

(3) "Board" means the board of natural resources, a policy setting board whose six members serve in an ex officio capacity. The duties of the board are described in RCW 43.30.150.

(4) "Department" means the department of natural resources which is:

(a) A regulatory agency with regard to geology activities on state and privately owned land, and outdoor burning on state and privately owned forest land,

(b) A proprietary land management agency for state owned land under the jurisdiction of the department,

(c) A service and information repository agency regarding surveys and maps of the state, farm forestry advice and general geology information,

(d) An agency that administers and enforces state forest protection laws and the forest practices regulations of the forest practices board and the department of ecology on state and privately owned forest land.

(5) "Commissioner" means the commissioner of public lands who is an elected official and serves as the administrator of the department. The commissioner, in accordance with RCW 43.30.170, has delegated to the supervisor of the department the direct supervision of the department activities.

(6) "Supervisor" means one or more supervisor(s) of natural resources.

[Statutory Authority: RCW 43.30.020, 43.30.170, 42.17.250, 34.05.220. 01-07-049 (Order 705), § 332-10-020, filed 3/16/01, effective 4/16/01. Statutory Authority: RCW 34.05.220, 34.05.230 and 42.17.250. 91-14-014 (Order 574), § 332-10-020, filed 6/24/91, effective 7/25/91; Order 262, § 332-10-020, filed 6/16/76.]

WAC 332-10-040 Operations and procedures of the department of natural resources. (1) The legal authority for the department's activities is provided principally by:

(a) The State Enabling Act, Section Nos. 10 through 19;

(b) The state Constitution, Article Nos. III, XV, XVI, XVII and Amendment No. 15;

(c) The Revised Code of Washington, Title Nos. 43, 46, 58, 70, 76, 78, 79 and 84;

(d) The Washington Administrative Code, Title Nos. 222 and 332.

(2) The commissioner and the board acting under their respective legal authorities determine policy for the department. The supervisor of the department:

(a) Provides direct supervision over the department's activities.

(b) Implements department policy through a line-functional staff comprised of several divisions and seven regional offices. The divisions develop operational programs and procedures within their respective specialties of resource management. These programs and procedures are carried out through the seven regional offices.

[Statutory Authority: RCW 43.30.020, 43.30.170, 42.17.250, 34.05.220. 01-07-049 (Order 705), § 332-10-040, filed 3/16/01, effective 4/16/01. Statutory Authority: RCW 34.05.220, 34.05.230 and 42.17.250. 91-14-014 (Order 574), § 332-10-040, filed 6/24/91, effective 7/25/91; Order 262, § 332-10-040, filed 6/16/76.]

Title 352 WAC PARKS AND RECREATION COMMISSION

Chapters

352-32

Public use of state park areas.

Chapter 352-32 WAC

PUBLIC USE OF STATE PARK AREAS

WAC

352-32-340

Approval of community-based park improvements—Policies.

WAC 352-32-340 Approval of community-based park improvements—Policies. The director, or the director's designee, shall approve or disapprove all permits for community-based park improvements. Specific policies concerning community-based park improvements are available upon request.

A community-based park improvement is a construction project, proposed to be accomplished by individuals, groups, churches, charities, organizations, agencies, clubs, or associations using donated labor and/or materials, that results in a permanent change to state park lands or structures, or that creates an additional structure on state park lands.

[Statutory Authority: RCW 79A.05.030, 79A.05.070, 79A.05.075, 79A.05.140, 79A.05.145, 79A.05.150, and 79A.05.155. 01-20-036, § 352-32-340, filed 9/26/01, effective 10/27/01.]

Title 356 WAC PERSONNEL, DEPARTMENT OF (GENERAL GOVERNMENT)

Chapters

356-06

General provisions.

356-10

Classification.

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Compensation plan.

356-15

Compensation plan appendix.

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356-30

Appointments—Separations.

356-34

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356-46

Miscellaneous.

356-49

Inter-system employment.

356-56

Washington management service.

Chapter 356-06 WAC

GENERAL PROVISIONS

WAC

356-06-045

Movement between Washington general service and Washington management service positions.

WAC 356-06-045 Movement between Washington general service and Washington management service positions. (1) Employees who have attained permanent status, or who have completed six months of the review period, in the Washington management service are eligible to compete under promotional recruitments for Washington general service positions.

(2) Permanent employees may transfer from the Washington management service to Washington general service positions if their salary is within the salary range of the Washington general service position. Transfers may require the employee to meet minimum qualifications and take the appropriate examination as determined by the director of personnel or designee.

(3) Permanent employees may transfer from Washington general service to Washington management service positions if their salary is within the salary level of the Washington management service position.

(4) Permanent employees may voluntarily demote between Washington management service and Washington general service positions at a lower pay than their current permanent position. Voluntary demotion to a Washington general service classification may require the employee to meet minimum qualifications and take the appropriate examination as determined by the director of personnel or designee.

(5) Permanent WMS employees may accept temporary employment in the general service as provided in WAC 356-30-067. Upon termination of such temporary appointment, the employee shall have the right to resume the same or similar permanent Washington management service position within their permanent agency, at their former status.

(6) Permanent WMS employees may accept project employment in the general service as provided in WAC 356-30-145. Upon reduction in force from the project, or at the request of the employee, the employee will have reduction in force rights of the permanent Washington management service position they left. Employees who entered the project through the competitive process and remain in project status for two years shall be eligible to have their names placed on the agency reduction in force register for the general service classes in which permanent project status was attained.

(7) During reduction in force, permanent Washington management service employees who also have permanent status in Washington general service will be afforded return rights as follows:

(a) Prior to considering Washington management service positions within the agency which have a lower salary, appointing authorities will consider Washington general service positions within the agency in the same occupational field with the same or similar salary for which the employee is qualified and has held permanent status.

(b) Washington management service employees who have no reduction in force options for the same or similar positions in the Washington management service will be afforded reduction in force rights to the highest Washington general service class held permanently.

[Statutory Authority: RCW 41.06.150. 01-07-055, § 356-06-045, filed 3/19/01, effective 5/1/01. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-04-011, § 356-06-045, filed 1/21/94, effective 3/1/94.]

Chapter 356-10 WAC CLASSIFICATION

WAC
356-10-040

Employee appointment status—Downward reallocation.

WAC 356-10-040 Employee appointment status—Downward reallocation. Employees in positions that are reallocated downward are affected as follows:

(1) The director of personnel shall notify the incumbent and the employing agency in writing at least thirty calendar days prior to the effective date of the reallocation. This action shall not preclude the employee from accepting a transfer or promotion to a vacant position.

(2) The employee may elect to remain in the reallocated position provided the employee meets the minimum or desirable qualifications for the new classification or acceptable qualifications as determined by the director of personnel or designee. No further qualifying examination will be required and the employee will retain existing appointment status.

(3) If the employee does not meet the qualifications for the new classification as provided in subsection (2) of this section and the employee is not transferred, promoted, demoted or otherwise retained in status within sixty days, the provisions governing reduction in force shall apply.

(4) An employee who remains in a position which is reallocated downward may have his or her name placed upon the agency reduction in force register for the classification to which the position was previously allocated.

(5) Employees who continue in positions which are reallocated downward shall be paid an amount equal to their previous salary if such amount is within the salary range for the lower class. Employees whose current salary falls between two steps or exceeds the top step of the range for the lower class shall be Y-rated.

(6) Employees shall retain their existing periodic increment date.

(7) Employees who retain their salary as provided in subsection (5) of this section will not be entitled to promotional salary increases if they are subsequently hired off the agency reduction in force register; however, if an employee's salary falls between the steps of the higher range, the salary will advance to the closest step for the class in the higher range upon promotion.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-10-040, filed 3/19/01, effective 5/1/01; 85-11-074 (Order 223), § 356-10-040, filed 5/22/85. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-10-040, filed 8/10/84. Statutory Authority: RCW 41.06.150. 83-24-002 (Order 193), § 356-10-040, filed 11/28/83; Order 109, § 356-10-040, filed 9/7/77; Order 90, § 356-10-040, filed 9/7/76, effective 10/8/76; Order 36, § 356-10-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-060.]

Chapter 356-14 WAC COMPENSATION PLAN

WAC
356-14-067
356-14-075
356-14-085
356-14-110
356-14-120

Salary—Classes requiring licensure as registered nurse.
Y-rate—Administration.
Salaries—Reduction in force register appointment.
Salary—Periodic increment dates—Original—Subsequent.
Periodic increment date—Promotion.

WAC 356-14-067 Salary—Classes requiring licensure as registered nurse. (1) Effective October 1, 1990 the salary of employees in classes requiring licensure as a registered nurse shall be governed by the "N" range salary schedule.

(2) An employee's total length of experience as a registered nurse (RN) and/or licensed practical nurse (LPN), calculated as follows, shall determine the placement of an employee on the proper step within an "N" range:

(a) RN experience shall be credited year for year.

(b) Up to ten years LPN experience shall be credited at the rate of two years LPN experience equals one year of RN experience, for a maximum credit of five years.

(3) For employees hired on or after October 1, 1990: Unless the prospective employing agency has authorized a higher entrance salary step, placement on the proper step within an "N" range shall be determined by the employee's total length of experience as an RN and/or LPN, calculated as shown in (2)(a) and (b) of this section.

(4) For employees hired prior to October 1, 1990:

(a) Placement on proper step:

(i) Except for employees described in (4)(a)(ii) of this section, effective October 1, 1990 employees will be placed on the proper step of the "N" range for their class based upon total length of experience as an RN and/or LPN, calculated as shown in (2)(a) and (b) of this section.

(ii) Employees who were hired above the entrance salary step and do not have the experience level now assigned that step in the new "N" range salary schedule will retain their current step in the "N" range.

(b) Treatment of periodic increment date (PID).

