

# Chapter 357-28 WAC

## COMPENSATION

**WAC**

357-28-010 Who adopts the compensation plan?  
 357-28-015 How is the compensation plan prepared and revised?  
 357-28-020 What must the compensation plan include?  
 357-28-025 Can the director adopt special pay salary ranges?  
 357-28-026 For what reasons may the director adopt special pay ranges and/or compensation practices for institutions of higher education and related boards?  
 357-28-027 How long will higher education special pay ranges remain in effect?  
 357-28-028 By whom and for what reasons may a higher education special pay request be submitted to the director?  
 357-28-029 When making a special pay request for higher education, what information must the requesting party provide?  
 357-28-030 Must employers have a salary determination policy?  
 357-28-035 What must be addressed in the employer's salary determination policy?  
 357-28-040 Can an employee's base salary be set above the maximum of the salary range?  
 357-28-045 How is part-time employment compensated?  
 357-28-050 What is the periodic increment date (PID)?  
 357-28-055 How is the periodic increment date determined for a general government employee?  
 357-28-056 How is the periodic increment date determined for a higher education employee?  
 357-28-060 When does an employee receive an increment increase?  
 357-28-065 What are the effective dates of increment increases?  
 357-28-070 Can an employer adjust the timing and amount of increment increases?  
 357-28-075 Can an employer accelerate or defer increment increases based on performance?  
 357-28-080 How does an employee allocated to a class with a special pay salary range progress through the range?  
 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons?  
 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position?  
 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an incumbent or candidate for a position?  
 357-28-110 Must an employee who is promoted to a position in a class with a higher salary range receive a salary increase?  
 357-28-115 Must an employee occupying a position that is reallocated to a class with a higher salary range receive a salary increase?  
 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range?  
 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class?  
 357-28-135 How is an employee's salary determined when the employee is appointed to a position due to a layoff action?  
 357-28-140 How is an employee's salary determined upon transfer?  
 357-28-145 How is an employee's salary determined upon reassignment?  
 357-28-150 How is an employee's salary determined upon reversion?  
 357-28-155 How is an employee's salary determined upon demotion?  
 357-28-160 How is an employee's salary determined upon elevation?  
 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?  
 357-28-175 What is assignment pay?  
 357-28-180 When may employers authorize assignment pay?  
 357-28-185 What is the requirement for employers to compensate employees for being called back to work?  
 357-28-190 When must an employee receive shift premium?

357-28-195 What general government positions must be paid supplemental shift premium?  
 357-28-200 When must an employee receive holiday premium pay?  
 357-28-205 When must an employee receive standby pay?  
 357-28-210 What is the rate of compensation for standby pay?  
 357-28-220 How are hours of work established for employees?  
 357-28-225 Are employers required to develop flexible time schedules?  
 357-28-230 Can an employer assign or reassign an employee to a flex-time schedule?  
 357-28-235 Can an employee request assignment to a flex-time schedule?  
 357-28-240 Must employers assign an overtime eligibility designation to each position?  
 357-28-245 Is approval required when a general government employer changes a position's overtime eligibility designation?  
 357-28-250 Must employers inform employees whether they are eligible to receive overtime compensation or not?  
 357-28-252 Under what conditions can the employer change an overtime eligible employee's assigned hours?  
 357-28-255 What constitutes overtime for an overtime eligible employee?  
 357-28-260 At what rate must overtime be compensated?  
 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked?  
 357-28-275 When may compensatory time off be granted in lieu of pay?  
 357-28-280 When may compensatory time off be used?  
 357-28-285 When must compensatory time be paid in cash?  
 357-28-295 Who may provide performance recognition pay to employees?  
 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?  
 357-28-310 When can an employee receive relocation compensation?  
 357-28-315 What would cause an employee to be required to pay back the relocation payment?  
 357-28-320 Must the employer develop written criteria for relocation compensation?  
 357-28-325 When will salary surveys be done?

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by WAC 357-10-010(1)? [Statutory Authority: Chapter 41.06 RCW. 07-11-100, § 357-28-125, filed 5/16/07, effective 7/1/07; 05-01-205, § 357-28-125, filed 12/21/04, effective 7/1/05.] Repealed by 11-23-054, filed 11/10/11, effective 12/13/11. Statutory Authority: Chapter 41.06 RCW.

