

# Chapter 357-49 WAC

## DIRECTOR'S REVIEW

### WAC

357-49-010	For what actions may an individual request a director's review?
357-49-013	What actions are not subject to a director's review?
357-49-015	How does an individual or employee request a director's review?
357-49-0150	What happens if the individual requesting a director's review does not submit all the information required by WAC 357-49-015?
357-49-0152	Who is responsible to notify the director or designee when there is a change in address, telephone number or representation?
357-49-0154	What actions will the director or designee perform once the request for a director's review is received?
357-49-0156	What documents must an employer provide when a request for director's review of an allocation or reallocation is filed?
357-49-0158	What additional documents may the requestor submit when a request for director's review of an allocation or reallocation is filed?
357-49-016	What process is used to conduct a director's review?
357-49-0165	Which director's review determinations may be appealed?
357-49-018	Who has the right to appeal the results of a director's review determination?
357-49-022	Who has the burden of proof in a director's review?
357-49-023	For purposes of this chapter, how must documents be filed with the director?
357-49-035	When does a director's review determination become final?
357-49-040	How are director's review determinations served?

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

357-49-017	When is a director's review part of the appeal process? [Statutory Authority: Chapter 41.06 RCW. WSR 14-24-023, § 357-49-017, filed 11/21/14, effective 12/22/14; WSR 05-19-011, § 357-49-017, filed 9/8/05, effective 10/10/05.] Repealed by WSR 16-11-058, filed 5/13/16, effective 6/20/16. Statutory Authority: Chapter 41.06 RCW.
357-49-019	What civil service rules govern the director's review process? [Statutory Authority: Chapter 41.06 RCW. WSR 05-19-011, § 357-49-019, filed 9/8/05, effective 10/10/05.] Repealed by WSR 16-11-058, filed 5/13/16, effective 6/20/16. Statutory Authority: Chapter 41.06 RCW.
357-49-020	What process is used to conduct a director's review? [Statutory Authority: Chapter 41.06 RCW. WSR 05-01-183, § 357-49-020, filed 12/21/04, effective 7/1/05.] Repealed by WSR 16-11-058, filed 5/13/16, effective 6/20/16. Statutory Authority: Chapter 41.06 RCW.
357-49-025	How must exhibits for director's reviews be prepared and exchanged? [Statutory Authority: Chapter 41.06 RCW. WSR 05-19-011, § 357-49-025, filed 9/8/05, effective 10/10/05.] Repealed by WSR 16-11-058, filed 5/13/16, effective 6/20/16. Statutory Authority: Chapter 41.06 RCW.
357-49-027	What happens if the person requesting a director's review does not submit all the information required by WAC 357-49-015? [Statutory Authority: Chapter 41.06 RCW. WSR 06-03-070, § 357-49-027, filed 1/12/06, effective 2/13/06.] Repealed by WSR 16-11-058, filed 5/13/16, effective 6/20/16. Statutory Authority: Chapter 41.06 RCW.

**WAC 357-49-010 For what actions may an individual request a director's review?** An individual may request a director's review of:

- (1) Allocation or reallocation per WAC 357-13-080;

(5/13/16)

(2) Remedial action per WAC 357-19-430 or 357-19-450. Requests for remedial action must be received within thirty calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules;

(3) Removal of an individual's name from a layoff list as specified in WAC 357-46-145; or

(4) Performance evaluation process or procedure per WAC 357-37-080.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-010, filed 5/13/16, effective 6/20/16; WSR 14-24-023, § 357-49-010, filed 11/21/14, effective 12/22/14; WSR 11-23-054, § 357-49-010, filed 11/10/11, effective 12/13/11; WSR 06-03-071, § 357-49-010, filed 1/12/06, effective 2/13/06; WSR 05-19-011, § 357-49-010, filed 9/8/05, effective 10/10/05; WSR 05-12-082, § 357-49-010, filed 5/27/05, effective 7/1/05; WSR 05-01-182, § 357-49-010, filed 12/21/04, effective 7/1/05.]

**WAC 357-49-013 What actions are not subject to a director's review?** The following actions are not subject to a director's review:

(1) Alleged violation of civil service rules including those pertaining to layoff, except for removal of an individual's name from a layoff list as provided in WAC 357-49-010(3); or

(2) Actions of reduction, dismissal, suspension, demotion or separation.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-013, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-015 How does an individual or employee request a director's review?** Director's review requests must be filed with the director's office. Review requests must include:

(1) The requestor's name, address and telephone number;

(2) The name of the employer that took the action for which a review is requested;

(3) If applicable, the employee representative's name, address and telephone number;

(4) For allocations and reallocations, the job classification or position of the employee;

(5) A short statement of the grounds or reasons for the request; and

(6) A short statement of the relief or remedy sought by the requestor.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-015, filed 5/13/16, effective 6/20/16; WSR 05-01-183, § 357-49-015, filed 12/21/04, effective 7/1/05.]