(i) The PID for employees placed within steps A-K shall be made in accordance with WAC 356-14-110. Advancement through these steps is made at the same intervals as through a standard range.

(ii) Once an employee advances beyond step K, a new PID must be calculated based on the length of total experience working in a position requiring licensure as a registered nurse. For example, an employee with 11 years and 6 months of nursing experience who is currently at step P would have a PID set so advancement to step Q would occur in 6 months, whereas an employee with 10 years and 3 months of experience would have a PID set in 21 months.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-14-067, filed 3/19/01, effective 5/1/01. Statutory Authority: RCW 41.06.040 and 41.06.150. 90-23-030 (Order 361), § 356-14-067, filed 11/14/90, effective 12/15/90.]

WAC 356-14-075 Y-rate—Administration. (1) A Y-rate is a dollar amount that is treated as the basic salary for an employee.

(2) A Y-rate is set by the director of personnel or other provisions of the merit system rules at an amount other than that which would be paid if such action were not taken.

(3) A Y-rate will remain in effect until one of the following occurs:

(a) A specific date established by the director of personnel is reached; or

(b) The employee voluntarily leaves the position occupied when the Y-rate was approved except for transfers due to reduction-in-force; or

(c) The range for the employee's present class is increased to include the Y-rate amount which formerly exceeded the top of the range. At that time, the employee's basic salary shall become the maximum step of the salary range for the class; or

(d) The range for the employee's present class is increased, but had already encompassed the employee's Y-rate, which was between normal steps. At that time, the employee's basic salary shall advance to the normal step of the range which provides the closest to, but not greater than, the increase in the range; or

(e) The employee's salary is reduced pursuant to WAC 356-34-020; or

(f) The Y-rate is subsequently modified by the director of personnel.

(4) A Y-rate will not cause the employee's periodic increment date to change.

(5) Salary increases approved by the legislature shall not move the basic salary of a Y-rated employee higher than the top step of the salary range assigned to that employee's classification, unless the salary appropriations act specifically provides for increases above the top step for Y-rated employees.

(6) The director of personnel shall keep records of all Y-rate approvals.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-14-075, filed 3/19/01, effective 5/1/01. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-12-087 (Order 420), § 356-14-075, filed 5/28/93, effective 7/1/93. Statutory Authority: RCW 41.06.150. 86-17-038 (Order 256), § 356-14-075, filed 8/15/86, effective 10/1/86; 85-09-030 (Order 221), § 356-14-075, filed 4/12/85; Order 109, § 356-14-075, filed 9/7/77; Order 96, § 356-14-075, filed 12/10/76, effective 1/12/77; Order 92, § 356-14-075, filed 10/5/76, effective 11/5/76.]

WAC 356-14-085 Salaries—Reduction in force register appointment. When an eligible is appointed from a certification off of a reduction in force register, his/her salary will be set as follows:

(1) If the employee was demoted due to a reduction in force action or the reallocation of a position downward, the salary will be the basic dollar amount the employee was being paid at the time he/she left the range to which he/she is being appointed, plus, whatever the periodic increases and the salary adjustments that would have been made had the employee remained in that classification and range. If the employee was separated from state service due to a reduction in force action, the separation will not be regarded as a break in service. An eligible still employed by the state will not be entitled to further increases in salary based on promotion as prescribed in WAC 356-14-140.

(2) Such increases above the basic dollar amount in (1) above shall not place the employee higher than the maximum salary for the range, except general salary increase specifically granted to Y rated employees.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-14-085, filed 3/19/01, effective 5/1/01; 83-06-005 (Order 180), § 356-14-085, filed 2/18/83. Statutory Authority: RCW 41.06.150(17). 81-11-032 (Order 154), § 356-14-085, filed 5/19/81; 81-01-054 (Order 150), § 356-14-085, filed 12/12/80.]

WAC 356-14-110 Salary—Periodic increment dates—Original—Subsequent. (1) The periodic increment date (PID) is the date on which an employee automatically advances to a higher dollar amount in the range to which the employee's position is classified; provided

(a) The employee's basic salary is not already at or above the maximum step of the assigned range, or

(b) The employee's standards of performance are such as to permit retention in a job status.

(2) The dollar amount of the increase will be two salary schedule increments; except

(a) The amount shall be one salary schedule increment when a two-increment increase will place the employee's basic salary above the maximum of the range of the employee's classification, or

(b) A fractional part of an increment amount shall be regarded as a full increment advance, when the employee's basic salary is between salary schedule steps immediately prior to the increase, or

(c) The dollar amount increase is stated otherwise in the compensation plan appendix or chapter 356-15 WAC.

(3) The periodic increment date for an employee is six continuous months from the date the employee began work, provided that:

(a) Any work period starting before the 16th of the month will count as a full month.

(b) Any work period starting after the 15th of the month will not be counted.

(4) An employee's periodic increment date shall be set and remain the same for any period of continuous service, except as provided in WAC 356-14-067.

(5) Employees hired at step K prior to May 1, 2001 who did not receive a periodic increment date shall have their periodic increment date set six months from the original hire date.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-14-110, filed 3/19/01, effective 5/1/01; 95-19-054, § 356-14-110, filed 9/15/95, effective 10/16/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 356-14-110, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 41.06.150. 85-19-078 (Order 230), § 356-14-110, filed 9/18/85. Statutory Authority: RCW 41.06.150, 41.06.169, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-14-110, filed 8/10/84. Statutory Authority: RCW 41.06.150(17). 79-10-064 (Order 133), § 356-14-110, filed 9/18/79; 78-06-017 (Order 120), § 356-14-110, filed 5/12/78; Order 109, § 356-14-110, filed 9/7/77; Order 36, § 356-14-110, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-134.]

WAC 356-14-120 Periodic increment date—Promotion. Employees who receive a salary increase through promotion shall retain their present periodic increment date.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-14-120, filed 3/19/01, effective 5/1/01; 85-19-078 (Order 230), § 356-14-120, filed 9/18/85. Statutory Authority: RCW 41.06.150, 41.06.169, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-14-120, filed 8/10/84. Statutory Authority: RCW 41.06.150(17). 79-10-064 (Order 133), § 356-14-120, filed 9/18/79; Order 109, § 356-14-120, filed 9/7/77; Order 36, § 356-14-120, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-135.]

Chapter 356-15 WAC COMPENSATION PLAN APPENDIX

WAC

356-15-061

356-15-125

356-15-140

Shift premium schedule.

Assignment pay provisions.

School year contracts for nonteaching staff.

WAC 356-15-061 Shift premium schedule. (1) The shift premium is 50¢ an hour for evening and night shifts, and is payable only under conditions described in WAC 356-15-060.

(2) Registered nurses 1-4 and related job classes requiring licensure as a registered nurse, licensed practical nurse 1-3, mental health licensed practical nurse 2-4, and psychiatric security nurse shall receive a \$1.50 an hour shift differential.

[Statutory Authority: RCW 41.06.150. 01-23-015, § 356-15-061, filed 11/8/01, effective 1/1/02. Statutory Authority: RCW 41.06.040 and 41.06.150. 91-20-028 (Order 382), § 356-15-061, filed 9/23/91, effective 10/24/91. Statutory Authority: RCW 41.06.150. 86-21-046 (Order 259), § 356-15-061, filed 10/10/86, effective 12/1/86; 85-14-008 (Order 224), § 356-15-061, filed 6/24/85.]

WAC 356-15-125 Assignment pay provisions. The board may grant additional pay to recognize assigned duties and/or conditions that exceed the ordinary. Hazards, equipment operations and other specialized skills are examples of areas for board consideration. Out of the ordinary conditions include being in a position which is experiencing recruitment and/or retention problems and is located in an area where the cost of living impacts the agency's ability to recruit and/or retain employees. Approved classes will have the letters "AP" appearing after their class title in the compensation plan.

Details of the affected classes or positions within a class, with the additional amount granted, will appear in the salary schedule section of the compensation plan.

[Statutory Authority: RCW 41.06.150. 01-08-005, § 356-15-125, filed 3/22/01, effective 5/1/01; 98-19-034, § 356-15-125, filed 9/10/98, effective 10/12/98. Statutory Authority: RCW 41.06.040 and 41.06.150. 92-20-024 (Order 409), § 356-15-125, filed 9/28/92, effective 11/1/92. Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-15-125, filed 7/16/87, effective 9/1/87. Statutory Authority: RCW 41.06.150(17). 81-23-031 (Order 163), § 356-15-125, filed 11/16/81.]

WAC 356-15-140 School year contracts for non-teaching staff. (1) The school for the deaf and the school for the blind may contract with full-time, permanent (as opposed to temporary), noncertificated staff to retain them in pay status only during the school year, to grant them leave without pay during the student-vacation periods, and to spread the school-year base salary earnings evenly over a 12-month period. For employees who so contract, the following rules shall apply:

(a) Twelve-month, prorated pay will be calculated by the following steps:

(i) The total annual salary for scheduled work during the school year will be calculated for each employee, beginning with the first day of employment, for the new school year.

This calculation will include:

(A) Scheduled holidays which will occur between the beginning and the end of the school year.

(B) Any increment increases which will occur while the employee is in pay status.

It will not include:

(C) Sick leave or annual leave, or holidays which occur after the close of the school year.

(D) Anticipated general increases; but these will be included in a recalculation when they occur. The recalculation will affect only the remaining time in the 12-month contract.

(ii) The total annual salary will be divided by 24 to obtain 24 equal payments for a 12-month period. These equal payments are referred to hereafter as the "prorated salary."

(iii) General increases, when granted during the school year, shall be accommodated by recalculation of the prorated salary as it will be affected forward from the effective date of the increase.

(b)(i) Annual leave, compensatory time, paid holidays, and sick leave taken during scheduled days of work will be treated as hours worked.

