

Title 357 WAC

PERSONNEL, DEPARTMENT OF—PERSONNEL RESOURCES BOARD

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Chapter 357-01 WAC

DEFINITIONS

WAC

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WAC 357-01-005 Affected groups. Those groups that must be included in affirmative action plans and updates and who may be beneficiaries of affirmative action programs. Affected groups include: Blacks, Asians, Pacific Islanders, Hispanics/Latinos, American Indians/Alaska Natives, women, persons age 40 and over, persons with disabilities, Vietnam-era veterans and disabled veterans. Employers must use the most current federal definitions and categories in their plans and updates.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-005, filed 12/21/04, effective 7/1/05.]

WAC 357-01-010 Affirmative action program. A tool designed to ensure equal opportunity through procedures and active good faith efforts to correct underutilization of qualified affected group members. It shall not mean any sort of quota system.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-010, filed 12/21/04, effective 7/1/05.]

WAC 357-01-015 Affirmative action plan. Results-oriented programs to which employers commit their good faith efforts to attain and maintain equal employment opportunity. Guidelines for development of affirmative action plans are established by the department and are consistent with requirements set forth by federal Executive Order 11246

and Affirmative Action Guidelines issued by the U.S. Departments of Labor and Justice.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-015, filed 12/21/04, effective 7/1/05.]

WAC 357-01-020 Allocation. The assignment of a position to a class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-020, filed 12/21/04, effective 7/1/05.]

WAC 357-01-025 Appointing authority. An individual lawfully authorized to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-025, filed 12/21/04, effective 7/1/05.]

WAC 357-01-035 Availability. An estimate of the percentage of qualified affected group members available for employment in a given job group. The determination of the availability of affected group members must be based on consideration of the following factors:

(1) The percentage of availability of affected group members with the requisite skills in the reasonable recruitment area.

(2) The percentage of affected group members among those promotable, transferable, and trainable within the employer's organization.

The availability estimates must be based on an analysis of the factors determined to be relevant to the particular job group.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-035, filed 12/21/04, effective 7/1/05.]

WAC 357-01-040 Base salary. The dollar amount of the salary within the salary range to which the employee is entitled, before any deductions, and exclusive of additional compensation of any kind, such as premiums.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-040, filed 12/21/04, effective 7/1/05.]

WAC 357-01-045 Board. The Washington personnel resources board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-045, filed 12/21/04, effective 7/1/05.]

WAC 357-01-050 Career development. The progressive development of an employee's capabilities. Career development is meant to facilitate the employee's productivity, performance, job satisfaction, and advancement. Career development can happen through work assignments as well as education and training. The education and training may be state-sponsored or achieved by the individual employee's efforts. All career development must be consistent with the needs and obligations of the state and its employers.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-050, filed 12/21/04, effective 7/1/05.]

WAC 357-01-055 Career planning. A process designed to identify and provide opportunities for each

employee's career growth through job experience, training, and/or continuing education.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-055, filed 12/21/04, effective 7/1/05.]

WAC 357-01-060 Certification. The act of referring eligible candidates to the employing official for further consideration.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-060, filed 12/21/04, effective 7/1/05.]

WAC 357-01-065 Certified pool. Those eligible candidates determined by the employer to be among the best qualified for a position, based on position-specific criteria, who are certified to the employing official.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-065, filed 12/21/04, effective 7/1/05.]

WAC 357-01-070 Charges. A detailed statement of the specific incidents alleging cause for disciplinary action.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-070, filed 12/21/04, effective 7/1/05.]

WAC 357-01-075 Class. A level of work.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-075, filed 12/21/04, effective 7/1/05.]

WAC 357-01-080 Class series/occupational category. A grouping of job functions having similar purpose and knowledge requirements.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-080, filed 12/21/04, effective 7/1/05.]

WAC 357-01-085 Classified service. All positions in state service not exempt from the provisions of chapter 41.06 RCW.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-085, filed 12/21/04, effective 7/1/05.]

WAC 357-01-090 Competencies. Those measurable or observable knowledge, skills, abilities, and behaviors critical to success in a key job role or function.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-090, filed 12/21/04, effective 7/1/05.]

WAC 357-01-095 Demotion. Movement of an employee from a position in one class to a position in another class that has a lower salary range maximum.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-095, filed 12/21/04, effective 7/1/05.]

WAC 357-01-100 Department. Department of personnel.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-100, filed 12/21/04, effective 7/1/05.]

