

# Chapter 357-58 WAC

## WASHINGTON MANAGEMENT SERVICE

<p><b>WAC</b></p> <p>357-58-005</p> <p>357-58-010</p> <p>357-58-015</p> <p>357-58-020</p> <p>357-58-025</p> <p>357-58-027</p> <p>357-58-028</p> <p>357-58-032</p> <p>357-58-035</p> <p>357-58-040</p> <p>357-58-042</p> <p>357-58-045</p> <p>357-58-050</p> <p>357-58-055</p> <p>357-58-060</p> <p>357-58-065</p> <p>357-58-070</p> <p>357-58-075</p> <p>357-58-080</p> <p>357-58-085</p> <p>357-58-090</p> <p>357-58-095</p> <p>357-58-100</p> <p>357-58-105</p> <p>357-58-110</p> <p>357-58-115</p> <p>357-58-120</p> <p>357-58-125</p> <p>357-58-130</p> <p>357-58-135</p> <p>357-58-140</p> <p>357-58-145</p> <p>357-58-150</p> <p>357-58-155</p> <p>357-58-160</p> <p>357-58-165</p> <p>357-58-170</p> <p>357-58-175</p>	<p>What is the key role and accountability for Washington management service employees in state government?</p> <p>What is the purpose of the Washington management service (WMS) rules?</p> <p>Who is authorized to adopt rules for the WMS?</p> <p>What are the goals of the WMS rules?</p> <p>Are WMS 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- 357-58-565 What mechanism must be used to report WMS inclusion and evaluation activities?

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

- 357-58-030 Who determines if a position is included in the WMS? [Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-030, filed 5/27/05, effective 7/1/05.] Repealed by 10-23-043 and 11-01-158, filed 11/10/10 and 12/22/10, effective 4/1/11. Statutory Authority: Chapter 41.06 RCW.
- 357-58-545 Does the director of the department of personnel have the rights to review an agency's administration of WMS? [Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-545, filed 5/27/05, effective 7/1/05.] Repealed by 10-23-043 and 11-01-158, filed 11/10/10 and 12/22/10, effective 4/1/11. Statutory Authority: Chapter 41.06 RCW.

**WAC 357-58-005 What is the key role and accountability for Washington management service employees in state government?** State managers have a crucial role in ensuring that the public receives needed government services in the most efficient and cost-effective manner possible. Managers must direct the development and implementation of policies and programs that achieve results. Managers must attract, develop, and retain a competent, productive workforce in order to successfully carry out state programs. Managers must build and sustain a workplace culture that focuses on performance and outcomes.

State managers are expected to personally commit to demonstrating excellent leadership competencies and achieving programmatic results. Also, it is essential that agency leaders hold their managers accountable for properly leading and managing their human resources - their employees. This includes aligning the workforce with the organization's strategic plan, hiring the best qualified staff, creating a productive work environment, setting clear performance expectations, providing day-to-day feedback and support, developing staff competencies, conducting regular performance evaluations, implementing timely and meaningful rewards, and, holding employees accountable for successful performance.

The efficiency and effectiveness with which government services are delivered to the citizens of Washington state depends largely on the quality and productivity of state

employees. Each manager has the unique and critical responsibility to foster the building of a performance-based culture that will enable workforce success.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-005, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-010 What is the purpose of the Washington management service (WMS) rules?** The purpose of chapter 357-58 WAC is to establish a system of personnel administration called the Washington management service (WMS) as authorized in RCW 41.06.500. Chapter 357-58 WAC comprehensively covers the personnel matters relating to WMS positions.

The WMS embodies the concepts of a performance management work environment that recognizes competency-based appointments and compensation.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-010, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-015 Who is authorized to adopt rules for the WMS?** The director adopts the WMS rules after consultation with state agencies.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-015, filed 11/10/11, effective 12/13/11; 05-12-068, § 357-58-015, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-020 What are the goals of the WMS rules?** In accordance with RCW 41.06.500, the WMS rules must adhere to the following goals:

(1) Simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;

(2) Flexibility in setting and changing salaries and a compensation system that is consistent with RCW 41.06.500;

(3) Performance appraisal system that emphasizes individual accountability, program results and efficient management of resources, effective planning, organization, and communication skills, valuing and managing workplace diversity, development of leadership and interpersonal abilities, and employee development;

(4) Strengthened management training and career development programs that build critical management competencies, focusing on managing and valuing workplace diversity, empowering employees by enabling them to share in workplace decision making, and to be innovative, willing to take risks, and able to accept and deal with change, promoting a workplace where the overall focus is on the recipient of the government services and how these services can be improved, and enhancing mobility and career advancement opportunities;

(5) Flexibility in recruitment and hiring procedures that enable agencies to compete effectively with other employers, both public and private, for managers with appropriate position-based competencies, leadership skills and training, allowing consideration of all qualified candidates for positions as managers, and achieving affirmative action goals and diversity in the workplace;

(6) Provisions that managers may only be reduced, dismissed, suspended, or demoted for cause;

(7) Facilitation of decentralized and regional administration; and

(11/10/11)

(8) Ensuring that decisions are not based on patronage or political affiliation.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-020, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-025 Are WMS employees included in the classified service and what rules apply to WMS employees and positions?** WMS employees are part of the classified service.

Chapter 357-58 WAC applies to classified employees and positions that meet the definition of manager in WAC 357-58-035.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-025, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-027 Must agencies maintain position descriptions for each WMS position?** Agencies must maintain a current position description for each WMS position.

[Statutory Authority: Chapter 41.06 RCW. 10-23-043 and 11-01-158, § 357-58-027, filed 11/10/10 and 12/22/10, effective 4/1/11.]

**WAC 357-58-028 Must a standard form be used to describe each WMS position?** A standard form developed by the director, or an alternate form approved by the director, must be used for each WMS position description.

[Statutory Authority: Chapter 41.06 RCW. 10-23-043 and 11-01-158, § 357-58-028, filed 11/10/10 and 12/22/10, effective 4/1/11.]

**WAC 357-58-032 What is the requirement for agencies to develop procedures which address determining inclusion in WMS and evaluating positions for placement within the management bands?** (1) Each agency must develop a WMS inclusion and evaluation procedure consistent with this chapter and guidelines established by the director's office.