(ii) Annual leave and paid holidays taken in lieu of leave without pay during periods of school closure, such as Christmas vacation, spring vacation, and summer months, will be paid at the full (not prorated) hourly rate.

The "full hourly rate" is determined by dividing the total annual salary by the number of contract work days in that school year, and dividing that by eight hours.

(iii) For each hour of leave-without-pay taken during a scheduled work day, an hour of pay at the full (not prorated) hourly rate will be deducted from the prorated salary for that pay period.

(c) The "regular rate" for overtime work shall be calculated in the manner described in WAC 356-05-053, except that the "basic salary" and any other components of the "regular rate" shall be the "full hourly rate" (not 12-month prorated salary). Shift premium will not be prorated.

(d) Compensatory time may be credited and utilized as described in WAC 356-14-240. If accrued compensatory time is liquidated as provided in WAC 356-14-265, the liquidation rate shall be based on the full hourly rate (not the prorated salary).

(e) Vacation leave and an employee's personal holiday which is unused at the end of the school year may be paid as extended employment beyond the contract period. Each hour of accumulated vacation thus taken will be compensated at the full hourly rate (rather than the prorated salary level) in addition to the continuing 12-month prorated salary. It will be paid at the end of the pay period in which it is taken. Hours for which vacation time is paid will be considered as hours worked for the purpose of accruing additional vacation and sick leave.

(f) Accrued sick leave may not be used between school years or during periods of leave without pay, even though accrued vacation may be being utilized during that period. Accrued sick leave which can be converted to monetary compensation as provided in WAC 356-18-050(3) shall be compensated at the employee's current actual salary rate, rather than the prorated salary rate.

(g) An employee's movement within and among the pay ranges shall be based on the actual salary (not the prorated salary).

(h) A 12-month pay agreement as described in this section may be terminated at the request of the employee only if the agency determines that a bona fide hardship is being created by its continuation, or by termination of employment. Accrued (withheld) salary, vacation, and compensatory time under the 12-month agreement is immediately payable on termination of employment.

(i) Nothing in this section shall result in an employee receiving more compensation for the same work performed than would an employee who did not have such a 12-month contract.

(2) WAC 356-18-220 describes the effect of leave without pay on seniority for these employees.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-15-140, filed 3/19/01, effective 5/1/01; 89-07-056 (Order 315), § 356-15-140, filed 3/15/89, effective 5/1/89.]

Chapter 356-18 WAC LEAVE

WAC

356-18-140
356-18-220

Leave without pay.
Leave without pay—Effect on anniversary date, periodic increment date, and seniority.

WAC 356-18-140 Leave without pay. (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service. Leave without pay shall not affect an employee's periodic increment date.

(2) Leave without pay may be authorized for any reasons applicable to:

(a) Leave with pay.
(b) Educational leave.
(c) Military and U.S. Public Health Service and Peace Corps leave.

(d) Specific leaves granted for government service in the public interest upon specific request of an employee, concurred in by the appointing authority.

(e) Leave taken voluntarily to reduce the effect of an agency reduction in force. Such leave shall not affect an employee's seniority.

(f) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(3) Authorized leave without pay shall be limited to not more than 12 months in any consecutive five-year period, except for:

(a) Leaves without pay for military, U.S. Public Health Service or Peace Corps;

(b) Authorized government leave not exceeding two years;

(c) Employees receiving time loss compensation;

(d) Educational leaves under provisions of WAC 356-39-120;

(e) Leave for serious health condition for an eligible employee or the employee's spouse, child or parent and newborn, adoptive or foster child care under provisions of WAC 356-18-150 and 356-18-145;

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force under the provisions of WAC 356-30-335.

(g) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability (as defined in WAC 356-05-260).

(4) Leave without pay exceeding twelve months in a consecutive five-year period, not covered by the exceptions noted in subsection (3) of this section, shall be treated as unauthorized absence.

(5) Employees returning from authorized leave without pay shall be employed in the same position, or in another or similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to reduction in force.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-18-140, filed 3/19/01, effective 5/1/01. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 96-13-076, § 356-18-140, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 41.06.150. 95-19-098, § 356-18-140, filed 9/20/95, effective 11/1/95; 89-06-028 (Order 314), § 356-18-140, filed 2/24/89, effective 4/1/89; 87-02-038 (Order 267), § 356-18-140, filed 1/2/87; 85-11-074 (Order 223), § 356-18-140, filed 5/22/85; 84-23-059 (Order 211), § 356-18-140, filed 11/20/84. Statutory Authority: RCW 41.06.150(17). 81-20-060 (Order 161), § 356-18-140, filed 10/5/81; 79-10-064 (Order 133), § 356-18-140, filed 9/18/79; 78-10-070 (Order 123), § 356-18-140, filed 9/26/78; Order 99, § 356-18-140, filed 2/24/77; Order 69, § 356-18-140, filed 9/30/74; Order 63, § 356-18-140, filed 2/26/74; Order 46, § 356-18-140, filed 5/9/72; Order 36, § 356-18-140, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-130, 356-12-140 and 356-12-180.]

WAC 356-18-220 Leave without pay—Effect on anniversary date, periodic increment date, and seniority.

(1) Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date.

(2) When an employee is on leave without pay for more than fifteen consecutive days, the employee's anniversary date will not be affected when the absence is due to any of the following reasons:

- (a) Military or United States Public Health Service;
- (b) Government service and leave to enter the Peace Corps, not to exceed two years and one month;
- (c) Leave taken by employees receiving time loss compensation due to injuries sustained while performing the employee's state job;
- (d) Educational leave in accordance with the provisions of WAC 356-39-120;
- (e) Leave without pay taken voluntarily under the provisions of WAC 356-30-335 to reduce the effect of an agency reduction in force.

(3) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed in subsection (2) of this section, the employee's anniversary date shall be moved forward in an amount equal to the duration of the leave of absence.

(4) When an employee's position is assigned to a program or facility whose primary purpose is academic and/or vocational education, and the program or facility follows the customary public school practice of less than a twelve-month school year, the employing agency may place the employee on leave without pay while the program or facility is closed for customary school vacations without adjusting the employee's anniversary date.

(5) Leave without pay taken for any of the reasons listed in subsection (2) of this section shall not affect an employee's seniority.

(6) Employees [Employees] who are on leave without pay for any reason other than subsection (2) of this section, shall have their seniority date extended by the number of calendar days they are on leave without pay including any intervening nonworking days.

(7) Leave without pay shall not affect an employee's periodic increment date.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-18-220, filed 3/19/01, effective 5/1/01; 95-19-098, § 356-18-220, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 92-12-033 (Order 403), § 356-18-220, filed 5/28/92, effective 7/1/92. Statutory Authority: RCW 41.06.150. 89-16-030 (Order 327), § 356-18-220, filed 7/25/89, effective 9/1/89; 89-06-028 (Order 314), § 356-18-220, filed 2/24/89, effective 4/1/89; 87-02-038 (Order 267), § 356-18-220, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 81-20-060 (Order 161), § 356-18-220, filed 10/5/81; 78-10-070 (Order 123), § 356-18-220, filed 9/26/78; Order 36, § 356-18-220, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-200.]

Chapter 356-22 WAC RECRUITMENT—EXAMINATIONS

WAC

356-22-160
356-22-170

Examination ratings—Computation.
Repealed.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

356-22-170

Examination results—Notice requirements. [Statutory Authority: RCW 41.06.150(17). 78-06-017 (Order 120), § 356-22-170, filed 5/12/78; Order 36, § 356-22-170, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-210.] Repealed by 01-17-081, filed 8/16/01, effective 9/16/01. Statutory Authority: RCW 41.06.150.

WAC 356-22-160 Examination ratings—Computation. All applicants for the same register for a class shall be accorded uniform and equal treatment in all phases of the examination procedure. All scores shall be based on a uniform rating or scoring procedure. In establishing passing points, the director may take into consideration the number of candidates and anticipated openings within limits established by the relevant job standards. Each applicant shall be sent written notice of his/her final rating within a reasonable period after it is finalized.

[Statutory Authority: RCW 41.06.150. 01-17-081, § 356-22-160, filed 8/16/01, effective 9/16/01; Order 49, § 356-22-160, filed 8/17/72; Order 36, § 356-22-160, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-200.]

WAC 356-22-170 Repealed. See Disposition Table at beginning of this chapter.

Chapter 356-26 WAC REGISTERS—CERTIFICATION

WAC

356-26-030
356-26-040
356-26-140

Register designation.
Registers—Name removal for cause—Grounds enumerated—Requirements.
Background [inquiries] [checks]—Department of social and health services.

WAC 356-26-030 Register designation. (1) Agency reduction in force.

(a) Composition.

(i) The agency reduction in force register will consist of classes and the names of all employees who hold or have held permanent status in those classes and: (A) Have been notified they are scheduled for reduction in force; or (B) held permanent status prior to separation due to a reduction in force; or (C) who have accepted a voluntary demotion in a class in lieu of a reduction in force; or (D) were in a trial service period with another department and separated due to reduction in force; or (E) employees requesting to be placed on this register for classes held immediately prior to the position being reallocated downward; or (F) who were separated due to disability within the last year as provided in WAC 356-35-010 and who have submitted to the director of personnel a current statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established.

(ii) The employee's name shall appear for all classifications for which he/she is not disabled in which he/she held permanent status since the employee's last separation other than a reduction in force, or in which he/she served more than six months on a position which would have meant permanent status had it been under the jurisdiction of the board at the time.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for three years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas in which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(ii) An employee's name shall not appear for classes at or below the range level of a class in which the employee is serving on a permanent full-time basis, except:

(A) When the employee has accepted an option beyond a reasonable commuting distance in lieu of separation due to reduction in force. The employee's name may appear for classes at the same or lower range levels when the availability would return the employee back to his/her previous work location.