**WAC 357-28-010 Who adopts the compensation plan?** The director must adopt a compensation plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-010, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-015 How is the compensation plan prepared and revised?** The compensation plan is prepared and revised, as needed, in consultation with employers, employee organizations, and other interested parties. The director must hold open, public hearings before adopting or revising the plan. The director must give twenty calendar days notice of the public hearing.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-015, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-020 What must the compensation plan include?** The compensation plan must include:

- (1) A general salary schedule including minimum and maximum amounts for each salary range assigned to a class;
- (2) Special salary schedules including the minimum and maximum amounts for each special pay range assigned to a class or position;
- (3) Assignment pay premiums, shift premiums, and standby pay rates as determined by the director;
- (4) Definitions and application of overtime eligibility designations.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-020, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-025 Can the director adopt special pay salary ranges?** The director may adopt special pay salary ranges for positions based upon pay practices found in private industry or other governmental units. This includes special pay salary ranges and/or compensation practices for higher education institutions and related higher education boards as authorized in RCW 41.06.133. The classes or positions assigned special pay ranges and the associated special salary schedule must be specified in the compensation plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-025, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-026 For what reasons may the director adopt special pay ranges and/or compensation practices for institutions of higher education and related boards?** The director may adopt special pay ranges and/or compensation practices which are locally competitive to alleviate recruitment and/or retention problems, to maintain effective operations of an institution, or to address other unique working conditions.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-026, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-027 How long will higher education special pay ranges remain in effect?** Except when the director specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class equals or exceeds the special pay range.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-027, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-028 By whom and for what reasons may a higher education special pay request be submitted to the director?** A special pay request may be submitted by institutions of higher education and related boards:

- (1) When a unique configuration of work requires skills, duties, or working conditions beyond those typically required of comparable positions;
- (2) To alleviate employment problems such as recruitment and/or retention;
- (3) When failure to grant special pay could result in recruitment and/or retention problems which would seriously jeopardize the effective operation of the institution; or

[Ch. 357-28 WAC—p. 2]

(4) To prevent salary inversion or compression problems with other classes in the same or related series which have been granted special pay.

[Statutory Authority: Chapter 41.06 RCW. 07-03-050, § 357-28-028, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-029 When making a special pay request for higher education, what information must the requesting party provide?** It is the responsibility of the requesting party to provide the director's staff with information necessary to make a recommendation to the director. Information to be provided must include:

- (1) Data supporting the pay practice in the locality of the institution for which the request is being made;
- (2) Rationale supporting the request; and
- (3) When applicable, data showing recruitment/retention difficulty.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-28-029, filed 11/10/11, effective 12/13/11; 07-03-050, § 357-28-029, filed 1/12/07, effective 2/15/07.]

**WAC 357-28-030 Must employers have a salary determination policy?** Employers must develop a written salary determination policy that is subject to the director's approval.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-030, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-035 What must be addressed in the employer's salary determination policy?** The employer's salary determination policy must minimally address the following:

- (1) Setting base salary for new employees;
- (2) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a position in a new class;
- (3) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a permanent position while in a nonpermanent appointment;
- (4) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;
- (5) Setting base salary when an employee accepts a lay-off option, accepts a demotion in lieu of layoff, is appointed from an internal or statewide layoff list, or is reallocated to a position with a lower range and the employee's previous base salary is not within the salary range of the new position;
- (6) Setting base salary when an employee demotes for reasons other than accepting a demotion in lieu of layoff or accepting a demotion when a position is reallocated;
- (7) Setting base salary when an employee is reverted following a voluntary demotion; and
- (8) Authorizing premiums for recruitment and retention as provided in WAC 357-28-095 and 357-28-100.

[Statutory Authority: Chapter 41.06 RCW. 05-21-061, § 357-28-035, filed 10/13/05, effective 11/15/05; 05-16-041, § 357-28-035, filed 7/27/05, effective 9/1/05; 05-01-205, § 357-28-035, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-040 Can an employee's base salary be set above the maximum of the salary range?** An employee's base salary may be set above the maximum of the salary range assigned to the position's class when allowed

(11/10/11)

under any provisions of Title 357 WAC or when approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-040, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-045 How is part-time employment compensated?** Part-time employment must be compensated on the basis of the ratio of hours worked to those worked in a full-time appointment unless otherwise adjusted per special pay and/or assignment pay provisions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-045, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-050 What is the periodic increment date (PID)?** The periodic increment date is the date upon which an employee is scheduled to receive an increment increase by moving to a higher salary step within the salary range for his/her current class.