(2) The inclusion and evaluation procedure must be approved by the director.

(3) The procedure must include processes for requesting and determining inclusion and evaluating and reevaluating positions for placement within management bands. The procedure must require, at a minimum:

(a) Appointment of a human resource professional as the agency's WMS coordinator who serves as the single point of contact for the director's office regarding WMS issues.

(b) Use of a form prescribed by the director or an alternate form approved by the director for requests to establish or reevaluate WMS positions.

(c) Approval of the request for inclusion or evaluation by the position's agency head or designee.

(d) Inclusion determination and position evaluation must be performed by a committee of three or more people, which must include:

(i) The agency's WMS coordinator;

(ii) A manager from the agency who has comprehensive knowledge of the agency's business; and

(iii) A management representative from another agency or human resource professional from another agency.

(e) Only those who have successfully completed training may participate on a WMS committee. The training must satisfy the core curriculum as defined by the director's office.

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[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-032, filed 11/10/11, effective 12/13/11; 10-23-043 and 11-01-158, § 357-58-032, filed 11/10/10 and 12/22/10, effective 4/1/11.]

**WAC 357-58-035 What is the definition of a manager or managerial employee?** In accordance with RCW 41.06.022, a manager or managerial employee is defined as the incumbent of a position that:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Administers one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; and/or
- (5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-035, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-040 Are there any manager positions or managerial employees that are not included in the WMS?** Manager positions or managerial employees that are exempt from civil service and manager positions or managerial employees of institutions of higher education and related boards are not included in WMS or covered by chapter 357-58 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-040, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-042 What happens when it has been determined that a position no longer meets the definition of manager found in WAC 357-58-035?** When an agency has determined that the duties of a position no longer meet the definition of manager, found in WAC 357-58-035, and is no longer appropriate in WMS, then provisions of WAC 357-58 no longer apply. The WGS rules on reallocation (WAC 357-13) will apply. The employee will retain existing status.

[Statutory Authority: Chapter 41.06 RCW. 06-15-068, § 357-58-042, filed 7/13/06, effective 8/14/06.]

**WAC 357-58-045 Who is covered by the WMS rules?** Chapter 357-58 WAC applies only to managers and does not apply to classified employees in the Washington general service.

[Statutory Authority: Chapter 41.06 RCW. 09-17-059, § 357-58-045, filed 8/13/09, effective 9/16/09; 05-12-068, § 357-58-045, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-050 What chapters of civil service rules apply to WMS positions?** Other chapters of civil service rules do not apply to WMS positions or employees except for the chapters listed below. If a WMS issue is identified that the director has not specifically addressed in the adoption of the WMS rules, the other civil service rules do not apply or take precedence in addressing the issue.

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Except where specifically stated otherwise, the following chapters apply to positions or employees included in the WMS.

- Chapter 357-04 WAC General provisions
- Chapter 357-22 WAC Personnel files
- Chapter 357-25 WAC Affirmative action program
- Chapter 357-26 WAC Reasonable accommodation
- Chapter 357-31 WAC Leave
- Chapter 357-34 WAC Employee training and development
- Chapter 357-37 WAC Performance management
- Chapter 357-40 WAC Discipline
- Chapter 357-43 WAC Employee business units
- Chapter 357-52 WAC Appeals

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-050, filed 11/10/11, effective 12/13/11; 10-11-076, § 357-58-050, filed 5/14/10, effective 6/15/10; 05-12-068, § 357-58-050, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-055 What civil service rules do not apply to WMS?** Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the Washington management service:

- Chapter 357-01 WAC, Definitions
- Chapter 357-13 WAC, Classification
- Chapter 357-16 WAC, Recruitment, assessment, and certification
- Chapter 357-19 WAC, Appointments and reemployment
- Chapter 357-28 WAC, Compensation
- Chapter 357-46 WAC, Layoff and separation
- Chapter 357-49 WAC, Director's reviews

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-055, filed 11/10/11, effective 12/13/11; 05-12-068, § 357-58-055, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-060 Do the WMS rules apply to all general government employers?** The WMS rules, chapter 357-58 WAC, apply to all general government employers.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-060, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-065 Definitions for WMS.** The following definitions apply to chapter 357-58 WAC:

- (1) **Competencies.** Those measurable or observable knowledge, skills, abilities, and behaviors critical to success in a key job role or function.
- (2) **Director.** State human resources director within the office of financial management.
- (3) **Dismissal.** The termination of an individual's employment for disciplinary purposes.
- (4) **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.
- (5) **Evaluation points.** Evaluation points are the points resulting from an evaluation of a position using the managerial job value assessment chart.
- (6) **Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

(7) **Management bands.** Management bands are a series of management levels included in the Washington management service. Placement in a band reflects the nature of management, decision-making environment and policy impact, and scope of management accountability and control assigned to the position.

(8) **Performance management confirmation.** Approval granted by the director to an employer allowing the employer to link individual employee performance to compensation or layoff decisions.

(9) **Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions, or circumstances associated with the job.

(10) **Reassignment.** A reassignment is an employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and its incumbent from one section, department, or geographical location to another section, department, or geographical location.

(11) **Review period.** The review period is a period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

(12) **Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

(13) **Separation.** Separation from state employment for nondisciplinary purposes.

(14) **Suspension.** An absence without pay for disciplinary purposes.

(15) **Transfer.** A WMS transfer is an employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

(16) **Washington general service (WGS).** Washington general service is the system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

(17) **Washington management service (WMS).** Washington management service is the system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-065, filed 11/10/11, effective 12/13/11; 07-11-092, § 357-58-065, filed 5/16/07, effective 7/1/07; 05-21-060, § 357-58-065, filed 10/13/05, effective 11/15/05; 05-12-068, § 357-58-065, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-070 What are the responsibilities of each agency for effectively managing and budgeting salaries for WMS positions?** Each agency has the overall responsibility for effectively managing and properly budgeting for salaries based on performance management and job required competencies for its WMS positions.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-070, filed 5/27/05, effective 7/1/05.]

