

Washington State Parks and  
Recreation Commission  
7150 Cleanwater Lane KY-11  
Olympia, WA 98504

Each application shall be accompanied by an application fee of one hundred dollars which shall be in the form of a check or money order payable to the Washington state parks and recreation commission.

[Statutory Authority: RCW 43.51.040 and 43.51.060. 88-07-074 (Order 103), § 352-74-040, filed 3/18/88, effective 5/15/88. Statutory Authority: RCW 43.51.040. 84-20-070 (Order 82), § 352-74-040, filed 10/2/84.]

**WAC 352-74-060 Issuance and revocation of film permit.** The director or designee of the director, shall issue a film permit provided by the commission to an approved applicant after the applicant has submitted to the commission any fees, bond, damage deposit, and insurance certification established pursuant to WAC 352-74-050 and has demonstrated in its application or otherwise to the satisfaction of the director that filming:

- (1) Is compatible with the activities of park visitors;
- (2) Will not damage facilities or resources, or interfere with park operations;
- (3) Will not disrupt wildlife;
- (4) Will not imply the endorsement of the commission for the content of the film;
- (5) Will acknowledge the cooperation of the commission;
- (6) Is not inconsistent in the judgment of the director with the purposes for, or conditions on which, the property where the filming is to take place was acquired; and
- (7) Will conform with all of the applicable statutes, rules, policies, and procedures of the commission, and the instructions of the commission staff who supervise the filming.

If a film maker does not comply with all of the applicable statutes, rules, policies, and procedures of the commission, the conditions upon which the permit was granted, and the instructions of the commission staff who supervise the filming, then the director or designee of the director shall revoke the film permit.

[Statutory Authority: RCW 43.51.040 and 43.51.060. 88-07-074 (Order 103), § 352-74-060, filed 3/18/88, effective 5/15/88. Statutory Authority: RCW 43.51.040. 84-20-070 (Order 82), § 352-74-060, filed 10/2/84.]

**WAC 352-74-070 Additional fees and release of bond or damage deposit.** After completion of filming the director or the designee of the director shall determine if any additional fees are to be assessed a film maker and whether or not any bond or damage deposit submitted to the commission by a film maker may be released.

If the director or the designee of the director determines that no additional fees are to be assessed and that a bond or damage deposit is to be released, then a bond or damage deposit shall be returned to a film maker.

If the director or the designee of the director determines that additional fees are to be assessed or that a bond or damage deposit is not to be released, then the film maker shall be so informed.

[1988 WAC Supp—page 2270]

If a film maker pays additional fees in the form of a check or money order payable to the Washington state parks and recreation commission which is submitted to the commission within thirty days of receipt of the notice to pay the fees, then the director or the designee of the director shall return a bond or damage deposit to a film maker.

If a film maker does not pay additional fees within the time period and in accordance with the procedures set forth above, then the director or designee of the director shall exercise the rights of the commission under a bond or damage deposit to pay the additional fees and so inform a film maker or exercise any such other legal rights as may be available.

[Statutory Authority: RCW 43.51.040 and 43.51.060. 88-07-074 (Order 103), § 352-74-070, filed 3/18/88, effective 5/15/88. Statutory Authority: RCW 43.51.040. 84-20-070 (Order 82), § 352-74-070, filed 10/2/84.]

## Title 356 WAC

### PERSONNEL, DEPARTMENT OF

#### Chapters

356-05	Definitions.
356-06	General provisions.
356-07	Operations and public records.
356-09	Affirmative action program.
356-10	Classification.
356-14	Compensation plan.
356-15	Compensation plan appendix.
356-18	Leave.
356-22	Recruitment--Examinations.
356-26	Registers--Certification.
356-30	Appointments--Separations.
356-34	Disciplinary actions--Appeals.
356-35	Disability--Separation--Appeals--Procedures.
356-42	Labor relations.
356-46	Miscellaneous.
356-47	Career executive program.

#### Chapter 356-05 WAC

##### DEFINITIONS

#### WAC

356-05-005	Repealed.
356-05-013	Affirmative action.
356-05-048	Base range.
356-05-128	Drug test.
356-05-145	Emergency appointment.
356-05-180	Repealed.
356-05-207	Job categories.
356-05-260	Persons of disability.
356-05-275	Point range.
356-05-320	Project employment.
356-05-327	Protected group members.
356-05-330	Repealed.
356-05-333	Reasonable accommodation.
356-05-360	Resignation.
356-05-370	Salary range.
356-05-390	Seniority.
356-05-415	Temporary employment.

356-05-430	Transfer.
356-05-447	Underutilization.
356-05-450	Union shop.
356-05-455	Repealed.
356-05-456	Union shop nonassociation fee.
356-05-461	Union shop representation fee.
356-05-465	Veteran.
356-05-470	Veteran's spouse.
356-05-480	Work day.
356-05-500	Workweek.

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

356-05-005	Acting appointment. [Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-005, filed 8/10/84.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-05-180	Handicapped. [Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-180, filed 8/10/84.] Repealed by 87-02-038 (Order 267), filed 1/2/87. Statutory Authority: RCW 41.06.150.
356-05-330	Provisional appointment. [Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-330, filed 8/10/84.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-05-455	Union shop fee. [Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-455, filed 8/10/84.] Repealed by 89-02-011 (Order 312), filed 12/28/88, effective 2/1/89. Statutory Authority: RCW 41.06.150.

**WAC 356-05-005 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-05-013 Affirmative action.** Procedures by which protected group members are provided with increased employment opportunities designed to correct underutilization.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-013, filed 1/2/87.]

**WAC 356-05-048 Base range.** A salary range identified by a whole number, rather than a number with a decimal suffix (as opposed to a "point range" which has a decimal suffix).

[Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-05-048, filed 7/16/87, effective 9/1/87.]

**WAC 356-05-128 Drug test.** Any blood, urine or other test designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW.

[Statutory Authority: RCW 41.06.150. 88-03-042 (Order 291), § 356-05-128, filed 1/19/88, effective 3/1/88.]

**WAC 356-05-145 Emergency appointment.** An appointment, for emergency reasons, not to exceed thirty calendar days.

[Statutory Authority: RCW 41.06.150. 88-21-028 (Order 309), § 356-05-145, filed 10/11/88. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-145, filed 8/10/84.]

**WAC 356-05-180 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-05-207 Job categories.** The eight categories designated by the equal employment opportunity commission for affirmative action reporting to federal agencies: Officials and administrators, professionals, technicians, protective service workers, paraprofessionals, office and clerical, skilled craft workers, and service and maintenance.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-207, filed 1/2/87.]

**WAC 356-05-260 Persons of disability.** Persons with physical, mental, or sensory impairments that would impede those individuals in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight; static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-260, filed 1/2/87.]

**WAC 356-05-275 Point range.** A salary range identified by a whole number with a decimal suffix (as opposed to a "base range" which has no decimal suffix).

[Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-05-275, filed 7/16/87, effective 9/1/87.]

**WAC 356-05-320 Project employment.** A program designated by the director of personnel as "project employment," that is separately funded by a grant, or by specially targeted federal or state funds, has a specific goal, and has an end in sight. Such a program shall normally last up to two years.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-05-320, filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-320, filed 8/10/84.]

**WAC 356-05-327 Protected group members.** Protected groups for affirmative action purposes are: Persons between the ages of forty and seventy, people of disability, Vietnam Era veterans, disabled veterans, women, Asians, blacks, Hispanics, and native Americans.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-327, filed 1/2/87.]

**WAC 356-05-330 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-05-333 Reasonable accommodation.** Reasonable alterations, adjustments, or changes made by the appointing authority in the job, workplace and/or term or condition of employment which will enable an otherwise qualified person of disability or disabled veteran to perform a particular job successfully, as determined on a case-by-case basis.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-333, filed 1/2/87.]

**WAC 356-05-360 Resignation.** A voluntary separation from state employment.

[Statutory Authority: RCW 41.06.150, 88-03-041 (Order 290), § 356-05-360, filed 1/19/88, effective 3/1/88. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-360, filed 8/10/84.]

**WAC 356-05-370 Salary range.** A sequence of minimum, intervening, and maximum dollar amounts designated by the board as the monthly compensation for a class. Salary ranges are identified in the compensation plan by number. Those with a decimal suffix are "point ranges"; those with only whole numbers are "base ranges."

[Statutory Authority: RCW 41.06.150, 87-15-065 (Order 281), § 356-05-370, filed 7/16/87, effective 9/1/87. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-370, filed 8/10/84.]

**WAC 356-05-390 Seniority.** A measure of the last period of unbroken time served in positions in the classified service under the jurisdiction of the state personnel board. Service in positions brought under the jurisdiction of the state personnel board by statute is counted as though it had previously been under the jurisdiction of the state personnel board. Leaves of absence granted by agencies and separations due to reduction in force are not considered a break in service. Time spent on leaves of absence without pay is not credited unless it is for educational leaves, or statutes require it be credited; or it is taken at the specific request of an agency so employees may perform work specifically related to state work. Time spent off the state payroll due to reduction in force will be credited for that period of time the employee is eligible to be placed on the reduction in force register. Leaves without pay granted to directly or indirectly reduce the possible effect of reduction in force will be credited in accordance with WAC 356-18-140 and 356-18-220. Leaves of absence without pay granted to employees who are drawing worker's compensation because of injury or illness while employed by the state will be credited. Time spent in exempt appointments listed in RCW 41.06.070 will be credited and the service will not be regarded as broken when employees return from exempt service in accordance to RCW 41.06.070(26), WAC 356-06-055 and 356-30-330. Time spent under the jurisdiction of the higher education personnel board will be added when the employee comes under the jurisdiction of the state personnel board through the provisions of WAC 356-49-040. The length of active military service of a veteran, not to exceed five years, shall be added to the state service for such veteran or the deceased veteran's spouse as defined in WAC 356-05-470.

[Statutory Authority: RCW 41.06.150, 87-02-038 (Order 267), § 356-05-390, filed 1/2/87; 85-21-113 (Order 237), § 356-05-390, filed 10/23/85, effective 12/1/85. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-390, filed 8/10/84.]

**WAC 356-05-415 Temporary employment.** Single or multiple periods of employment during the absence of a permanent employee or during a workload peak when

there is a need to fill a position for not more than nine months or 1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

[Statutory Authority: RCW 41.06.150, 88-18-096 (Order 308), § 356-05-415, filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-415, filed 8/10/84.]

**WAC 356-05-430 Transfer.** The change of an employee from a position in one class to another position in a class having the same maximum salary.

[Statutory Authority: RCW 41.06.150, 87-15-065 (Order 281), § 356-05-430, filed 7/16/87, effective 9/1/87. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-430, filed 8/10/84.]

**WAC 356-05-447 Underutilization.** Employment of protected group members in a class or job category at a rate below their workforce availability, and other approved criteria when applicable, as identified in the agency's approved affirmative action plan.

[Statutory Authority: RCW 41.06.150, 87-02-038 (Order 267), § 356-05-447, filed 1/2/87.]

**WAC 356-05-450 Union shop.** A form of union security that requires that all employees within a bargaining unit pay monthly or other periodic dues to an employee organization or pay a representation fee in accordance with the procedure adopted by the employee organization or a nonassociation fee within thirty calendar days of the union shop election or thirty calendar days from an employee's date of hire, whichever is later.

[Statutory Authority: RCW 41.06.150, 89-02-011 (Order 312), § 356-05-450, filed 12/28/88, effective 2/1/89. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-450, filed 8/10/84.]

**WAC 356-05-455 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-05-456 Union shop nonassociation fee.** A fee which an employee who is granted nonassociation as provided in WAC 356-42-043(4) must pay to a union shop exclusive bargaining representative as an alternative to becoming a member of such employee organization and paying regular dues. This fee is equivalent to the regular monthly dues of the employee organization less any included monthly premiums for union-sponsored insurance programs.

[Statutory Authority: RCW 41.06.150, 89-02-011 (Order 312), § 356-05-456, filed 12/28/88, effective 2/1/89.]

**WAC 356-05-461 Union shop representation fee.** A fee in lieu of regular dues which an employee may pay to a union shop representative. The fee shall constitute an employee's proportionate fair share of the direct costs of negotiating and administering the collective bargaining agreement and of settling grievances, appeals, and disputes, and also the expenses of activities or undertakings normally or reasonably employed to implement or effectuate the duties of the organization as exclusive representative.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-05-461, filed 12/28/88, effective 2/1/89.]

**WAC 356-05-465 Veteran.** For the purpose of determining seniority, as defined in WAC 356-05-390, for granting preference during layoffs and subsequent reemployment, any person who has one or more years of 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 who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given: *Provided*, That for the purposes of this section "veteran" does not include any person who has:

(1) Twenty or more years active military service, and whose retirement is designated by the armed forces of the United States as "voluntary" as evidenced by the DD Form 214 or other official military records; and

(2) Whose military retirement pay is in excess of five hundred dollars per month.

[Statutory Authority: RCW 41.06.150. 88-14-070 (Order 302), § 356-05-465, filed 7/1/88; 85-20-027 (Order 233), § 356-05-465, filed 9/24/85. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-465, filed 8/10/84.]

**WAC 356-05-470 Veteran's spouse.** For the purpose of granting preference during layoffs and subsequent reemployment, the unremarried spouse of a deceased veteran as defined in WAC 356-05-465 except that such veteran's one-year minimum length of active military service shall be disregarded.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-05-470, filed 1/2/87. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-470, filed 8/10/84.]

**WAC 356-05-480 Work day.** One of seven 24-hour periods that start at the beginning of the workweek.

[Statutory Authority: RCW 41.06.150. 87-10-037 (Order 274), § 356-05-480, filed 5/1/87, effective 6/1/87. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-480, filed 8/10/84.]

**WAC 356-05-500 Workweek.** A regular recurring period of 168 hours beginning at a time determined by the appointing authority and continuing for seven consecutive 24-hour periods.

[Statutory Authority: RCW 41.06.150. 87-10-037 (Order 274), § 356-05-500, filed 5/1/87, effective 6/1/87. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-05-500, filed 8/10/84.]

## Chapter 356-06 WAC GENERAL PROVISIONS

### WAC

356-06-001 Declaration of purpose.  
356-06-020 Exemptions—Exceptions.

**WAC 356-06-001 Declaration of purpose.** The general purpose of these rules is to establish for the state a system of personnel administration based on merit principles, including affirmative action, and scientific methods of governing the appointment, promotion, transfer, layoff, recruitment, retention, classification and pay plan, removal, discipline and welfare of its civil employees, and other incidents of state employment. All appointments and promotions to positions, and the retention therein, in the state service shall be made on the basis of policies hereinafter specified.

[Statutory Authority: RCW 41.06.150. 87-06-032 (Order 270), § 356-06-001, filed 2/27/87, effective 4/1/87; Order 36, § 356-06-001, filed 7/1/71, effective 8/1/71. Formerly WAC 356-04-001.]

**WAC 356-06-020 Exemptions—Exceptions.** With the exceptions noted in subsection (20) of this section the provisions of these rules do not apply to:

(1) Members of the legislature or to any employee of, or position in, the legislative branch of the state government including members, officers and employees of the legislative council, legislative budget committee, statute law committee, and any interim committee of the legislature.

(2) Judges of the supreme court, of the superior courts or of the inferior courts or to any employee of, or position in the judicial branch of, state government.

(3) Officers, academic personnel and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board.

(4) Employees of the state printing office.

(5) The officers of the Washington state patrol.

(6) Elective officers of the state.

(7) The chief executive officer of each agency.

(8) In the departments of employment security and fisheries, the director and the director's confidential secretary.

(9) In the department of social and health services, the secretary, the secretary's executive assistant, if any; not to exceed six assistant secretaries, thirteen division directors, six regional directors and one confidential secretary for each of the above named officers; not to exceed six bureau directors and all superintendents of institutions of which the average daily population equals or exceeds one hundred residents: *Provided*, That each such confidential secretary must meet the minimum qualifications for the class of secretary 2 as determined by the state personnel board.

(10) In all departments except those mentioned in subsection (8) above, the executive head of which is appointed by the governor, the director, the director's confidential secretary, and the statutory assistant directors.

(11) In the case of a multimember board, commission or committee, whether the members thereof are elected,

appointed by the governor or other authority, serve ex officio, or otherwise chosen.

(a) All members of such boards, commissions or committees.

(b) If the members of the board, commission or committee serve on a part-time basis and there is a statutory executive officer:

(i) The secretary of the board, commission or committee.

(ii) The chief executive officer of the board, commission or committee.

(iii) The confidential secretary of the chief executive officer of the board, commission or committee.

(c) If the members of the board, commission or committee serve on a full-time basis:

(i) The chief executive officer or administrative officer as designated by the board, commission or committee.

(ii) The confidential secretary to the chairman of the board, commission or committee.

(d) If all members of the board, commission or committee serve ex officio:

(i) The chief executive officer.

(ii) The confidential secretary of such chief executive officer.

(12) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state.

(13) Assistant attorneys general.

(14) Commissioned and enlisted personnel in the military service of the state.

(15) Resident, student, part-time or temporary employees, and part-time professional consultants as defined by the state personnel board to include:

(a) State and local officials serving ex officio and performing incidental administrative duties in the programs of the agency.

(b) Part-time local health officers.

(c) Persons employed on a part-time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties.

(d) Part-time or temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide training opportunity, and all temporary employees not in federal grant-in-aid programs.

(e) Patient and resident help in the covered institutions.

(f) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director of personnel to be equivalent.

(g) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol.

(16) All officers and employees in those commissions made exempt by legislative action, namely:

(a) Washington state fruit commission.

(b) Washington state apple commission.

(c) Washington state dairy products commission.

(d) Washington state wheat commission.

(e) Officers and employees of any commission formed under the provisions of chapter 15.66 RCW.

(f) Agricultural commissions formed under the provisions of chapter 15.65 RCW.

(17) One deputy executive secretary of the Washington centennial commission.

(18) Up to a total of five senior staff positions of the Western library network under chapter 27.26 RCW responsible for formulating policy or for directing program management of a major administrative unit.

(19) In the department of information services, up to twelve positions in the planning component involved in policy development and/or senior professionals.

(20) Up to five employees of the Washington basic health plan.

(21) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: *Provided, however,* That rules and regulations adopted by the state personnel board pursuant to RCW 41.06-.150 regarding the basis for, and procedures to be followed for, the dismissal, suspension or demotion of an employee, and appeals therefrom shall be fully applicable to liquor vendors except those part-time agency vendors employed by the liquor control board, when, in addition to the sale of liquor for the state, they sell goods, wares, merchandise or services as a self-sustaining private retail business.

(22) Executive assistants, for personnel administration and labor relations in all state agencies employing such executive assistants including but not limited to all departments, offices, commissions, committees, boards, or other bodies subject to the provisions of this chapter and this subsection shall prevail over any provision of law inconsistent herewith unless specific exception is made in such law.

(23) In addition to the exemptions specifically provided by this chapter, the state personnel board may provide for further exemptions pursuant to the following procedures. The governor or other appropriate elected official may submit requests for exemption to the personnel board stating the reasons for requesting such exemptions. The personnel board shall hold a public hearing after proper notice, on requests submitted pursuant to this subsection. If the personnel board determines that the position for which exempting is requested is one involving substantial responsibility for the formulation of basic agency or executive policy or one involving directing and controlling program operations of an agency or a major administrative division thereof, the personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty-seven for those agencies not directly under the authority of any elected public official other than the governor, and shall not exceed a total of twenty-five for all agencies under the authority of elected public officials other than the governor. The state personnel board shall report to each regular session of the legislature all exemptions granted pursuant to the

provisions of this subsection, together with the reasons for such exemptions.

(24) While other provisions of these rules do not apply, the personnel board shall determine salaries and fringe benefits of incumbents in all exempt positions in agencies with positions under the jurisdiction of the personnel board, other than positions listed under subsections (5) through (8), (11)(a) and (b), (12) through (16), and (21) of this section.