WAC 357-01-105 Developmental opportunities. Activities designed to develop employees' knowledge and skills for future job assignments.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-105, filed 12/21/04, effective 7/1/05.]

WAC 357-01-110 Director. Director of the department of personnel.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-110, filed 12/21/04, effective 7/1/05.]

WAC 357-01-115 Disabled veteran. For affirmative action purposes, a person entitled to disability compensation under laws administered by the Veterans Administration for disability rated at 30 percent or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in the line of duty.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-115, filed 12/21/04, effective 7/1/05.]

WAC 357-01-120 Dismissal. The termination of an individual's employment for disciplinary purposes.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-120, filed 12/21/04, effective 7/1/05.]

WAC 357-01-125 Eligible applicant. A job seeker who has successfully completed preliminary screening processes for a specific position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-125, filed 12/21/04, effective 7/1/05.]

WAC 357-01-130 Eligible candidate. An individual who has successfully completed all assessment requirements for a specific position and is eligible to be considered for the certified pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-130, filed 12/21/04, effective 7/1/05.]

WAC 357-01-135 Elevation. An employer-initiated action that moves an employee to a position in either:

- (1) A higher class in which the employee held permanent status prior to a demotion; or
- (2) A class in the same class series/occupational category which is between the current class and the class from which the employee demoted.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-135, filed 12/21/04, effective 7/1/05.]

WAC 357-01-140 Employee. An individual working in the classified service. Employee business unit members are covered by chapter 357-43 WAC and defined in WAC 357-43-001.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-140, filed 12/21/04, effective 7/1/05.]

WAC 357-01-145 Employer. A state agency, an institution of higher education, or a related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-145, filed 12/21/04, effective 7/1/05.]

WAC 357-01-150 Employing official. An administrative or supervisory employee designated by the appointing (2005 Ed.)

authority to exercise responsibility for requesting certification, interviewing eligible candidates, and recommending appointment of individuals to classified positions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-150, filed 12/21/04, effective 7/1/05.]

WAC 357-01-155 Employee performance management process. The systematic set of actions taken by a supervisor to maximize employee productivity, potential and satisfaction.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-155, filed 12/21/04, effective 7/1/05.]

WAC 357-01-160 Examination. A scored competitive written, oral, or performance test administered as part of a position-specific hiring process prior to certification.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-160, filed 12/21/04, effective 7/1/05.]

WAC 357-01-165 Examination process. The process used to administer and score an examination.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-165, filed 12/21/04, effective 7/1/05.]

WAC 357-01-170 Examination results. An eligible candidate's final score on an examination, plus any veterans scoring criteria or other applicable credits. Veterans scoring criteria is only added to passing scores.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-170, filed 12/21/04, effective 7/1/05.]

WAC 357-01-175 General government employer. Any agency as defined by RCW 41.06.020 who is not a higher education employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-175, filed 12/21/04, effective 7/1/05.]

WAC 357-01-180 Higher education employer. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, the various state community colleges, the state board for community and technical colleges, the higher education coordinating board, and such other boards, councils, and commissions related to higher education as may be established.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-180, filed 12/21/04, effective 7/1/05.]

WAC 357-01-185 Job analysis. The process of gathering, analyzing, and synthesizing information about a position in order to identify the essential tasks, functions, roles and competencies required to perform the work of the position, and the written documentation of the results of the analysis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-185, filed 12/21/04, effective 7/1/05.]

WAC 357-01-190 Job seeker. An individual who has indicated to the employer an interest in employment by completing a preliminary profile or by submitting an application.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-190, filed 12/21/04, effective 7/1/05.]

WAC 357-01-195 Layoff unit. A clearly identified structure within an employer's organization within which lay-off options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-195, filed 12/21/04, effective 7/1/05.]

WAC 357-01-200 List. A list of eligible names established to be certified for vacancies in a class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-200, filed 12/21/04, effective 7/1/05.]

WAC 357-01-205 Nonrepresented employee. A classified employee whose position is not part of a bargaining unit with a certified exclusive representative.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-205, filed 12/21/04, effective 7/1/05.]

WAC 357-01-210 Nonpermanent appointment. An appointment made by a general government employer under the provisions of WAC 357-19-360.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-210, filed 12/21/04, effective 7/1/05.]

WAC 357-01-215 Occupational category/class series. A grouping of job functions having similar purpose and knowledge requirements.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-215, filed 12/21/04, effective 7/1/05.]