(11/10/11)

**WAC 357-58-075 What is the requirement for agencies to develop compensation policies?** Each agency must develop salary administration policies that are consistent with this chapter and guidelines established by the director's office for WMS positions.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-075, filed 11/10/11, effective 12/13/11; 05-12-068, § 357-58-075, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-080 How are positions assigned to the management bands?** Each agency must evaluate its WMS positions using a managerial job value assessment chart developed by the director's office. The number of points resulting from the evaluation determines the management band to which a position is assigned.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-080, filed 11/10/11, effective 12/13/11; 05-12-068, § 357-58-080, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-085 Can WMS salaries be set outside the maximum of an assigned management band?** Compensation for a WMS position may be set outside the maximum of the assigned management band when allowed under any provision of this chapter or when approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-085, filed 11/10/11, effective 12/13/11; 05-21-060, § 357-58-085, filed 10/13/05, effective 11/15/05; 05-12-068, § 357-58-085, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-090 For what reasons can an agency adjust a WMS salary?** Salary adjustments may be made under the following conditions:

- (1) Legislatively directed general and/or special increase;
- (2) Documented recruitment and/or retention problems as approved by the agency director or designee; and/or
- (3) Documented agency and/or state internal salary relationship problems, as approved by the agency director or designee.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-090, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-095 May agencies provide progression increases for WMS employees?** Employers may grant progression adjustments to employees as follows:

- (1) In recognition of the employee's demonstrated growth and development; and/or
- (2) If the employer has received performance management confirmation, in recognition of the employee's sustained excellence.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-095, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-100 Is there a limit for annual progression increases?** Progression increases initiated by the agency normally will not exceed a total of **twenty-five percent** during the tenure of an employee's appointment to a position as long as the position's duties are unchanged or would not evaluate higher if new duties were assigned.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-100, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-105 When can exceptions to the progression increase limits be made?** Only the director may grant requests for exception to the progression increase limit.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-105, filed 11/10/11, effective 12/13/11; 05-12-068, § 357-58-105, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-110 What is a promotion?** A promotion is one of the following:

(1) The assignment of additional responsibilities, which results in higher evaluation points and/or a higher salary standard for the same position, or

(2) Movement to a different position that has a higher salary standard and/or higher evaluation points.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-110, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-115 What is a voluntary demotion and what changes may occur in salary?** A voluntary demotion is a voluntary movement by an employee to a position with lower evaluation points. Such movement may result in a salary decrease.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-115, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-120 What is a disciplinary demotion and what changes may occur in salary?** Demotion for cause is a disciplinary demotion. A disciplinary demotion results in the:

(1) Assignment of responsibilities which results in a lower salary standard and/or lower evaluation points for the same position or results in the position being placed in the WGS with a lower base salary, or

(2) Movement to a different position that has a lower salary standard and/or lower evaluation points or to a WGS position with a lower base salary.

A disciplinary demotion may result in a salary decrease. Any salary decrease must comply with the salary basis test of the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-120, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary?** An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position.

Such downward movement will not decrease the employee's current salary. The employee's current salary will be retained until such time as the WMS management band maximum exceeds the employee's salary or the employee leaves the position.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-125, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-130 Do salary increases greater than five percent for a group of employees need approval?** Sal-

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ary changes greater than five percent proposed for any group of employees must be reviewed and approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-130, filed 11/10/11, effective 12/13/11; 05-12-069, § 357-58-130, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-135 Who can provide lump sum performance recognition payment to employees?** The director or an agency that has received performance management confirmation for decentralized compensation administration may provide additional pay to employees on a lump sum basis. Such payment to an individual or group of employees is to recognize outstanding performance or the achievement of predefined work goals. Any pay granted under this section is a premium that is not part of the base salary.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-135, filed 11/10/11, effective 12/13/11; 05-12-069, § 357-58-135, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-140 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. 11-23-054, § 357-58-140, filed 11/10/11, effective 12/13/11; 05-12-069, § 357-58-140, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-145 When may an agency authorize lump sum relocation compensation?** An agency director may authorize lump sum relocation compensation, within existing resources, whenever:

(1) It is reasonably necessary that a person move his or her home to accept a transfer or appointment; or

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-145, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-150 For what reasons may an employee 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. Termination as a result of layoff, disability separation, or other good cause as determined by the agency director will not require the employee to repay the relocation compensation.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-150, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-155 Must the agency develop written criteria for relocation compensation?** An agency 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. 05-12-069, § 357-58-155, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-160 How are hours of work established for WMS employees?** Agencies must assign each WMS position to one of the overtime eligibility designations identified in the compensation plan and determine the position's work week.

For overtime eligible employees, compensation must be in accordance with the following sections of chapter 357-28 WAC:

WAC 357-28-245  
WAC 357-28-250  
WAC 357-28-255  
WAC 357-28-260  
WAC 357-28-265  
WAC 357-28-275  
WAC 357-28-280  
WAC 357-28-285

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-160, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-165 Do WMS employees receive leave benefits?** Leave accrual, leave usage, and paid holidays for WMS employees must be in accordance with chapter 357-31 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-165, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-170 What about other pay issues?** Each agency may establish policies and practices for additional compensation such as shift differential, call back pay, and standby pay in accordance with the provisions of chapter 357-28 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-170, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-175 Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an incumbent or candidate for a WMS position?** In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an incumbent or candidate for a specific WMS position:

(1) Employers may authorize an accelerated accrual rate for an incumbent or candidate; and/or

(2) Employers may authorize a lump sum accrual of up to eighty hours of vacation leave for the incumbent or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC and cannot be used until the employee has completed six continuous months of service.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-175, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-180 Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an incumbent for a WMS position?** In order to authorize additional

leave for the recruitment and/or retention of a candidate or incumbent for a WMS position, an agency must have a written policy that:

(1) Identifies the reasons for which the employer may authorize additional leave; and

(2) Requires that lump sum accruals only be granted after services have been rendered in accordance with express conditions established by the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-180, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-185 Must an agency develop a recruitment and selection policy and/or procedure for WMS positions?** Each agency must develop a recruitment and selection policy and/or procedure that will best meet client, employee, management, and organizational needs. The policy and/or procedure must address filling positions and employee movement.