[Statutory Authority: Chapter 41.06 RCW. 05-21-061, § 357-28-050, filed 10/13/05, effective 11/15/05; 05-01-205, § 357-28-050, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-055 How is the periodic increment date determined for a general government employee?** (1) For a general government employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005 is retained.

(2) For a general government employee appointed to a position on or after July 1, 2005 whose base salary is set at the minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a general government employee appointed to a position on or after July 1, 2005 whose base salary is set above the minimum but below the maximum of the salary range, the periodic increment date is twelve months from date of appointment.

(4) A general government employee appointed to a position on or after July 1, 2005, whose base salary is set at the maximum of the range will not have a periodic increment date set. If the employee later receives a new appointment, the periodic increment date will be set at that time, as described in this section.

(5) Once a general government employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070 and 357-28-075; or

(b) The periodic increment date is adjusted for leave without pay in accordance with WAC 357-31-345.

[Statutory Authority: RCW 41.06.150. 10-17-062, § 357-28-055, filed 8/13/10, effective 9/15/10. Statutory Authority: Chapter 41.06 RCW. 06-11-048, § 357-28-055, filed 5/11/06, effective 6/12/06; 05-01-205, § 357-28-055, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-056 How is the periodic increment date determined for a higher education employee?** (1) For a higher education employee appointed to a position before July 1, 2005, the employee's periodic increment date as of June 30, 2005 is retained.

(2) For a higher education employee appointed to a position on or after July 1, 2005 whose base salary is set at the

(11/10/11)

minimum of the salary range, the periodic increment date is six months from the date of appointment.

(3) For a higher education employee appointed to a position on or after July 1, 2005 whose base salary is set above the minimum but below the maximum of the salary range, the periodic increment date is twelve months from date of appointment.

(4) Once a higher education employee's periodic increment date is set, it remains the same unless:

(a) The periodic increment date is advanced or postponed in accordance with WAC 357-28-070 and 357-28-075; or

(b) The employee is appointed to another position with a different salary range maximum. Upon subsequent appointment, the provisions of subsection (2) and (3) of this section apply.

[Statutory Authority: Chapter 41.06 RCW. 06-11-048, § 357-28-056, filed 5/11/06, effective 6/12/06.]

**WAC 357-28-060 When does an employee receive an increment increase?** Unless adjusted under the provisions of WAC 357-28-070 or 357-28-075, an employee must receive a two step increase to base salary on the periodic increment date. Increment increases continue until the employee reaches the top step of the salary range.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-060, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-065 What are the effective dates of increment increases?** For purposes of payment of increment increases, the effective date is determined as follows:

(1) For general government employers, the increase is effective on the periodic increment date.

(2) For higher education employers, the increases are effective:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for action occurring between the sixteenth and the end of the month.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-065, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-070 Can an employer adjust the timing and amount of increment increases?** Employers may adjust the timing and/or amount of regularly scheduled increment increases stated in WAC 357-28-060 by resetting the periodic increment date based on the nature of the work or training requirements. This may apply to all employees, employees in specific positions, all employees allocated to a class, or all employees in an organizational unit. This may happen as long as employees receive minimally an increase of two steps annually until their salary reaches the top step of the salary range.

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-28-070, filed 5/27/05, effective 7/1/05; 05-01-205, § 357-28-070, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-075 Can an employer accelerate or defer increment increases based on performance?** Employers who have received performance management

confirmation from the director may in accordance with the employer's policy on performance-based increments:

(1) Accelerate the timing and/or amount of regularly scheduled increment increases stated in WAC 357-28-060 by advancing the periodic increment date for individual employees. This may only happen if employees receive an increase of at least two steps every twelve months from the periodic increment date until their salary reaches the top step of the salary range. When the periodic increment date is advanced, the employee has a new periodic increment date.