WAC 357-01-220 Overtime-eligible employee. An employee who is covered by the overtime provisions of the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-220, filed 12/21/04, effective 7/1/05.]

WAC 357-01-225 Overtime-exempt employee. An employee who is not covered by the overtime provisions of the Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-225, filed 12/21/04, effective 7/1/05.]

WAC 357-01-230 Performance management confirmation. Approval granted by the director to an employer allowing the employer to link individual employee performance to compensation or layoff decisions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-230, filed 12/21/04, effective 7/1/05.]

WAC 357-01-232 Periodic increment date (PID). The date upon which an employee is scheduled to move to a higher salary step within the salary range for the current class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-232, filed 12/21/04, effective 7/1/05.]

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WAC 357-01-235 Persons with disabilities. For affirmative action purposes, a person with a permanent physical, mental, or sensory impairment which substantially limits one or more major life activity. Physical, mental, or sensory impairment means: (a) Any physiological or neurological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the body systems or functions; or (b) any mental or psychological disorders such as mental retardation, organic brain syndrome, emotional or mental illness, or any specific learning disability. The impairment must be material rather than slight, and permanent in that it is seldom fully corrected by medical replacement, therapy, or surgical means.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-235, filed 12/21/04, effective 7/1/05.]

WAC 357-01-240 Position. A group of duties and responsibilities to be performed by an employee.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-240, filed 12/21/04, effective 7/1/05.]

WAC 357-01-245 Premium. Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions, or circumstances associated with the job.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-245, filed 12/21/04, effective 7/1/05.]

WAC 357-01-250 Probationary period. The initial period of employment following certification and appointment to, or reemployment in, the classified service. The probationary period continues for six to twelve months as determined under the provisions of WAC 357-19-040.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-250, filed 12/21/04, effective 7/1/05.]

WAC 357-01-260 Promotion. The appointment to a class with a higher salary range maximum that results in a salary increase.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-260, filed 12/21/04, effective 7/1/05.]

WAC 357-01-265 Promotional organizational unit. A unit established by the employer based upon administrative and/or geographical relationships and used for promotional recruitment and hiring.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-265, filed 12/21/04, effective 7/1/05.]

WAC 357-01-270 Reallocation. The assignment of a position to a different class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-270, filed 12/21/04, effective 7/1/05.]

WAC 357-01-275 Reassignment. An employer-initiated move of an employee within the employer from one position to another position in the same class or a different class with the same salary range maximum.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-275, filed 12/21/04, effective 7/1/05.]

WAC 357-01-280 Reemployment. Appointment of a former permanent employee who had permanent status in a class with the same or similar job duties.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-280, filed 12/21/04, effective 7/1/05.]

WAC 357-01-285 Regular rate. All compensation (i.e. base salary plus any premiums) received by an employee for the performance of work in an assigned position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-285, filed 12/21/04, effective 7/1/05.]

WAC 357-01-290 Reversion. Voluntary or involuntary movement of an employee during the trial service period resulting in placement in a position or on the employer's internal layoff list in accordance with WAC 357-19-115 and 357-19-117.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-290, filed 12/21/04, effective 7/1/05.]

WAC 357-01-295 Salary range. The minimum and maximum dollar amount assigned to a class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-295, filed 12/21/04, effective 7/1/05.]

WAC 357-01-300 Screening. Separate from a scored competitive examination, screening is the use of assessment tools including, but not limited to application or resume reviews, pass/fail skill tests, supplemental questionnaires, or identification of job-related competencies to narrow the field of job seekers that will be considered for inclusion within the certified pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-300, filed 12/21/04, effective 7/1/05.]

WAC 357-01-305 Shared employment. A voluntary arrangement whereby more than one employee jointly fill a single position as agreed between the employer and the employees.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-305, filed 12/21/04, effective 7/1/05.]

WAC 357-01-310 Special employment program. Special employment programs are those programs designated by the director which are designed and implemented to reduce unemployment and/or provide training opportunities to enable persons to become more employable. Special employment programs are funded in total, or in part, from sources other than the normal sources available to the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-310, filed 12/21/04, effective 7/1/05.]

WAC 357-01-315 Special pay salary ranges. A unique salary range assigned to a position or class in accordance with WAC 357-28-025.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-315, filed 12/21/04, effective 7/1/05.]