The policy and procedures for recruitment and selection must be inherently flexible and permit methods and strategies to be varied and customized for each recruitment and selection need.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-185, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-190 What must be addressed in agency's WMS recruitment and selection policy and/or procedure?** An agency's WMS recruitment and selection policy must:

(1) Provide for the ability to consider any or all qualified candidates for hire, promotion, or internal movement;

(2) Ensure that hiring decisions are fair, objective, and based on the evaluation of leadership and other job related competencies and characteristics required for successful job performance and performance management;

(3) Support workforce diversity and affirmative action goals;

(4) Consider the career development of the agency's employees and other state employees;

(5) Ensure that hiring decisions are not based on patronage or political affiliation;

(6) Ensure compliance with state and federal laws relating to employee selection and nondiscrimination;

(7) Encourage decentralized and regional administration of the recruitment and selection processes when it is appropriate for the agency.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-190, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-195 Are employers required to grant promotional preference when filling WMS positions?** Agencies are not required to grant promotional preference when recruiting and selecting for WMS positions. However, an agency may determine, on an individual position basis, if it is in the organization's best interest to limit the candidate pool to promotional candidates. The agency defines who qualifies as a promotional candidate.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-195, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-200 How may transfers occur?** At any time, an employee and the affected agency or agencies may agree to the transfer of a WMS employee within an agency or between agencies.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-200, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-205 Under what conditions may an employer reassign a WMS employee?** At any time, an agency may reassign an employee or a position and its incumbent to meet client or organizational needs. If the new location is within a reasonable commute, as defined by the agency, the employee must accept the reassignment.

If the reassignment is beyond a reasonable commute and the employee does not agree to the reassignment, the employee has layoff rights in accordance with this chapter.

[Statutory Authority: Chapter 41.06 RCW. 09-03-013, § 357-58-205, filed 1/9/09, effective 2/13/09; 05-12-069, § 357-58-205, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-210 When may a WMS employee transfer to a WGS position and vice versa?** A permanent employee may transfer from a WMS position to a WGS position if his/her salary is within the salary range of the WGS position.

A permanent employee may transfer from a WGS position to a WMS position if his/her salary is within the management band assigned to the WMS position.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-210, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-215 May a permanent employee voluntarily demote to a WGS position?** A permanent employee may voluntarily demote from a WMS position to a WGS position at a lower pay level than his/her current position.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-215, filed 10/13/05, effective 11/15/05; 05-12-069, § 357-58-215, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-220 May a permanent WMS employee accept a nonpermanent appointment in the WGS?** A permanent WMS employee may accept a nonpermanent appointment to a WGS position as provided in chapter 357-19 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-220, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-225 What return rights must an employer provide to a permanent WMS employee who accepts a nonpermanent appointment to a WGS position?**

(1) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the same agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the different agency, the original agency must provide layoff rights

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as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) or (2) of this section, the agency and the employee may agree to other terms.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-225, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-230 May a permanent WMS employee accept an appointment to a project position in the general service and does the employee have any return right to his/her permanent WMS position?** A permanent WMS employee may accept an appointment to a project WGS position as provided in chapter 357-19 WAC. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-230, filed 10/13/05, effective 11/15/05; 05-12-069, § 357-58-230, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-235 May employers create WMS positions in projects?** Employers may designate project positions that meet the definition of manager as WMS project positions.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-235, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-240 What are the notification requirements for appointing an employee to a project WMS position?** An employee appointed to a project WMS position must be notified, in writing, of the status of the appointment and the expected ending date of the position.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-240, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-245 Must an employee appointed to a project position serve a review period?** (1) An employee appointed to a WMS project position must serve a review period when:

(a) The employee does not have permanent status in classified service; or

(b) The employee is a permanent employee who has promoted to a project WMS position.

(2) An employee who does not have permanent status prior to appointment to a project WMS position will gain permanent status upon completion of the review period.

[Statutory Authority: Chapter 41.06 RCW. 09-11-068, § 357-58-245, filed 5/14/09, effective 6/16/09; 05-12-070, § 357-58-245, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-250 Must an employee who transfers or voluntarily demotes to a project WMS position serve a**



**review period?** An appointing authority may require an employee who transfers or voluntarily demotes to a project WMS position to serve a review period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-250, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-255 May a permanent WMS employee accept a project appointment within WMS and does the employee have any return rights to his/her permanent WMS position?** A permanent WMS employee may accept an appointment to a project WMS position. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the project position. If no return right is agreed to, the permanent employee has the rights provided by WAC 357-58-465 upon layoff from the project.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-255, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-260 What happens to employees in project WMS positions at the conclusion of the project?**

(1) At the conclusion of an appointment to a project WMS position, the layoff provisions of this chapter apply.

(2) In addition to the layoff rights provided by this chapter:

(a) A permanent status employee who left a permanent WMS position to accept appointment to a project WMS position without a break in service has the additional rights provided by WAC 357-19-340; and

(b) A permanent WMS employee who left a permanent WMS position may have additional rights negotiated under WAC 357-58-255.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-260, filed 10/13/05, effective 11/15/05; 05-12-070, § 357-58-260, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-265 When may an agency make an acting WMS appointment and what actions are required?**

When necessary to meet organizational needs, an agency may make nonpermanent appointments in WMS. These appointments are called acting appointments. Prior to the acting appointment, the appointing authority must communicate in writing to the employee the anticipated length, intent, salary, and other conditions of the appointment.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-265, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-270 Does time in an acting appointment count as time in the review period?**

When an individual who is in an acting WMS appointment is subsequently appointed to a permanent WMS position, time spent in the acting appointment may count towards the review period for the permanent WMS position at the discretion of the appointing authority.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-270, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-275 May a permanent WMS employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting**

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**appointment?** Permanent WMS employees may accept acting appointments to WMS positions.

(1) When a permanent WMS employee has accepted an acting appointment within the **same** agency and the acting appointment ends, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted an acting appointment within a **different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) and (2) of this section, the agency and the employee may agree to other terms.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-58-275, filed 3/17/08, effective 4/18/08; 05-12-070, § 357-58-275, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-280 How much notice must an employer give for ending an acting appointment?**

The end date of an acting appointment may be set in the appointment letter. If the end date is not set in the appointment letter, the employer must give written notice of the termination date of the acting appointment. If the employee is a permanent state employee, the employer must provide at least fifteen calendar days' notice. If the employee is not a permanent state employee, the employer must give one work day's notice.

