the employee's work performance is impaired due to the presence of such substances in the body; or
 - (ii) While on duty the employee is involved in an accident or incident as described by the employer's policy;
 - (b) The employer determines that employees in positions with any of the following responsibilities are subject to testing:
 - (i) Providing security on state property or ensuring public safety;
 - (ii) Administering or dispensing medication; or
 - (iii) Utilizing a firearm as called for in performance of job duties.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-096, § 357-37-200, filed 5/27/05, effective 7/1/05.]