WAC 357-01-320 Supplemental certification. Increasing the normal certification of names to incorporate (2005 Ed.)

persons with disabilities, Vietnam-era veterans, disabled veterans or persons over 40.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-320, filed 12/21/04, effective 7/1/05.]

WAC 357-01-325 Suspension. An absence without pay for disciplinary purposes.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-325, filed 12/21/04, effective 7/1/05.]

WAC 357-01-327 Temporary appointment. An appointment made by a higher education employer under the provisions of WAC 357-19-435.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-01-327, filed 12/21/04, effective 7/1/05.]

WAC 357-01-330 Training. Activities designed to develop employees' job-related knowledge and skills for present job assignments.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-330, filed 12/21/04, effective 7/1/05.]

WAC 357-01-335 Transfer. An employee-initiated move of that employee from a position to another position within or between employers in the same class or a different class with the same salary range maximum.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-335, filed 12/21/04, effective 7/1/05.]

WAC 357-01-340 Transition review period. The transition review period is a six-month evaluation period that allows the employer and employee to determine whether a placement into a position as a layoff option or appointment to a position from a layoff list or the general government transition pool is a good match.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-340, filed 12/21/04, effective 7/1/05.]

WAC 357-01-345 Trial service period. The initial period of employment following promotional appointment to a position in a new class or the initial period of employment following a transfer or voluntary demotion, or elevation when required by the employer under the provisions of WAC 357-19-030. The trial service period will continue for six to twelve months as determined under the provisions of WAC 357-19-050.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-345, filed 12/21/04, effective 7/1/05.]

WAC 357-01-350 Underutilization. Occurs when there are fewer affected group members in a particular job group than would reasonably be expected based on the affected group's availability.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-350, filed 12/21/04, effective 7/1/05.]

WAC 357-01-355 Vietnam era veteran. For affirmative action purposes, a person who served on active duty for more than one hundred eighty days, any part of which occurred between February 28, 1961, and May 7, 1975, in the

Republic of Vietnam, or between August 5, 1964, and May 7, 1975, in all other cases; and was discharged or released from active duty with other than a dishonorable discharge; or who was discharged or released from active duty for a service-connected disability if any part of such active duty was performed between August 5, 1964, and May 7, 1975.

[Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-355, filed 12/21/04, effective 7/1/05.]

Chapter 357-04 WAC GENERAL PROVISIONS

WAC

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357-04-120	What happens to previous merit system and civil service rules and actions initiated under them?

WAC 357-04-005 What is the purpose of the civil service rules? Title 357 WAC, referred to as the civil service rules, establishes a system of personnel administration for general government and higher education employers and employees.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-005, filed 12/21/04, effective 7/1/05.]

WAC 357-04-010 Who is covered by the civil service rules? The provisions of the civil service rules apply to all employees and employers under the jurisdiction of chapter

41.06 RCW except those positions or employees exempted under the provisions of WAC 357-04-015, 357-04-020, 357-04-035, 357-04-040, 357-04-045, 357-04-050 and 357-04-055. Employee business unit members as defined in WAC 357-43-001 are only covered by chapter 357-43 WAC of the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-010, filed 12/21/04, effective 7/1/05.]

WAC 357-04-015 Who is not covered by civil service rules? The civil service rules do not apply to positions specifically exempted in individual agency statutes, chapter 41.06 RCW, and to the following:

- (1) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol;
- (2) The executive director, his/her confidential secretary, assistant directors, and professional education employees of the state board for community and technical colleges; and
- (3) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the Washington personnel resources board in WAC 357-04-040, 357-04-045, 357-04-050, and 357-04-055.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-015, filed 12/21/04, effective 7/1/05.]

WAC 357-04-020 May the director exempt other positions from civil service? The director may provide for further exemptions for general government positions involving substantial responsibility for formulating basic agency or executive policy or involving directing and controlling program operations of an agency or a major administrative division of an agency in accordance with the provisions and procedures of RCW 41.06.070(3).

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-020, filed 12/21/04, effective 7/1/05.]

WAC 357-04-025 What rights does a classified employee have when the position he/she holds is exempted from the civil service rules? As required by RCW 41.06.070(3) and 41.06.170, an employee holding a classified position has the following rights if the position is exempted from the application of the civil service rules:

- (1) If the employee previously held permanent status in another classified position, the employee has the right to return to the highest class of position previously held, or to a position of similar nature and salary in accordance with WAC 357-19-220.

- (2) The employee may appeal the exemption of the position in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-025, filed 12/21/04, effective 7/1/05.]