(B) When the employee has accepted a position in lieu of separation due to a reduction in force, in a different class series.

(C) Any other exceptions shall be approved by the director or designee.

(2) Service-wide reduction in force.

(a) Composition.

(i) This register will consist of the same names as the agency reduction in force register, except for those requesting to be on the agency reduction in force register following a reallocation downward.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Employees appointed from this register will assume the same status they held prior to the reduction in force. Persons on this register will indicate the geographic areas and departments for which they are available. Appointment of persons from this register to seasonal positions will be as provided in WAC 356-30-130.

(3) Dual-agency reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or a higher education institution were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to the agency from which promoted and the agency from which reverted. Employees appointed from this register will assume the status they held prior to promotion. Persons on this register will indicate the geographic area in which they are available.

(4) Agency promotional.

(a) Composition.

(i) This register will be established by appropriate classes for each agency and shall include the names of those current permanent employees of each agency who have served six months of a probationary period, or past permanent employees who have been separated due to reduction in force within the last year and who have received a passing final grade in the total promotional examination and are eligible to be certified. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final grade as required for other promotional applicants. The names of employees in the department of social and health services who have been separated from their position, voluntarily or involuntarily due to a background check disqualification, except through disciplinary action, shall also be included on this register in accordance with subsection (4)(d)(ii) of this section.

(b) Method of ranking.

(i) This register shall be ranked according to final score from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months.

(ii) An employee in the department of social and health services who has been separated from their position, voluntarily or involuntarily due to a background check disqualification, except through disciplinary action, may request placement on this register. The employee must meet the desirable qualifications and pass a qualifying exam for classes that are at the same salary level or lower than the position from which he/she was separated. Employees appointed from this register shall be required to serve a trial service period for classes in which they have not held permanent status. For three years from the date of separation from the position requiring the background check, an employee:

(A) May apply and have his/her name remain on this register for the appropriate classes.

(B) Shall continue to accrue seniority.

(C) Will maintain promotional rights from the position requiring the background check.

Upon appointment from this register the employee's name shall be removed from registers authorized by this subsection.

(5) Higher education reduction in force.

(a) Composition.

(i) This register shall contain the names of permanent employees ranked in order of seniority from higher education institutions or related boards laid off or scheduled for layoff and who have requested placement on this register. The employee's name shall appear for all classifications or equivalent classifications for which the employee held permanent status.

(b) Method of ranking.

(i) This register will be ranked according to seniority.

(c) Life of the register.

(i) An eligible's name will normally remain on this register for two years from the date of placement on the register.

(d) Special provisions.

(i) The employee must request placement on this register within thirty calendar days of the effective date of layoff or previously have requested placement on the inter-system employment register due to layoff. The employee may request placement on lower classes in the same class series or equivalent classes and must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination for classes in which the employee has held permanent status, or lower classes in the same class series, or equivalent classes. Employees appointed from this register shall be required to complete a trial service period of six months.

(6) Service-wide reversion.

(a) Composition.

(i) This register will contain the names of employees who while serving a trial service period in another agency or higher education institution were either voluntarily or involuntarily reverted to their former class and status.

(b) Method of ranking.

(i) This register will be ranked according to total unbroken classified service.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) This register refers to all agencies, except the two which are involved with the dual-agency transaction. Persons on this register will indicate the geographic areas and agencies for which they are available.

(7) Transfer.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request to be considered for transfer.

(b) Method of ranking.

(i) This register will be unranked.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) To use this register, the employee must transfer either within the same class or the same pay range having the same salary range number.

(8) Voluntary demotion.

(a) Composition.

(i) This register shall contain the names of all permanent employees who have submitted a request for and are eligible under the rules to be considered for a voluntary demotion.

(b) Method of ranking.

(i) This register shall be unranked. However, employees subject to reduction in force shall have priority.

(c) Life of register.

(i) An eligible's name shall normally remain on this register for one year.

(d) Special provisions.

(i) Employees appointed from this register to a class not previously held will serve a trial service period. All examination ratings for the class from which demoted shall be nullified; however, the employee may be elevated to the class from which demoted with permanent status without benefit of certification provided permanent status was achieved at the higher level.

(9) Service-wide promotional.

(a) Composition.

(i) This register shall contain the names of those permanent employees who have served six months of a probationary period or past permanent employees who have been separated due to reduction in force within the last year who have obtained a passing final grade in the total promotional examination. The names of past permanent employees who were separated due to disability within the last year as provided in WAC 356-35-010 shall also be included on this register provided that they submit to the director of personnel a statement from a physician or licensed mental health professional that they are physically and/or mentally able to perform the duties of the class for which the register is established and they have received a passing final score as required for other promotional applicants.

(b) Method of ranking.

(i) This register shall be ranked according to final score, from the highest to the lowest.

(c) Life of register.

(i) An eligible's name will normally remain on this register for an indefinite period unless replaced by a register established by the use of a substantially new examination.

(d) Special provisions.

(i) An employee may convert any current open competitive rating to this register after six months. Persons on this register will indicate the geographic areas and agencies for which they are available.

(10) **Reemployment.**

(a) Composition.

(i) This register shall contain the names of all past permanent employees who have submitted a request and an application for reemployment within five years from the date of separation, provided that the names of employees separated for cause while performing similar duties shall not be placed on this register except with the approval of the agency from which they were separated for cause. This register shall also contain the names of those employees who have been in reversion or reduction in force status and have been offered and declined employment. The director of personnel may extend the time during which an employee may apply for reemployment if the director of personnel has determined that a need for eligibles exists in a certain class and/or geographical area.

(b) Method of ranking.

(i) This register shall be unranked.

(c) Life of register.

(i) An eligible's name will normally remain on this register for two years.

(d) Special provisions.

(i) Persons reemployed from this register will serve a probationary period. The former employee may limit or enlarge upon his/her area of availability either by department or geographic area.

(11) **Inter-system employment.**

(a) Composition. This register shall contain the names of permanent classified employees at higher education institutions who have submitted an application and who have passed the required examination.

(b) Method of ranking. This register shall be ranked according to final passing score from the highest to the lowest.

(c) Life of register. An eligible's name will normally remain on this register for one year.

(d) Special provisions. Employees appointed from this register will serve a six month trial service period.

(12) **Open competitive.**

(a) Composition.

(i) This register will contain the names of all persons who have passed the entrance examination.

(b) Method of ranking.

(i) This register shall be ranked by the final score.

(c) Life of register.

(i) An eligible's name will normally remain on this register for one year unless changed by the director of personnel.

(d) Special provisions.

(i) Persons on this register will indicate the geographic areas for which they are available.

tive 10/12/98. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 94-10-008, § 356-26-030, filed 4/21/94, effective 5/31/94. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-12-088 (Order 421), § 356-26-030, filed 5/28/93, effective 7/1/93. Statutory Authority: RCW 41.06.150. 85-14-008 (Order 224), § 356-26-030, filed 6/24/85; 85-05-030 (Order 217), § 356-26-030, filed 2/15/85; 84-14-006 (Order 207), § 356-26-030, filed 6/22/84; 84-11-091 (Order 204), § 356-26-030, filed 5/23/84, effective 9/1/84; 83-01-115 (Order 179), § 356-26-030, filed 12/22/82. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-26-030, filed 9/22/82; 81-20-060 (Order 161), § 356-26-030, filed 10/5/81; 80-13-047 (Order 147), § 356-26-030, filed 9/16/80; Order 58, § 356-26-030, filed 9/10/73; Permanent and Emergency Order 50, § 356-26-030, filed 10/19/72; Order 40, § 356-26-030, filed 12/10/71; Order 36, § 356-26-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-330, 356-16-340, 356-16-350, 356-16-360, 356-16-370, 356-16-380, 356-16-390, 356-16-400.]

WAC 356-26-040 Registers—Name removal for cause—Grounds enumerated—Requirements. (1) The director of personnel or designee may remove the name of an eligible from a register and/or certification for any of the following reasons:

(a) For any of the causes stipulated in the chapter on appeals (WAC 356-34-010).

(b) On evidence that the eligible cannot be located by the postal authorities.

(c) On receipt of a statement from the eligible declining an appointment and/or future interest in positions in that class.

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived three offers of employment for a position in the class for which the register was established.

(e) If a candidate from a promotional or open competitive register has waived consideration three times for a position in the class for which the register was established.

(f) If an eligible fails to reply to a written inquiry as to availability after five days in addition to the time required to receive and return the inquiry.

(g) If an eligible accepts an appointment and fails to report for duty at the time and place specified without giving satisfactory reasons for the delay to the appointing authority.

(h) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of affected group members. If a candidate is removed from a register for this reason, that candidate is not eligible to reapply for that same job class for one year.

(i) If an open competitive eligible indicates availability in a specific geographic area and subsequently refuses referral or appointment to a position in that area.

(j) If the appointing authority reports that the eligible was offered employment but could not comply with the personal identification and work authorization requirements of the federal Immigration Reform and Control Act (I.R.C.A.).

(2) The director of personnel or designee shall notify the eligible of this action and the reasons therefore by mail to the last known address, except in those cases in subsection (1)(b)

[Statutory Authority: RCW 41.06.150. 01-19-032, § 356-26-030, filed 9/13/01, effective 10/14/01; 98-19-034, § 356-26-030, filed 9/10/98, effective 10/12/98.]

or (c) of this section. The director of personnel or designee will advise the eligible of the right to appeal.

(3) An eligible's name shall be reinstated on the register upon showing of cause satisfactory to the director of personnel or in accordance with the decision of the board upon appeal.