An acting appointment may be terminated immediately with pay in lieu of the one work day of notice required for nonpermanent employees or the fifteen calendar days' notice required for permanent employees.

For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

[Statutory Authority: Chapter 41.06 RCW. 05-12-094, § 357-58-280, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-285 When must a WMS employee serve a review period?** (1) A review period **must** be served when:

(a) A permanent employee promotes to a permanent WMS position; or

(b) An employee who does not have permanent status in the classified service is appointed to a permanent WMS position.

(2) An employee appointed to a WMS project position must serve a review period in accordance with WAC 357-58-245.

[Statutory Authority: Chapter 41.06 RCW. 09-11-068, § 357-58-285, filed 5/14/09, effective 6/16/09; 05-12-070, § 357-58-285, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-290 How long does the review period last?** 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. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-290, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-295 May a review period be extended beyond the initial time period?** Employers may extend the review period for an individual employee as long as the extension does not cause the total period to exceed eighteen months. The employer must notify the employee in writing of the extension.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-295, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-300 Does time spent on leave without pay or shared leave count towards completion of an employee's review period?** Time spent on leave without pay or shared leave counts towards completion of the employee's review period if the total time does not exceed one hundred seventy-four hours. If the total time on leave without pay or shared leave exceeds one hundred seventy-four the employer determines whether or not the time in excess of one hundred seventy-four hours will count towards completion of the review period. The granting of leave shall be in compliance with chapter 357-31 WAC and the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-58-300, filed 3/17/08, effective 4/18/08; 05-12-070, § 357-58-300, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-305 When does a WMS employee attain permanent status?** Upon successful completion of the review period, the employee will attain permanent status in the position. If a review period is not required in Title 357 WAC and the employer chooses to not require a review period the employee will attain permanent status upon appointment.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-58-305, filed 5/14/09, effective 6/16/09; 05-12-070, § 357-58-305, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-310 When may a WMS employee be required to serve a WMS review period?** An appointing authority may require an employee who transfers, voluntarily demotes, or accepts a layoff option to another WMS position to serve a review period.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-58-310, filed 5/14/09, effective 6/16/09; 05-12-070, § 357-58-310, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-315 When may an employee, who is promoted to another WMS position, in a different agency, while serving a review period, be required to serve a WMS review period?** An employee who is promoted to a different WMS position in a different agency during the review period will begin a new review period for the new position. The new employer may allow for some or all of the

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time served in the review period for the prior position to count towards the review period. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the employers in both agencies.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-315, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-320 What happens when a WMS employee promotes to a new WMS position within the same agency while serving in a review period?** If a WMS employee is promoted to a different WMS position in the same agency during the review period the employer may count time served in the initial review period towards the review period of the new position.

[Statutory Authority: Chapter 41.06 RCW. 10-11-069, § 357-58-320, filed 5/14/10, effective 6/15/10; 05-12-070, § 357-58-320, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-325 What happens when a WGS employee serving a probationary or trial service period is appointed to a WMS position within the same agency?** An employee who is appointed to a WMS position from a WGS position in the same agency while serving a probationary or trial service period in the same or similar occupational field may serve the trial service or probationary period concurrently with the review period. At the discretion of the employer, the employee may attain permanent status in the previous job classification once the original probationary or trial service period concludes.

If the positions are in the same or similar occupational field, the employer may allow for some or all of the time served in the probationary or trial service period to count towards the review period.

[Statutory Authority: Chapter 41.06 RCW. 06-15-069, § 357-58-325, filed 7/13/06, effective 8/14/06; 05-12-070, § 357-58-325, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-330 What happens when a WGS employee serving a probationary or trial service period is appointed to a WMS position in a different agency?** If agreed to in writing by the employers in both agencies, a WGS employee who is appointed to a WMS position in a different agency in the same or similar occupational field while serving in a probationary or trial service period may serve the probationary or trial service period concurrently with the WMS review period. The employee will not attain permanent status in the previous job classification unless agreed to in writing by the employers in both agencies.

If the positions are in the same or similar occupational field, the new employer may allow for some or all of the time served in the probationary or trial service period for the WGS position to count towards the review period.

[Statutory Authority: Chapter 41.06 RCW. 06-15-069, § 357-58-330, filed 7/13/06, effective 8/14/06; 05-12-070, § 357-58-330, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-335 When a WMS employee is promoted in the same position as a result of additional new duties, is a review period required?** The agency may require a review period when the employee remains in the

same position and receives a promotion as a result of additional new duties.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-335, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-340 When does reversion take place during a review period?** During the review period, the appointing authority may separate or revert the employee from the position with written notification of the effective date.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-340, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-345 When a permanent WMS employee does not complete the review period, what reversion rights does the employee have?** When a permanent WMS employee is appointed to a WMS position and reverted during the review period, the current employing agency at the time of reversion must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-345, filed 10/13/05, effective 11/15/05; 05-12-070, § 357-58-345, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-350 When a permanent WGS employee does not complete the review period for a WMS position, what reversion rights does the employee have?** When a permanent WGS employee is appointed to a WMS position and is reverted during the review period, the employee has reversion rights with the current employer at the time of reversion in accordance with WAC 357-19-115, 357-19-117, and 357-19-120.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-350, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-355 Can a permanent employee voluntarily revert during a review period?** Within the first thirty calendar days of any review period, a permanent employee may request to voluntarily revert to his/her former employer. If the former employer authorizes the reversion, the following applies:

(1) If the employee holds permanent status in WMS, the employer must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment.

(2) If the employee holds permanent status in WGS and has not yet gained permanent status in WMS, the employee has reversion rights in accordance with WAC 357-19-115, 357-19-117, and 357-19-120.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-355, filed 10/13/05, effective 11/15/05; 05-12-070, § 357-58-355, filed 5/27/05, effective 7/1/05.]