[Statutory Authority: RCW 41.06.150. 87-24-028 (Order 287), § 356-06-020, filed 11/24/87, effective 1/1/88; 85-21-113 (Order 237), § 356-06-020, filed 10/23/85, effective 12/1/85; 85-19-078 (Order 230), § 356-06-020, filed 9/18/85. Statutory Authority: RCW 41.06.150, 41.06.169, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-06-020, filed 8/10/84. Statutory Authority: RCW 41.06.150(17). 80-06-032 (Order 143), § 356-06-020, filed 5/9/80, effective 6/12/80; 79-12-012 (Order 137), § 356-06-020, filed 11/13/79; 78-05-025 (Order 119), § 356-06-020, filed 4/14/78; Order 63, § 356-06-020, filed 2/26/74; Order 37, § 356-06-020, filed 8/17/71, effective 9/17/71; Order 36, § 356-06-020, filed 7/1/71, effective 8/1/71. Formerly WAC 356-04-020.]

### Chapter 356-07 WAC OPERATIONS AND PUBLIC RECORDS

#### WAC

356-07-040 General method of operation.  
356-07-060 Records availability—Copies obtained.

**WAC 356-07-040 General method of operation. (1)** The general conduct of agency business is pursuant to the charter established in chapters 41.06 and 41.05 RCW, and Title 356 WAC.

(2) Provisions for all interested parties to participate in formulation of rules governing administration of the law is assured by a twenty-day notice requirement prerequisite to formal state personnel board action on any jurisdictional matter, except appeals.

(3) Special meetings may be called by the board subject to twenty-four hour notice, as required by law.

(4) Informal work sessions with interested parties are conducted by staff of the department of personnel as necessary to ensure representation from interested parties before proposals are made to the board.

(5) All business of the department of personnel will be conducted in facilities which are accessible and/or in a manner which reasonably accommodates the needs of persons of disability.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-07-040, filed 1/2/87; Order 60, § 356-08-040 (codified as WAC 356-07-040), filed 12/13/73.]

**WAC 356-07-060 Records availability—Copies obtained. (1)** Copies of all public records defined in WAC 356-08-020 and identified in current indexes maintained in the Olympia office of the department of personnel shall be made available upon request to the staff member designated by the director or his designee. Response to such requests will be in the order received.

(2) Available indexes shall include the following:

- (a) Merit system rules;
- (b) Twenty-day notice and minutes of meetings — regular and special;

- (c) Board orders;
- (d) Department of personnel budget and planning documents;
- (e) Staff administrative procedures manuals;
- (f) Department of personnel classification and compensation plans;
- (g) Factual staff reports and studies;
- (h) Documents filed with the department of personnel as required by merit system rules or board order, e.g., affirmative action plans, reduction in force procedures, collective bargaining agreements, and policies relating to the retention and confidentiality of personnel records.

(3) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the director and must be accomplished without excessive interference with the essential functions of the agency.

(4) Copies of records will be made available at not more than actual cost to the department of personnel as determined by the director. Rules and regulations will be made available without charge.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-07-060, filed 1/2/87; Order 60, § 356-08-060 (codified as WAC 356-07-060), filed 12/13/73.]

### Chapter 356-09 WAC AFFIRMATIVE ACTION PROGRAM

#### WAC

356-09-010 Affirmative action program—Purpose.  
356-09-020 Affirmative action program—Equal employment opportunity policy statement.  
356-09-030 Affirmative action program—Affirmative action plan—Elements.  
356-09-040 Affirmative action program—Responsibilities—Department of personnel.  
356-09-050 Affirmative action program—Testing.

**WAC 356-09-010 Affirmative action program—Purpose.** The purpose of this chapter is to ensure compliance by state agencies with the provisions of chapter 41.06 RCW and executive orders, which provide for affirmative action and equal employment opportunity in appointment, promotion, transfer, recruitment and career development; development and implementation of affirmative action goals and timetables, and monitoring progress toward achieving those goals and timetables.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-09-010, filed 1/2/87.]

**WAC 356-09-020 Affirmative action program—Equal employment opportunity policy statement.** Each agency head shall publish and endorse an equal employment opportunity policy statement that reflects the agency's policy of equal opportunity with respect to race, creed, color, national origin, sex, age, marital status, veteran status, or the presence of any sensory, mental or physical disability. Other elements of the statement will be in accordance with the department of personnel affirmative action program guidelines.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-09-020, filed 1/2/87.]

**WAC 356-09-030 Affirmative action program--Affirmative action plan--Elements.** (1) Agencies that are required to maintain an affirmative action plan shall develop them in accordance with the department of personnel affirmative action program guidelines. Affirmative action plans will be submitted for review to the department of personnel and the human rights commission.

(2) Affirmative action plan updates will be submitted annually to the department of personnel and the human rights commission for review and approval in accordance with the department of personnel guidelines.

(3) Affirmative action plans must contain, but are not limited to the following elements:

(a) Equal employment opportunity/affirmative action policy statement endorsed by the agency head.

(b) Designation of responsibility for implementation and maintenance of the plan.

(c) Dissemination of plan and policy.

(d) Utilization analysis.

(e) Goals and timetables.

(f) Identification of problem areas.

(g) Action programs to achieve goals.

(h) Monitoring and reporting procedures.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-09-030, filed 1/2/87.]

**WAC 356-09-040 Affirmative action program--Responsibilities--Department of personnel.** The department of personnel is responsible for administering the state's affirmative action program and providing technical assistance to state agencies in the development and implementation of their affirmative action programs. In keeping with these responsibilities, the department of personnel will accomplish the following:

(1) Publish guidelines that will assist agencies in developing and implementing their affirmative action plan.

(2) Provide agencies with the data required to develop and implement affirmative action goals and timetables.

(3) Review agency affirmative action plans and equal employment opportunity policy statements for compliance with applicable merit system rules and established affirmative action guidelines, and recommend changes as appropriate.

(4) When plans and policy statements are in compliance, recommend them for approval to the governor's affirmative action policy committee.

(5) Monitor for adverse impact on protected group members in the areas of recruitment, testing, appointment, promotion, transfer, termination, formal disciplinary actions, and career development. Records in these areas will be maintained by protected group status.

(6) With the assistance of state agencies, initiate the recruitment of protected group members, including target recruitment when the representation of protected group members on the register is less than their availability.

(7) Monitor items submitted to the personnel board for possible negative effect on affirmative action.

(8) Monitor protected group participation in agencies' human resource development activities.

(9) Conduct an annual audit to assess agencies progress in meeting goals and addressing problems identified in their affirmative action program. The audit will be conducted in accordance with the established department of personnel affirmative action program guidelines.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-09-040, filed 1/2/87.]

**WAC 356-09-050 Affirmative action program--Testing.** (1) The department of personnel will make reasonable accommodations for persons of disability who require such during test procedures.

(2) The department of personnel may test a protected group member after the closing date of the recruitment announcement, provided:

(a) A register exists for the class; and

(b) The employing agency or the state has not met affirmative action goals for a specific protected group for that class or job category; and

(c) The protected group's representation on the register is less than the availability for the protected group; and

(d) The applicant is a member of the protected group identified in (b) and (c) of this subsection, and met minimum qualifications at the time the recruitment announcement closed; and

(e) The protected group member has not been tested under the same recruitment announcement within the past twelve months.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-09-050, filed 1/2/87.]

## Chapter 356-10 WAC CLASSIFICATION

### WAC

356-10-030 Positions--Allocation--Reallocation.

356-10-050 Employee appointment status--Upward reallocation.

**WAC 356-10-030 Positions--Allocation--Reallocation.** (1) Position allocations or reallocations shall be based upon an investigation of duties and responsibilities assigned and/or performed and other information and recommendations. Every position shall be allocated to an established class.

(2) Allocations may be made by:

(a) The director or designated staff of the department of personnel; OR,

(b) By agency directors or other designees authorized under subsection (3) of this section.

(3) Agency directors may request and the director of personnel may approve, the authorization of the agency director or designee to approve or disapprove the allocation or reallocation of positions for which the agency has been delegated allocation authority under the merit system rules and procedures approved by the director of personnel.

(4) It shall be the duty of the appointing authority and/or the personnel representative to report to the director of personnel any changes in duties, responsibilities

or organization in a position which may affect position allocation.

(5) Agencies shall establish procedures for processing and reporting new positions, changes in position duties, and requests for position review to provide proper maintenance of the classification plan. The procedure shall provide for individual employee requests for position review, based on duties and responsibilities, through the agency personnel office to the director of personnel. This procedure will not cause undue delay in the director of personnel or designee reviewing the requested reclassification. Such procedures shall be reviewed and approved by the director of personnel or designee. Notice of changes in this procedure initiated by agencies, will be provided to exclusive bargaining representatives and a copy to the director of personnel.

(6) Questions concerning the previous classification of employees due to the retitling, reallocating or reclassification of positions will be determined by the director of personnel or designee.

(7)(a) Employees affected by agency initiated reallocations shall be notified in writing by the agency not less than twenty calendar days in advance of the intended date of the action, provided that this notice requirement shall not preclude the establishment of effective dates for other than competitive reallocations as provided in WAC 356-10-050.

(b) Any official authorized in subsection (2) of this section to make allocation or reallocation determinations shall immediately transmit a written notice of the determination to the employee in the position affected by that determination.

[Statutory Authority: RCW 41.06.150. 88-15-060 (Order 303), § 356-10-030, filed 7/18/88, effective 9/1/88. Statutory Authority: RCW 41.06.150(17). 79-03-010 (Order 128), § 356-10-030, filed 2/14/79; 78-12-026 (Order 126), § 356-10-030, filed 11/15/78; Order 77, § 356-10-030, filed 5/7/75; Order 75, § 356-10-030, filed 3/24/75; Order 36, § 356-10-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-030, 356-08-040, 356-08-050 and 356-16-175.]

**WAC 356-10-050 Employee appointment status-- Upward reallocation.** Employees in positions which have been reallocated upward are affected as follows:

(1) Employee must compete and be certified from the appropriate eligible register unless otherwise determined by the director of personnel or designee when the position is reallocated upward based on recent or impending changes in duties and responsibilities. The effective date of an incumbent's appointment status as provided in this subsection will be the date when he/she is appointed from a certification. If the employee is appointed from a certification, his/her salary is then adjusted in accordance with the rule governing promotion.

(2) Employees in positions which have been reallocated upwards based on duties performed of a higher level classification in excess of one year shall retain status in the reallocated position and shall have their salary adjusted in accordance with the rule governing promotion, provided:

(a) The incumbent meets the minimum or desirable qualifications for the new class; or, the incumbent meets

acceptable qualifications as determined by the director of personnel or designee.

(b) The employee passes the appropriate examination.

(3) If the employee is not certified from the appropriate eligible register, transferred, promoted, demoted or otherwise retained in status within ninety days, the provisions governing reduction in force shall apply. This shall not preclude the employee's eligibility for a provisional appointment under these rules. Employees who do not achieve status in a reallocated position shall be paid for time worked in the higher class based on the rule governing promotion (up to a maximum of three years).

(4) The employee retains existing appointment status when the position is reallocated based on a revision of a class series, a class series study, or an agency-wide or major subdivision-wide classification review planned, conducted, or authorized by the department of personnel in advance of personnel board action (if any), when the reallocation involves no change in duties or responsibilities. The employee's salary then is adjusted to the same step in the new range as held in the present range.

(a) An employee in an underfill status will maintain that status.

(b) Subsection (1) or (2) of this section apply when a change in duties, responsibilities, or organization coincides with a revision of a class series.

(5) The director of personnel or designee may approve the retention of status without examination for an incumbent in a reallocated position when it is evident that the reallocation is, in effect, the correction of a long-term inequity. The employee's salary is adjusted in accordance with the rule governing promotion. The application of this subsection shall not be denied in those cases where the employee has performed duties at a higher class for three continuous years or more.

(6) In reallocations determined by the department of personnel's director or designee the effective date of an incumbent's appointment status as provided for in subsection (2) or (5) of this section will be the earliest date that a copy of the classification questionnaire, either submitted directly by the incumbent or by the agency, is received by the department of personnel. Receipt of such classification questionnaires shall be acknowledged by the department of personnel if the submitting party includes a self-addressed stamped envelope with the copy of the classification questionnaire furnished the department of personnel.

For positions reallocated by agencies under their delegated allocation authority, the effective date of an incumbent's appointment status as provided for in subsection (2) or (5) of this section will be the earliest date that a copy of the classification questionnaire is received by the agency's personnel office or by the department of personnel.

(7) The department of personnel, the director of personnel, and the state personnel board shall not award additional compensation to an employee for any period prior to the date on which the classification questionnaire was received by the department of personnel.

[Statutory Authority: RCW 41.06.150. 88-17-041 (Order 306), § 356-10-050, filed 8/15/88; 88-15-060 (Order 303), § 356-10-050,

filed 7/18/88, effective 9/1/88. Statutory Authority: RCW 41.06.150, 41.06.175, 41.06.185, 41.06.195 and 41.06.205. 84-17-042 (Order 209), § 356-10-050, filed 8/10/84. Statutory Authority: RCW 41.06.150(17), 80-13-047 (Order 147), § 356-10-050, filed 9/16/80; 79-03-010 (Order 128), § 356-10-050, filed 2/14/79; 78-12-026 (Order 126), § 356-10-050, filed 11/15/78; 78-10-070 (Order 123), § 356-10-050, filed 9/26/78; Order 84, § 356-10-050, filed 10/20/75, effective 11/17/75; Order 64, § 356-10-050, filed 3/20/74; Order 36, § 356-10-050, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-080.]

### Chapter 356-14 WAC COMPENSATION PLAN

#### WAC

356-14-045	Salaries—Comparable worth.
356-14-060	Compensation plan—Additional salary surveys and studies.
356-14-062	Compensation plan—Fiscal impact.
356-14-140	Salary—Increase on promotion.
356-14-240	Overtime compensation method.
356-14-260	Compensatory time—Liquidation.

**WAC 356-14-045 Salaries—Comparable worth.** (1) Salary changes necessary to achieve comparable worth shall be implemented during the 1983-85 biennium under a schedule developed by the department of personnel in cooperation with the higher education personnel board. Increases in salaries and compensation solely for the purpose of achieving comparable worth shall be made at least annually. Comparable worth for the jobs of all employees under chapter 41.06 RCW shall be fully achieved not later than June 30, 1993.

(2) Comparable worth entitlements shall comply with the December 31, 1985 settlement agreement between the state of Washington and the American Federation of State, County and Municipal Employees (AFSCME), et al., as approved by federal district court and ratified by the Washington legislature.

(3) Upon the establishment of new classes, or redefinition of existing classes, the following policy shall apply:

(a) When an existing class or class series that is covered by the settlement agreement is substantially revised, the comparable worth salary range involvement shall be determined by reevaluating the classes using the Willis methodology.

(b) The comparable worth salary range involvement for classes that were not covered by the settlement agreement and newly created classes or class series shall be determined based on internal indexing, or Willis evaluation, whichever is determined most appropriate by the director.

(c) Salary ranges for new or revised classes which are substantially common with higher education personnel board classes shall be equal, as applicable.

(4) Comparable worth evaluation committee:

(a) Comparable worth evaluations using the Willis methodology shall be conducted by an evaluation committee composed of at least eight member representatives from operating agencies, employee organizations, and department of personnel staff.

(b) Members shall be experienced in agency programs or personnel administration. Members must also attend meetings on a regular basis a majority of the time.

(c) The director shall process committee appointments, appoint officers, establish meeting agendas, call meetings, and schedule (or reschedule) evaluations as he/she deems appropriate. Affected agency or employee representatives must submit any requests for evaluations or reevaluations in writing to the director for disposition and written response.

(5) Other administrative requirements regarding comparable worth adjustments include, but are not limited to, the following:

(a) The process for determining comparable worth class salary range involvement, if any, will be made a part of the regular monthly state personnel board meeting agenda.

(b) Requesting agencies and organizations should submit new and revised class proposals in sufficient time to accommodate a possible two-month review and evaluation period requirement.

(c) Agency requests should include proposed salary survey indexing and proposed comparable worth involvement, if any, at time of item submission. Indexing and comparable worth information will be included in board meeting agenda publications.

(d) For purposes of legal, fiscal, and legislative disclosure, comparable worth involvement salary ranges will be tracked and recorded by class.

[Statutory Authority: RCW 41.06.150, 87-09-037 (Order 273), § 356-14-045, filed 4/14/87, effective 6/1/87; 86-14-071 (Order 253), § 356-14-045, filed 7/1/86, effective 8/1/86.]

**WAC 356-14-060 Compensation plan—Additional salary surveys and studies.** (1) Upon the establishment of new classes, redefinition of existing classes, realignment or reorganization of duties and responsibilities, determination of recruitment and/or retention difficulties, receipt of employee or agency salary protests, or whenever the board or director find it necessary, the director may conduct additional salary surveys and/or alignment studies to determine salaries, or whether salary changes are needed.

(2) Consistent with other provisions of this chapter, interim surveys shall conform to the statistical techniques set forth in this chapter.

(3) Salary levels which are indicated by the results of these surveys or studies may be implemented upon approval of the board provided:

(a) The salary is for a new class; or

(b) Substantial changes to duties and responsibilities which affect salary are made to the class; or

(c) Significant salary-related recruiting and/or retention problems exist, as documented in historic records.

[Statutory Authority: RCW 41.06.150, 87-15-045 (Order 280), § 356-14-060, filed 7/13/87, effective 9/1/87; Order 36, § 356-14-060, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-185.]

**WAC 356-14-062 Compensation plan—Fiscal impact.** The board will not consider fiscal impact in determining salaries. However, salary changes are subject to

approval by the director of the office of financial management in accordance with provisions of chapter 43.88 RCW.

[Statutory Authority: RCW 41.06.150. 87-15-045 (Order 280), § 356-14-062, filed 7/13/87, effective 9/1/87.]

**WAC 356-14-140 Salary--Increase on promotion.**

(1) All promotional salary changes shall be determined as if the employee's old and new classes were both paid on the base ranges with the same whole-number designations as the point ranges which may be involved. Thus under the rules which follow in this section, a four-range promotion would be exemplified by movement from base range 30 to base range 34; not from base range 30 to point range 30.4. The following examples are cited to further clarify the intent of this rule:

(a) A four-range promotion from range 26.4 step i to range 30.2 would be determined as though the move were from range 26 step i to range 30 step e (same dollar amount) plus two increments to step g; then to step g of range 30.2.

(b) A six-range increase would occur if an employee promoted from range 26.4 to range 32.2, even though the actual dollar amount of the range increase is less than a promotion from range 26 to range 32.

(c) A five-range increase would occur if an employee promoted from range 26 to range 31.4 even though the actual dollar amount of the increase appears to be closer to six ranges.

(d) Promotional movement from range 30.1 step d to range 30.3 would be made as though the movement were from range 30 step d to range 30 step f, then to range 30.3 step f.

(2) An employee who is promoted less than six salary ranges shall receive a two-increment salary increase on the date of promotion, or

(a) To the minimum step of the newly assigned range, if the minimum dollar amount is higher, or

(b) To the maximum step of the newly assigned range, if a two-increment increase would have otherwise placed the employee above the maximum step of the range, or

(c) To the next higher salary schedule dollar amount which would represent more than a one-increment increase but [no] [not] more than a two-increment increase, if the employee's basic salary in the former class was Y-rated between two salary schedule steps, and (a) or (b) above do not apply.

(3) An employee who is promoted six or more ranges shall receive a four-increment salary increase on the date of promotion.

(4) An employee who is working in a position that is included in an approved class series study and who accepts a promotion within that agency to a classification impacted by the same study, shall be paid not less than the salary that would have been paid had the employee remained in the former position and benefited from an upward reallocation. In no event, however, shall the employee receive a salary higher than the maximum step of the classification to which promoted. The higher salary

shall become effective on the effective date of the class study.

(5) An employee who is promoted in either situation (a) or (b) below, shall receive a four-increment salary increase:

(a) When the employee is promoted over an intervening class in the same class series, or

(b) When the employee is promoted from one class series to a higher class series and over an intervening class in the new series which would have represented a promotion.