WAC 357-04-030 What right does an employee have to return to the classified service from exempt service? As required by RCW 41.06.070(3), any employee having permanent status in a classified position who accepts an appointment in an exempt position has the right to return to classified service in accordance with WAC 357-19-195. As long as the employee was not terminated from the exempt position for gross misconduct or malfeasance, the employee has the right

to return to the highest class of position in which he/she previously held permanent status or to a position of similar nature and salary.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-030, filed 12/21/04, effective 7/1/05.]

WAC 357-04-035 Who defines exempt status for student, part-time, or temporary employees and part-time professional consultants for higher education employers?

In accordance with RCW 41.06.070, the board defines exemptions for student, part-time or temporary employees and part-time professional consultants. Higher education employers must use the definitions in WAC 357-04-040, 357-04-045, and 357-04-050 as the criteria for identifying positions in these categories of employment that are exempt from civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 04-15-016, § 357-04-035, filed 7/8/04, effective 7/1/05.]

WAC 357-04-040 Which student employees of higher education employers are exempt from civil service rules?

(1) Students who are participating in a documented and approved internship program which consists of an academic component and work experience are exempt.

(2) Students who are employed through the state or federal work/study programs are exempt.

(3) Students are exempt if they are employed by the institution at which they are enrolled (or by a related board) and meet any one of the following conditions:

(a) The student works five hundred sixteen hours or less (516 or less) in any six consecutive months. Hours worked in a temporary position(s) during the summer and other breaks in the academic year are not counted in the five hundred sixteen (516) hours. The position is exempt only if the student does not take the place of a classified employee who was laid off due to lack of funds or lack of work; and the student does not fill a position that is currently or was formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer.

(b) The student is employed in a position directly related to his/her major field of study to provide a training opportunity; or

(c) The student is elected or appointed to a student body office or student organization position such as student officers or student news staff members.

[Statutory Authority: Chapter 41.06 RCW. 04-15-016, § 357-04-040, filed 7/8/04, effective 7/1/05.]

WAC 357-04-045 Which part-time or temporary employees of higher education employers are exempt from civil service rules? Persons employed to work one thousand fifty hours or less (1050 hours or less) in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.

Employees who are either exempt under this subsection or exceptions authorized under WAC 357-19-440, and who work more than three hundred fifty (350) hours in any twelve consecutive month period from the original date of hire or January 1, 2004, whichever is later, may be included in an

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appropriate bargaining unit for purposes of collective bargaining, as determined by the public employment relations commission. Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the three-hundred fifty (350) hours.

Temporary appointment under the provisions of this section may be subject to remedial action in accordance with WAC 357-19-450, if the number of hours worked exceeds one thousand fifty hours (1050 hours) in any twelve (12) consecutive month period from the original date of hire or October 1, 1989, whichever is later. Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the one thousand fifty (1050) hours.

[Statutory Authority: Chapter 41.06 RCW. 04-15-016, § 357-04-045, filed 7/8/04, effective 7/1/05.]

WAC 357-04-050 Which part-time professional consultants of higher education employers are exempt from civil service rules?

Part-time professional consultants who are retained by a higher education employer on an independent part-time or temporary basis such as physicians, architects, or other professional consultants employed through an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties are exempt from civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 04-15-016, § 357-04-050, filed 7/8/04, effective 7/1/05.]

WAC 357-04-055 Who defines exempt status for student, part-time, or temporary employees; part-time professional consultants; and inmates for general government employers and what types of positions are exempt?

In accordance with RCW 41.06.070, the board defines exemptions for student, part-time or temporary employees; part-time professional consultants; and inmates. The following types of general government employees are exempt from civil service rules:

(1) Part-time local health officers;

(2) 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;

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

(4) Patient and resident help in general government residential facilities;

(5) Inmate help in general government correctional facilities; and

(6) 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 to be equivalent.

[Statutory Authority: Chapter 41.06 RCW. 04-15-016, § 357-04-055, filed 7/8/04, effective 7/1/05.]

WAC 357-04-060 For which exempt positions does the director establish the salary? (1) The director must

determine the salary and fringe benefits of all positions presently or hereafter exempted except for the following:

- (a) Chief executive officer of each agency;
- (b) Full-time members of boards and commissions;
- (c) Administrative assistants and confidential secretaries in the immediate office of an elected state official; and
- (d) Personnel listed in RCW 41.06.070 (1)(j) through (u), (1)(x) and (2).