(11/10/11)

**WAC 357-58-360 May a reverted employee and an agency come to mutual agreement on reversion placement?** Nothing in this section precludes agencies and the reverted employee from reaching mutual agreement on placement of a reverted employee within the WMS or within the WGS if permitted by the respective rules.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-360, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-365 Does a WMS employee who does not have permanent status in the classified service have reversion rights?** A WMS employee who is separated prior to completing the review period and has not gained permanent status in the classified service has no reversion rights.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-365, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-370 Are there any appeal rights for reversion or separation during the review period?** Employees may not appeal reversion or separation during the review period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-370, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-375 When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees have?** (1) When a permanent WMS employee **promotes** to a WGS position within the **same** agency and is reverted during the trial service, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the WGS appointment. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(2) When a permanent WMS employee **demotes** to a WGS position in the **same** agency and is reverted during the trial service period the agency must place the employee in a vacant funded WMS position for which the employee is qualified and with a salary that is equal to or less than the salary range maximum of the class from which the employee is reverting. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(3) When a permanent WMS employee **promotes or demotes** to a WGS position in a **different** agency and is reverted during the trial service period, the employer may separate the employee by providing fifteen calendar days' written notice. The employee may apply for the general government transition pool.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-375, filed 10/13/05, effective 11/15/05; 05-12-070, § 357-58-375, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-385 What is the responsibility of general government employers to provide training and devel-**

**opment to WMS employees?** General government employers must provide all WMS employees development and training opportunities designed to broaden managerial and leadership competencies. Diversity and performance management must be part of this training. WMS employees who supervise staff must meet the requirements in chapter 357-34 WAC.

[Statutory Authority: Chapter 41.06 RCW. 06-19-062, § 357-58-385, filed 9/19/06, effective 10/20/06; 05-12-070, § 357-58-385, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-390 What is the responsibility of WMS managers?** In addition to those responsibilities identified in chapter 357-34 WAC, WMS employees are responsible for seeking out and fully participating in opportunities to enhance their managerial knowledge and leadership competencies to implement and emphasize performance management, model efficient leadership in changing work situations, reduce potential liability claims and manage in a civil service environment.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-390, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-395 What will be the role of the department of enterprise services?** The department of enterprise services shall assist state agencies by providing a quality developmental and leadership training program and consultative and technical assistance to help agencies address the development needs of their managers.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-395, filed 11/10/11, effective 12/13/11; 05-12-070, § 357-58-395, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-400 How does each agency deal with developmental needs of managers?** Each agency must ensure that the development needs of managers are incorporated into the agency's development and training plan. Each agency is responsible for periodic evaluations of its plan.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-400, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-405 In addition to the requirements of chapter 357-37 WAC, what must the performance management process focus on for WMS employees?** For WMS employees, the performance management process must satisfy the requirements of chapter 357-37 WAC and focus on:

- (1) Fostering employee competence, leadership and productivity,
- (2) Supporting achievement of organizational goals and objectives, and
- (3) Holding managers accountable for achieving programmatic results and helping to build a performance based culture that will enable workforce success.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-405, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-410 When and how often must performance feedback be provided to a WMS employee through the formal evaluation process?** Employers must provide feedback and formally evaluate the performance of WMS employees during the review period and annually thereafter.

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[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-410, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-415 What forms and procedures must employers use to plan for and evaluate the performance of managers?** Agencies must use standardized employee performance planning and evaluation procedures and forms developed by the director or alternate procedures and forms approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-415, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-420 May employers supplement the standardized performance evaluation procedures and forms?** Agencies may tailor or supplement the managerial evaluation system to fulfill agency-unique needs, provided the emphasis is placed on:

- (1) Assessment of those leadership competencies that are critical to an effective managerial in a performance-based environment;
- (2) Planning for development and training in leadership competencies;
- (3) Collaboration and communication between the supervisor and managerial employee during the performance planning and evaluation process;
- (4) Planning for and assessment of results; and
- (5) Preparation of a performance management and development plan.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-420, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-425 Can an employer factor performance into compensation and layoff decisions for WMS employees?** A general government employer may factor an employee's performance into compensation and layoff decisions if the employer has received performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-425, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-430 How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions for WMS employees?** Employers may request performance management confirmation from the director for WMS employees. The director will use the elements listed in WAC 357-58-435 to assess and evaluate an employer's readiness to fairly and objectively factor performance into compensation, recognition leave and layoff decisions. If the director determines that the employer has developed a performance management program that encompasses the necessary elements, the employer will be granted performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-430, filed 11/10/11, effective 12/13/11; 05-12-071, § 357-58-430, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-435 What elements will the director evaluate to determine if an employer should be granted performance management confirmation?** The director will

evaluate the following elements to determine if an employer should receive performance management confirmation:

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

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-435, filed 11/10/11, effective 12/13/11; 05-12-071, § 357-58-435, filed 5/27/05, effective 7/1/05.]

#### **WAC 357-58-438 What is the impact of a layoff?**

Layoff is an employer-initiated action taken in accordance with WAC 357-58-445 that results in:

- (1) Separation from service with an employer;
- (2) Employment in a WMS position with a lower salary standard or evaluation points or a WGS position with a lower salary range maximum;
- (3) Reduction in the work year; or
- (4) Reduction in the number of work hours.

[Statutory Authority: Chapter 41.06 RCW. 06-03-075, § 357-58-438, filed 1/12/06, effective 2/13/06.]

**WAC 357-58-440 How may an employer lay off WMS employees and what notice is required?** WMS employees may be separated without prejudice due to layoff in accordance with the statutes and the agency's layoff procedure.

Permanent employees must receive at least fifteen calendar days' written notice of layoff, except when the employer and employee agree to waive the fifteen-day notice. Notice of layoff must include the reason or basis for layoff and the employee's right to appeal the layoff.

WMS employees without permanent status must receive at least one calendar day's written notice of layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-440, filed 10/13/05, effective 11/15/05; 05-12-071, § 357-58-440, filed 5/27/05, effective 7/1/05.]

#### **WAC 357-58-445 What are the reasons for layoff?**

Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules.