(2) Defer scheduled increment increases by postponing the periodic increment date for individual employees whose performance is less than satisfactory. When the periodic increment date is postponed to a future date, the employee has a new periodic increment date.

[Statutory Authority: Chapter 41.06 RCW. 05-21-061, § 357-28-075, filed 10/13/05, effective 11/15/05; 05-01-205, § 357-28-075, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-080 How does an employee allocated to a class with a special pay salary range progress through the range?** Unless adjusted under WAC 357-28-070 or 357-28-075, employees allocated to a class with a special pay salary range must progress through the special pay salary range as defined in the compensation plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-080, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons?** The employer may adjust an employee's base salary within the salary range to address issues that are related to recruitment, retention or other business related reason, such as equity, alignment, or competitive market conditions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-090, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position?** (1) Employers may authorize additional pay to support the recruitment or retention of the incumbent or candidate for a **specific position**. At the employer's discretion, up to a fifteen percent premium may be added to the employee's base salary or paid on a lump sum basis as described in subsection (2). An employee may not receive more than fifteen percent of his/her annual base salary over a twelve month period under the provisions of this section.

(2) In advance of authorizing a lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the incumbent's annual compensation for work performed prior to receipt of any funds.

(3) Any additional pay granted under this section is a premium that is not part of base salary. The premium is to be

[Ch. 357-28 WAC—p. 4]

used only as long as the circumstances it is based on are in effect.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-095, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an incumbent or candidate for a position?** (1) Director approval is required for employers to authorize:

(a) Premiums exceeding fifteen percent under the provisions of WAC 357-28-095; and

(b) Additional pay to support the recruitment and/or retention of **like positions** at a specific work location.

(2) In advance of authorizing a director approved lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the incumbent's annual compensation for work performed prior to receipt of any funds.

(3) Additional pay granted under this section is a premium that is not part of base salary. The premium is to be used only as long as the circumstances it is based on are in effect.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-100, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-110 Must an employee who is promoted to a position in a class with a higher salary range receive a salary increase?** An employee who is promoted to a position in a class with a higher salary range must receive a minimum increase of two steps not to exceed the top step of the salary range. The employer may grant higher increases if:

(1) Significant increases in duties and responsibilities, as documented by the employer, warrant greater compensation,

(2) The increase is necessary for internal salary alignment, retention of the employee, or other documented business needs, or

(3) The increase is necessary to bring the employee to the minimum of the salary range for the position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-110, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-115 Must an employee occupying a position that is reallocated to a class with a higher salary range receive a salary increase?** An employee occupying a position that is reallocated to a class with a higher salary range must receive at least two steps not to exceed the top step of the salary range in accordance with WAC 357-28-110.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-115, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range?** An employee occupying a position that is reallocated to a class with the

same or lower salary range must be placed within the new salary range at an amount equal to his/her previous base salary. If the previous base salary exceeds the new salary range, the employee's base salary must be set equal to the maximum of the salary range for the reallocated position. The employee's base salary may be set higher than the range maximum, but not exceeding the previous base salary, if allowed by the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-120, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class?** When reallocation is necessary because the director creates, abolishes, or revises a class, an employee's base salary is determined as follows:

(1) An employee occupying a position reallocated to a class with the same or lower salary range must be paid an amount equal to his/her previous base salary.

(2) An employee occupying a position reallocated to a class with a higher salary range must have his/her base salary adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-28-130, filed 11/10/11, effective 12/13/11; 07-11-100, § 357-28-130, filed 5/16/07, effective 7/1/07; 05-01-205, § 357-28-130, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-135 How is an employee's salary determined when the employee is appointed to a position due to a layoff action?** The base salary of an employee appointed to a position due to a layoff action must be determined as follows:

(1) An employee who accepts a layoff option to a different position with the same salary range keeps the same base salary.

(2) An employee who accepts a demotion in lieu of layoff or accepts a layoff option to a position with a lower salary range maximum must be placed within the new range at a salary equal to the employee's previous base salary. If the previous base salary exceeds the new range, the employee's base salary must be set equal to the new range maximum. The employee's base salary may be set higher than the range maximum, but not exceeding the previous base salary, if allowed by the employer's salary determination policy.

(3) An employee who is appointed from an internal or statewide layoff list to a position with the same range as the position from which the employee was laid off must be placed within the range at a salary equal to the employee's previous base salary.