(2) Actions taken to establish or revise exempt salaries must meet the provisions outlined in RCW 41.06.152.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-060, filed 12/21/04, effective 7/1/05.]

WAC 357-04-065 What are the duties of the board?

The board is composed of three members appointed by the governor and confirmed by the senate as provided in RCW 41.06.110.

(1) The board must annually elect a chair and vice chair from among its members to serve one year.

(2) The board must conduct business in accordance with RCW 41.06.120.

(3) The board is responsible for:

(a) Adopting rules that establish goals for the classification plan, define criteria for exemption from the civil service rules, and establish a training requirement for employees appointed to a supervisory or management position.

(b) Hearing and determining employee appeals in accordance with chapter 357-52 WAC.

(c) Prioritizing and adopting class studies and salary adjustments under the provisions of RCW 41.06.152(2).

[Statutory Authority: Chapter 41.06 RCW. 04-15-017, § 357-04-065, filed 7/8/04, effective 7/1/05.]

WAC 357-04-070 What are the powers and duties of the director? (1) The director of personnel is appointed by the governor under the provisions of RCW 41.06.130.

(2) The director directs and supervises all the department of personnel's administrative and technical activities in accordance with the provisions of chapter 41.06 RCW and the civil service rules. The director is responsible for:

(a) Adopting rules consistent with the purposes and provisions of the state civil service law and the best standards of personnel administration.

(b) Auditing and reviewing the personnel administration and management at each agency, institution of higher education, and related higher education board periodically and at other such times as may be necessary.

(c) Adopting and revising as necessary a comprehensive classification plan for all positions in the classified service. In adopting the revisions, the director must comply with RCW 41.06.152, 41.06.150(4), and chapter 43.88 RCW.

(d) Adopting and revising as necessary a state salary schedule in accordance with RCW 41.06.133(10).

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-070, filed 12/21/04, effective 7/1/05.]

WAC 357-04-075 Must higher education employers designate a personnel officer? Each higher education institution and higher education related board must designate an

officer to perform duties as personnel officer as provided in RCW 41.06.510.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-075, filed 12/21/04, effective 7/1/05.]

WAC 357-04-080 What are the duties of personnel officers for higher education employers? The personnel officer directs, supervises, and manages administrative and technical personnel activities for the classified service consistent with policies established by the higher education institution or related board, chapter 41.06 RCW, and the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-080, filed 12/21/04, effective 7/1/05.]

WAC 357-04-085 What role does the state board for community and technical colleges have? The state board for community and technical colleges has general supervision and control over activities undertaken by the various community and technical colleges.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-085, filed 12/21/04, effective 7/1/05.]

WAC 357-04-090 May authority be delegated? (1) The head of an agency or the governing board of a higher education institution or related board may delegate the responsibilities and duties of an appointing authority including the authority to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

(2) Authority may only be delegated to individuals in positions reporting directly to the head of the agency, deputy director, president of the institution, or vice president of the institution, or individuals who are the heads of the major subdivisions of the employer.

(3) Delegation of authority must be in writing.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-090, filed 12/21/04, effective 7/1/05.]

WAC 357-04-095 How does the federal Fair Labor Standards Act and the Washington State Minimum Wage Act relate to the Washington state civil service rules? Employers must comply with the civil service rules unless doing so causes them to violate chapter 49.46 RCW or the federal Fair Labor Standards Act.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-095, filed 12/21/04, effective 7/1/05.]

WAC 357-04-100 How does the federal Americans with Disabilities Act of 1990 and other laws about persons with disabilities relate to the Washington state civil service rules? Employers must comply with the civil service rules unless doing so would cause them to violate state laws, chapter 49.60 RCW, or the federal Americans with Disabilities Act of 1990.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-100, filed 12/21/04, effective 7/1/05.]

WAC 357-04-105 When the civil service rules require an applicant, candidate, employee, or employer to receive notice, how must notice be provided? (1) Except as

provided in chapter 357-52 WAC, when the civil service rules require an applicant, candidate, employee, or employer to receive notice, the notice must be provided by personal delivery, United States mail, or by telephone facsimile transmission with same-day mailing of copies unless the specific rule requiring notice allows for alternative methods of providing notice such as electronic mail ("e-mail"), state mail service, commercial parcel delivery or campus mail service.