(6) An employee whose promotion requires a change of residence to another geographic area to be within a reasonable commuting distance of the new place of work shall receive a four-increment increase on the date of promotion.

(7) An employee will be entitled to only one of the increases of (3), (5) or (6) above within a 12 month period. An employee whose salary would otherwise be increased under (3), (5) or (6) above shall receive a salary increase as provided in (2) above when the promotions occur within 12 months of each other.

(8) When the increase prescribed in (3), (5) and (6) above would result in a salary above the maximum of a range or the increase was from an amount between the steps, then the same limitations prescribed in (2)(a), (b) or (c) will prevail.

(9) Any additional salary ranges that were afforded by a special assignment pay provision shall not be used in the above computations.

(10) The dollar amount increase is stated otherwise in the compensation plan appendix or chapter 15 but will not be used in the above computation.

(11) Increases will not be provided as above when teachers' salaries are prescribed in the teachers and principal salary schedules.

[Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-14-140, filed 7/16/87, effective 9/1/87. Statutory Authority: RCW 41.06.150(17). 80-03-024 (Order 141), § 356-14-140, filed 2/19/80; 79-10-064 (Order 133), § 356-14-140, filed 9/18/79; 78-06-017 (Order 120), § 356-14-140, filed 5/12/78; Order 109A, § 356-14-140, filed 10/6/77, effective 11/6/77; Order 109, § 356-14-140, filed 9/7/77; Order 36, § 356-14-140, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-139.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 356-14-240 Overtime compensation method.**

Overtime for state employees shall be compensated in accord with WAC 356-15-030.

(1) Scheduled, nonscheduled, and law enforcement employees shall be compensated in cash or compensatory time off, both at the rate of time-and-one-half. Cash payment shall be at the overtime rate, while compensatory time shall be credited as 1.5 hours of compensatory time for each hour of overtime worked. (See WAC 356-14-265 for computing cash value compensatory time.)

Compensatory time off may be used in lieu of cash only when an agency and the employee agree, except as provided for law enforcement positions in WAC 356-

15-030 (4)(a). When compensatory time off is utilized, it shall be liquidated in accord with WAC 356-14-260.

[(2) Time during which an employee is excused from work for holidays, sick leave, vacations or compensatory time shall be considered time worked for payroll purposes. However, time records shall indicate that the employee did not work during these excused absences.

(3) If assignment pay is earned during overtime hours which are credited as compensatory time, no additional credit or payment shall be made for the assignment pay. When compensatory time is utilized by an employee whose presently scheduled, regular assignment entitles the employee to full-time assignment pay, then the payment for the compensatory time off shall include the assignment pay.

(4) Advisory note: Cash compensation for overtime work is subject to deductions for state retirement and taxes.]

[Statutory Authority: RCW 41.06.150, 87-11-036 (Order 275), § 356-14-240, filed 5/18/87, effective 7/1/87; 86-12-025 (Order 248), § 356-14-240, filed 5/28/86, effective 7/1/86; Order 98, § 356-14-240, filed 1/13/77, effective 2/13/77; Order 86, § 356-14-240, filed 5/4/76, effective 10/1/76; Order 78, § 356-14-240, filed 5/19/75; Order 36, § 356-14-240, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-152, 356-08-158.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 356-14-260 Compensatory time—Liquidation.** Agencies may require that compensatory time off shall be scheduled as soon as possible after accrual and with due regard for the employee's needs, insofar as this can be accomplished without detracting from sound and orderly administration.

Agencies may require that accumulated compensatory time be liquidated before vacation leave is granted except in those instances where this procedure would result in loss of accumulated vacation leave.

[Statutory Authority: RCW 41.06.150, 87-24-029 (Order 288), 356-14-260, filed 11/24/87, effective 1/1/88; 83-12-002 (Order 184), 356-14-260, filed 5/19/83; Order 36, § 356-14-260, filed 7/1/71, effective 8/1/71. Formerly WAC 356-08-153, 356-08-155.]

## Chapter 356-15 WAC COMPENSATION PLAN APPENDIX

WAC	
356-15-020	Work period designations.
356-15-030	Overtime provisions and compensation.
356-15-063	Supplemental shift premium for registered nurses.
356-15-080	Standby compensation.
356-15-090	Schedule change and compensation.
356-15-125	Assignment pay provisions.

**WAC 356-15-020 Work period designations.** (1) The personnel board shall assign a specific work period designation to each job class. In deciding which work period designation is appropriate, the personnel board shall consider the following factors:

(a) Whether the positions are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

(b) Whether the positions have been historically paid overtime by the state.

(c) Whether the private sector or other governmental jurisdictions have a historical or prevailing overtime pay practice for direct counterpart positions.

(d) Other factors it may deem to be appropriate.

(2) The personnel board may authorize a work period designation for an individual position which differs from the class-wide designation when the position has atypical working conditions. When two or more designations are indicated for a job class, the first designation listed shall constitute the class-wide designation. Each position shall be assigned only one designation. The work period designation for persons on "in-training" and "underfill" appointments shall be the same as that of the position to which they are appointed, except that if the position is designated "exceptions," the employee's work period designation will be "nonscheduled."

(a) **Scheduled (S):**

(i) **Standard:** Full-time positions with conditions of employment which may be completed within five consecutive work days, each having the same starting time and lasting not more than eight working hours.

(ii) **Alternate:** Full-time positions with conditions of employment which may be completed within:

(A) Five work days lasting not more than eight working hours within the same workweek but which, because of operational necessity, cannot be scheduled with the same daily starting time or with consecutive days off; or

(B) Four work days lasting not more than ten working hours each within the same workweek; or

(C) Four nine-hour work days and one four-hour work day; or

(D) Ten consecutive work days with four consecutive days off; or

(E) Ten work days lasting not more than eight working hours and occurring within a scheduled fourteen consecutive day period. Positions are restricted to employees in the registered nurse class series who work in an institutional hospital primarily engaged in the care of residents.

(F) Continuous five work-days-per-week shifts which rotate each 28 days to a different schedule of regular days and hours per week. The rotation involves extended or shortened time off between the ending shift of one schedule and the beginning shift of the next, but does not require more than eight hours work in any one 24-hour period within a schedule, nor more than fifty-two 40-hour workweeks per year. Positions are limited to communications officers and scheduled commercial vehicle enforcement officers of the state patrol.

After giving written notice to the employee and the certified exclusive representative, the employer may implement an alternate schedule provided the employer can document a program need for the alternate schedule or

the alternate schedule is mutually agreeable to the employer and employee.

(iii) Unlisted: Full-time positions for which the director of personnel has approved a schedule or scheduling plan not allowed above. Such unlisted schedules may be approved by the director of personnel when both the agency and the affected employees are in agreement. Approval by the exclusive representative shall constitute approval of employees within a certified bargaining unit.

(b) **Nonscheduled (NS):** Full-time positions with conditions of employment which necessitate adjustment of hours by employees within forty working hours within the workweek. These positions may have preset schedules or task assignments which require their attendance at certain hours, but are generally responsible to adjust their hours to best accomplish their workload.

(c) **Law enforcement (1):** Full-time positions which meet the law enforcement criteria of section 7(k) of the Fair Labor Standards Act. (Defined as law enforcement personnel in WAC 356-05-210.)

(d) **Exceptions (e):** Full-time positions which are exempt from the overtime provisions of the Fair Labor Standards Act as executive, administrative, professional, agricultural, outside sales, or recreational establishment personnel as summarized in chapter 356-05 WAC.

[Statutory Authority: RCW 41.06.150. 88-05-028 (Order 294), § 356-15-020, filed 2/12/88, effective 4/1/88; 87-24-027 (Order 286), § 356-15-020, filed 11/24/87, effective 1/1/88; 86-12-025 (Order 248), § 356-15-020, filed 5/28/86, effective 7/1/86; 86-01-014 (Order 239), § 356-15-020, filed 12/6/85; 85-01-083 (Order 212), § 356-15-020, filed 12/19/84; 83-24-002 (Order 193), § 356-15-020, filed 11/28/83. Statutory Authority: RCW 41.06.150(17). 82-05-034 and 82-06-009 (Order 167 and 167-A), § 356-15-020, filed 2/16/82 and 2/19/82; 79-10-064 (Order 133), § 356-15-020, filed 9/18/79; Order 113, § 356-15-020, filed 11/30/77, effective 1/1/78; Order 98, § 356-15-020, filed 1/13/77, effective 2/13/77; Order 86, § 356-15-020, filed 5/4/76, effective 10/1/76.]

**WAC 356-15-030 Overtime provisions and compensation.** (1) The following conditions constitute overtime:

(a) For full-time employees, work in excess of the workshift within the work day.

(b) Work in excess of forty nonovertime hours in one workweek or eighty nonovertime hours in a scheduled fourteen consecutive day period as authorized under WAC 356-15-020 (2)(a)(ii).

(c) Work on a holiday (except Sunday when it is within the scheduled workshift). Scheduled work performed on a Sunday which is coincidental with some other state holiday is overtime work.

(d) Work on a scheduled day off.

(e) Time worked in excess of the 28-day work period by law enforcement positions.

(2) Scheduled work period employees shall receive overtime compensation for work which meets subsection (1)(a) through (d) of this section.

(3) Nonscheduled work period employees shall receive overtime compensation for work which meets subsection (1)(b) through (d) of this section and may be paid overtime compensation for work which meets subsection (1)(a) of this section.

(4) Law enforcement positions have a one hundred sixty-hour, twenty-eight-day work period, rather than a forty-hour workweek.

(a) When the combination of credited work hours (vacation, sick leave, holidays, or compensatory time) and actual work hours exceeds one hundred sixty hours, the employee shall be compensated at time and one-half rates in cash or compensatory time at the option of the agency.

(b) Overtime compensation for actual work in excess of one hundred seventy-one hours in a work period may be in the form of compensatory time off if the employee and the agency agree.

(c) Assigned, actual work on a holiday shall be considered as work in excess of one hundred sixty hours.

(d) For the positions receiving assignment pay for an extended work period, the following special provisions apply:

(i) These law enforcement classes or positions have a one hundred seventy-one-hour, twenty-eight-day work period, for which they receive four ranges (approximately ten percent) above the base salary range.

(ii) When the combination of credited work hours and actual work hours exceeds one hundred seventy-one hours, the employee shall be compensated at time and one-half rates. Compensation may be in the form of compensatory time off if the employee and the agency agree.

(iii) Assigned, actual work on a holiday shall be considered as work in excess of one hundred seventy-one hours.

(5) Exceptions work period employees are not required to be [compensated] [compensation] beyond their regular monthly rate of pay for work which meets subsection (1)(a) through (d) of this section. However, they may be compensated or granted exchange time for any of those conditions if their appointing authority deems it appropriate.

(a) If overtime compensation is authorized, the appointing authority may fix the rate, not to exceed the overtime rate (WAC 356-05-231). As indicated in subsection (5) of this section, the agency and the employee may agree to use compensatory time off in lieu of cash; in that event, the rules covering liquidation of compensatory time apply.

(b) Exchange time may be authorized for any number of hours worked beyond the exceptions work period employee's normal hours of work. For those hours authorized, the rate shall be equal hours off for those worked. Exchange time can be accrued to a limit determined by each agency, not to exceed one hundred seventy-four hours. The exchange time accrual for incumbents in the class of youth development and conservation corps camp supervisor only may be increased to four hundred eighty hours by the employing agency.

(c) Employees must be allowed, and may be required, to use all exchange time in excess of eighty hours prior to each April 1 and October 1, or other semiannual dates fixed by an agency and made known to its employees and the director of personnel by that agency's director. As an exception to the above, the director of

personnel may establish a single annual date based on the special needs of the requesting agency. Employees must exhaust their exchange time before using compensatory time or vacation leave unless this would result in a loss of accumulated leave.

(d) Employee absence on approved exchange time shall be considered as time worked for payroll purposes.

(e) Exchange time has no cash liquidation value. However, employees voluntarily terminating from state service or transferring to another agency must be offered the opportunity to postpone their cessation of employment by the granting agency until their accumulated, authorized exchange time has been used. Employees who were separated due to a reduction in force or disability separation are entitled to reinstatement of accumulated exchange time if they are rehired on a permanent basis by the granting agency within three years of separation.

(6) Overtime shall be compensated in accord with the provisions of WAC 356-14-230 through 356-14-265.

(7)(a) Part-time employees whose positions are in job classes designated as scheduled, nonscheduled, or law enforcement shall receive overtime compensation for work which meets subsection (1)(b) or (c) of this section.

(b) Hourly paid employees whose positions are in job classes designated as exceptions are not exempt from the overtime provisions of the Fair Labor Standards Act. For these employees, an agency must determine and notify the employee of the beginning of the workweek, must maintain the wage and hour records identified in WAC 356-14-220, and must pay overtime compensation for actual hours worked in excess of 40 nonovertime hours in a workweek.

[Statutory Authority: RCW 41.06.150. 87-24-026 (Order 285), § 356-15-030, filed 11/24/87, effective 1/1/88; 87-19-066 (Order 282), § 356-15-030, filed 9/16/87, effective 11/1/87; 87-10-037 (Order 274), § 356-15-030, filed 5/1/87, effective 6/1/87; 86-21-047 (Order 260), § 356-15-030, filed 10/10/86, effective 12/1/86; 86-12-025 (Order 248), § 356-15-030, filed 5/28/86, effective 7/1/86; 86-01-014 (Order 239), § 356-15-030, filed 12/6/85; 84-02-030 (Order 194), § 356-15-030, filed 12/30/83. Statutory Authority: RCW 41.06.150(17). 79-10-064 (Order 133), § 356-15-030, filed 9/18/79; Order 113, § 356-15-030, filed 11/30/77, effective 1/1/78; Order 98, § 356-15-030, filed 1/13/77, effective 2/13/77; Order 86, § 356-15-030, filed 5/4/76, effective 10/1/76.]

**WAC 356-15-063 Supplemental shift premium for registered nurses.** (1) For the classes of registered nurse 1, 2, 3, and 4 only, there shall be the following supplemental shift premium rates payable only in the amounts and under the conditions described in this section.

(a) \$0.50 an hour, payable alone or in any combination with shift premiums authorized in sections WAC 356-15-060, 356-15-061, and 356-15-063 (1)(b) during any hours worked from 11:00 p.m. until 7:00 a.m. and for no other hours.

(b) \$3.00 an hour, payable alone or in combination with shift premiums authorized in sections WAC 356-15-060, 356-15-061, and 356-15-063 (1)(a) during any hours worked from any Saturday morning midnight to Monday morning midnight, and for no other hours.

Example: A registered nurse 2 is scheduled to work from 10:00 p.m. to 6:00 a.m. Friday through Tuesday.

On Friday from 10:00 p.m. to 11:00 p.m. the shift premium would be \$1.00 an hour as provided in WAC 356-15-060 and 356-15-061. From 11:00 p.m. until 12:00 midnight the supplemental \$0.50 an hour would be added, raising the premium rate to \$1.50 an hour. At midnight, the supplemental \$3.00 an hour for work on Saturday would be added, raising the premium to \$4.50 an hour until the end of the shift at 6:00 a.m.

If the employee is directed to work overtime until noon, the basic \$1.00 an hour night shift premium continues to be payable to this night shift employee. And the \$3.00 Saturday-Sunday premium continues. But the 11:00 p.m. to 7:00 a.m. \$0.50 stops at 7:00 a.m., reducing the premium to \$4.00 an hour until noon.

(2) These supplemental shift premiums are payable regardless of whether the work was previously scheduled, and regardless of whether the employee is full time or part time.

(3) These supplemental shift premiums are not payable during hours other than those specified, even though additional continuous hours may be worked by the employee.

[Statutory Authority: RCW 41.06.150. 88-17-046 and 88-19-023 (Orders 305 and 305A), § 356-15-063, filed 8/16/88 and 9/12/88.]

**WAC 356-15-080 Standby compensation.** (1) **Requirements:**

(a) An employee is in standby status when not being paid for time actually worked and both of the following conditions exist:

(i) The employee is required to be present at a specified location. The location may be the employee's home or other specific location, but not a work site away from home. When the standby location is the employee's home, and the home is on the same state property where the employee works, the home is not considered a work site.

(ii) The agency requires the employee to be prepared to report immediately for work if the need arises, although the need might not arise.

Note: When the nature of a duty station confines an employee during off duty hours (e.g., a ship), and that confinement is a normal condition of work in the employee's position, standby compensation is not required merely because the employee is confined.

(b) An agency may issue a written policy stating that an employee is in standby status when not being paid for time worked while required to leave a telephone number with the agency or remain in communication with a dispatching authority to respond to a call to begin work in a specified time limit.

(c) Standby status shall not be concurrent with work time.

(2) **Payment:** Any scheduled or nonscheduled work period employee required to stand by shall be paid the hourly standby rate. Standby pay may be authorized by an agency for exceptions work period employees. Exceptions work period employee standby may be compensated with compensatory time. The compensatory time shall be equal in base salary to the dollar amount of standby pay earned.

(3) **Rate:** The standby hourly rate for each step of any range is calculated by dividing the maximum number of standby hours in a workweek (128 hours) into the difference between that step of the range and the same letter step of the range which is exactly two whole numbers higher. That is: (28 - 26, or 28.3 - 26.3) divided by 128 hours.

[Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-15-080, filed 7/16/87, effective 9/1/87; 86-12-025 (Order 248), § 356-15-080, filed 5/28/86, effective 7/1/86. Statutory Authority: RCW 41.06.150(17). 82-22-020 (Order 177), § 356-15-080, filed 10/26/82; 81-20-060 (Order 161), § 356-15-080, filed 10/5/81; Order 98, § 356-15-080, filed 1/13/77, effective 2/13/77; Order 86, § 356-15-080, filed 5/4/76, effective 10/1/76.]

**WAC 356-15-090 Schedule change and compensation.** (1) The appointing authority shall schedule the working days and hours of scheduled work period employees. This schedule shall remain in effect for at least seven calendar days, and may be changed only with seven or more calendar days notice. If seven calendar days notice is not given, a new schedule does not exist until the notice period expires. Agencies may notify employees of more than one future schedule change in a single notice.

The seven calendar days notice of changes in working days and/or hours must be given to the affected employees during their scheduled working hours. The day that notification is given shall constitute a day of notice.

(2) If the appointing authority changes the assigned hours or days of scheduled work period employees without giving them at least seven days notice of the change, employees will be paid for all time worked outside the scheduled hours or days at the overtime rate for the duration of the notice period.

(a) When changes in employees' assigned hours or days are made without proper notice, employees may work their scheduled hours or days unless the appointing authority deems that:

(i) The employees are unable to perform satisfactorily as the result of excessive overtime hours; or

(ii) The work which normally would have been performed within the scheduled hours or days cannot be performed.

(b) The state is not obligated to pay for those scheduled hours or days not worked, unless the employee is on an authorized leave of absence with pay.

(c) Overtime pay and shift or schedule change pay shall not be paid for the same incident.

(3) Regardless of whether advance notice is given, an agency is not obligated to pay overtime due to a change in work schedule, when such a change is in response to a request from an employee, provided the employee works no more than forty hours in a workweek.

When the majority of employees in a work unit ask, in writing, for such a change, and the work unit can function properly only if all employees in the unit work the proposed schedule or scheduling plan, the agency is authorized to approve the change for the entire unit as an employee-initiated change. A written request for a schedule change from the exclusive representative shall

constitute a request of employees within a certified bargaining unit.

(4) When an agency initiates a scheduled change from one scheduled standard work schedule to another scheduled standard work schedule, there is created a seven-day transition period.

(a) The transition period starts at the beginning of the shift of the previous schedule which would have begun a new five-consecutive-day work cycle.

(Example: An eight-to-five Tuesday through Saturday employee changes to a Sunday-Thursday schedule beginning on Sunday. The transition period starts at eight a.m. on the last Tuesday of the old schedule, and runs until eight a.m. on the first Tuesday under the new schedule.)