(1) The reasons for layoff include, but are not limited to, the following:

- (a) Lack of funds;
  - (b) Lack of work; or
  - (c) Organizational change.
- (2) Examples of layoff actions due to lack of work may include, but are not limited to:
- (a) Termination of a project or special employment;
  - (b) Availability of fewer positions than there are employees entitled to such positions;
  - (c) Elimination of a position when the work of the position has been competitively contracted; or
  - (d) Employee's ineligibility to continue in a position which has been reallocated to the WGS.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-445, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-450 How does a WMS employee return from an exempt appointments?** When an exempt employee has the right to return under WAC 357-04-030 to a WMS position the return will be accomplished as provided in WAC 357-19-195 and 357-19-200.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-450, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-455 How does an employer implement a layoff action?** The employer is required to have a layoff procedure. When an employer determines a layoff is necessary, the layoff procedure must be followed. The layoff procedure must be available either electronically or in writing to employees subject to layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-455, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-460 What must be included in the employer's layoff procedure?** The employer's layoff procedure must:

(1) Identify clearly defined layoff unit(s) that minimize disruption of the employer's total operation and provide options to employees scheduled for layoff;

- Employers may establish separate and exclusive layoff units for project employment or special employment programs.

(2) Provide opportunities to avoid or minimize layoff, such as transfers, voluntary demotion, voluntary reduced work schedule, or voluntary leave without pay;

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-58-440.

(4) Provide layoff options for permanent employees being laid off in accordance with WAC 357-58-465. Only employers who have performance confirmation can consider performance in determining layoff options;

(5) Address the time frame in which employees must select a layoff option;

(6) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-58-465;

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in conti-

nunity such as meeting critical deadlines, continuity in patient care, or research progress.

(7) Describe how employment retention ratings will be calculated, including options for factoring performance into ratings; and

(8) Specify how the employer will break ties when more than one employee has the same employment retention rating.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-460, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-465 What option does a permanent employee in a WMS position have to take a position when the employee is scheduled for layoff?** (1) Within the layoff unit, a permanent employee scheduled for layoff from a WMS position must be offered the option to take a position, if available, that meets the following criteria:

(a) The employee has the required competencies for the position.

(b) The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or general service positions in accordance with WAC 357-46-035(1) in descending salary order if the employee has held permanent status in a WGS classification. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.

(c) The position being offered as the option is funded and vacant. If no vacant position is available, the position being offered as the option must be occupied by the employee with the lowest retention rating.

(2) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-465, filed 10/13/05, effective 11/15/05; 05-12-071, § 357-58-465, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-470 How does an employer determine an employee's employment retention rating?** The employer determines an employee's employment retention rating using seniority as calculated in WAC 357-46-055. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-470, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-475 Does a veteran receive any preference in layoff?** (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding the eligible veteran's total active military service, not to exceed five years, to his/her unbroken service date.

(2) An eligible veteran is defined as any permanent employee who:

(a) Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and

(b) Has received, upon termination of such service:

(i) An honorable discharge;

(ii) A discharge for physical reasons with an honorable record; or

(iii) A release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The surviving spouse or surviving registered domestic partner of an eligible veteran is entitled to veteran's seniority preference for up to five years as outlined in subsection (1) and (2) of this section regardless of whether the veteran had at least one year of active military service.

[Statutory Authority: Chapter 41.06 RCW. 09-17-056 and 09-18-113, § 357-58-475, filed 8/13/09 and 9/2/09, effective 12/3/09; 07-23-011, § 357-58-475, filed 11/8/07, effective 12/11/07; 05-12-071, § 357-58-475, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-477 Is a WMS employee who is rehired following layoff considered to have had a break in state service?** (1) An employee laid off in accordance with the provisions of WAC 357-58-445 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position.

(2) Upon appointment, an employee is reinstated with the anniversary and unbroken service dates the employee had at the time of layoff. A full-time employee is given full-time credit toward seniority for the time spent off the payroll due to layoff. As provided in WAC 357-46-055(2) a part-time employee's seniority is calculated by determining the number of actual hours worked and/or in paid status, therefore a part-time employee shall not receive seniority credit for the time spent off the payroll due to layoff.

[Statutory Authority: Chapter 41.06 RCW. 09-23-059, § 357-58-477, filed 11/12/09, effective 12/15/09; 09-11-063, § 357-58-477, filed 5/14/09, effective 6/16/09.]

**WAC 357-58-480 What provisions governs separation due to disability for WMS employees?** WMS employees may be separated due to disability in accordance with WAC 357-46-160, 357-46-165, 357-46-170, and 357-46-175.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-480, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-485 What provisions governs nondisciplinary separation for WMS employees?** Employers may separate WMS employees for nondisciplinary reasons in accordance with WAC 357-46-195, 357-46-200, and 357-46-205.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-485, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-490 What provisions governs separation for unauthorized absence for WMS employees?**

Employers may separate WMS employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

[Statutory Authority: Chapter 41.06 RCW. 05-12-071, § 357-58-490, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-500 May an employee request withdrawal of his/her resignation?** An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-500, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-505 Does a WMS employee have appeal rights?** Any permanent employee in a WMS position who is laid off, dismissed, suspended, demoted, separated, whose position has been reassigned beyond a reasonable commute without agreeing to the reassignment, or whose base salary is reduced may appeal in accordance with chapter 357-52 WAC. The conclusion of an acting appointment is not subject to appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-21-053, § 357-58-505, filed 10/13/05, effective 11/15/05; 05-12-072, § 357-58-505, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-510 Can the agency's decision regarding which WMS position to eliminate in a layoff action be appealed?** The agency's decision regarding which WMS position to eliminate in a layoff is not subject to appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-510, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-515 When a WMS employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken?** Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

(1) Salary adjustment (or lack thereof) when the responsibilities of the permanent employee's position have been changed.

(2) Placement following reversion of a permanent employee.

(3) Decisions about whether or not a position is included in the WMS. When reconsidering decisions concerning inclusion in WMS the following apply:

(a) The final agency internal decision must be made by the agency director or designee.

(b) If the incumbent disagrees with the agency director/designee's decision, he/she may request a director's review by the director, as long as such request is made within fifteen calendar days of notification of the decision. Such review will be limited to relevant documents and information and will be final.

(11/10/11)

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-515, filed 11/10/11, effective 12/13/11; 05-12-072, § 357-58-515, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-520 What requirements must be included in the agency's WMS reconsideration procedures?** In developing and administering the agency's WMS reconsideration procedures, the agency will adhere to the following:

(1) Reconsideration must be limited to a maximum of three levels of consideration within the agency.