[Statutory Authority: RCW 41.06.150. 01-17-082, § 356-26-040, filed 8/16/01, effective 9/16/01; 00-10-026, § 356-26-040, filed 4/24/00, effective 6/1/00; 98-19-034, § 356-26-040, filed 9/10/98, effective 10/12/98. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-02-040 (Order 414), § 356-26-040, filed 1/5/93, effective 2/1/93; 91-13-041 (Order 375), § 356-26-040, filed 6/14/91, effective 8/1/91. Statutory Authority: RCW 41.06.150. 87-13-072 (Order 279), § 356-26-040, filed 6/17/87, effective 8/1/87; 87-02-038 (Order 267), § 356-26-040, filed 1/2/87; 85-21-113 (Order 237), § 356-26-040, filed 10/23/85, effective 12/1/85. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-26-040, filed 9/22/82; 81-13-030 (Order 157), § 356-26-040, filed 6/15/81; Order 87, § 356-26-040, filed 5/4/76, effective 6/5/76; Order 81, § 356-26-040, filed 8/21/75, effective 9/21/75; Order 76, § 356-26-040, filed 3/31/75; Order 36, § 356-26-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-410.]

WAC 356-26-140 Background [inquiries] [checks]—Department of social and health services. (1) The department of social and health services shall conduct background checks on employees in covered positions and persons under final consideration for a covered position in accordance WAC 356-30-012.

[Statutory Authority: RCW 41.06.150. 01-19-032, § 356-26-140, filed 9/13/01, effective 10/14/01. Statutory Authority: RCW 41.06.150 and chapters 43.43 and 72.23 RCW. 89-19-062 (Order 329), § 356-26-140, filed 9/20/89, effective 10/21/89. Statutory Authority: RCW 41.06.150. 87-06-024 (Order 271), § 356-26-140, filed 2/24/87.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 356-30 WAC

APPOINTMENTS—SEPARATIONS

WAC

356-30-012	Department of social and health services—Background check requirements.
356-30-260	Probationary period—Provisions—Status of employee.
356-30-305	Trial service period—Provision.
356-30-320	Trial service—Reversion—Status.
356-30-330	Reduction in force—Reasons, regulations—Procedure.
356-30-331	Reduction in force—Transition pool program.

WAC 356-30-012 Department of social and health services—Background check requirements. (1) The secretary of the department of social and health services shall conduct background checks on all employees in covered positions ("employees") and persons under final consideration for a covered position ("applicants"). A covered position is one in which a person will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. Employees and applicants shall authorize the secretary of the department of social and health services to conduct a background check.

(2) The requirement for background checks shall include the following:

(a) Any employee seeking a covered position because of a reduction in force, reallocation, transfer, promotion or demotion.

(b) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis under subsection (6)(b) of this section.

(3) A background check will be conducted on the final preferred candidate prior to appointment.

(4) The secretary of the department of social and health services shall use the results of a background check solely to determine the character, competence and suitability of a person for a covered position. The background check information shall consist of:

(a) Conviction records, pending charges, and disciplinary board final decisions.

(b) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decision;

(v) The nature and number of previous offenses;

(vi) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee or applicant will or may have unsupervised access; and

(vii) The relationship between the nature of the conviction, pending charge, or disciplinary board final decision and the duties of the employee or applicant.

(5) A permanent employee with a background check disqualification is subject to any of the following actions:

(a) Job restructuring;

(b) Job reassignment;

(c) Voluntary demotion;

(d) Voluntary resignation;

(e) Nondisciplinary separation. The employee shall be separated by the appointing authority after fifteen calendar days written notice unless the employee requests a shorter notice period;

(f) Disciplinary action for any of the causes listed in WAC 356-34-010; and/or

(g) Interim measures that may be used while the appointing authority explores the availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(i) Voluntary use of accrued vacation, exchange, and/or compensatory time.

(ii) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave.

(iii) Reassignment to another work location.

(h) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(6) The secretary of the department of social and health services shall:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check; and

(c) Develop policies and procedures pertaining to background checks.

(d) Notify employees of their promotional register rights when they have been separated from their position, either voluntarily or involuntarily due to a background disqualification.

(7) Failure to authorize the secretary of the department of social and health services to conduct a background check disqualifies an employee or applicant from consideration for any covered position including their current covered position.

(8) An applicant for a covered position who is denied employment due to a disqualifying background check may request a review by the appointing authority.

(a) Requests for review must be in writing and received by the appointing authority within fifteen calendar days of the postmark date of the notification.

(b) If the applicant disagrees with the appointing authority's decision, the applicant may request a review by the director of the department of personnel in accordance with WAC 356-34-090.

(9) A separation under subsection (5)(e) of this section shall not be considered a disciplinary action as set forth in WAC 356-34-010.

(10) Permanent employees may appeal to the personnel appeals board in accordance with RCW 41.06.170 and rules promulgated thereunder including WAC 358-20-010 and 358-20-020.

(11) Nothing in this rule shall limit the secretary of the department of social and health services' use of other authorities to conduct background checks.

(12) Information pertaining to background checks is confidential and shall be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee. Misuse of background check information is a criminal offense and may result in prosecution and/or disciplinary action as provided under WAC 356-34-010.

(13) The department of social and health services will submit a report to the board by January 31, 2002, reporting actions taken under subsection (5) of this rule and placement of employees into other positions within the agency.

[Statutory Authority: RCW 41.06.150, 01-19-032, § 356-30-012, filed 9/13/01, effective 10/14/01.]

WAC 356-30-260 Probationary period—Provisions—Status of employee. (1) Employees who receive appointments to permanent positions from the open competitive register and the reemployment register shall serve a probationary period of six to twelve months as determined by the board. Employees appointed from the open competitive or promotional register prior to competing their probationary period shall start a new probationary period, except as provided in WAC 356-30-280. The board shall designate a probationary period of six months for all positions in a class unless they determine that job requirements of the class require a longer period (up to twelve months) to provide adequate training and/or evaluation. The board shall apply the

following criteria for approving probationary periods of longer than six months:

(a) The work of the majority of the positions in the class is of such a nature that performance of the full range of duties cannot be properly evaluated within six months after an appointment.

or

(b) Work of the class is cyclical in nature and the workload cycle cannot be completed within six months after an appointment.

or

(c) Work is of such a nature that extended formalized training is required prior to the full assumption of duties.

All positions in a class shall have the same probationary period.

(2) All persons at time of appointment shall be notified in writing by the agency of the length of their probationary period. When the probationary period for a class is increased beyond six months, the increased probationary period shall apply only to persons appointed after the effective date of the change.

(3) The probationary period will provide the appointing authority with the opportunity to observe a new employee's work, to train and aid the new employee in adjustment to the position, and to terminate any employee whose work performance fails to meet the required standards.

(4) Employees who, during their probationary period, go on leave without pay or shared leave shall have their probationary period extended by the number of calendar days they are on leave without pay or shared leave including any intervening nonworking days.

(5) Employees shall have their probationary period extended by the number of calendar days in excess of 30 in which the employee is not at work including any intervening nonwork days if:

(a) Work is missed due to sick leave, vacation leave, military training leave, or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (5)(a) and (b) of this section which when added together exceeds 30 calendar days.

(6) Work missed during the probationary period due to holidays shall be counted as part of the required probationary period.

(7) When an employee accepts a temporary appointment to a higher class in the same series in the same work unit while serving in a probationary period, the probationary period shall continue for the lower class.

(8) Permanent appointment of a probationary employee shall be automatic unless the person is dismissed under provision of WAC 356-30-270.

(9) Veterans and their widows who have not remarried and are in probationary status will be granted seniority preference only within ranks of probationary employees and will

not be granted preference within the ranks of the permanent employees until they acquire permanent status.

[Statutory Authority: RCW 41.06.150. 01-23-014, § 356-30-260, filed 11/8/01, effective 1/1/02; 99-01-052, § 356-30-260, filed 12/10/98, effective 1/1/99; 98-19-034, § 356-30-260, filed 9/10/98, effective 10/12/98. Statutory Authority: RCW 41.06.040 and 41.06.150. 91-20-029 (Order 383), § 356-30-260, filed 9/23/91, effective 11/1/91; 91-07-055 (Order 371), § 356-30-260, filed 3/19/91, effective 5/1/91. Statutory Authority: RCW 41.06.150. 88-06-001 (Order 295), § 356-30-260, filed 2/19/88, effective 4/1/88. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-30-260, filed 9/22/82; Order 36, § 356-30-260, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-220.]

WAC 356-30-305 Trial service period—Provision.

(1) Permanent employees appointed from a voluntary demotion register to a class not previously held, a promotional register, or from the inter-system employment register shall serve a trial service period of six months. The trial service period will provide the appointing authority with the opportunity to observe the employee's work and to train and aid the employee in adjustment to the position, and to revert such an employee whose work performance fails to meet required standards. Reversions shall be under the provisions of WAC 356-30-320.

(2) Employees who during their trial service period go on leave without pay or shared leave shall have their trial service period extended by the number of calendar days they are on leave without pay or shared leave, including any intervening nonworking days.

(3) Employees shall have their trial service period extended by the number of calendar days in excess of 30 in which the employee is not at work, including any intervening nonwork days, if:

(a) Work is missed due to sick leave, vacation leave, military training leave, or miscellaneous leave; or

(b) Work is missed by employees of the departments of social and health services, corrections or veterans affairs due to an assault that occurred on the job and who are receiving compensation in an amount equal to full pay, as provided in chapters 72.01 and 72.09 RCW; or

(c) Work is missed due to any combination of leave identified in (3)(a) and (b) of this section which when added together exceed 30 calendar days.

(4) Work missed during the trial service period due to holidays shall be counted as part of the required trial service period.

(5) When an employee accepts a temporary appointment to a higher class in the same series in the same work unit while serving in a trial service period, the trial service period shall continue for the lower class.