(4) An employee who is appointed from an internal or statewide layoff list to a position with a lower range maximum than the position from which the employee was laid off must have the salary determined by the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-135, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-140 How is an employee's salary determined upon transfer?** Upon transfer, an employee's base salary is determined by the employer's salary determination policy.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-140, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-145 How is an employee's salary determined upon reassignment?** Upon reassignment, an employee keeps the same base salary.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-145, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-150 How is an employee's salary determined upon reversion?** When an employee is being reverted following a promotion or transfer, the employee's base salary is set at the step the employee would be at if he/she had not left the position.

When an employee is being reverted following a voluntary demotion, the employee's base salary must be determined in accordance with the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-150, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-155 How is an employee's salary determined upon demotion?** (1) The base salary of an employee who accepts a demotion in lieu of layoff must be set in accordance with WAC 357-28-135.

(2) An employee demoted for any other reason must be paid within the salary range of the class to which the position is allocated. The employee's base salary must be determined in accordance with the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-155, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-160 How is an employee's salary determined upon elevation?** Upon elevation following demotion, an employee's salary must be determined in the same manner that is provided for promotion in WAC 357-28-110.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-160, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?** If an exempt position is converted to classified status under the provisions of WAC 357-19-225, the base salary of the incumbent must not be less than the exempt salary at the time of conversion. If the employee's salary at the time of conversion exceeds the maximum of the salary range, the employee's base salary must be set outside the range in accordance with WAC 357-28-040.

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-28-165, filed 5/27/05, effective 7/1/05; 05-01-205, § 357-28-165, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-175 What is assignment pay?** Assignment pay is a premium added to base salary to recognize specialized skills, assigned duties, and/or unique circumstances that exceed the ordinary. Assignment pay is intended to be used only as long as the skills, duties, or circumstances it is based on are in effect.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-175, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-180 When may employers authorize assignment pay?** Employers may authorize assignment pay to a position when the director has approved the assignment pay for a specific skill, duty, or unique circumstance and the employer determines that the position qualifies for the premium. Approved assignment pay designations must be listed in the compensation plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-180, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-185 What is the requirement for employers to compensate employees for being called back to work?** (1) If an overtime eligible employee has finished the work shift and has left the worksite or is in paid leave status and is called to return to work outside of regularly scheduled hours to handle emergency situations which could not be anticipated, a minimum of two hours' pay must be guaranteed. The minimum of two hours of pay and any hours worked in excess of two hours must be compensated in accordance with WAC 357-28-255 if applicable.

(2) An employee on standby status called to return to work does not qualify for call back pay.

(3) The appointing authority may cancel a call back notification to work extra hours at any time, but cancellation must not waive the guarantee of two hours of call back pay.

(4) Overtime-exempt employees and employees assigned to the law enforcement overtime eligibility designation are not paid for being called back to work unless the employer authorizes payment.

(5) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-185, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-190 When must an employee receive shift premium?** (1) Shift premium at the rate specified in the compensation plan must be paid when:

(a) An employee is scheduled to work a shift in which the majority of hours worked daily or weekly are between 6:00 p.m. and 6:00 a.m.; or

(b) An employee is scheduled to work a shift which is split with a minimum of four intervening hours not worked.

(2) Shift premium must be paid for the entire daily or weekly shift that qualifies under subsection (1) of this section. Additionally, these employees are entitled to shift premium for all hours that the employees work adjoining that evening or night shift.

(3) Shift premium may be paid at a monthly rate as specified in the compensation plan for full time employees regularly assigned to a qualifying shift.

(4) An employee assigned to a shift that qualifies for shift premium pay must receive the same shift premium for authorized periods of paid leave and holidays and for up to five days of a temporary assignment to a shift that does not

qualify. Continued payment of shift premium for a temporary assignment exceeding five days is at the discretion of the employer.

(5) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

(6) Exceptions to shift premium provisions may be approved by the director.

(7) For higher education employers, shift premium must not apply to police and fire officers where special pay salaries are correlated with a rotating shift in accordance with local practice.

(8) Employees may waive shift premium.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-190, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-195 What general government positions must be paid supplemental shift premium?** (1) Basic shift premium must be paid in accordance with WAC 357-28-190.