(b) If, during the transition period, the employee must work more than five of the seven workdays, then the work in excess of forty non-overtime hours will be paid at overtime rates.

(c) If, during the transition period, the schedule change causes an employee to begin work on an earlier day of the workweek or at an earlier hour of the workday than was required under the old schedule, the employee will be paid at the overtime rate for the first hours worked in the new schedule which precede the next hours which the employee would have worked under the old schedule.

(5) Contingency scheduling is allowed for employees in scheduled work period positions having the following responsibilities: Highway snow, ice and avalanche control, grain inspection, horticulture inspection, and in the department of natural resources, forest fire suppression, "hoot owl," forest fuels management and aerial applications.

Therefore, for employees in scheduled work period positions, the appointing authority shall not be bound by the above scheduled shift change notice requirement, if the appointing authority notifies affected employees of the contingency schedule in writing when they enter the position or not less than 30 days prior to implementation.

When conditions mandate the activating of the contingency schedule, the appointing authority shall pay affected employees the overtime rate for all hours worked outside the original schedule at least for the employee's first shift of the contingency schedule and for other overtime hours covered by subsection (6) of this section.

(6) When a scheduled or nonscheduled work period employee experiences a schedule change (within or between agencies) which causes an overlap in workweeks and requires work in excess of forty hours in either the old or the new workweek, the employee must receive overtime compensation at least equal to the amount resulting from the following calculations:

(a)(i) Starting at the beginning of the "old" workweek, count all hours actually worked before the end of that workweek, and calculate the straight-time pay and the overtime pay (based on "regular rate" as defined in WAC 356-05-353).

(ii) Starting at the conclusion of the "new" workweek, count back to include all hours actually worked since the

beginning of that workweek, and calculate the straight time and overtime (based on "regular rate" as defined in WAC 356-05-353).

(iii) Pay the larger amount calculated under (a)(i) and (ii) of this subsection.

(b) If any other combination of straight-time and time-and-one-half-rate pay required by these rules results in an amount of pay, for either workweek, which is greater than the amount calculated in (a)(iii) of this subsection, then only the larger amount should be paid.

(7) If overtime is incurred as a result of employee movement between state agencies, the overtime will be borne by the receiving agency.

[Statutory Authority: RCW 41.06.150. 87-24-026 (Order 285), § 356-15-090, filed 11/24/87, effective 1/1/88; 87-10-037 (Order 274), § 356-15-090, filed 5/1/87, effective 6/1/87; 86-12-025 (Order 248), § 356-15-090, filed 5/28/86, effective 7/1/86; 83-18-031 (Order 191), § 356-15-090, filed 8/31/83; Order 114, § 356-15-090, filed 12/21/77; Order 98, § 356-15-090, filed 1/13/77, effective 2/13/77; Order 86, § 356-15-090, filed 5/4/76, effective 10/1/76.]

**WAC 356-15-125 Assignment pay provisions.** The personnel board may grant additional pay to recognize assigned duties that exceed ordinary conditions. Hazards, equipment operations and other specialized skills are examples of areas for personnel board consideration. Approved classes will have the letters "AP" appearing after their class title in the compensation plan.

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

Assignment pay provisions for additional ranges mean additional ranges in the same category of base or point ranges. That is, a range 30.3 class receiving four assignment pay ranges would be paid at range 34.3.

[Statutory Authority: RCW 41.06.150. 87-15-065 (Order 281), § 356-15-125, filed 7/16/87, effective 9/1/87. Statutory Authority: RCW 41.06.150(17). 81-23-031 (Order 163), § 356-15-125, filed 11/16/81.]

## Chapter 356-18 WAC LEAVE

WAC	
356-18-030	Holidays—Rules—Regulations governing.
356-18-100	Accrued vacation leave disposition—Computation—How made.
356-18-120	Miscellaneous leave.
356-18-130	Repealed.
356-18-140	Leave without pay.
356-18-190	Repealed.
356-18-220	Leave without pay—Effect on anniversary date and periodic increment date.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

356-18-130	Military training leave—Paid. [Order 36, § 356-18-130, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-120.] Repealed by 88-07-045 (Order 296), filed 3/11/88. Statutory Authority: RCW 41.06.150.
356-18-190	Interim employee rights. [Order 36, § 356-18-190, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-220.] Repealed by 88-21-028 (Order 309), filed 10/11/88. Statutory Authority: RCW 41.06.150.

**WAC 356-18-030 Holidays—Rules—Regulations governing.** (1) The holidays cited in WAC 356-18-020 except Sundays are paid nonworking days for eligible employees.

(2) When operational necessity requires that employees work on a holiday except Sundays, they shall be compensated in accordance with the applicable provisions of the compensation plan appendix and chapter 356-15 WAC.

(3) For full-time employees on a Monday through Friday work schedule:

(a) Whenever any legal holiday falls on a Saturday, the preceding Friday shall be the holiday. Whenever any legal holiday, other than a Sunday, falls on a Sunday, the following Monday shall be the holiday.

(4) For full-time employees not on a Monday through Friday work schedule:

(a) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled work day, that day will be considered the holiday.

(b) When a holiday (other than Sunday) as identified in WAC 356-18-020(1) falls on the employee's scheduled day off, agencies shall, with respect to each individual employee, treat either the last preceding or the next following work day as the holiday.

(5) For employees working a night shift schedule which begins on one calendar day and ends on the next, the 24-hour "paid holiday" shall be determined by the agency to commence either at the start of the scheduled night shift that begins on the calendar holiday, or at the start of the shift that precedes the calendar holiday. The determination shall be consistent for all employees in a facility unless there is agreement between the agency and one of more affected employees to do otherwise. Agreement by the exclusive representative shall constitute agreement of the employees.

(6) Part-time employees who were on the payroll before and after the holiday and for a period of at least twelve calendar days during the month (but not including the holiday) will be compensated in cash, compensatory time, or exchange time for the holiday in a proportionate amount of time actually worked during the month to that required for full-time employment.

[Statutory Authority: RCW 41.06.150. 88-11-036 (Order 299), § 356-18-030, filed 5/13/88; 85-20-027 (Order 233), § 356-18-030, filed 9/24/85. Statutory Authority: RCW 41.06.150(17). 78-04-014 (Order 117), § 356-18-030, filed 3/9/78; Order 109, § 356-18-030, filed 9/7/77; Order 36, § 356-18-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-360, 356-12-380.]

**WAC 356-18-100 Accrued vacation leave disposition—Computation—How made.** (1) When an employee separates from service by reason of resignation with adequate notice, layoff, dismissal, retirement or death, he or she is entitled to a lump sum payment of unused vacation leave. The compensation shall be computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 356-18-095(2), nor shall such payment be reported to the DRS as compensation.

(2) Employees may defer the payment of their accumulated vacation leave for which otherwise entitled for a period of 30 working days if the separation resulted from a reduction in force and there is a reasonable probability of reemployment, or if the separation resulted from employees returning to classified positions from exempt positions under the provision of RCW 41.06.070(22), 41.06.100, or WAC 356-06-055. Seasonal career employees, as defined in WAC 356-05-380, may defer payment of their accumulated vacation leave during the period between consecutive employment cycles.

(3) If employees are paid for the accumulated vacation leave and are reemployed within the period of time represented by the number of days for which vacation pay was received, employees must return the payment for the remaining vacation days. Employees will be credited with the number of vacation days represented by the returned payments at the rate of their last salary.

(4) The separation cited in subsection (2) of this section will not be regarded as a break in service for purposes of computing the rates of crediting vacation leave prescribed in WAC 356-18-090, provided the employees return to employment other than by certification from the open competitive register.

[Statutory Authority: RCW 41.06.150. 87-13-039 (Order 277), § 356-18-100, filed 6/15/87, effective 8/1/87; 85-19-079 (Order 231), § 356-18-100, filed 9/18/85; 84-14-006 (Order 207), § 356-18-100, filed 6/22/84; 83-01-115 (Order 179), § 356-18-100, filed 12/22/82. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-18-100, filed 9/22/82; 78-06-017 (Order 120), § 356-18-100, filed 5/12/78; Order 109, § 356-18-100, filed 9/7/77; Order 82, § 356-18-100, filed 9/26/75; Order 63, § 356-18-100, filed 2/26/74; Order 48, § 356-18-100, filed 7/19/72; Order 45, § 356-18-100, filed 4/17/72, effective 6/1/72; Order 36, § 356-18-100, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-070 and 356-12-100 (part).]

**WAC 356-18-120 Miscellaneous leave.** (1) Leave with pay may be allowed to permit an employee to take an examination for a state position, receive assessment from the employee advisory service, serve as a member of a jury, or perform other civil duties.

(2) Employees who receive compensation for performing civil duties during working hours shall retain the amount compensated and any travel reimbursement and per diem. The salary or wages of an employee receiving compensation for civil duties shall be reduced by an amount equal to the civil duty pay excluding that amount designated as travel reimbursement or per diem. Employees receiving such compensation shall provide their agency with documentation showing the amount of civil duty pay.

[Statutory Authority: RCW 41.06.150. 88-07-046 (Order 297), § 356-18-120, filed 3/11/88, effective 5/1/88; 86-14-071 (Order 253), § 356-18-120, filed 7/1/86, effective 8/1/86. Statutory Authority: RCW 41.06.150(17). 79-10-064 (Order 133), § 356-18-120, filed 9/18/79; Order 77, § 356-18-120, filed 5/7/75; Order 36, § 356-18-120, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-110.]

**WAC 356-18-130 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-18-140 Leave without pay.** (1) Leave without pay may be allowed when such leave will not operate to the detriment of the state service.

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

(a) Leave with pay.

(b) Educational leave.

(c) Newborn or adoptive child care leave as provided in WAC 356-18-150.

(d) Military and U.S. Public Health Service and Peace Corps leave.

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

(f) Leave taken voluntarily to reduce the effect of an agency reduction in force, leaving the employee's standing with regard to the RIF register in tact.

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

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

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

(b) Authorized government leave not exceeding two years;

(c) Employees receiving time loss compensation;

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

(e) Newborn or adoptive child care leave under provisions of WAC 356-18-150; or

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

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

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

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-18-140, filed 1/2/87; 85-11-074 (Order 223), § 356-18-140, filed 5/22/85; 84-23-059 (Order 211), § 356-18-140, filed 11/20/84. Statutory Authority: RCW 41.06.150(17). 81-20-060 (Order 161), § 356-18-140, filed 10/5/81; 79-10-064 (Order 133), § 356-18-140, filed 9/18/79; 78-10-070 (Order 123), § 356-18-140, filed 9/26/78; Order 99, § 356-18-140, filed 2/24/77; Order 69, § 356-18-140, filed 9/30/74; Order 63, § 356-18-140, filed 2/26/74; Order 46, § 356-18-140, filed 5/9/72; Order 36, § 356-18-140, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-130, 356-12-140 and 356-12-180.]

**WAC 356-18-190 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-18-220 Leave without pay—Effect on anniversary date and periodic increment date.** (1) Leave without pay of fifteen consecutive calendar days or less will not affect an employee's anniversary date or periodic increment date.

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

- (a) Military or United States public health service;
- (b) Government service which had the director of personnel's approval;
- (c) Injuries sustained while performing the employee's state job;
- (d) Educational leave in accordance with the provisions of WAC 356-39-120;
- (e) Leave without pay taken voluntarily to reduce the effect of an agency reduction in force.

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

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

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-18-220, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 81-20-060 (Order 161), § 356-18-220, filed 10/5/81; 78-10-070 (Order 123), § 356-18-220, filed 9/26/78; Order 36, § 356-18-220, filed 7/1/71, effective 8/1/71. Formerly WAC 356-12-200.]

### Chapter 356-22 WAC RECRUITMENT--EXAMINATIONS

#### WAC

356-22-010	Examination—Announcements.
356-22-040	Applications—Contents—Restrictions.
356-22-070	Applications—Disqualification.
356-22-100	Examinations—Time and place.
356-22-180	Examination—Oral examining board.
356-22-190	Examinations—Medical.

#### WAC 356-22-010 Examination--Announcements.

(1) Recruitment shall be conducted publicly in any manner which the director or designee determines will attract a sufficient number of qualified persons to meet the needs of the classified service, and shall include methods designed to attract protected group members. Recruitment announcements shall be posted publicly, as selected by the director, and at all offices of the department of personnel. Each recruitment announcement shall give the title and salary range of the class, a general description of the duties performed, the applicable minimum or desirable qualifications, the type of examination, and shall encourage protected group members to apply.

(2) The director may limit recruitment to applicants meeting selective criteria.

(3) The director may limit open competitive recruitment to applicants available for employment to specific geographic locations.

(4) Registers established under subsections (2) and (3) of this section will be used exclusively for filling positions for which such recruitment has been conducted.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-010, filed 1/2/87; Order 63, § 356-22-010, filed 2/26/74; Order 36, § 356-22-010, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-010.]

**WAC 356-22-040 Applications--Contents--Restrictions.** (1) All applications shall be on a form prescribed by the department of personnel. The applicant's signature shall certify the truth of the stated information.

(2) The application shall include pertinent information regarding experience, training, and other information as deemed necessary by the director of personnel. A certificate of physical fitness from one or more licensed physicians based upon job-related criteria may be required by the director of personnel or designee.

(3) No information shall be solicited or accepted which reveals an applicant's religious or political affiliations. Information regarding an applicant's protected group status shall be solicited only for use in an affirmative action program and shall be accepted only if it is voluntarily given by the applicant.

(4) Information regarding the nature and extent of a handicap including a physician's statement, may be requested for affirmative action purposes and/or admittance to modified examinations under conditions specified in Merit System Rule 356-22-130.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-040, filed 1/2/87; Order 81, § 356-22-040, filed 8/21/75, effective 9/21/75; Order 80, § 356-22-040, filed 7/16/75, effective 8/16/75; Order 36, § 356-22-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-070 and 356-16-080.]

#### WAC 356-22-070 Applications--Disqualification.

The director of personnel is expected to follow accepted standards of personnel practice in screening applicants and may refuse to examine an applicant, may disqualify an applicant after examination or may remove the applicant's name from a register or refuse to certify the applicant if:

(1) The applicant is found to lack any of the requirements established for the register (as defined in WAC 356-26-030) or the class.

(2) The applicant has been convicted of any infamous crime, a crime involving moral turpitude, or any crime which would be grounds for dismissal from the position for which he/she is applying.

(3) The applicant has made a false statement of material fact in the application.

(4) The applicant has previously been dismissed or requested to resign from private or public service for delinquency, misconduct, inability to do similar work, or any other such cause directly bearing upon fitness as an employee.

(5) The applicant has used, or attempted to use, bribery to secure an advantage in the examination or appointment.

(6) The applicant has directly or indirectly obtained information regarding examinations to which he/she was not entitled.

(7) The applicant has otherwise violated provisions of these rules.

(8) The applicant has taken part in the compilation, administration or correction of the examination.

(9) The applicant has a disability, as evidenced by a medical examination, that renders the employer unable to reasonably accommodate the applicant in any position within the class.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-070, filed 1/2/87; 84-14-006 (Order 207), § 356-22-070, filed 6/22/84. Statutory Authority: RCW 41.06.150(17). 78-06-017 (Order 120), § 356-22-070, filed 5/12/78; Order 36, § 356-22-070, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-120.]

**WAC 356-22-100 Examinations--Time and place.** Examinations shall be held at such times and places as are necessary to meet the requirements of the state service, provide economical administration, and be generally convenient for applicants. Examination sites shall be accessible to persons of disability.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-100, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 78-06-017 (Order 120), § 356-22-100, filed 5/12/78; Order 36, § 356-22-100, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-150.]

**WAC 356-22-180 Examination--Oral examining board.** (1) The members of oral examining boards shall be chosen primarily for their ability to judge the qualifications of applicants objectively. At least one member by past experience and training shall be generally familiar with the nature of the work for which the examination is being given. Emphasis will be placed on including at least one protected group member on each oral examining board.

(2) No examining board shall have fewer than two members. No person holding political office or any officer or committee member of any political organization shall serve as a member of such board.

(3) If conditions require establishing multiple boards, tests and instructions shall be structured to ensure uniformity of examining conditions and rating standards.

(4) Members of oral examining boards shall disclose each instance in which they know an applicant to the extent that they have formed a prior personal bias for or against an applicant and shall disqualify themselves without rating the applicant or biasing the remaining members.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-180, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 78-04-014 (Order 117), § 356-22-180, filed 3/9/78; Order 36, § 356-22-180, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-220.]

**WAC 356-22-190 Examinations--Medical.** Before appointment, eligibles who are certified may be required to pass a medical examination relevant to the physical

demands of the work. The cost of such examination will be borne by the employing agency. Should an eligible's medical examination reveal a job-related disability, the employing agency shall consider ways to provide reasonable accommodation for the disability before making an appointment decision.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-22-190, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 78-06-017 (Order 120), § 356-22-190, filed 5/12/78; Order 36, § 356-22-190, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-240.]

## Chapter 356-26 WAC REGISTERS--CERTIFICATION

### WAC

356-26-010	Registers--Responsibility--Duration--Maintenance.
356-26-040	Registers--Name removal for cause--Grounds enumerated--Requirements.
356-26-050	Certification--Requests for.
356-26-060	Certification--General methods.
356-26-080	Certification--Exhausted registers--Procedure.
356-26-090	Certification--Underfill.
356-26-120	Certification--Errors--Correction.
356-26-130	Certification--Selective--When permitted.
356-26-140	Background inquiries--Department of social and health services.

**WAC 356-26-010 Registers--Responsibility--Duration--Maintenance.** (1) The establishment, maintenance, and adequacy of all ranked and unranked registers shall be the responsibility of the director of personnel.

(2) A person's standing on a register shall be measured from the date that person's name is placed on the register.

(3) Each register shall indicate the person's geographic availability, available information on protected group status, and other appropriate considerations as determined by the director of personnel.

(4) The director of personnel may, as requested, designate agency personnel officers to act as agents of the department of personnel for the purposes of establishing and/or maintaining ranked and unranked local list registers unique to the employing agency and certifying names therefrom under the merit system rules. The director of personnel will be responsible for establishing the necessary procedures which shall include a periodic audit of agency activity. Applicants shall have appeal rights to the director in accordance with all other provisions of the rules.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-26-010, filed 1/2/87; Order 77, § 356-26-010, filed 5/7/75; Order 36, § 356-26-010, filed 7/1/71, effective 8/1/71. Formerly WAC 356-16-320.]

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

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

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

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

(d) If a candidate from a reduction in force register or a dual agency reversion register has waived the first offer of employment, or a candidate from a promotional register has twice waived consideration for a position in the class for which the register was established.

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

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

(g) If an eligible was certified and reported "not satisfactory" on three occasions or if the eligible was certified and the appointing authority reported the eligible "considered but not appointed" on four separate occasions, or if the appointing authority reports either "not satisfactory" or "considered but not appointed" for a total of four times. The director of personnel or designee will monitor all name removals for adverse effect and/or disparate treatment of protected group members.

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

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

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

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

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

**WAC 356-26-050 Certification--Requests for.** (1) Requests for certification will be submitted in the prescribed manner by the appointing authority to the director when filling vacancies in existing or newly allocated positions. Such requests shall constitute assurance to the director that funds are available for filling vacancies for which registers are requested.

(2) No permanent or probationary appointment to a classified position shall be made without prior authorization by the director or designee.

(3) No certification may be cancelled except for reasons filed with and approved by the director.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-26-050, filed 9/7/88, effective 11/1/88; Order 40, § 356-26-050, filed 12/10/71; Order 36, § 356-26-050, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-010.]

**WAC 356-26-060 Certification--General methods.** Upon receipt of a request for certification, the director of personnel shall normally certify to the appointing authority a list of names equal in number to four more than there are vacancies to be filled from the ranked registers except:

(1) One name will constitute a complete certification when referrals are made from the agency reduction in force register, the service-wide reduction in force register, or the dual agency reversion register. When an appointing authority requests a selective certification for specialized qualifications, the eligible candidate must meet the selective criteria in order to be referred to the position, provided:

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

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

(c) It has been determined that the position involves new duties that would warrant future selective certification. Such selective criteria shall not be applied for certification purposes until six months after the department of personnel approves the selective criteria for the position.