(2) Reconsideration may be limited to an examination of documentation and other relevant information. Agency decisions should be prompt.

(3) Reconsideration of an agency action will be done by the agency director or designee.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-520, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-525 How does the employee request reconsideration of an agency action?** Employee requests for reconsideration of an agency action must be in writing and requested within fifteen calendar days of the action or notification or awareness (whichever was first) of the action.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-525, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-530 What is the responsibility of agencies to track and analyze requests for reconsideration of agency actions?** Each agency must:

(1) Maintain a record of the number, nature, and outcome of employee requests for reconsideration of an agency action.

(2) Identify and act upon any patterns or trends that signal problems or development or training needs among its managers.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-530, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-540 What type of records are agencies required to keep and report for WMS employees?** Each agency will maintain records of employees in the WMS. The records will identify employees as members of the WMS, including position numbers and position titles and will track all personnel actions related to them. Agencies will be responsible for collecting statistical information on WMS personnel regarding diversity, applicant flow, and appointments following each selection.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-540, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-546 What is the director's authority to review actions taken by an agency under chapter 357-58 WAC or to audit an agency's WMS processes?** (1) Under the authority of chapter 43, Laws of 2011 and RCW 41.06-500, the director retains the right to review:

(a) Any action taken by an agency under chapter 357-58 WAC; and

(b) An agency's administration of the WMS program.

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(2) An agency's compliance with WMS procedures and rules will be audited. Audit requirements will be prescribed by the director's office.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-546, filed 11/10/11, effective 12/13/11; 10-23-043 and 11-01-158, § 357-58-546, filed 11/10/10 and 12/22/10, effective 4/1/11.]

**WAC 357-58-550 May an employer temporarily layoff a WMS employee?** For any of the reasons specified in WAC 357-58-445, an employer may temporarily layoff a WMS employee by:

- (1) Reducing the number of hours an employee is scheduled to work; or
- (2) Furloughing the employee.

[Statutory Authority: Chapter 41.06 RCW. 06-07-048, § 357-58-550, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-551 Are there any limits to temporary layoff?** Under the provisions of WAC 357-58-550, an employer may not:

- (1) Furlough a WMS employee for more than thirty calendar days in a calendar year; or
- (2) Temporarily reduce a WMS employee's regular work schedule to less than twenty hours a week for more than sixty calendar days in a calendar year.

[Statutory Authority: Chapter 41.06 RCW. 06-07-048, § 357-58-551, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-552 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a WMS employee to perform?** If an employer has less than twenty hours per week of work for a WMS employee to perform during a period of temporary layoff, the employer must notify the WMS employee that he/she is being furloughed. The employer may then offer the available work hours to the WMS employee as an acting appointment under the provisions of WAC 357-58-265.

[Statutory Authority: Chapter 41.06 RCW. 06-07-048, § 357-58-552, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-553 What is the notice requirement to temporarily layoff a WMS employee?** An employer must provide the WMS employee seven calendar days' notice of temporary layoff. The temporary layoff notice must inform the WMS employee of their status during temporary layoff and the expected duration of the temporary layoff. Notice of temporary layoff may be provided by using alternative methods as described in WAC 357-04-105.

[Statutory Authority: Chapter 41.06 RCW. 10-23-040, § 357-58-553, filed 11/10/10, effective 12/13/10; 06-07-048, § 357-58-553, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-554 What is a WMS employee's status during temporary layoff?** (1) The following applies during a temporary layoff:

- (a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff;
- (b) An employee's vacation and sick leave accruals will not be impacted by periods of time spent on temporary layoff;

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(c) An employee's holiday compensation will not be impacted by periods of time spent on temporary layoff; and

(d) The duration of an employee's review period shall not be extended for periods of time spent on temporary layoff.

(2) A WMS employee who is temporarily laid off is not entitled to:

(a) Layoff rights, including the ability to bump any other position or be placed on the employer's internal or statewide layoff list;

(b) Payment for their vacation leave balance; and

(c) Use of their accrued vacation leave for hours the employee is not scheduled to work if the temporary layoff was due to lack of funds.

(3) If the temporary layoff was not due to lack of funds, an employer may allow a WMS employee to use accrued vacation leave in lieu of temporary layoff.

[Statutory Authority: Chapter 41.06 RCW. 10-23-040, § 357-58-554, filed 11/10/10, effective 12/13/10; 09-17-060, § 357-58-554, filed 8/13/09, effective 9/16/09; 06-07-048, § 357-58-554, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-555 At the conclusion of a temporary layoff, does a WMS employee have the right to return to the position he/she held immediately prior to being temporarily laid off?** At the conclusion of the temporary layoff, the WMS employee has the right to resume the position he/she held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment he/she held prior to the layoff.

[Statutory Authority: Chapter 41.06 RCW. 06-07-048, § 357-58-555, filed 3/9/06, effective 4/10/06.]

**WAC 357-58-556 How is a WMS employee's temporary layoff day determined when an employee works a night shift schedule which begins one calendar day and ends on the next?** For WMS employees working a shift which begins on one calendar day and ends on the next, the twenty-four hour period during which the temporary layoff occurs must be determined by the employer to start either at the start of the shift that begins on the day of temporary layoff, or the start of the shift that precedes the day of temporary layoff. For example:

The employer has determined that July 12th will be a temporary layoff day. The employee's regular work schedule is 6:00 p.m. to 3:00 a.m. Sunday through Thursday. The employer must determine if the employee's temporary layoff will occur for the shift which begins at 6:00 p.m. on July 11th or the shift that begins at 6:00 p.m. on July 12th.

[Statutory Authority: Chapter 41.06 RCW. 10-23-040, § 357-58-556, filed 11/10/10, effective 12/13/10.]

**WAC 357-58-565 What mechanism must be used to report WMS inclusion and evaluation activities?** (1) Agencies must submit their WMS activity reports to the director's office and make them available as prescribed by the director's office.

(2) A roll-up of all agencies' WMS activities will be made available to agencies.

[Statutory Authority: Chapter 41.06 RCW. 11-23-054, § 357-58-565, filed 11/10/11, effective 12/13/11; 10-23-043 and 11-01-158, § 357-58-565, filed 11/10/10 and 12/22/10, effective 4/1/11.]