**WAC 357-49-0150 What happens if the individual requesting a director's review does not submit all the information required by WAC 357-49-015?** (1) When the director or designee receives a request for review, the director

[Ch. 357-49 WAC p. 1]

or designee reviews the document(s) to determine whether the information required by this section has been provided.

(2) If any of the required information is not provided with the request for review, the director or designee notifies the requestor and instructs the requestor to provide the missing information and sends a copy of the notice to all parties.

(3) The requestor must provide the missing information to the director or designee and the requestor's employer, if applicable, as requested within twenty-one calendar days of the date the notification is mailed.

(4) If the requestor fails to comply with the requirements of this section, the director or designee may dismiss the request for review.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0150, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-0152 Who is responsible to notify the director or designee when there is a change in address, telephone number or representation?** The requestor is responsible for notifying the director or designee of their change in address, telephone number or representation.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0152, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-0154 What actions will the director or designee perform once the request for a director's review is received?** Once the request for a director's review is received, the director or designee will send acknowledgment including:

- (1) Case number;
- (2) Instructions on how to prepare and submit the exhibits;
- (3) Information on how to expedite the allocation review process; and
- (4) Any additional information needed.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0154, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-0156 What documents must an employer provide when a request for director's review of an allocation or reallocation is filed?** (1) The employer must provide all documents considered during its review. For allocation or reallocation reviews, the documents must include:

- (a) Employee's position review request or equivalent;
  - (b) Supervisor's statement section of the position review request or equivalent;
  - (c) Employee's current position description form;
  - (d) Organizational chart containing the employee's position;
  - (e) Employer's decision letter; and
  - (f) All other documents considered during the review.
- (2) All documents must be provided to the requestor and the requestor's representative, if applicable.

(3) The director or designee may request additional information at any time.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0156, filed 5/13/16, effective 6/20/16.]

[Ch. 357-49 WAC p. 2]

**WAC 357-49-0158 What additional documents may the requestor submit when a request for director's review of an allocation or reallocation is filed?** The requestor may submit additional documents that are not duplicates of documents already provided. The additional documents must be relevant to the time period under review.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0158, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-016 What process is used to conduct a director's review?** (1) The director's review is an informal process conducted by the director or designee.

(2) The review may be conducted by review of written documents, in person, by telephone or by other electronic means as determined by the director or designee.

(3) If the review is conducted by telephone, in person or by other electronic means, the director or designee shall prepare an official audio record of the review. A copy of the audio recording may be ordered from the director for a reasonable charge.

(4) The director or designee shall prepare a record of the documents reviewed and issue a written determination.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-016, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-0165 Which director's review determinations may be appealed?** The following director's review determinations may be appealed to the personnel resources board:

- (1) Allocation or reallocation per WAC 357-13-080;
- (2) Removal of an employee's name from a layoff list as specified in WAC 357-46-145; and
- (3) Remedial action request per WAC 357-49-010(2).

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-0165, filed 5/13/16, effective 6/20/16.]

**WAC 357-49-018 Who has the right to appeal the results of a director's review determination?** Either party may appeal the director's determination to the personnel resources board for the actions listed in WAC 357-49-0165 by filing written exceptions in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-018, filed 5/13/16, effective 6/20/16; WSR 05-19-011, § 357-49-018, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-022 Who has the burden of proof in a director's review?** The requestor has the burden of proof in a director's review.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-022, filed 5/13/16, effective 6/20/16; WSR 05-19-011, § 357-49-022, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-023 For purposes of this chapter, how must documents be filed with the director?** (1) **Filing by mail:** Director's review requests are considered filed when received in the director's review office in Olympia, Washington.

(2) **Filing by fax:**

(a) Documents by fax are considered filed when a legible copy of the documents is received. If transmission begins

(5/13/16)

after office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, the document will be deemed filed on the next business day.

(b) Documents by fax must have a cover page identifying the addressee; the person making the transmission, including the address, telephone and fax number; the review to which the document relates; the date of transmission; and the total number of pages included in the transmission.

(c) The person attempting to file by fax bears the risk that the papers may not be timely received or legibly printed, regardless of the cause. If the fax is not legible, it will not be considered sent.

(3) **Filing by electronic mail (email):** If the document is sent after office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, the document will be deemed filed on the next business day.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-023, filed 5/13/16, effective 6/20/16; WSR 06-03-070, § 357-49-023, filed 1/12/06, effective 2/13/06.]

**WAC 357-49-035 When does a director's review determination become final?** If no exceptions are filed, the determination becomes final thirty calendar days after notice of the determination is served on the parties.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-035, filed 5/13/16, effective 6/20/16; WSR 05-19-011, § 357-49-035, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-040 How are director's review determinations served?** Service of director's review determinations is accomplished as provided in WAC 357-04-105.

[Statutory Authority: Chapter 41.06 RCW. WSR 16-11-058, § 357-49-040, filed 5/13/16, effective 6/20/16.]