(d) In the case of (a), (b), or (c) of this subsection, the director of personnel or designee must determine that the specialized qualifications are still required for successful job performance and cannot be learned within a reasonable length of time.

(2) Where all names are certified exclusively from an open competitive register, the director of personnel may certify in ranked order up to all of the names from the open competitive register: *Provided*, That the appointing authority shall select from those eligibles available from the highest ranking names which constitute five names per vacancy to be filled.

(3) When more than one candidate has the same examination rating and when necessary to limit the number of names to four more than the number of vacancies, ties shall be broken by lot upon each instance of certification.

(4) An unranked register may be used to complete a certification. In such cases, all names appearing on that register shall be certified. Subsequent unranked registers shall not be used until the certification is again incomplete.

(5) The director of personnel, upon request and after consultation with the employing agency and employee representatives, may declare positions, groups of positions or classes of positions as in-training positions. The

in-training designation is normally at the second level of a series. Such positions may be filled from the register for the entry level class in the series. The employee shall automatically advance to the higher level after completion of one year of service in the entry level class. When the classification specifications require completion of a formal training plan to advance, such positions may be filled from a register of any lower level class in the series; the employee shall automatically advance to the next higher level in the series after completion of the training period designated in the specification.

(6) When the vacancy to be filled is identified as part of an agency's affirmative action goals as established by their approved affirmative action plan, the director of personnel may, except where there are employees on the reduction in force register, refer up to three additional names per vacancy of individuals who are on existing registers and who are members of the protected groups. This action may be taken when necessary to comply with the best standards of personnel administration as contemplated by chapter 41.06 RCW.

Prior to the utilization of this subsection, the agency shall determine if there are protected group members on the existing registers. If there are fewer than three protected group members on the register, the agency shall:

(a) Appoint one of the eligibles from the register; or

(b) Request assistance from the department of personnel in completing the certification. The department of personnel and the agency will then initiate targeted recruitment.

(7) When one or more of the following conditions exist, the director of personnel or designee may certify a sufficient number of names to assure that the requesting agency has not less than five names available for consideration:

(a) The position is in an isolated or undesirable location.

(b) The position has undesirable working conditions.

(c) The agency needs to fill several positions in the class.

(d) One or more agencies have had difficulty filling positions in the class.

(e) The director of personnel or designee determines that such certification is necessary to provide the requesting agency with efficient service.

If such certification contains five or more available promotional candidates, agencies shall appoint from the promotional candidates.

(8) Permanent employees certified from a ranked register for consideration of appointment shall be notified by the agency at the time of the referral. Upon appointment the agency shall advise those employees certified but not appointed of the action taken.

[Statutory Authority: RCW 41.06.150. 87-24-025 (Order 284), § 356-26-060, filed 11/24/87, effective 1/1/88; 87-02-038 (Order 267), § 356-26-060, filed 1/2/87; 86-21-114 (Order 261), § 356-26-060, filed 10/20/86, effective 12/1/86; 85-23-048 (Order 238), § 356-26-060, filed 11/18/85. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-26-060, filed 9/22/82; 81-20-060 (Order 161), § 356-26-060, filed 10/5/81; 81-03-017 (Order 151), § 356-26-060, filed 1/12/81. Statutory Authority: RCW 41.06.140(17). 80-04-025 (Order 142), § 356-26-060, filed 3/14/80. Statutory Authority: RCW 41.06.150(17). 79-12-072 (Order 138), §

356-26-060, filed 11/30/79, effective 1/1/80; 79-11-046 (Order 136), § 356-26-060, filed 10/15/79, effective 1/1/80; Order 112, § 356-26-060, filed 11/7/77; Order 96, § 356-26-060, filed 12/10/76 and 12/20/76; Order 77, § 356-26-060, filed 5/7/75; Order 68, § 356-26-060, filed 6/25/74; Order 66, § 356-26-060, filed 5/28/74; Order 56, § 356-26-060, filed 6/25/73; Order 54, § 356-26-060, filed 4/26/73; Order 36, § 356-26-060, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-020.]

**WAC 356-26-080 Certification--Exhausted registers--Procedure.** (1) While all names need not be taken from the same register, each register must be exhausted before using the next register.

(2) When there are fewer names than constitute a complete certification for the class, the director may substitute an allied series of registers if he determines the allied registers are sufficiently similar.

(3) When there are fewer names than constitute a complete certification for the class and no allied register is determined appropriate, the remaining names on all incomplete registers will be certified. However, an appointing authority may request a temporary appointment providing full and fair consideration has been given to those names certified, and the director determines that the person meets the announced qualifications and grants approval.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-26-080, filed 9/7/88, effective 11/1/88; Order 36, § 356-26-080, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-040.]

**WAC 356-26-090 Certification--Underfill.** (1) The director of personnel may authorize the underfilling of a position if a register does not have enough names for a complete certification following active recruiting. Upon such authorization, a certification shall be made from the next lower class in the series or an allied class as determined by the director. Only the number of eligibles needed to complete the certification will be referred from the lower level class in the series or the allied class.

(2) Eligibles so certified shall be advised during the employment interview with the appointing authority of the underfill status of the appointment, which shall be confirmed in writing.

(3) An underfilled position shall not be certified against from a subsequently developed higher register unless: The employee does not successfully complete the probationary or trial service period or the employee does not qualify for the higher level class within four months after being admitted to the examination.

(4) Should the employee not qualify for promotion, the rules regarding transfer, promotion, demotion, or reduction in force shall apply.

[Statutory Authority: RCW 41.06.150. 87-03-032 (Order 269), § 356-26-090, filed 1/14/87, effective 3/1/87; Order 36, § 356-26-090, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-044.]

**WAC 356-26-120 Certification--Errors--Correction.** (1) The director shall ensure that the proper actions have been taken and reported.

(2) In the event that a name is certified in error and the error is discovered before one of the named applicants is notified that he or she is appointed, the erroneous certification will be withdrawn and a correct

certification made. If a certification is to fill more than one position, only that portion of it pertaining to positions for which applicants have not been notified that they are appointed will be withdrawn.

(3) In the event a name is certified in error and the error is discovered after one of the named applicants is notified that he or she is appointed but prior to the effective date of the appointment, the certification and appointment will be withdrawn as in subsection (2) of this section unless:

(a) Acceptance of the appointment caused the named applicant to change his or her place of residence.

(b) Acceptance of the appointment caused the named applicant to resign from a position that cannot be regained. When the named applicant is a state employee, the agency from which he or she resigned will reinstate the named applicant in his or her previous status.

(4) In the event a name is certified in error and the error is discovered after the effective date of the appointment of one of the named applicants, the director may revoke the appointment and make a proper certification of names. The error may be on the part of any party including erroneous information contained in the application.

(5) Falsification or misrepresentation of information on an application for employment will be cause to remove an applicant's name from the register. If the applicant has been appointed prior to the discovery of the falsification or misrepresentation, the director may revoke the appointment during the probationary period. After the probationary period the appointing authority may dismiss the employee for cause pursuant to WAC 356-34-010.

[Statutory Authority: RCW 41.06.150. 89-02-010 (Order 311), § 356-26-120, filed 12/28/88, effective 2/1/89; Order 76, § 356-26-120, filed 3/31/75; Order 36, § 356-26-120, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-080.]

**WAC 356-26-130 Certification--Selective--When permitted.** An appointing authority may request a selective certification of eligibles who have specialized qualifications that are required for the successful performance of the duties of the position, and cannot be gained within a reasonable time, not to exceed the probationary or trial service period. This request must be made prior to certification.

If the director of personnel determines that the facts and reasons justify the request, the highest ranking eligibles who have the specialized qualifications shall be certified.

(1) Selective certification based on gender shall not be made without a bona fide occupational qualification approved by the human rights commission.

(2) The director of personnel may selectively certify eligibles who are filling project positions to fill permanent positions. Such selective certification shall apply only from names on an open competitive register.

(3) Selective certification of eligibles who possess an appropriate, valid motor vehicle operator's license may be required for positions whose duties require specific driving skills.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-26-130, filed 1/2/87; 85-07-060 (Order 219), § 356-26-130, filed 3/20/85. Statutory Authority: RCW 41.06.150(17). 79-12-072 (Order 138), § 356-26-130, filed 11/30/79, effective 1/1/80; 79-11-046 (Order 136), § 356-26-130, filed 10/15/79, effective 1/1/80; Order 69, § 356-26-130, filed 9/30/74; Order 47, § 356-26-130, filed 6/14/72; Order 39, § 356-26-130, filed 9/15/71; Order 36, § 356-26-130, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-090.]

**WAC 356-26-140 Background inquiries--Department of social and health services.** (1) Within the department of social and health services, a background inquiry shall be completed prior to an applicant's appointment to a position which is directly responsible for the supervision, care, or treatment of children or developmentally disabled persons, except as provided in subsection (4) of this section. For purposes of this section, applicants shall also include employees who are notified they are scheduled for reduction in force who wish to consider options to positions covered by this section. The inquiry shall include an examination of the applicant's conviction records and pending criminal charges. Inquiry findings shall be used solely for the purpose of determining the character, suitability, and competence of the applicant and may result in denial of employment only for positions covered by this section.

(2) The department of social and health services shall ensure that all applicants being considered for positions covered by this section are aware of the background inquiry requirement.

(3) Positions covered by this section are all positions which have either a direct or supervisory accountability for the supervision, care, or treatment of residents or clients who are either children or developmentally disabled. Positions assigned duties that provide access to residents or clients who are either children or developmentally disabled, but which are not directly accountable for their supervision, care, or treatment are not covered by this section.

(4) A background inquiry shall be completed on the applicant prior to any permanent or nonpermanent appointment into a position covered by this section, except as waived by the secretary of the department of social and health services or designee. The inquiry shall be conducted only with the applicant's written authorization. Failure to provide written authorization shall disqualify the applicant for both appointment and referral to positions covered by this section. Employees who at the time of consideration for appointment have current probationary, trial service or permanent status in positions covered by this section are exempt from the background inquiry requirement.

(5) A background inquiry shall be completed on applicants prior to an intermittent appointment to a position covered by this section. Individuals on intermittent appointments in positions covered by this section may not exceed twelve continuous months in such an appointment unless they are cleared following a subsequent background inquiry.

(6) Inquiry findings to be considered in determining the applicant's character, suitability and competence to perform in the position shall be limited to:

(a) Conviction of a felony directly related to the position sought if the date of conviction is less than ten years ago. Such conviction will not be considered if it has been the subject of a pardon, annulment or other equivalent procedure based on a finding of innocence.

(b) Conviction of a felony directly related to the position sought, if the date of conviction is more than ten years ago but the date of prison release is less than seven years ago. Such conviction will not be considered if it has been the subject of a pardon, annulment or other equivalent procedure based on a finding of innocence.

(c) Pending felony charges directly related to the position.

For purposes of applying subsection (6)(a) through (c) of this section, the following offenses shall be considered directly related to all positions covered by this section: All crimes involving physical harm or threat of physical harm to persons; all sex related offenses; all public indecency/prostitution offenses; and all offenses identified as being against children or developmentally disabled persons.

(d) Any combination of two or more felony convictions for drug related or malicious harassment offenses if the date of conviction is less than seven years ago. Such conviction will not be considered if it has been the subject of a pardon, annulment or other equivalent procedure based on a finding of innocence.

(e) Conviction of or pending charges for a gross misdemeanor or misdemeanor involving either a minor or prostitution for which the date of conviction or jail release, whichever is more recent, is less than seven years ago.

(7) If the inquiry reveals information listed under subsection (6) of this section, no appointment decision shall be made prior to providing the applicant with an opportunity to present evidence to the appointing authority that the inquiry findings should have no bearing on the applicant's character, suitability and competence to perform in the position. In reviewing the inquiry findings, the appointing authority shall take into consideration the recentness and seriousness of the crime, the number of previous offenses, the likelihood of rehabilitation, as well as the vulnerability of the clients to be cared for in determining the applicant's character, suitability, and competence to perform in the position.

(8) An applicant who has been notified of inquiry findings may appeal, pursuant to WAC 356-34-090, the appointing authority's decision not to appoint him or her only after having requested and completed the review provided in subsection (7) of this section.

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

[Statutory Authority: RCW 41.06.150. 87-06-024 (Order 271), § 356-26-140, filed 2/24/87.]

**Chapter 356-30 WAC  
APPOINTMENTS—SEPARATIONS**

WAC	
356-30-010	Appointments—Bona fide occupational qualifications.
356-30-015	Appointments—Prohibition of multiple appointments to single position—Exceptions.
356-30-020	Repealed.
356-30-025	Nonpermanent appointments—Duration.
356-30-030	Repealed.
356-30-040	Repealed.
356-30-050	Appointments—Emergency—How made—Status.
356-30-065	Temporary appointments—From outside state service.
356-30-067	Temporary appointments from within classified service.
356-30-070	Repealed.
356-30-075	Appointments—Veterans—Noncompetitive.
356-30-080	Repealed.
356-30-140	Intermittent employment—Rules—Regulations.
356-30-145	Project employment.
356-30-180	Transfer requiring relocation of position with incumbent—Domiciliary movement.
356-30-190	Transfer—Within class—Agency—Permitted—Report.
356-30-230	Demotion—Voluntary.
356-30-255	Separations—Immigration Reform and Control Act.
356-30-260	Probationary period—Provisions—Status of employee.
356-30-300	Performance evaluation—Requirements—Monitoring.
356-30-305	Trial service period—Provision.
356-30-330	Reduction in force—Reasons, regulations—Procedure.

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

356-30-020	Appointments—Provisional—Recruitment. [Order 36, § 356-30-020, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-140.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-30-030	Appointments—Provisional—Limitations—Prohibited. [Statutory Authority: RCW 41.06.150. 83-12-002 (Order 184), § 356-30-030, filed 5/19/83; Order 36, § 356-30-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-150.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-30-040	Appointments—Provisional—Employees accepting. [Order 36, § 356-30-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-160.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-30-070	Appointments—Acting. [Statutory Authority: RCW 41.06.150(17). 80-04-025 (Order 142), § 356-30-070, filed 3/14/80. Statutory Authority: RCW 41.06.150(17). 79-12-072 (Order 138), § 356-30-070, filed 11/30/79, effective 1/1/80; Order 56, § 356-30-070, filed 6/25/73; Order 36, § 356-30-070, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-194.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.
356-30-080	Temporary appointments—Exempt service. [Statutory Authority: RCW 41.06.150. 84-12-079 (Order 206), § 356-30-080, filed 6/6/84. Statutory Authority: RCW 41.06.150(17). 80-15-052 and 81-03-064 (Orders 148 and 148A), § 356-30-080, filed 10/13/80 and 1/20/81; 78-12-026 (Order 126), § 356-30-080, filed 11/15/78; Order 36, § 356-30-080, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-210, 356-24-230 and 356-24-240.] Repealed by 88-18-096 (Order 308), filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150.

**WAC 356-30-010 Appointments--Bona fide occupational qualifications.** All appointments and assignments of work in the state service shall be made on the basis of merit. However, restrictions based on creed, sex, or disability may be considered by the appointing authority when such restrictions have been approved by the human rights commission as bona fide occupational qualifications. Appointing authorities need not obtain approval from the human rights commission when taking action to reasonably accommodate a person of disability or when appointing a protected group member from a supplemental referral.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-30-010, filed 1/2/87; Order 36, § 356-30-010, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-105.]

**WAC 356-30-015 Appointments--Prohibition of multiple appointments to single position--Exceptions.** Multiple appointments to single positions within the classified service shall be restricted to the following situations:

(1) Tandem or part-time employment where the total FTE's for all persons in the position(s) does not exceed one FTE per position

(2) Reasonable training periods

(3) Periods of approved leave of absence

(4) Emergency or temporary appointments made in accordance with the merit system rules.

Any exceptions not permitted by this section must be approved in advance by the director of personnel, or designee.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-30-015, filed 9/7/88, effective 11/1/88. Statutory Authority: RCW 41.06.150(17). 78-10-092 (Order 124), § 356-30-015, filed 10/2/78.]

**WAC 356-30-020 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-30-025 Nonpermanent appointments--Duration.** No consecutive nonpermanent appointment of an employee who has worked for the agency for nine months or 1560 nonovertime hours within the last twelve months may be made with out a three-month break in service except as provided by WAC 356-30-065(4).

[Statutory Authority: RCW 41.06.150. 88-21-028 (Order 309), § 356-30-025, filed 10/11/88.]

**WAC 356-30-030 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-30-040 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-30-050 Appointments--Emergency--How made--Status.** (1) When an emergency occurs requiring the immediate services of a person or persons, the appointing authority may appoint a person without following the normal procedures governing appointment. The appointment shall be based on the availability and fitness of the applicant, as well as consideration of the agency's affirmative action program.

(2) An emergency appointment of an individual shall not exceed thirty calendar days.

(3) Service in an emergency appointment shall not constitute a part of the employee's probationary service.

(4) The director of personnel shall monitor emergency appointments made pursuant to this section and may revoke delegated authority where abuse if [is] found.

[Statutory Authority: RCW 41.06.150. 88-21-028 (Order 309), § 356-30-050, filed 10/11/88; 87-02-038 (Order 267), § 356-30-050, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 79-08-029 (Order 130), § 356-30-050, filed 7/16/79; Order 109, § 356-30-050, filed 9/7/77; Order 36, § 356-30-050, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-170.]

**WAC 356-30-065 Temporary appointments--From outside state service.** (1) Temporary appointments may be made to classified positions during the absence of a permanent employee or during a workload peak when there is a need to fill a position for not more than nine months or 1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) Temporary appointments shall be approved by the director of personnel, or designee. Single or multiple temporary appointments shall last no more than nine months or 1560 nonovertime hours within a twelve-month period. Time spent in emergency appointments will be counted in the 1560 hours.

(4) No temporary appointment of an employee who has worked for the agency for nine months or 1560 nonovertime hours within the last twelve months may be made without a three-month break in service. Consecutive nonpermanent appointments of the same person in the same agency which would cause the employee to work more than 1560 nonovertime hours in a twelve-month period can only be made with the approval of the director of personnel. Extensions of temporary appointments of persons from outside classified service may be granted when a permanent employee's leave extends beyond nine months or 1560 nonovertime hours or as otherwise approved by the director of personnel. Such extensions must be approved by the director of personnel.

(5) Temporary appointees must meet the minimum qualifications of the class to which they are appointed unless the director of personnel determines that program needs demand otherwise. Established registers, certification, and referral services are available and may be used when making temporary appointments. An employee given a temporary appointment following certification from the register to fill a position in the absence of a permanent employee may enter a probationary period when the permanent employee does not return to the position and the agency needs to fill the position permanently. The director must approve the change in status before it occurs. Time served in a temporary appointment will not be counted as part of the probationary period.

(6) Compensation of temporary employees shall be consistent with the rules unless exempted by RCW 41.06.070 and WAC 356-06-020.

(7) Merit system rules governing all forms of leave will apply to temporary employees unless exempted by RCW 41.06.070 and WAC 356-06-020.

(8) An employee's temporary appointment may be ended by stipulating a termination date in the appointment letter or by giving one full working day's notice prior to the effective date. The employee receiving such notice shall not have the right of appeal or hearing.

(9) The appointing authority shall advise the temporary employee of the temporary status of the appointment. Temporary employees not appointed from within the classified service have no appeal rights.

(10) The director of personnel shall monitor temporary appointments made pursuant to this section and may revoke delegated authority where abuse is found.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-30-065, filed 9/7/88, effective 11/1/88; 84-21-071 (Order 210), § 356-30-065, filed 10/17/84; 84-12-079 (Order 206), § 356-30-065, filed 6/6/84.]

**WAC 356-30-067 Temporary appointments from within classified service.** (1) Temporary appointments may be made to classified positions during the absence of a permanent employee or during a workload peak when there is a need to fill a position for not more than nine months or 1560 nonovertime hours or while recruitment is being conducted to establish a complete register.