(2) Supplemental shift premium, as specified in the compensation plan, must be paid for positions in general government that require licensure as a registered nurse.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-195, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-200 When must an employee receive holiday premium pay?** (1) Overtime eligible employees who are directed to work on a designated holiday as listed in chapter 357-31 WAC must receive their regular rate of pay for the holiday. In addition, employees must receive premium pay at the overtime rate for all hours worked on the holiday. The employer may offer compensatory time off in lieu of monetary payment.

(2) Overtime-exempt employees do not qualify for holiday premium pay unless the employer determines otherwise.

(3) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

[Statutory Authority: Chapter 41.06 RCW. 05-12-084, § 357-28-200, filed 5/27/05, effective 7/1/05; 05-01-205, § 357-28-200, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-205 When must an employee receive standby pay?** (1) Overtime eligible employees required to restrict off-duty activities to be immediately available for duty must be compensated for time spent in standby status. Overtime-exempt employees are not eligible for standby pay unless the employer determines otherwise.

(2) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-205, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-210 What is the rate of compensation for standby pay?** The rate of standby compensation must be specified in the compensation plan. The director may approve exceptions to standby rates based upon business requirements.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-210, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-220 How are hours of work established for employees?** Employers must establish hours of work and the workweek for all employees. Assignment of work hours outside of regularly scheduled shifts is allowed.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-220, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-225 Are employers required to develop flexible time schedules?** Employers must develop one or more flex-time schedules unless the employer determines that such schedules would impede service to the public or impede the employer in accomplishing its mission. Flex-time schedules must contain fixed core hours of work. They must also contain starting and quitting times other than eight a.m. to five p.m.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-225, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-230 Can an employer assign or reassign an employee to a flex-time schedule?** The employer may assign or reassign any employee or group of employees to a flex-time schedule under WAC 357-28-252.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-230, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-235 Can an employee request assignment to a flex-time schedule?** Employees may request assignment to a flex-time schedule and the employer may grant or deny such assignment.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-235, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-240 Must employers assign an overtime eligibility designation to each position?** Employers must assign each position to one of the overtime eligibility designations identified in the compensation plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-240, filed 12/21/04, effective 7/1/05.]

(11/10/11)

**WAC 357-28-245 Is approval required when a general government employer changes a position's overtime eligibility designation?** Approval from the director is required when a general government employer changes a position's overtime eligibility designation to overtime-exempt or law enforcement.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-245, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-250 Must employers inform employees whether they are eligible to receive overtime compensation or not?** (1) Employers must inform employees of whether or not their positions are eligible to receive overtime, including any subsequent change to their eligibility for overtime compensation.

(2) When employees are dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010, employers must inform employees of any temporary eligibility to receive overtime compensation. Employees must be informed in accordance with the employer's policy as approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-250, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-252 Under what conditions can the employer change an overtime eligible employee's assigned hours?** For a position, the employer may make changes to an overtime eligible employee's assigned hours under the following condition(s):

(1) For temporary changes in work hours or shift for a period of thirty calendar days or less, the employer must provide two calendar days' notice to the employee. The day notification is given constitutes a day of notice. The employer may provide less than two calendar days' notice for the following reasons:

(a) When there are emergency conditions as defined by the employer, including employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010, and employees of the department of corrections who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents;

(b) When there is a lack of work or a safety hazard to the employee and/or others; or

(c) When the change is requested by the employee and approved by the employing official.

(2) For permanent changes in work hours or shift for a period exceeding thirty calendar days, the employer must provide seven calendar days' notice to the employee. The day notification is given constitutes a day of notice.

(3) By mutual agreement, an individual employee and his/her supervisor may agree to a temporarily modified weekly schedule. Such scheduling is not considered a regular schedule and does not require advance notice.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-252, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-255 What constitutes overtime for an overtime eligible employee?** (1) The following conditions constitute overtime for overtime eligible employees:

(a) Work in excess of forty hours in one workweek, except for law enforcement positions or hospital personnel assigned to a fourteen-day schedule.

(i) For hospital personnel assigned to a fourteen-day schedule, work in excess of eight hours in any workday or eighty hours in a fourteen-day period constitutes overtime.