(6) When an employee is appointed to a higher class while serving in a trial service period, the trial service period for the lower class and the new trial service period for the higher class shall overlap provided that the higher and lower classes are in the same or a closely related field. The employee shall complete the terms of the original trial service period and be given permanent status in the lower class. Such employees will also be granted the rights normally accruing to trial service for the remainder of the trial service period in the higher class.

[Statutory Authority: RCW 41.06.150. 01-23-014, § 356-30-305, filed 11/8/01, effective 1/1/02; 99-01-052, § 356-30-305, filed 12/10/98, effective

1/1/99. Statutory Authority: RCW 41.06.040 and 41.06.150. 91-20-029 (Order 383), § 356-30-305, filed 9/23/91, effective 11/1/91; 91-07-055 (Order 371), § 356-30-305, filed 3/19/91, effective 5/1/91. Statutory Authority: RCW 41.06.150. 88-06-001 (Order 295), § 356-30-305, filed 2/19/88, effective 4/1/88; 84-11-091 (Order 204), § 356-30-305, filed 5/23/84, effective 9/1/84. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-30-305, filed 9/22/82.]

WAC 356-30-320 Trial service—Reversion—Status.

(1) Employees who were appointed from a voluntary demotion register to a class not previously held or from a promotional register within the same agency and fail to satisfactorily complete the trial service period shall automatically revert to a position in the former classification.

(2) Permanent Washington management employees who were appointed from a voluntary demotion register to a class not previously held or from a promotional register within the same agency and fail to satisfactorily complete the trial service period shall automatically revert to a position in the former Washington management service band for which the employee has the required job skills, and that is at the same salary standard and/or same evaluation points.

(3) Employees who were appointed from a voluntary demotion register to a class not previously held or from a promotional register into another agency and who fail to satisfactorily complete the trial service period shall be given fifteen calendar days' written notice and placed on the dual-agency reversion register and the service-wide reversion register for their former class. If an employee waives consideration three times for a position in the class for which the register was established, the employee's name will be removed from the reversion register. The employee may then request his/her name be placed on the reemployment register.

(4) Permanent Washington management service employees who were appointed from a voluntary demotion register to a class not previously held or from of promotional register into another agency and who fail to satisfactorily complete the trial service period shall be given fifteen calendar days' written notice and may request placement in the reduction in force transition pool for positions in which they qualify.

(5) Employees who are reverted do not have the right of appeal.

(6) Former permanent employees who have promoted, demoted, or transferred to a position at a higher education institution in accordance with provisions of Title 251 WAC and fail to complete the trial service period may request their names be placed on the dual-agency reversion register and service-wide reversion register for the former class.

(7) Former permanent Washington management service employees who have moved to a classified position at a higher education institution in accordance with provisions of Title 251 WAC and fail to complete the trial service period may request their names be placed in the reduction in force transition pool.

(8) Employees who are reemployed from the service-wide reversion registers shall enter a trial service period. Employees reverted during this period may request their names be placed on the register from which they came.

(9) Employees who voluntarily revert to their former class may request the director of personnel to reactivate their

promotional score for the class from which reverted. Employees involuntarily reverted to a former class shall have all examination grades nullified for the class from which they are reverted.

(10) Washington management service employees who promote into Washington general service then voluntarily revert from their trial service period back to a Washington management service position, or request placement in the reduction in force transition pool, may request the director of personnel to reactivate their promotional score for the Washington general service class from which they reverted. Employees involuntarily reverted shall have all examination grades nullified for the class from which they are reverted.

[Statutory Authority: RCW 41.06.150. 01-07-055, § 356-30-320, filed 3/19/01, effective 5/1/01; 98-19-034, § 356-30-320, filed 9/10/98, effective 10/12/98. Statutory Authority: RCW 41.06.040 and 41.06.150. 91-13-042 and 91-21-080 (Orders 376 and 376A), § 356-30-320, filed 6/14/91 and 10/18/91, effective 8/1/91 and 11/18/91; 90-05-028 (Order 339), § 356-30-320, filed 2/13/90, effective 4/1/90. Statutory Authority: RCW 41.06.150. 84-11-091 (Order 204), § 356-30-320, filed 5/23/84, effective 9/1/84. Statutory Authority: RCW 41.06.150(17). 80-13-047 (Order 147), § 356-30-320, filed 9/16/80; Order 43, § 356-30-320, filed 3/17/72; Order 36, § 356-30-320, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-260.]

WAC 356-30-330 Reduction in force—Reasons, regulations—Procedure. (1) Employees may be separated in accordance with the statutes and the agencies' approved reduction in force procedures after at least fifteen calendar days' notice in writing, without prejudice, because of lack of funds or curtailment of work, or good faith reorganization for efficiency purposes, ineligibility to continue in a position which has been reallocated, or when there are fewer positions than there are employees entitled to such positions either by statute or within other provisions of merit system rules.

(2) When employees have statutory and merit system rule rights to return to the classified service, such employees first shall be returned to the classification selected. If such return causes the total number of employees to exceed the number of positions to be filled in the classification, the least senior person in the position shall have the reduction in force rights prescribed in this section.

(3) The agencies shall develop a reduction in force procedure that is consistent with the following:

(a) For purposes of reduction in force (WAC 356-30-330), seniority shall be determined by the definition in WAC 356-05-390. Ties in seniority will be broken by first measuring the employees' last continuous time within their current classification; if the tie still exists, by measuring the employees' last continuous time in their current agency; and if the tie still exists, by lot.

(b) Clearly defined layoff units, either geographically or by administrative units or both, so as to limit the disruption of an agency's total operation; but not to unduly restrict the options available to employees with greater seniority. The definition of layoff units may be a series of progressively larger units within an agency when a valid option in lieu of separation cannot be offered to respective employees within a lesser-sized unit. Employment projects, established under the provisions of WAC 356-30-145, Project employment, are distinct layoff units, separate and exclusive of any other defined layoff unit or employment project. Seasonal career

layoff units, established under the provisions of WAC 356-30-130, Seasonal career employment, are distinct layoff units, separate and exclusive of any other defined layoff unit.

(c) Options in lieu of separation by reduction in force shall be offered by an agency only when such options are in accordance with the agency's reduction in force procedure which has been approved by the director of personnel.

(d) Agency reduction in force procedures shall specify the rights and obligations for employees to accept or reject options offered in lieu of separation due to reduction in force.

(e) "Bumping" by employees with greater seniority will be limited to:

(i) The same layoff unit; and

(ii) Classification in which the "bumping" employee previously held permanent status; and

(iii) Position at the current salary range of the employee doing the bumping, or lower; and

(iv) Employee with the least seniority within the same category of full-time or part-time employment; and

(v) Competition at one progressively lower classification at a time.

(f) An employee may not exercise a bumping option in lieu of separation due to a reduction in force if there is within the agency a vacant position which satisfies all of the criteria set forth below.

The position is one which:

(i) The agency intends to fill;

(ii) Is in the current classification of the employee being offered the option, or in a classification within which the employee being offered the option previously held permanent status;

(iii) Is at a salary range no lower than the range that would have otherwise been a bumping option;

(iv) Is located within a reasonable commuting distance of the employee's permanent work location; and

(v) Is on the same or similar workshift as the one which the employee currently holds.

(g) When an employee has previously held permanent status in more than one classification at the same salary range and is eligible to bump, then the employee shall be offered the option to bump into the position occupied by the employee with the least seniority.

(h) The right to actually "bump" shall be exercised only after the employee to be "bumped" has received at least fifteen calendar days' notice of the scheduled action.

(i) Options of full-time positions will be offered first to full-time employees before part-time positions are offered. For the purpose of these offers, employees who previously accepted part-time positions due to a reduction in force action or to lessen the impact of a reduction in force shall be considered full-time employees.

(j) Seniority for part-time employees will be computed on a basic payroll hour basis within the same provision and restrictions of the general definition of seniority. When part-time employees become full-time employees, their payroll hours will be integrated on a comparable time basis as full-time employees.

(k) Permanent employees who have been scheduled for reduction in force shall have the right to take a transfer or a voluntary demotion to a vacancy that is to be filled in their

own layoff unit for which they qualify, as determined by the director of personnel. This right is to be exercised according to the seniority of those desiring the same vacancy.

(l) Options of other than permanent positions as named in (m) of this subsection are to be made if no permanent position to be filled is available within a reasonable commuting distance.

(m) The reduction in force procedure shall contain the statement that, "No permanent employee shall be separated from state service through reduction in force without being offered within fifteen calendar days prior to what would be the permanent employee's effective separation those positions at the same or lesser salary range within the layoff unit for which he/she qualifies, currently being held by emergency, temporary, probationary, or intermittent employees."

(n) The salary of an employee who has accepted a lower position will be reduced to the top of the range of the lower class unless the previous salary is within the range of the new class, in which case it will remain unchanged.

(4) The agency shall submit the procedure to the director of personnel for approval.

(5) Vacancies will not be filled either by local list procedures or on a temporary, intermittent, or seasonal basis without contacting the department of personnel in an effort to fill the positions by qualified employees who have been or are scheduled for separation due to reduction in force.

(6) When a majority of the positions in a layoff unit other than in project employment is to be eliminated because of a lack of funds and/or work, permanent employees in such positions shall be offered, according to their seniority, those positions in classes in which they have held permanent status which are currently being held by emergency, temporary, or probationary employees; provided they have not rejected offers of vacant positions made by certifications from the registers. Such options shall be offered in accordance with the following requirements:

(a) Positions in the employee's own agency and within a reasonable commuting distance shall be offered first; second, in the classified service within a reasonable commuting distance; third, anywhere within the employee's own agency; and fourth, throughout the classified service.

(b) A permanent employee's right to fill a position may be exercised only within fifteen calendar days prior to the effective date of separation.