(2) Temporary appointments may be made at a lower level than the allocation of the position being filled provided the class falls within the same or a related class series.

(3) All temporary appointments to supervisory or managerial positions must be made from within state service unless the director determines that such action is not practicable.

(4) Established registers, certification, and referral services are available and may be used when making temporary appointments. An employee certified from the register to fill a position in the absence of a permanent employee may enter a probationary or trial service period and subsequently gain permanent status when the permanent employee does not return to the position and the agency needs to fill the position permanently. The director of personnel must approve the change in status before it occurs. Time served in a temporary appointment will not be counted as part of the probationary or trial service period.

(5) Permanent or probationary classified employees may accept a temporary appointment to a class for which they meet the minimum qualifications. Upon termination of such temporary appointment, permanent or probationary employees shall have the right to resume a permanent position within their permanent agency at their former status. The employee's salary upon return will be determined as if the employee had remained in the permanent position.

(6) Temporary appointments made from within classified service will normally last no more than nine months or 1560 nonovertime hours for single appointments. An extension may be approved by the director when a temporary appointment is made to replace a permanent employee who has been granted a leave of absence or when temporarily filling a supervisory or managerial position when there is reorganization pending. In such cases, the temporary appointment may extend to thirty days after the date the permanent employee returns. Time spent in emergency appointments will be counted in the 1560 hours.

(7) Compensation for temporary appointees shall be made in accordance with the rules governing promotions, demotions, or transfers.

(8) The director of personnel shall monitor temporary appointments made pursuant to this section and may revoke delegated authority where abuse is found.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-30-067, filed 9/7/88, effective 11/1/88.]

**WAC 356-30-070 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-30-075 Appointments--Veterans--**

**Noncompetitive.** (1) Appointing authorities shall prefer veterans, as defined in subsection (2)(a) of this section and their widows, widowers, and spouses during their initial entrance into state service when considering selecting persons from eligible lists to fill vacancies in the noncompetitive service as described in WAC 356-22-230(1). Those veterans, widows, widowers and eligible spouses determined to be at least equal to nonveterans shall be preferred over the nonveterans except appointing authorities may, with the approval of the director of personnel, consider protected group status and periods of military service when endeavoring to satisfy their established and approved agency affirmative action plans.

(2) For the purpose of defining the eligible veterans and their widows, widowers and spouses referred to in subsection (1) of this section:

(a) "Veteran" means honorably discharged persons following active service in any war of the United States or in any military campaign for which a campaign ribbon shall have been awarded.

(b) "Widow" and "widower" means the person who was married to the veteran defined in (a) of this subsection at the time of the veteran's death and who has not since remarried.

(c) "Spouse" means the person married to the veteran as defined in (a) above, when that veteran has a service connected permanent and total disability.

(3) "Equal" as referred to in subsection (1) of this section shall be determined by the appointing authorities as follows:

(a) Filling vacancies from the lists in the noncompetitive service. The appointing authority shall use a score resulting from an established systematic evaluation of the applicant's work and/or educational and training

background, evaluated both for length of time and quality of experiences. Also, appointing authorities may uniformly use other merit factors that are specifically job-related in making determinations. When appointing authorities do select persons other than those listed in subsection (2) of this section who have lesser scores than those persons listed in subsection (2) of this section, they shall forward to the director of personnel an explanation and the relative standing of the eligibles selected.

(b) A description of the established systematic evaluation system by agencies must be submitted to the director of personnel. Upon request, the director of personnel will make the services of the department of personnel available, to recommend the merit and job-related factors and procedures for judging relative qualities.

[Statutory Authority: RCW 41.06.150. 87-02-039 (Order 268), § 356-30-075, filed 1/2/87. Statutory Authority: RCW 41.06.150(17). 79-11-046 (Order 136), § 356-30-075, filed 10/15/79, effective 1/1/80.]

**WAC 356-30-080 Repealed.** See Disposition Table at beginning of this chapter.

**WAC 356-30-140 Intermittent employment--Rules--Regulations.** (1) An intermittent appointment may be made when the nature of the work is intermittent in character fitting no particular pattern. An employee may not work more than 1560 nonovertime hours within any twelve-month period in an intermittent appointment. A position which is filled beyond the 1560 nonovertime hours shall be vacated for a minimum of three months. Time spent in emergency appointments will be counted in the 1560 hours.

(2) Intermittent appointees must meet the minimum qualifications for the class in which they are hired. Established registers are available and may be used when making intermittent appointments.

(3) Consecutive appointments of the same person in the same agency may be made as long as the employee does not work more than 1560 nonovertime hours in a twelve-month period.

(4) No person can become a permanent employee because of time served as an intermittent employee.

(5) Intermittent employees who accept temporary appointments may return to intermittent employment and resume intermittent status without approval of the director of personnel if they have not exceeded 1560 nonovertime hours in all nonpermanent appointments within the last twelve months. If the employee reaches 1560 nonovertime hours in the last twelve months, a mandatory three-month break must be made, unless the director of personnel determines otherwise.

(6) Agencies must review intermittent appointments on a quarterly basis to ensure that intermittent employees are employed in accordance with these rules.

(7) The director of personnel shall monitor intermittent appointments made pursuant to this section and may revoke delegated authority where abuse is found.

[Statutory Authority: RCW 41.06.150. 88-18-096 (Order 308), § 356-30-140, filed 9/7/88, effective 11/1/88; Order 36, § 356-30-140, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-200.]

**WAC 356-30-145 Project employment.** (1) Project employment when designated by the director, is the grouping together of employees whose length of employment is contingent on state, federal or other grant funding of specific and of time limited duration.

(2) Requests for the designation of project employment will be initiated by the proposing agency and made to the director. Such requests will include:

(a) The nature and scope of the program.

(b) Source and conditions of funding.

(c) Explanation of why project status should be used rather than regular classified service.

(d) Explanation of why competitive service is not practical to use if noncompetitive service is requested.

(e) Relationship of project to regular operations and programs of the agencies.

(f) Number of positions.

(g) Duration.

(h) Proof of notice to the employee organizations affected.

(i) Project employees benefits.

(3) The director may extend a project beyond its scheduled term.

(4) Permanent employees in regular positions may transfer, promote, or voluntarily demote into project employment positions as provided by these rules unless prohibited by the contract that established the project.

(5) Positions in project employment will be in the competitive service unless the director determines otherwise. Grounds such as special requirements of the project contract, insufficient time to recruit and unavailability of a register, or other circumstances where a competitive exam is not practicable may warrant use of the noncompetitive service.

(6) Employees hired into project positions must be notified, in writing, of the expected ending date of their employment.

(7) Project employees who have entered into project employment without permanent status, will gain permanent project status upon completion of their probationary period and shall be entitled to appropriate rights within project employment and to those outlined below.

(a) Once permanent project status has been gained, project employees may have their names placed on the transfer or voluntary demotion register for regular positions in the same or similar job classes for which permanent project status has been gained.

(b) Permanent project employees who entered project employment via the noncompetitive process must be certified from the appropriate register in order to transfer, voluntarily demote, or promote directly into regular positions. These employees may continue to apply for regular positions via the open competitive route.

(c) Permanent project employees who entered project positions via the competitive process may transfer, voluntarily demote, or apply as promotional candidates to regular classified positions as though they were permanent employees unless permanent employees have been prohibited from competing for the project positions.

(d) Project employees who have gained permanent project status, and transfer or voluntarily demote into a

regular position, will not be required to serve a probationary period.

(e) Project employees who are currently on the registers will continue to be on the registers and may be certified as provided in these rules.

(8) Employees who left a state agency with permanent status and came directly into project employment will continue to have promotional opportunities and transfer rights of their former position as though they were still employed in that agency.

(9) Project employees will have reduction in force rights within their project boundaries only and will compete according to "seniority," except permanent employees who left regular classified positions to accept project employment will have the reduction in force rights of the position they left. Time spent in project employment will also be credited to the employees' seniority for use in competing in the regular state positions, provided there is no break in service. Names of project employees separated by reduction in force actions, who did not leave regular classified positions to accept project employment, will be placed on the reemployment register WAC 356-26-030(9) for the usual life of that register. Upon reduction in force from the project, project employees who entered the project through the competitive process and remain in project status for two years shall be eligible to have their names placed on the agency reduction in force registers for the classes in which permanent project status was attained. Bumping options will be limited to the project boundaries.

(10) The time spent in project employment will also be credited toward periodic increment dates, annual leave, sick leave and other benefits provided to employees in these rules.

[Statutory Authority: RCW 41.06.150, 88-18-096 (Order 308), § 356-30-145, filed 9/7/88, effective 11/1/88; Order 112, § 356-30-145, filed 11/7/77; Order 74, § 356-30-145, filed 3/7/75; Order 51, § 356-30-145, filed 12/19/72; Order 47, § 356-30-145, filed 6/14/72; Permanent and Emergency Order 39, § 356-30-145, filed 9/15/71.]

**WAC 356-30-180 Transfer requiring relocation of position with incumbent--Domiciliary movement.** (1) All transfers of permanent employees from one position to another position in a different geographic area that will require an incumbent to move his/her domicile to be within reasonable commuting distance of the new position will be made with the voluntary concurrence of the incumbent. Such actions shall be reported to the director.

(2) Relocation of positions occupied by incumbents from one geographic area to another geographic area because of a reduction of work, lack of work, lack of funds, or good faith reorganization for efficiency purposes shall be made in accordance with the reduction in force rules and employee rights therein.

[Statutory Authority: RCW 41.06.150, 87-24-024 (Order 283), § 356-30-180, filed 11/24/87, effective 1/1/88; Order 112, § 356-30-180, filed 11/7/77; Order 36, § 356-30-180, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-070.]

**WAC 356-30-190 Transfer--Within class--Agency--Permitted--Report.** A transfer of a permanent

employee to another position in the same class within the same agency may be made at any time by the appointing authority provided such transfers are offered first to employees on the reduction in force registers and employees in the layoff unit who have been notified they are scheduled for reduction in force. However, transfers within the employee's own layoff unit may be made without consulting the reduction in force registers. Transfers made in accordance with this rule shall be reported to the director.

[Statutory Authority: RCW 41.06.150, 87-24-024 (Order 283), § 356-30-190, filed 11/24/87, effective 1/1/88; Order 36, § 356-30-190, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-080.]

**WAC 356-30-230 Demotion--Voluntary.** (1) Permanent employees, or employees separated within the last year by reduction in force, may accept a voluntary demotion to a class for which they qualify, as determined by the director of personnel or designee provided such positions are offered in order of seniority first to employees on the agency and service-wide reduction in force registers and to employees within the layoff unit who have been notified in writing that they are scheduled for reduction in force. The employee will not serve a trial service period unless referred from the promotional or voluntary demotion register to a class not previously held.

(2) Voluntary demotions to a class in which the employee has not held permanent status may require examination as determined by the director of personnel or designee.

(3) A proposed demotion shall be approved by the director of personnel or designee prior to the effective date of the action.

(4) Permanent employees may compete promotionally for classes [of] [or] positions in other series which by definition are demotions.

[Statutory Authority: RCW 41.06.150, 87-24-024 (Order 283), § 356-30-230, filed 11/24/87, effective 1/1/88; 84-10-054 (Order 202), § 356-30-230, filed 5/2/84; Order 36, § 356-30-230, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-120, 356-24-130 (part) and 356-24-140.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 356-30-255 Separations--Immigration Reform and Control Act.** Employees must comply with the personal identification and work authorization reporting requirements of the federal Immigration Reform and Control Act ("I.R.C.A."). Upon written notification by the appointing authority that an employee does not appear to be in compliance with those requirements, the employee must provide proof of compliance within five working days. If an employee complies or demonstrates proof of compliance within five working days, no separation from state employment for failure to comply with I.R.C.A. shall occur. If an employee does not comply or demonstrate proof of compliance with I.R.C.A. within five working days, that employee shall be notified in writing by the appointing authority of the employee's

separation from state employment, effective one full working day after the date of such notification. Such separations shall be based solely on lack of compliance with I.R.C.A., shall not be considered a separation for disciplinary reasons, and shall not be based on national origin, race, physical characteristics or appearance, or other factors prohibited by law.

[Statutory Authority: RCW 41.06.150. 87-13-072 (Order 279), § 356-30-255, filed 6/17/87, effective 8/1/87.]

**WAC 356-30-260 Probationary period--Provisions--Status of employee.** (1) Employees who receive appointments to permanent positions from the open competitive register and the reemployment register shall serve a probationary period of six to twelve months as determined by the personnel board. The personnel board shall designate a probationary period of six months for all positions in a class unless they determine that job requirements of the class require a longer period (up to twelve months) to provide adequate training and/or evaluation. The personnel board shall apply the following criteria for approving probationary periods of longer than six months:

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

OR

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

OR

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

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

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

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

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

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

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

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

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

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

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

(8) Veterans and their widows who have not remarried and are in probationary status will be granted seniority preference only within ranks of probationary employees and will not be granted preference within the ranks of the permanent employees until they acquire permanent status.

[Statutory Authority: RCW 41.06.150. 88-06-001 (Order 295), § 356-30-260, filed 2/19/88, effective 4/1/88. Statutory Authority: RCW 41.06.150(17). 82-19-092 (Order 175), § 356-30-260, filed 9/22/82; Order 36, § 356-30-260, filed 7/1/71, effective 8/1/71. Formerly WAC 356-20-220.]

**WAC 356-30-300 Performance evaluation--Requirements--Monitoring.** (1) Agencies shall evaluate the performance of their employees during their probationary or trial service periods and at least once a year thereafter.

(2) The annual evaluation will be conducted during the sixty-day period following the employee's anniversary date, except an agency can establish, on a consistent basis, a due date which better accommodates the agency's particular needs. The evaluation will cover the period ending with the established due date.

(3) Agencies will utilize the standardized employee performance evaluation procedures and forms prescribed by the director of personnel, supplement shall include provisions whereby individual agencies may, with the approval of the director of personnel, supplement the process with special performance factors peculiar to the specific organizational needs.

(4) Each supervisor's annual evaluation shall include an assessment of his or her efforts toward achieving the objectives of the agency's affirmative action program.

(5) The procedures and forms shall:

(a) Be designed to aid in communications between supervisors and subordinates and clarify duties and expectations.

(b) Be designed to inform employees of their performance strengths and weaknesses.

(c) Be based on performance toward the goals and objectives of the agency and its subunits.

(d) Include provisions for the counseling and the development of employees.

(6) Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the

work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

(7) Allowing probationary employees to gain permanent status or trial service employees to gain permanent status in the class to which they have been promoted without completion of an evaluation may be regarded as neglect of duty, incompetence or insubordination on the part of the supervisor and may be cause for disciplinary action.

[Statutory Authority: RCW 41.06.150, 87-02-038 (Order 267), § 356-30-300, filed 1/2/87; 85-19-078 (Order 230), § 356-30-300, filed 9/18/85. Statutory Authority: RCW 41.06.150, 41.06.169, 41.06.175, 41.06.185, 41.06.195 and 41.06.205, 84-17-042 (Order 209), § 356-30-300, filed 8/10/84. Statutory Authority: RCW 41.06.150, 83-18-031 (Order 191), § 356-30-300, filed 8/31/83. Statutory Authority: RCW 41.06.150(17), 82-19-092 (Order 175), § 356-30-300, filed 9/22/82; 78-12-026 (Order 126), § 356-30-300, filed 11/15/78; Order 36, § 356-30-300, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-191.]

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

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

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

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

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

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

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

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

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

the remainder of the trial service period in the higher class.

[Statutory Authority: RCW 41.06.150, 88-06-001 (Order 295), § 356-30-305, filed 2/19/88, effective 4/1/88; 84-11-091 (Order 204), § 356-30-305, filed 5/23/84, effective 9/1/84. Statutory Authority: RCW 41.06.150(17), 82-19-092 (Order 175), § 356-30-305, filed 9/22/82.]

**WAC 356-30-330 Reduction in force--Reasons, regulations--Procedure.** (1) The reasons for reduction in force actions and the minimum period of notice are:

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

(b) When employees have statutory and merit system rule rights to return to the classified service and the total number of employees exceeds the number of positions to be filled in the classification, those employees in excess will have the reduction in force rights prescribed in this section.

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

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

(b) Clearly defined layoff units, either geographically or by administrative units or both, so as to limit the disruption of an agency's total operation; but not to unduly restrict the options available to employees with greater seniority. The definition of layoff units may be a series of progressively larger units within an agency when a valid option in lieu of separation cannot be offered to respective employees within a lesser-sized unit. Employment projects, established under the provisions of WAC 356-30-145, Project employment, are distinct layoff units, separate and exclusive of any other defined layoff unit or employment project. Seasonal career layoff units, established under the provisions of WAC 356-30-130, Seasonal career employment, are distinct layoff units, separate and exclusive of any other defined layoff unit.

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

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

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

- (i) The same layoff unit; and
  - (ii) Classification in which the "bumping" employee previously held permanent status; and
  - (iii) Position at the current salary range of the employee doing the bumping, or lower; and
  - (iv) Employee with the least seniority within the same category of full-time or part-time employment; and
  - (v) Competition at one progressively lower classification at a time.
- (f) An employee may not exercise a bumping option in lieu of separation due to a reduction in force if there is within the agency a vacant position which satisfies all of the criteria set forth below.

The position is one which:

- (i) The agency intends to fill;
  - (ii) Is in the current classification of the employee being offered the option, or in a classification within which the employee being offered the option previously held permanent status;
  - (iii) Is at a salary range no lower than the range that would have otherwise been a bumping option;
  - (iv) Is located within a reasonable commuting distance of the employee's permanent work location; and
  - (v) Is on the same or similar workshift as the one which the employee currently holds.
- (g) When an employee has previously held permanent status in more than one classification at the same salary range and is eligible to bump, then the employee shall be offered the option to bump into the position occupied by the employee with the least seniority.

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

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

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

(k) Permanent employees who have been scheduled for reduction in force shall have the right to take a transfer or a voluntary demotion to a vacancy that is to be filled in their own layoff unit for which they qualify, as determined by the director of personnel. This right is to be exercised according to the seniority of those desiring the same vacancy.

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

(m) The reduction in force procedure shall contain the statement that, "No permanent employee shall be separated from state service through reduction in force without being offered within fifteen calendar days prior to

what would be the permanent employee's effective separation those positions at the same or lesser salary range within the layoff unit for which he/she qualifies, currently being held by emergency, temporary, probationary, or intermittent employees."

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

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

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

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

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

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

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

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

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

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

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

(d) In the case of (c) of this subsection, the selective criteria shall not be applied for the purposes of determining reduction in force options until six months after the notification of the new duties has been made to the department of personnel.

(e) In the case of (a), (b) and (c) of this subsection, the director of personnel or designee must have determined that the specialized qualifications are still essential for the successful job performance and the

qualifications could not be learned within a reasonable length of time.

(7) Options to positions which are covered by WAC 356-26-140 may be exercised only by employees who, at the time they are notified they are scheduled for reduction in force:

(a) Are exempt from a background inquiry by WAC 356-26-140(4); or

(b) Authorize a background inquiry as provided for in WAC 356-26-140 and are cleared for the option as a result of the inquiry.

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

## Chapter 356-34 WAC

### DISCIPLINARY ACTIONS—APPEALS

#### WAC

356-34-020	Reduction in salary—Demotion—Procedure.
356-34-030	Suspension—Duration—Procedure.
356-34-040	Dismissal—Notification.
356-34-045	Notice to employee.
356-34-050	Suspension—Followed by dismissal.
356-34-090	Protests—Requirements for applicants, examinees, and eligibles.
356-34-150	Repealed.
356-34-160	Service of process.
356-34-170	Filing of papers—Computation of time.