(ii) For law enforcement positions, work in excess of the one hundred sixty-hour, twenty-eight-day work period constitutes overtime.

(b) Work on a holiday per WAC 357-28-200.

(c) For full-time employees, work on a scheduled day off when assigned by the employer.

(2) All paid holidays during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked for purposes of determining overtime eligibility.

(3) When an overtime eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of forty hours in either the previous or current workweek, the employee must receive overtime compensation.

(4) Compensation under the provisions of this section must be in accordance with the employer's policy, as approved by the director, for the following individuals:

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW 38.52.010; and

(b) Employees of the department of corrections and department of social and health services who are in charge of offenders assigned to assist in forest fire suppression and other emergency incidents.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-255, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-260 At what rate must overtime be compensated?** Overtime worked by an overtime eligible employee must be compensated at a rate of one and one-half times the employee's regular rate. Compensation for overtime worked between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

[Statutory Authority: Chapter 41.06 RCW. 11-19-091, § 357-28-260, filed 9/20/11, effective 10/24/11; 05-01-205, § 357-28-260, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked?** For purposes of computing eligibility for overtime compensation, paid holidays during the employee's regular work schedule **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** considered time worked.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-265, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-275 When may compensatory time off be granted in lieu of pay?** An overtime eligible employee must receive monetary payment as compensation for overtime worked. However, with an agreement between the employer and the employee, compensatory time off at one

and one-half times the overtime hours worked may be granted in lieu of pay.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-275, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-280 When may compensatory time off be used?** The use of compensatory time must be in accordance with chapter 357-31 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-280, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-285 When must compensatory time be paid in cash?** (1) The accumulation of unused compensatory time of any amount that exceeds two hundred forty hours, or four hundred eighty hours for employees engaged in public safety or emergency response activity, must be paid in cash at the regular rate earned by the employee at the time the employee receives such payment. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

(2) Upon termination of employment, an employee must be paid for unused compensatory time in accordance with applicable state and federal law. Payments made between July 1, 2011, and June 29, 2013, will not be subject to the three percent temporary salary reduction under chapter 39, Laws of 2011.

[Statutory Authority: Chapter 41.06 RCW. 11-19-091, § 357-28-285, filed 9/20/11, effective 10/24/11; 05-01-205, § 357-28-285, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-295 Who may provide performance recognition pay to employees?** The director or employers who have received performance management confirmation for decentralized compensation administration may authorize additional pay to individuals or groups of employees on a lump sum basis to recognize outstanding accomplishments or the achievement of predefined work goals by individual employees or units. Any additional pay granted under this section is a premium that is not part of base salary.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-295, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?** Over an annual period, performance recognition pay may not exceed fifteen percent of an employee's annual base salary unless approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-28-300, filed 5/27/05, effective 7/1/05; 05-01-205, § 357-28-300, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-310 When can an employee receive relocation compensation?** An agency director or higher education president may authorize a lump sum relocation payment, within existing resources, whenever:

(1) It is reasonably necessary that a person make a domiciliary move in accepting a transfer or appointment; or

(2) It is necessary to successfully recruit or retain a qualified candidate or employee who will have to make a domiciliary move in order to accept the position.



[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-310, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-315 What would cause an employee to be required to pay back the relocation payment?** If the employee receiving the relocation payment terminates or causes termination with the state within one year of the date of the appointment or transfer, that employee may be required to pay back the lump sum payment. If the termination is a result of layoff, disability separation, or other good cause as determined by the agency director or higher education president, the employee will not have to pay back the relocation payment.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-315, filed 12/21/04, effective 7/1/05.]

**WAC 357-28-320 Must the employer develop written criteria for relocation compensation?** An employer must develop written criteria prior to authorizing lump sum relocation compensation. The criteria must include:

- (1) A description of the circumstances for which relocation compensation will be granted; and
- (2) The method that will be used to determine the amount of relocation compensation.

[Statutory Authority: Chapter 41.06 RCW. 05-21-056, § 357-28-320, filed 10/13/05, effective 11/15/05.]

**WAC 357-28-325 When will salary surveys be done?** Salary surveys must be undertaken in accordance with applicable portions of chapter 41.06 RCW.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-325, filed 12/21/04, effective 7/1/05.]