(c) Offers will be made in accordance with a procedure established by the director of personnel.

(7) In order to exercise an option to a position which may require selective criteria, the following applies. The option may be exercised only by an employee who possesses the required specialized qualifications when:

(a) The criteria were approved when the position was established, reallocated or last filled; or

(b) The specialized qualifications were previously required for a classification that was later merged with other classifications that did not require them; or

(c) When, at a subsequent time, it was determined that the position requires the performance of specialized duties that would warrant future selective certification.

(d) In the case of (c) of this subsection, the selective criteria shall not be applied for the purposes of determining

reduction in force options until six months after the notification of the new duties has been made to the department of personnel.

(e) In the case of (a), (b) and (c) of this subsection, the director of personnel or designee must have determined that the specialized qualifications are still essential for the successful job performance and the qualifications could not be learned within a reasonable length of time.

(8) Options to positions which are covered by WAC 356-30-012 may be exercised only by employees who, at the time they are notified they are scheduled for reduction in force, have authorized a background check as provided for in WAC 356-30-012 and are not disqualified for the available option as a result of the background check.

[Statutory Authority: RCW 41.06.150. 01-19-032, § 356-30-330, filed 9/13/01, effective 10/14/01; 96-02-073, § 356-30-330, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 41.06.040 and 41.06.150. 92-20-026 and 92-22-042 (Orders 411 and 411A), § 356-30-330, filed 9/28/92 and 10/27/92, effective 11/1/92 and 11/27/92; 91-23-106 (Order 394), § 356-30-330, filed 11/20/91, effective 12/21/91. Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-30-330, filed 9/7/88, effective 11/1/88; 87-06-024 (Order 271), § 356-30-330, filed 2/24/87; 85-19-080 (Order 232), § 356-30-330, filed 9/18/85; 85-09-030 (Order 221), § 356-30-330, filed 4/12/85. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-30-330, filed 8/10/84. Statutory Authority: RCW 41.06.150. 83-24-002 (Order 193), § 356-30-330, filed 11/28/83; 83-13-091 (Order 186), § 356-30-330, filed 6/17/83; 83-08-010 (Order 181), § 356-30-330, filed 3/25/83; 83-01-115 (Order 179), § 356-30-330, filed 12/22/82. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-30-330, filed 9/22/82; 81-20-060 (Order 161), § 356-30-330, filed 10/5/81; Order 112, § 356-30-330, filed 11/7/77; Order 63, § 356-30-330, filed 2/26/74; Order 58, § 356-30-330, filed 9/10/73; Order 36, § 356-30-330, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-400.]

WAC 356-30-331 Reduction in force—Transition pool program. The department of personnel is responsible for administering the reduction in force transition pool program. The director shall develop and implement appropriate operating procedures to facilitate this program.

(1) To administer the program, the director or designee may waive provisions of Title 356 WAC that:

(a) Require employees seeking transfer and voluntary demotion in lieu of reduction in force to meet approved minimum qualifications;

(b) Authorize only the director to waive minimum qualifications; [and] and

(c) Allow qualifying examinations for transfers or voluntary demotions; [and][.].

(2) The program applies to:

(a) All permanent employees separated by reduction in force or notified by the agency personnel representative that they are at risk of reduction in force; and

(b) Return to work employees in those agencies that are participating in the return to work initiative program.

(c) Permanent Washington management service employees who were appointed from a voluntary demotion register to a Washington general service class not previously held or from a promotional register into another agency and who are either voluntarily or involuntarily reverted during their trial service period.

(3) Agencies, including those agencies with local list authority, shall adhere to the operating procedures established by the director.

(4) Employees participating in the reduction in force transition pool program shall have no right of appeal within this program.

[Statutory Authority: RCW 41.06.150. 01-11-113, § 356-30-331, filed 5/22/01, effective 7/1/01; 01-07-055, § 356-30-331, filed 3/19/01, effective 5/1/01; 00-11-122, § 356-30-331, filed 5/22/00, effective 7/1/00. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 93-16-022, § 356-30-331, filed 7/23/93, effective 8/23/93.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

Chapter 356-34 WAC

DISCIPLINARY ACTIONS—APPEALS

WAC

356-34-090 Protests—Requirements for applicants, examinees, and eligibles.

WAC 356-34-090 Protests—Requirements for applicants, examinees, and eligibles. (1) An applicant whose application has been rejected; an examinee who feels that the examination is unfair, or not applied uniformly, or that the score is in error or not uniformly derived; an eligible whose name has been removed from the register and/or certification; or an applicant who is not appointed following a background check and review conducted pursuant to WAC 356-30-012 may request a review by the director of personnel or designee. The request must be in writing and received at the director of personnel's office within twenty calendar days following the postmarked date of the notification of the application rejection, examination score, removal from a register and/or certification, or the appointing authority's decision.

(2) The director of personnel or designee shall notify the party requesting a review of the date and place of the review at least ten calendar days prior to the review. The review shall be informal and conducted by the director of personnel or designee. The director of personnel or designee may limit attendance of other interested parties if good order, justice, and fairness will be promoted. Within ten calendar days following the review and the receipt of any additional necessary information, the director of personnel or designee shall issue a written determination and send a copy to each of the participating parties.

(3) An adversely affected party may request a hearing of the board to review the determination of the director of personnel or designee. The request for a board hearing must be in writing and received at the director of personnel's office within twenty calendar days following the postmarked date of the notification of the director's or designee's determination. A hearing before the board shall be scheduled and each party shall be afforded not less than ten calendar days' notice. The board will issue a written decision which will be final.

[Statutory Authority: RCW 41.06.150. 01-19-032, § 356-34-090, filed 9/13/01, effective 10/14/01; 98-19-034, § 356-34-090, filed 9/10/98, effective 10/12/98. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-02-040 (Order 414), § 356-34-090, filed 1/5/93, effective 2/1/93. Statutory Authority: RCW 41.06.150. 87-13-040 (Order 278), § 356-34-090, filed

6/15/87, effective 8/1/87; 87-06-024 (Order 271), § 356-34-090, filed 2/24/87; 86-08-035 (Order 244), § 356-34-090, filed 3/26/86, effective 5/1/86; Order 87, § 356-34-090, filed 5/4/76, effective 6/5/76; Order 81, § 356-34-090, filed 8/21/75, effective 9/21/75; Permanent and Emergency Order 50, § 356-34-090, filed 10/19/72; Order 36, § 356-34-090, filed 7/1/71, effective 8/1/71. Formerly WAC 356-28-020.]

Chapter 356-46 WAC

MISCELLANEOUS

WAC

356-46-150 Return to work initiative program.

WAC 356-46-150 Return to work initiative program. The department of personnel is responsible for administering the return to work initiative program. The director shall develop and implement appropriate operating procedures to facilitate this program.

(1) The program applies to permanent employees who have been disability separated or who are at risk of disability separation due to an accepted industrial injury condition, and meet the following criteria for participation in the program:

(a) The employee must be employed by an agency participating in the program; and

(b) The agency must approve the participation of the employee to be in the program; and

(c) The employee must be permanently unable to return to the job of injury due to the effects of the industrial injury; however, the employee must be capable of return to some form of gainful employment; and

(d) the employee must have an open industrial insurance claim for which the employee is receiving current time loss compensation benefits; and

(e) The department of personnel must be able to secure authorization from the department of labor and industries to bill for return to work services against the industrial insurance claim.

(2) Permanent employees participating in the program may request placement on the reduction in force transition pool list to fill funded vacant positions for which there are no available candidates on reduction in force registers.

(3) Agencies, including those agencies with local list authority, who participate in the program shall adhere to the operating procedures established by the director.

[Statutory Authority: RCW 41.06.150. 01-11-113, § 356-46-150, filed 5/22/01, effective 7/1/01.]

Chapter 356-49 WAC

INTER-SYSTEM EMPLOYMENT

WAC

356-49-040 Inter-system movement.

WAC 356-49-040 Inter-system movement. (1) Permanent classified employees of higher education institutions desiring to promote, transfer, or voluntarily demote to agency classified positions must:

(a) Submit a Washington state application for employment in accordance with a current examination announcement.

(b) Successfully complete the designated examination.

(c) Have their name placed on the appropriate register as provided in WAC 356-26-070.

(d) Be certified to vacancy(ies) as provided in WAC 356-26-070.

(e) Serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the appropriate eligible list as provided by the higher education personnel rules (Title 251 WAC).

(2) Permanent classified employees desiring to promote, transfer, or voluntarily demote to agency classified positions will:

(a) Be unable to bump if laid off during such trial service period even though layoff seniority will move with employees to the new position.

(b) Bring their accumulated vacation leave, sick leave and seniority with them; however, continued accumulation will be governed by the appropriate merit system rules.

(c) Retain their former periodic increment date.

(3) Classified employees of higher education institutions who have been or are going to be separated because of reduction in force action shall be certified to any agency vacant classified positions, provided:

(a) The employees are qualified as determined by the director of personnel, or designee; and

(b) No other agency employees are eligible to be certified from the reduction in force registers, or transferred, or promoted into vacancies; and

(c) The employees have greater seniority than other such qualified employees involved in reduction in force action; and

(d) The employees are being offered the opportunity according to the department of personnel procedure established for that purpose.

[Statutory Authority: RCW 41.06.150. 01-07-057, § 356-49-040, filed 3/19/01, effective 5/1/01; 98-19-034, § 356-49-040, filed 9/10/98, effective 10/12/98; 85-21-113 (Order 237), § 356-49-040, filed 10/23/85, effective 12/1/85; 84-11-091 (Order 204), § 356-49-040, filed 5/23/84, effective 9/1/84.]

Chapter 356-56 WAC

WASHINGTON MANAGEMENT SERVICE

WAC

356-56-203	Department of social and health services—Background check requirements.
356-56-210	Movement between Washington management service and Washington general service positions.
356-56-220	Review period—Attaining permanent status.
356-56-600	Appeals.