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

356-34-150	Computation of time. [Statutory Authority: RCW 41.06.150. 86-08-035 (Order 244), § 356-34-150, filed 3/26/86, effective 5/1/86; Order 36, § 356-34-150, filed 7/1/71, effective 8/1/71. Formerly WAC 356-28-100.] Repealed by 88-11-037 (Order 298), filed 5/13/88, effective 7/1/88. Statutory Authority: RCW 41.06.150.
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**WAC 356-34-020 Reduction in salary—Demotion—Procedure.** Appointing authorities may reduce the salary of a permanent employee within the range or may demote an employee to a position at a lesser pay range, in lieu of dismissal for cause, as specified in these rules. The specified charges for either of these actions shall be furnished in writing to the employee at least 15 calendar days prior to the effective date of the action. The employee must meet the minimum qualifications for the class to which being demoted.

[Statutory Authority: RCW 41.06.150. 88-03-043 (Order 292), § 356-34-020, filed 1/19/88, effective 3/1/88; 83-13-091 (Order 186), § 356-34-020, filed 6/17/83; Order 89, § 356-34-020, filed 6/30/76,

effective 7/31/76; Order 36, § 356-34-020, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-340.]

**WAC 356-34-030 Suspension—Duration—Procedure.** Appointing authorities may suspend a permanent employee without pay for cause as specified in these rules. The period of suspension shall not [exceed fifteen] calendar days for a single penalty or for a total of 30 calendar days in any calendar year as a result of several penalties per RCW 41.06.170. The specified charges and duration of the action shall be furnished in writing to the employee not later than one calendar day after the suspension becomes effective. A copy shall be submitted to the director of personnel. Notice to the employee shall be made in the manner described in WAC 356-34-045. No qualifying time or seniority shall be denied for any period of suspension.

[Statutory Authority: RCW 41.06.150. 88-03-043 (Order 292), § 356-34-030, filed 1/19/88, effective 3/1/88; 83-13-091 (Order 186), § 356-34-030, filed 6/17/83; Order 89, § 356-34-030, filed 6/30/76, effective 7/31/76; Order 36, § 356-34-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-350.]

**Reviser's note:** RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 356-34-040 Dismissal—Notification.** Appointing authorities may dismiss a permanent employee for cause as specified in these rules. The employee shall be furnished with the specified charges in writing at least fifteen calendar days prior to the effective date of the action.

[Statutory Authority: RCW 41.06.150. 88-03-043 (Order 292), § 356-34-040, filed 1/19/88, effective 3/1/88; 83-13-091 (Order 186), § 356-34-040, filed 6/17/83; Order 102, § 356-34-040, filed 5/13/77; Emergency Order 101, § 356-34-040, filed 3/30/77; Order 36, § 356-34-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-360.]

**WAC 356-34-045 Notice to employee.** The written notice to the employee required in WAC 356-34-020, 356-34-030, 356-34-040, and 356-34-050 shall be furnished directly to the employee during employee's working hours. If this is not possible because the employee works in a branch office or remote location or is absent on the employee's regularly scheduled work day, a certified letter may be mailed to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If a certified letter is mailed, the notice shall be considered received the same day as it is post-marked.

[Statutory Authority: RCW 41.06.150. 88-03-043 (Order 292), § 356-34-045, filed 1/19/88, effective 3/1/88.]

**WAC 356-34-050 Suspension—Followed by dismissal.** (1) A permanent employee who is to be dismissed for cause may be suspended without pay for the period between the notice to dismiss and the effective date of the dismissal if the appointing authority believes the good of the service requires the immediate separation of the employee.

(2) The appointing authority, when applying an immediate suspension followed by dismissal, shall notify the employee in writing of such combined actions, as provided in WAC 356-34-030, 356-34-040, and 356-34-045. The notification shall state the justification for immediate removal from staff in addition to the specified causes for dismissal.

[Statutory Authority: RCW 41.06.150. 88-03-043 (Order 292), § 356-34-050, filed 1/19/88, effective 3/1/88; Order 87, § 356-34-050, filed 5/4/76, effective 6/5/76; Order 36, § 356-34-050, filed 7/1/71, effective 8/1/71. Formerly WAC 356-24-370.]

**WAC 356-34-090 Protests—Requirements for applicants, examinees, and eligibles.** (1) An applicant whose application has been rejected; an examinee who feels that the examination is unfair, or not applied uniformly, or that the score is in error or not uniformly derived; an eligible whose name has been removed from the register; or an applicant who is not appointed following a background inquiry and review conducted pursuant to WAC 356-26-140 may request a review by the director of personnel or designee. The request must be in writing and received at the director of personnel's office within twenty calendar days following the postmarked date of the notification of the application rejection, examination score, removal from the register, or the appointing authority's decision.

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

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

[Statutory Authority: RCW 41.06.150. 87-13-040 (Order 278), § 356-34-090, filed 6/15/87, effective 8/1/87; 87-06-024 (Order 271), § 356-34-090, filed 2/24/87; 86-08-035 (Order 244), § 356-34-090, filed 3/26/86, effective 5/1/86; Order 87, § 356-34-090, filed 5/4/76, effective 6/5/76; Order 81, § 356-34-090, filed 8/21/75, effective 9/21/75; Permanent and Emergency Order 50, § 356-34-090, filed 10/19/72; Order 36, § 356-34-090, filed 7/1/71, effective 8/1/71. Formerly WAC 356-28-020.]

**WAC 356-34-150 Repealed.** See Disposition Table at beginning of this chapter.

[1988 WAC Supp—page 2300]

**WAC 356-34-160 Service of process.** (1) The personnel board shall cause to be served all orders, notices, and other papers issued by the board, together with any other papers which the board is required by law to serve. Every other paper shall be served by the party filing the notice, document or paper.

(2) All notices, documents, or papers served by either the personnel board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers shall be made either personally or by first class or certified mail.

(3) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail upon deposit in the United States mail properly stamped and addressed.

[Statutory Authority: RCW 41.06.150. 88-21-064 (Order 310), § 356-34-160, filed 10/17/88, effective 12/1/88; 86-08-035 (Order 244), § 356-34-160, filed 3/26/86, effective 5/1/86; Order 36, § 356-34-160, filed 7/1/71, effective 8/1/71. Formerly WAC 356-28-120, 356-28-130, 356-28-140, 356-28-150.]

**WAC 356-34-170 Filing of papers—Computation of time.** (1) Papers required to be filed with the state personnel board shall not be deemed filed until actual receipt of the papers by the department of personnel at the office of the director of personnel in Olympia, Washington. The director of personnel or designee shall issue an acknowledgment stating the date filed.

(2) Periods of notice or periods of time within which acts are to be completed, as prescribed or allowed by these rules or by order of the board, shall be computed by excluding the first and including the last day unless specifically provided in these rules to the contrary. If the last day is a Saturday, Sunday or holiday, the act must be completed on the next business day, unless a period of notice is being computed and such Saturday, Sunday or holiday is a regularly scheduled workday for the employee. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and legal holidays shall be excluded in the computation.

[Statutory Authority: RCW 41.06.150. 88-11-037 (Order 298), § 356-34-170, filed 5/13/88, effective 7/1/88. Statutory Authority: RCW 41.06.150(17). 78-10-070 (Order 123), § 356-34-170, filed 9/26/78; Order 36, § 356-34-170, filed 7/1/71, effective 8/1/71. Formerly WAC 356-28-160.]

## Chapter 356-35 WAC

### DISABILITY—SEPARATION—APPEALS— PROCEDURES

#### WAC

356-35-010 Disability—Reasonable accommodation—Separation—Appeals.

**WAC 356-35-010 Disability—Reasonable accommodation—Separation—Appeals.** (1) An appointing authority may initiate a disability separation of a permanent employee only when reasonable accommodations cannot be provided. When the employee requests a disability separation, the appointing authority is not required to consider reasonable accommodations.

(2) When reasonable accommodations cannot be provided, the employee may be separated by the appointing authority after a minimum of sixty calendar days written notice, provided that the employee shall be allowed to exhaust accrued sick leave before separation if the disability prevents attendance at work. If the employee is unable to work due to the disability during the notice period and there is no paid leave available, the absence shall be considered approved leave without pay.

The sixty calendar days notice shall not be required when the employee requests and the appointing authority approves a shorter notice period.

(3) For purposes of this rule, determinations of disability shall be made by an appointing authority only at the employee's written request or after obtaining a written statement from a physician or a licensed mental health professional. The appointing authority may require an employee to obtain a medical examination at agency expense from a physician or a licensed mental health professional of the agency's choice. In such cases, the agency shall provide the physician or licensed mental health professional with the specification for the employee's class and a description of the employee's position. Evidence may be requested from the physician or licensed mental health professional regarding the employee's ability to perform the specified duties.

(4) Separations due to disability shall not be considered disciplinary actions and shall be appealable to the personnel appeals board. At the time of notification that their employment will be terminated because of disability, such employees shall be informed by the appointing authority of their right to appeal. The appeal must be filed in writing to the personnel appeals board as provided in Title 358 WAC within thirty calendar days after notice of separation is given.

(5) During the notice period required by subsection (2) of this section the agency shall inform employees being separated due to disability that they may be eligible for benefits/assistance programs such as employees' insurance plans, Social Security, worker's compensation, veteran's benefits, public assistance, disability retirement, and vocational rehabilitation.

(6) The names of permanent employees who have been separated because of disability shall be placed on reduction in force and promotional registers by the director of personnel as provided in WAC 356-26-030 upon submission of a statement from a physician or licensed mental health professional that they are able to perform the duties of the class(es) for which the registers are established.

[Statutory Authority: RCW 41.06.150. 87-02-038 (Order 267), § 356-35-010, filed 1/2/87; 85-14-008 (Order 224), § 356-35-010, filed 6/24/85; 84-23-059 (Order 211), § 356-35-010, filed 11/20/84; 83-24-002 (Order 193), § 356-35-010, filed 11/28/83. Statutory Authority: RCW 41.06.150(17). 82-09-022 (Order 169), § 356-35-010, filed 4/12/82; 81-20-060 (Order 161), § 356-35-010, filed 10/5/81; Order 58, § 356-35-010, filed 9/10/73.]

## Chapter 356-42 WAC

### LABOR RELATIONS

#### WAC

356-42-010	Membership in employee organization.
356-42-020	Determination of bargaining unit.
356-42-030	Determination of bargaining unit—Of exclusive representative.
356-42-040	Decertification of exclusive representative.
356-42-042	Election provisions—General.
356-42-043	Union shop requirements.
356-42-045	Union shop elections.
356-42-047	Union shop decertification.
356-42-049	Disclaimer of interest—Notice—Automatic termination of exclusive representation.
356-42-050	Contents of written agreements.
356-42-055	Arbitration—Grievance—Procedure.
356-42-082	Filing unfair labor practice charge.
356-42-105	Requests for arbitration.

**WAC 356-42-010 Membership in employee organization.** (1) State employees shall have the right to affiliate with, be represented by and participate in, the management of employee organizations. State employees shall have the right to be represented by such organizations in collective negotiations with appointing authorities. No persons or parties shall directly or indirectly interfere with, restrain, coerce or discriminate against any state employee or group of state employees in the free exercise of these rights. However, the right not to affiliate with employee organizations shall be modified by the certification of a union shop representative according to WAC 356-42-043.

(2) Any employee organization or person desiring to represent state employees before the state personnel board or in collective negotiations with an appointing authority must first file a notice of intent to represent state employees with the director of personnel. Such notice of intent to represent state employees must set forth the name of the person or employee organization, and if the latter, the name of an agent authorized to speak on its behalf; a mailing address and telephone number; a general description of the types of employment falling within the intended area of representation; and a copy of a constitution, by-laws, or any other documents defining powers and authorizing representation of the parties filing the notice of intent.

(3) An employee organization which is, or desires to be, an exclusive bargaining representative for a bargaining unit which has chosen to be a union shop must have a written procedure concerning representation fees which complies with applicable statutory and constitutional requirements. Such employee organization must provide to the director a written opinion of the employee organization's attorney that its representation fee procedure is in compliance with applicable statutory and constitutional requirements.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-010, filed 12/28/88, effective 2/1/89. Statutory Authority: RCW 41.06.150(17). 80-13-047 (Order 147), § 356-42-010, filed 9/16/80; Order 69, § 356-42-010, filed 9/30/74; Order 36, § 356-42-010, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-010.]

**WAC 356-42-020 Determination of bargaining unit.**

(1) Determination, alteration, or modification of an appropriate bargaining unit shall be made by the personnel board upon petition from an employee organization, or upon the board's own motion after 20 days' notice has been given to the appointing authority and to affected employees and their representatives.

(2) Prior to an employee organization petitioning the personnel board for creation or modification of a bargaining unit, the petitioning employee organization will confer with the appointing authority on the proposed unit creation or unit modification.

(3) If an appointing authority has reason to believe that an existing bargaining unit in the appointing authority's agency or department is no longer appropriate, the appointing authority may request the personnel board to consider modification of the bargaining unit. However, if there is an employee organization certified as exclusive bargaining representative for that unit, the appointing authority will first confer with the certified employee organization on the proposed modification prior to presenting the request to the personnel board. The personnel board may choose to consider such unit modification questions and would act on its own motion as designated in WAC 356-42-020(1).

(4) In determining a bargaining unit, the personnel board shall consider the following factors:

(a) Duties, skills and working conditions of the employees.

(b) History of collective bargaining by the employees and their representatives.

(c) Extent of organization among the employees.

(d) Desires of the employees.

(5) Any petition filed hereunder should set forth all pertinent facts and supporting reasons, as comprehensively as possible, to aid the personnel board in its determination.

(6) At the hearing on a petition, the personnel board shall make an oral determination regarding the proposed action. Thereafter, the board shall enter an appropriate order containing findings of fact and conclusions of law reflecting the oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

(7) Bargaining units normally shall not include both supervisory and nonsupervisory employees unless such inclusion is justified by application of the criteria identified in subsection (4) of this section. Employees will not be excluded from a bargaining unit based solely on their supervisory status where supervisors have historically been included in the unit.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-020, filed 8/26/88. Statutory Authority: RCW 41.06.150(17). 80-13-047 (Order 147), § 356-42-020, filed 9/16/80; Order 42, § 356-42-020, filed 1/11/72; Order 36, § 356-42-020, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-020.]

**WAC 356-42-030 Determination of bargaining unit—Of exclusive representative.** (1) The director shall certify an employee organization as exclusive representative of the employees of a bargaining unit when such

organization shows proof that it represents a majority of such employees at the close of the last preceding payroll period and such proof is not contested by the appointing authority, the director, or any other interested party. Prior to certification, the director shall give ten calendar days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining unit. Such notice shall inform all other interested parties that an election may be requested as herein provided and that the proof of representation may be contested. In the event that proof of representation is not satisfactory to the director, he may require an election to be held.

(2) The director shall conduct a secret vote for selection of an exclusive representative of the employees of a bargaining unit upon request from an employee organization showing satisfactory proof of at least 30 percent representation within the unit at the close of the last preceding payroll period. Upon granting a request for an election, the director shall give notice thereof and allow ten calendar days for other employee organizations desiring their names placed on the ballot to show satisfactory proof of at least ten percent representation within the unit at the close of the last preceding payroll period.

(3) The director, after consultation with interested employee organizations and the appointing authority, shall promulgate rules for the conduct of the election and shall distribute sample ballots. The ballot shall contain the name of the requesting employee organization and the name of any other employee organization showing satisfactory proof of at least ten percent representation within the unit and shall provide a choice for any employee within the unit to designate that he does not desire any representation. Where more than one organization is on the ballot and none of the choices receives a majority of all votes cast in such election, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and the second largest number of votes.

(4) An employee organization receiving a majority of all votes cast in such an election, or run-off election, shall be certified by the director of personnel as the exclusive representative of the employees of the bargaining unit. If no employee organization receives a majority of votes cast, the director will issue notification to that effect.

(5) When an employee organization has been certified as the exclusive representative of the employees of a bargaining unit, the employee organization shall be entitled to act for and to negotiate collective bargaining agreements covering all employees in the bargaining unit. The certified employee organization shall be responsible for representing the interests of all such employees. Individual grievances or group grievances of employees may, however, be presented by them to management and may be adjusted by management so long as the adjustment is not inconsistent with the collective bargaining agreement and the exclusive representative has had an opportunity to review such adjustments. Noncertified employee representatives may also present their views to the appointing authority.

(6) Upon request by the certified exclusive representative, the appointing authority shall provide that organization with the names and addresses of all employees in the bargaining unit. The appointing authority shall not be required to provide such lists more often than quarterly unless otherwise provided in a collective bargaining agreement.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-030, filed 12/28/88, effective 2/1/89; Order 36, § 356-42-030, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-030.]

**WAC 356-42-040 Decertification of exclusive representative.** (1) Upon petition to the director by no less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by an election as prescribed in WAC 356-42-030; provided however, that no petition shall be honored where:

(a) Less than twelve months have elapsed since the director last certified either the exclusive representative or the results of an exclusive representation certification election; or

(b) A valid collective bargaining agreement exists for the unit, except for that period of no more than ninety calendar days nor less than sixty calendar days prior to the expiration of the contract. This thirty-day open period shall apply to the initial, extended and automatically renewed contract periods.

(2) The election shall be conducted at the close of the contract term, or at an appropriate time, if no contract exists for the unit.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-040, filed 12/28/88, effective 2/1/89; Order 49, § 356-42-040, filed 8/17/72; Order 36, § 356-42-040, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-040.]

**WAC 356-42-042 Election provisions--General.** (1) To provide that certification/decertification and union shop elections are truly representative of the desires of the employees and that all employees eligible to vote have every opportunity to do so, employee participation in these elections will be encouraged to the greatest extent possible.

(2) The director or designee shall administer all elections and be responsible for the processing and adjudication of all disputes that arise as a consequence of elections.

(3) Upon being notified by the director or designee that a valid petition for an election has been received, the affected appointing authority shall submit to the director or designee and the petitioning party and/or exclusive representative a list of all employees included in the bargaining unit as of the preceding payroll period. This list shall contain the employees' names, job classifications, work locations, and home mailing addresses. For purposes of an election, the director or designee shall also provide such listing to an affected employee organization which has submitted proof that it represents at least ten percent of the employees in the bargaining unit and/or to a group of affected employees who have submitted a written request signed by at least ten percent of the employees in the unit.

(4) Upon receipt of a valid petition for an election, the director or designee shall conduct a preelection conference which shall include representatives of the appointing authority, and representatives of the employee organization and/or petitioning party. At the preelection conference, determinations will be made on such matters as method of balloting, date(s) of election, absentee voting, eligibility of voters, locations, personnel at each election site, campaign activities, and any other matter that should be resolved concerning that election. Following, the preelection conference, the director or designee will establish rules, regulations and procedures for holding the election.

(5) At least ten days prior to the scheduled date, the director or designee will distribute a notice of election for posting in the work areas of affected employees. Such notice will contain information regarding the date(s), time(s) and location(s) of balloting, the rules, regulations and procedures established for the election, and a sample ballot.

(6) To the extent feasible, as determined by the director or designee, on-site voting shall take place during the employees' regular work schedules. Eligible voters shall be given ample opportunity to vote during work time while the polls are open.

(7) An employee who cannot appear at the voting site on the date of the vote, may vote by absentee ballot. A request for an absentee ballot must be submitted to the director or designee prior to the close of voting at the employee's voting site. To be counted, absentee ballots must be postmarked within five calendar days thereafter and must be received by the department of personnel within ten calendar days of the close of the polls.

(8) Employees on leave of absence without pay for the entire calendar month preceding the start of the balloting shall not be eligible to vote.

(9) Rules governing campaign activities shall be determined at the preelection conference. Employees included in the affected bargaining unit and representatives of the petitioning party and/or the affected employee organization shall have the right to conduct such activities on the employer's grounds during work hours so long as the work of the employee and the operation of the employer are not disturbed.

(10) Electioneering shall not be permitted within twenty-five feet of the posted election area during the hours of voting or at any place after the close of the polls.

(11) Each party to an election may have one observer present during on-site voting to assist the election agent in identifying eligible voters. An employee who serves as such an observer shall be released with pay from duties normally performed during his/her work hours.

(12) The department of personnel will maintain the official voter eligibility list and will provide a copy of that list to each party. The official observer for either party may bring a copy of that list to the on-site polling place(s) for his/her own use, provided such use does not interfere with the conduct of the election.

(13) Within five working days of the date of the tally of the ballots, the petitioning party, the affected employee organization, or an employee in the bargaining unit may file objections to the election. Such objections must be in writing and must be received by the director within the five working day period. The director or designee shall investigate and determine an appropriate remedy if the objection is found to be meritorious.

(14) Any violation of these rules should be immediately reported to the director or designee. Upon receiving a complaint, the director or designee will immediately investigate; and if necessary, take steps to cause the violation to stop. If it is found by the director or designee that violations of these rules or the preelection agreements have affected the outcome of the election, the director may invalidate the election, order a new election, or take other appropriate remedial action.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-042, filed 8/26/88.]

**WAC 356-42-043 Union shop requirements.** (1) Once a majority of employees within a bargaining unit determine by election to require as a condition of employment membership in the employee organization designated as exclusive representative, all employees included in that unit, shall be required to pay to the employee organization the regular dues of the organization, or pay a representation fee or a nonassociation fee within thirty calendar days following their start of employment or thirty calendar days after an employee organization wins certification as union shop representative, whichever is later. The thirty calendar days starts the first day of the employee's employment within the bargaining unit which has a certified union shop representative or starts the date of the director's certification of the election results, whichever is later.

(2) Upon certification as a union shop representative, the employee organization shall notify all employees within the bargaining unit of the existence of the union shop requirement and the conditions of employment which arise under that requirement.

(3) Membership in the employee organization is satisfied by the payment of monthly or other periodic dues or representation fees and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights.

(4) Employees who have a bona fide religious objection precluding them from membership in an employee organization, based on religious tenets, or teachings of a church or religious body of which they are members may satisfy the union shop requirement by paying to the union shop representative a nonassociation fee. This fee is an amount equivalent to the regular dues of the union shop representative, minus any monthly premiums for union sponsored insurance programs.

(5) Employees who wish to exercise the right of non-association from an employee organization, as provided in subsection (4) of this section, must submit their request to the union shop representative. If the union shop representative rejects the employee's request or fails to respond within ten working days, either the employee or

the union shop representative may submit the issue to the director or his designee who shall investigate and confer with the parties in an effort to resolve the dispute. If agreement is not reached, the director shall issue a written decision which shall be final.

(6) Once an employee has qualified to pay the non-association fee, the employee may designate that the fee go to that program or programs within the functions of the union shop representative in harmony with the employee's individual conscience.

(7) Employees who qualify for nonassociation shall not be members of the employee organization, but are entitled to the same representation rights as members of the employee organization.

(8) Employees who object to payment for activities of the exclusive representative which are supported by regular dues and which are not related to representation of the employees in the bargaining unit may pay a representation fee in lieu of regular dues in accordance with the procedure adopted by the employee organization. The representation fee is to be calculated by the representative in accordance with applicable constitutional and statutory requirements. See WAC 356-05-461.

(9) Failure of an employee to become a member of the employee organization which is the union shop representative or make payment of the union shop representation fee or the nonassociation fee within thirty calendar days following the employee's start of employment or within thirty calendar days after an employee organization has been certified as union shop representative, whichever is later, shall cause that employee to be dismissed as hereinafter provided.

(10) Employees on leave of absence without pay for an entire calendar month shall not be required to pay dues or union shop representation or nonassociation fees to the union shop representative during that month. When an employee returns from leave of absence to employment and pay status within the bargaining unit, he shall be considered included in the bargaining unit and required to pay the union dues or union shop representation or nonassociation fee.

(11) Once an employee organization has been certified by the director as a union shop representative, the affected appointing authority shall provide the employee organization with a monthly list of the employees in the bargaining unit.

(12) After written notification by the union shop representative that an employee has not complied with the union shop requirements, the appointing authority shall give written notification to the employee of fifteen calendar days' notice of his or her dismissal for failure to join the union or pay representation or nonassociation fees. The dismissal action shall be rescinded if an employee complies with the union shop requirements within those fifteen calendar days, or presents evidence that the union shop representative has not complied with WAC 356-42-010(3) or the representation fee or nonassociation fee requirements of this section.

(13) The appointing authority shall notify affected employees of existing union shop provisions prior to their

hire, promotion, or transfer into a bargaining unit where such provisions are in effect.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-043, filed 12/28/88, effective 2/1/89; 88-18-010 (Order 307), § 356-42-043, filed 8/26/88; Order 57, § 356-42-043, filed 7/31/73.]

**WAC 356-42-045 Union shop elections.** (1) An employee organization is eligible to petition for a union shop representation election if the employee organization is certified as exclusive bargaining representative for a bargaining unit in accordance with WAC 356-42-030.

(2) Upon receipt of a valid petition from the certified exclusive bargaining representative, the director or designee shall order a union shop representation election. If the employee organization does not already have the opinion of counsel required by WAC 356-42-010(3) on file with the director, the petition shall not be considered complete until such an opinion is provided.

(3) The election will be conducted under the general procedures outlined in WAC 356-42-042.

(4) A petitioning employee organization will be certified as union shop representative if a majority of the employees who are included in the bargaining unit vote in favor of the union shop.

(5) The petitioning employee organization shall take great care to avoid making untrue statements concerning union shop election issues.

(6) The appointing authority shall cooperate with the director or designee to assure that eligible employees have a maximum opportunity to vote in union shop elections.

(7) The appointing authority, supervisors, and other representatives of management shall remain neutral on the questions, merits and issues of the union shop and the petitioning employee organization for the purposes of union shop elections; except that such individuals who are members of the bargaining unit shall have the right to express their personal opinions and beliefs regarding the issues when their positions are included in the bargaining unit. If an objection is made by the petitioning employee organization or by an employee included in the bargaining unit to written or oral statements made by the appointing authority, supervisors or other representatives of management, the director or designee shall investigate the objection and determine the appropriate remedy if the objection is found to be meritorious.

(8) When the board, pursuant to WAC 356-42-020, adds a new classification of employees into an existing bargaining unit which has a union shop provision in place, such action shall effect an automatic request for a new union shop certification election to determine the desires of the employees of the new unit unless fewer than twelve months have elapsed since the last union shop election and:

(a) The same employee organization is the certified union shop representative for each of the units being combined; or

(b) The results of the union shop election previously held still represent a majority vote in favor of the union shop provision in the new unit; or

(c) A majority of the incumbents in the positions to be added have signed a petition indicating acceptance of the union shop condition.

(9) No union shop election petition will be honored within twelve months following the director's certification of the results of a prior union shop certification election or a prior union shop decertification election.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-045, filed 12/28/88, effective 2/1/89; 88-18-010 (Order 307), § 356-42-045, filed 8/26/88; Order 69, § 356-42-045, filed 9/30/74; Order 57, § 356-42-045, filed 7/31/73.]

**WAC 356-42-047 Union shop decertification.** (1) Upon petition of thirty percent or more of the employees included in a bargaining unit, a union shop decertification election will be conducted by the director or his designee to determine whether the employee organization which is the union shop representative will remain certified as union shop representative for a bargaining unit.

(2) The election will be conducted under the general procedures outlined in WAC 356-42-042.

(3) If a majority of the employees included in the bargaining unit vote to decertify the employee organization as union shop representative, the director will issue a notice of decertification. Once an employee organization has been decertified from a bargaining unit as union shop representative, all of its union shop rights cease in that unit.

(4) An employee organization is automatically decertified as union shop representative if it is decertified as exclusive bargaining representative in accordance with WAC 356-42-040 Decertification of exclusive bargaining representative.

(5) The appointing authority, supervisors, and other representatives of management shall remain neutral on the questions, merits, and issues of the union shop and the union shop representative for the purpose of union shop decertification elections; except that such individuals who are members of the bargaining unit shall have the right to express their personal opinions and beliefs regarding the issues when their positions are included in the bargaining unit. If an objection is made by the union shop representative or by an employee included in the bargaining unit to written or oral statements made by the appointing authority, supervisors or other representatives of management, the director or designee shall investigate the objection and determine the appropriate remedy if the objection is found to be meritorious.

(6) No union shop decertification election petition shall be honored within twelve months following the director's certification of the results of a prior union shop election or union shop decertification election.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-047, filed 12/28/88, effective 2/1/89; Order 57, § 356-42-047, filed 7/31/73.]

**WAC 356-42-049 Disclaimer of interest—Notice—Automatic termination of exclusive representation.** (1) If an employee organization with a current certification as exclusive representative of employees in a bargaining

unit seeks to disclaim any interest in continuing to represent the affected employees as their exclusive representative, the employee organization may file a notice of disclaimer of interest and provide copies of the notice to the employees of the bargaining unit.

(2) The notice shall be filed on a form as specified and provided by the director and shall specifically state the date on which the employee organization will cease to be or act as the exclusive representative of the bargaining unit. The notice will be filed and provided to the bargaining unit not less than sixty days nor more than ninety days prior to the effective date of the disclaimer as provided in the notice.

(3) If a valid collective bargaining agreement exists for the unit, any disclaimer of interest will not be valid prior to the expiration date of the agreement.

(4) Following the proper filing of the notice, notification of employees and the expiration of the waiting period and effective date provided in the notice, the employee organization will automatically cease to be the exclusive bargaining representative of the unit.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-049, filed 8/26/88.]

#### **WAC 356-42-050 Contents of written agreements.**

(1) Written agreements may contain provisions covering all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion.

(2) Written agreements shall include a grievance procedure for processing individual and group grievances within the bargaining unit and shall provide for mediation by the director of personnel or his designee. Requests for mediation must be submitted in writing to the director of personnel no later than thirty calendar days from the date of the agency's written response at the final internal step of the procedure. Grievance procedures shall also provide for arbitration by the board in accordance with WAC 356-42-055.

(3) Written agreements may contain provisions for payroll deduction of employee organization dues upon authorization by the employee member. Any employee may cancel his payroll deduction of employee organization dues by filing a written notice with the appointing authority and the employee organization thirty calendar days prior to the effective date of such cancellation. Where union shop provisions exist, payroll deduction rights shall also extend to those employees who because of religious tenets pay a nonassociation fee, or employees who pay a representation fee.

(4) The initial term of written agreements shall not exceed three years. Automatic renewal or extension provisions may extend the period of the contract for a period not to exceed one year at a time.

(5) Written agreements shall be filed with the director. Provisions of such agreements shall not prevail if in conflict with the merit system rule, the state civil service law or other applicable law.

[Statutory Authority: RCW 41.06.150. 89-02-011 (Order 312), § 356-42-050, filed 12/28/88, effective 2/1/89; 84-21-071 (Order 210), § 356-42-050, filed 10/17/84; Order 57, § 356-42-050, filed

7/31/73; Order 49, § 356-42-050, filed 8/17/72; Order 36, § 356-42-050, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-050.]

**WAC 356-42-055 Arbitration--Grievance--Procedure.** Whenever arbitration of a grievance is requested of the personnel board pursuant to an agreement as authorized by WAC 356-42-050(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the personnel board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the relief sought.

(f) The signature and, if any, the title of the person filing the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) of this section. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) A copy of the original grievance and the agency's last written response to the grievance shall be attached to the request for arbitration.

(4) The personnel board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) of this section. If the personnel board's hearings coordinator determines the request to be incomplete, he or she shall notify the person filing the request of the portions of the request which need to be supplemented or changed to comply with subsection (1) of this section. When the personnel board's hearings coordinator is satisfied that the request substantially complies with subsection (1) of this section he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the personnel board's hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the personnel board upon motion of the requesting party.

(5) Within thirty calendar days of service of the request for arbitration, or within such longer period as the personnel board may allow, the party receiving the request shall answer the allegations of fact and contentions set forth in the request by admitting, denying, or setting

forth doubt as to the truth or falsity of any particular alleged fact or contention. The answer shall be served on the grievant or, if represented, on the grievant's representative, at the same time it is filed with the personnel board. Failure to answer an allegation of fact within the time required, or admission of a fact in the answer, shall constitute a waiver by the answering party of the right to contest the fact in the arbitration proceeding, unless for good cause shown, the personnel board provides otherwise. At the discretion of the personnel board for good cause shown, the request or the answer may be amended at any time prior to the end of the arbitration hearing.

(6) After receipt of the answer, or if no answer is timely filed, the personnel board's hearings coordinator shall set the matter for arbitration. At least twenty days notice shall be given of the time and date of the arbitration unless both parties agree to a shorter time.

(7) The grievant shall have the burden of proof and shall go forward with the evidence.

(8) Upon stipulation between the parties, the board may grant the grievant's request to waive the right to a hearing and thereafter require the parties to submit written evidence upon which the board may act without a hearing.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-055, filed 8/26/88; 84-23-059 (Order 211), § 356-42-055, filed 11/20/84. Statutory Authority: RCW 41.06.150(17). 82-22-020 (Order 177), § 356-42-055, filed 10/26/82.]

**WAC 356-42-082 Filing unfair labor practice charge.** (1) A charge or charges that any employing agency or employee organization has committed an unfair labor practice, as defined in these rules and RCW 41.56.150, may be filed with the personnel board by any employee, group of employees, employee organization, employing agency, or their authorized agents.

(2) Unfair labor practice charges shall be filed with the director of personnel within six months of the date on which the charging party reasonably could have known of the alleged unfair labor practice.

(3) Unfair labor practice charges shall be in writing in the form of a complaint of unfair labor practices, or on a form provided by the personnel board or its designee. The charge shall contain the following:

(a) The name, address and telephone number of the charging party, and the name, address and telephone number of the party's principal representative, if any.

(b) The name, address and telephone number of the party against whom the charge is being filed, and, if known, the principal representative of the charged party.

(c) Clear and concise statements of the facts constituting the alleged unfair labor practice(s), including times, dates, places and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-082, filed 8/26/88. Statutory Authority: RCW 41.06.150(17). 82-22-020 (Order 177), § 356-42-082, filed 10/26/82.]

**WAC 356-42-105 Requests for arbitration.** A request for arbitration per WAC 356-42-055 shall not be allowed if the grievant(s) involved has the same charges or issues pending before the personnel board for processing per WAC 356-42-082 or before the personnel appeals board for processing per Title 358 WAC.

[Statutory Authority: RCW 41.06.150. 88-18-010 (Order 307), § 356-42-105, filed 8/26/88.]

## Chapter 356-46 WAC MISCELLANEOUS

### WAC

356-46-020 Discrimination—Prohibitions.  
356-46-125 Drug testing—Limitations—Uses.

**WAC 356-46-020 Discrimination—Prohibitions.** No discrimination shall be exercised, threatened, or promised by any person in the employ of an agency against any applicant, eligible, or employee because of political or religious opinions or affiliations, or race, sex, age, disability, or veteran's status.

State agencies are subject to the Washington state law against discrimination, chapter 49.60 RCW. Persons who believe they have been discriminated against because of these reasons may file a complaint with the Washington state human rights commission as provided in RCW 49.60.230.

[Statutory Authority: RCW 41.06.150. 87-06-032 (Order 270), § 356-46-020, filed 2/27/87, effective 4/1/87. Statutory Authority: RCW 41.06.150(17). 78-10-070 (Order 123), § 356-46-020, filed 9/26/78; Order 36, § 356-46-020, filed 7/1/71, effective 8/1/71. Formerly WAC 356-32-150.]

**WAC 356-46-125 Drug testing—Limitations—Uses.** (1) Except as provided in subsection (2) of this section, no agency may perform or cause to be performed a drug test of any employee or prospective employee.

(2) An agency may require a specific employee to submit to drug testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

(a) The agency has specific, objective grounds stated in writing to believe the employee's work performance is impaired due to the presence of such substances in the body; and

(b) The employee is in a position where such impairment presents a danger to the physical safety of the employee or another; and

(c) The agency has a specific written policy authorizing such test, establishing procedures under which they

may be conducted, and protecting the confidentiality of the results, provided the results may be disclosed in an action or proceeding challenging any disciplinary action arising from the incident which led to the test. The agency's proposed policy must be submitted to the affected exclusive bargaining representative or representatives and approved by the director of the department of personnel before implementation.

(3) An employee who is found to be impaired on the job due to the use of controlled substances may be subject to disciplinary action in accordance with existing laws and regulations, but the results of such drug test shall provide no additional or independent basis for disciplinary action.

(4) In the event an employee is found to have used controlled substances, the agency shall inform the employee of available assistance through the employee advisory service or other similar program.

(5) Nothing herein shall prevent an agency from conducting medical screening to monitor exposure to toxic or other unhealthy substances in the work place, provided such screenings are limited to the specific substances reasonably believed to be present.

(6) Except as expressly set forth above, nothing herein shall add to or detract from any agency authority under chapter 41.06 RCW or regulations of the state personnel board to establish job performance standards, or conditions of employment, or to base continued employment on satisfactory job performance.

[Statutory Authority: RCW 41.06.150, 88-03-042 (Order 291), § 356-46-125, filed 1/19/88, effective 3/1/88.]

### Chapter 356-47 WAC

#### CAREER EXECUTIVE PROGRAM

##### WAC

356-47-030 Career executive program—General provisions.  
356-47-045 Career executive program—Employee selection.

**WAC 356-47-030 Career executive program—General provisions.** (1) No more than one percent of employees covered by chapter 41.06 RCW, the state civil service law, may be placed in the career executive program at one time.

(2) Employees shall not be placed in positions in the career executive program without their prior agreement.

(3) Employees holding temporary, emergency, or intermittent appointments to classified career executive positions are not considered to be participants in the career executive program.

(4) Employees shall not be offered reduction-in-force options or trial service reversion right to positions within the career executive program.

[Statutory Authority: RCW 41.06.150, 88-18-096 (Order 308), § 356-47-030, filed 9/7/88, effective 11/1/88; 86-12-035 (Order 250), § 356-47-030, filed 5/30/86, effective 7/1/86. Statutory Authority: RCW 41.06.150(17), 81-20-068 (Order 162), § 356-47-030, filed 10/6/81.]

[1988 WAC Supp—page 2308]

**WAC 356-47-045 Career executive program—Employee selection.** (1) The following general provisions apply to placing persons in the career executive program:

(a) Appointments shall be the responsibility of the agency director.

(b) Appointments shall be made in accordance with agency affirmative action plans.

(c) Appointments may be made without regard to established minimum qualifications.

(d) The registers and procedures described in chapter 356-26 WAC shall not apply to the career executive program.

(2) A permanent employee of a classified position that is nominated for inclusion in the career executive program shall, with the employees' consent, automatically move with the position into the program when the position is approved by the personnel board. This provision does not apply to persons holding temporary, emergency, or intermittent appointments to such positions.

(3) Vacant classified career executive positions shall be filled as follows:

(a) Recruitment may be conducted to fill vacancies. The recruitment plan shall be developed by the appointing agency in consultation with the department of personnel; provided that:

(i) Recruitment shall be conducted if the agency director intends to consider persons who are not permanent state employees.

(ii) The names of applicants who have successfully undergone an eligibility evaluation of managerial qualifications developed and administered by the department of personnel shall be transmitted to the appointing agency. The agency director may consider all eligible names transmitted; or

(b) The agency director may appoint a permanent employee to a vacant position without conducting recruitment: *Provided*, The candidate has passed the evaluation administered by the department of personnel. Such appointments shall be made in accordance with procedures established by the department of personnel.

(c) Agencies shall notify the director of personnel, or designee, of appointments to career executive positions within fifteen calendar days after the appointment. Such notice shall identify the appointee, the position, and the effective date of appointment.

[Statutory Authority: RCW 41.06.150, 88-18-096 (Order 308), § 356-47-045, filed 9/7/88, effective 11/1/88; 86-12-035 (Order 250), § 356-47-045, filed 5/30/86, effective 7/1/86.]

### Title 358 WAC

#### PERSONNEL APPEALS BOARD

##### Chapters

358-20 Appeals—Filings—Declaratory rulings.  
358-30 Hearings—Procedures.