WAC 356-56-203 Department of social and health services—Background check requirements. (1) The secretary of the department of social and health services shall conduct background checks on all employees in covered positions ("employees") and persons under final consideration for a covered position ("applicants"). A covered position is one in which a person will or may have unsupervised access to children, vulnerable adults, or individuals with mental illness or developmental disabilities. Employees and applicants shall authorize the secretary of the department of social and health services to conduct a background check.

(2) The requirement for background checks shall include the following:

(a) Any employee seeking a covered position because of a reduction-in-force or other movement.

(b) Any applicant prior to appointment into a covered position, except when appointment is made on a conditional basis under subsection (6)(b) of this section.

(3) A background check will be conducted on the final preferred candidate prior to appointment.

(4) The secretary of the department of social and health services shall use the results of a background check solely to determine the character, competence and suitability of a person for a covered position. The background check information shall consist of:

(a) Conviction records, pending charges, and disciplinary board final decisions.

(b) Evidence that substantiates or mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

(i) The employee or applicant's background check authorization and disclosure form;

(ii) The employee or applicant's age at the time of conviction, charge, or disciplinary board final decision;

(iii) The nature and severity of the conviction, charge, or disciplinary board final decision;

(iv) The length of time since the conviction, charge, or disciplinary board final decision;

(v) The nature and number of previous offenses;

(vi) Vulnerability of the child, vulnerable adult, or individual with mental illness or developmental disabilities to which the employee or applicant will or may have unsupervised access; and

(vii) The relationship between the nature of the conviction, pending charge, or disciplinary board final decision and the duties of the employee or applicant.

(5) A permanent employee with a background check disqualification is subject to any of the following actions:

(a) Job restructuring;

(b) Job reassignment;

(c) Movement in accordance with WAC 356-56-205;

(d) Voluntary resignation;

(e) Nondisciplinary separation. The employee shall be separated by the appointing authority after fifteen calendar days written notice unless the employee requests a shorter notice period;

(f) Disciplinary action in accordance with WAC 356-56-500; and/or

(g) Interim measures that may be used while the appointing authority explores the availability of actions (not to exceed 30 calendar days except in cases where there are investigations of pending charges):

(i) Voluntary use of accrued vacation and/or exchange time.

(ii) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave.

(iii) Reassignment to another work location.

(h) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(6) The secretary of the department of social and health services shall:

(a) Notify employees and applicants that a background check is required for covered positions;

(b) Develop procedures specifying when employees and applicants may be hired on a conditional basis pending the results of a background check;

(c) Develop policies and procedures pertaining to background checks; and

(d) Notify employees of any general service promotional register rights they may have.

(7) Failure to authorize the secretary of the department of social and health services to conduct a background check disqualifies an employee or applicant from consideration for any covered position including their current covered position.

(8) An applicant for a covered position who is denied employment due to a disqualifying background check may request a review by the appointing authority. Requests for review must be in writing and received by the appointing authority within fifteen calendar days of the postmark date of the notification.

(9) A separation under subsection (5)(e) of this section shall not be considered a disciplinary action as set forth in WAC 356-56-500. A permanent Washington management service employee separated under (5)(e) of this section may appeal to the personnel appeals board in accordance with WAC 356-56-600.

(10) A Washington management service employee who has been separated under subsection (5) of this section, and who has held permanent status in the Washington general service, will be able to apply promotionally for any classes that are at the same salary level or lower than the position from which he/she was separated. Employee's access to the general service promotional register will be governed by the provisions of WAC 356-26-030 (4)(d)(ii).

(11) Nothing in this rule shall limit the secretary of the department of social and health services' use of other authorities to conduct background checks.

(12) Information pertaining to background checks is confidential and shall be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee. Misuse of background check information is a criminal offense and may result in prosecution and/or disciplinary action as provided under WAC 356-56-500.

(13) The department of social and health services will submit a report to the director by January 31, 2002, reporting actions taken under subsection (5) of this rule and placement of employees into other positions within the agency.

[Statutory Authority: RCW 41.06.150. 01-21-051, § 356-56-203, filed 10/15/01, effective 12/1/01.]

WAC 356-56-210 Movement between Washington management service and Washington general service positions. (1) Employees who have attained permanent status, or who have completed six months of the review period in the Washington management service are eligible to compete under promotional recruitments for Washington general service positions.

(2) Permanent employees may transfer from the Washington management service to Washington general service

positions if their salary is within the salary range of the Washington general service position.

(3) Permanent employees may transfer from Washington general service to Washington management service positions if their salary is within the management band of the Washington management service position.

(4) Permanent employees may voluntarily demote between Washington management service and Washington general service positions at a lower pay level than their current permanent position.

(5) Permanent WMS employees may accept temporary employment in the general service as provided in WAC 356-30-067. Upon termination of such temporary appointment, the employee shall have the right to resume the same or similar permanent Washington management service position within their permanent agency, at their former status.

(6) Permanent WMS employees may accept project employment in the general service as provided in WAC 356-30-145. Upon reduction in force from the project, or at the request of the employee, the employee will have reduction in force rights of the permanent Washington management service position they left. Employees who entered the project through the competitive process and remain in project status for two years shall be eligible to have their names placed on the agency reduction in force register for the general service classes in which permanent project status was attained.

(7) Permanent employees who promote or voluntarily demote from the Washington management service to the Washington general service and who are either voluntarily or involuntarily reverted during the trial service period may have reversion rights or may be placed in the reduction in force transition pool as provided in WAC 356-30-320 and 356-30-331.

[Statutory Authority: RCW 41.06.150. 01-03-003, § 356-56-210, filed 1/4/01, effective 5/1/01. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.500. 94-12-055, § 356-56-210, filed 5/27/94, effective 7/1/94; 94-01-126, § 356-56-210, filed 12/17/93, effective 1/18/94.]

WAC 356-56-220 Review period—Attaining permanent status. (1) The review period for an appointee to a position within the Washington management service is a period of time to allow the employer to ensure the appointee meets the performance and other requirements of the position.

(2) Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. The appointing authority will inform the appointee in writing at the time of appointment of the length of the review period.

(3) Appointees from outside state service and promotional appointees will attain permanent status in the position upon successful completion of the review period.

(4) An appointing authority may require an employee who transfers or voluntarily demotes to serve a review period. The employer may extend the review period by the number of work hours in excess of 174 hours that the employee is on sick leave, leave used in lieu of sick leave, and leave without pay. The granting of leave shall be in compliance with chapter 356-18 WAC and the Fair Labor Standards Act.

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(5) An employee who is promoted to a different Washington management service position in the same agency during the review period, will begin a new review period for the new position. The employee will concurrently serve both the original and the new review period and will attain permanent status as a state employee in the original position when the original review period elapses.

(6) An employee who is promoted to a different Washington management service position in a different agency during the review period will begin a new review period for the new position. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the appointing authorities in both agencies.

(7) An employee who is appointed to a Washington management service position from a Washington general service position in the same agency while serving a probationary or trial service period in the same or similar occupational field will serve the trial service or probationary period concurrently with the review period. The employee will attain permanent status in the previous job classification once the original probationary or trial service period elapses.

(8) An employee who is appointed to a Washington management service position from a Washington general service position in a different agency while serving in a probationary or trial service period will not attain permanent status in the original position in the former agency unless agreed to in writing by the appointing authorities in both agencies.

(9) The agency may require a review period when the employee remains in the same position and receives a promotion.

[Statutory Authority: RCW 41.06.150. 01-03-003, § 356-56-220, filed 1/4/01, effective 5/1/01. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.500. 94-12-055, § 356-56-220, filed 5/27/94, effective 7/1/94; 94-01-126, § 356-56-220, filed 12/17/93, effective 1/18/94.]

WAC 356-56-600 Appeals. (1) Only disciplinary action as defined in WAC 356-56-500, transfer that is alleged to be an unreasonable commute, disability separation, nondisciplinary separation made under the provisions of WAC 356-56-203 (5)(e) of these rules, or reduction in force action directly affecting a permanent Washington management service employee may be appealable to the personnel appeals board as provided in Title 358 WAC.

(2) Decisions on which Washington management service positions shall be eliminated under reduction in force actions shall not be appealable to the personnel appeals board.

[Statutory Authority: RCW 41.06.150. 01-21-051, § 356-56-600, filed 10/15/01, effective 12/1/01. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.500. 94-01-126, § 356-56-600, filed 12/17/93, effective 1/18/94.]

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PUBLIC RECORDS

(Effective January 1, 2003)

WAC

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Purpose.

Public records—Writings—Defined.

Description and location of departmental organization.

General method of operation.

Office hours.

Records index.

Records availability—Copies obtained.

Exemptions—Public records.

WAC 359-07-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of personnel with the provisions of chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25 through 32 of that act (RCW 42.17.250 through 42.17.350), dealing with public records.

[Statutory Authority: RCW 41.06.150. 01-23-016, § 359-07-010, filed 11/8/01, effective 1/1/03; 99-24-080, § 359-07-010, filed 11/30/99, effective 1/1/02. Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. 97-24-043, § 359-07-010, filed 11/26/97, effective 1/1/00; 96-23-028, § 359-07-010, filed 11/14/96, effective 1/1/98; 94-23-136 and 95-23-062, § 359-07-010, filed 11/23/94 and 11/16/95, effective 1/1/97; 94-02-032, § 359-07-010, filed 12/29/93, effective 1/1/95.]

WAC 359-07-020 Public records—Writings—

Defined. (1) "Public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds; or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents and electronic records.

(3) Both "public records" and "writings" as described in subsections (1) and (2) of this section are the property of the state of Washington and, in accordance with chapter 40.14