(2) Except as provided in chapter 357-52 WAC, service of notice upon parties will be regarded as completed when personal delivery has been accomplished; or upon deposit in the United States mail, properly stamped and addressed; or upon production by telephone facsimile transmission of confirmation of transmission. When a specific rule allows alternative methods of service, service upon parties will be regarded as completed when it is actually received by the party to which notice is being provided.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-105, filed 12/21/04, effective 7/1/05.]

WAC 357-04-110 How is time computed under the civil service rules? Whenever a period of time is mentioned in the civil service rules, that period must be computed by excluding the first day of the period and including the last day, unless a specific civil service rule states something different. If the last day is a Saturday, Sunday, or holiday, the time period ends on the next business day, unless that Saturday, Sunday, or holiday is a regularly scheduled work day for the employee to whom notice is being provided.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-110, filed 12/21/04, effective 7/1/05.]

WAC 357-04-115 What happens if any part of these rules is held invalid? (Severability.) If any provision of the civil service rules or the application thereof is held invalid, such invalidity does not affect other provisions or applications of the rules which can be given effect without the invalid provision or application, and to this end any section, sentence, or word is declared severable.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-115, filed 12/21/04, effective 7/1/05.]

WAC 357-04-120 What happens to previous merit system and civil service rules and actions initiated under them? (Repeals—Savings.) All previous merit system and civil service rules and amendments are repealed. All actions in force under previous merit system and/or civil service rules will be honored. Unfinished actions that were initiated under previous merit system or civil service rules must be completed under those rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-203, § 357-04-120, filed 12/21/04, effective 7/1/05.]

Chapter 357-07 WAC PUBLIC RECORDS

WAC

357-07-005	What is the purpose of this chapter?
357-07-010	What definitions apply to public records?
357-07-015	How does the department index its records?
357-07-020	How can I obtain a copy of the department's records index?

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357-07-025	How do I request to inspect or get a copy of a public record?
357-07-030	How will the department respond to my request?
357-07-035	What happens if the department determines that all or part of a requested public record is exempt from disclosure?
357-07-040	When are public records available?
357-07-045	Where can I inspect a public record?
357-07-050	What is the fee to copy a public record?
357-07-055	What restrictions apply when I come to inspect or get copies of public records?
357-07-060	When is the department of personnel permitted to dispose of public records?
357-07-065	How is the department of personnel organized?
357-07-070	What is the department of personnel's general method of operation?
357-07-075	How can I contact the department of personnel?

WAC 357-07-005 What is the purpose of this chapter? The purpose of this chapter is to ensure that the department of personnel complies with the provisions of state law on public disclosure, chapter 42.17 RCW. The statutes that specifically address public records are found in RCW 42.17.250 through 42.17.348.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-005, filed 12/21/04, effective 7/1/05.]

WAC 357-07-010 What definitions apply to public records? Terms defined in the State Public Records Act, chapter 42.17 RCW, have the same meaning when used in these rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-010, filed 12/21/04, effective 7/1/05.]

WAC 357-07-015 How does the department index its records? (1) The department maintains and makes available for public inspection and copying an index that provides identifying information for public records as described in RCW 42.17.260.

(2) The index is maintained in electronic form with copies available on paper.

(3) The index contains topic and subtopic headings that people can use to facilitate finding a specific public record.

(4) The index is available to the public on the same basis as other public records.

(5) The department revises and updates the index biennially.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-015, filed 12/21/04, effective 7/1/05.]

WAC 357-07-020 How can I obtain a copy of the department's records index? The department makes copies of the index available at no charge upon request to the agency public records officer at:

Public Records Officer
Washington State Department of Personnel
521 Capitol Way South
PO Box 47500
Olympia, Washington 98504

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-020, filed 12/21/04, effective 7/1/05.]

WAC 357-07-025 How do I request to inspect or get a copy of a public record? (1) All requests for public

records must be submitted in writing to the department public records officer at:

Public Records Officer
Washington State Department of Personnel
521 Capitol Way South
PO Box 47500
Olympia, Washington 98504

The department will not accept public records requests via e-mail unless such a request is approved in advance by the director, the public records officer, or an authorized designee.

(2) Public records requests must contain the following information:

- (a) The name, address and telephone number of the person requesting the record;
- (b) The date on which the request is being made;
- (c) A description of the record(s) requested;
- (d) If the requested record is referenced in a current department of personnel index, a reference to the record as described in the index; and

(e) If the request is for a list of individuals, the requester must certify that the information will not be used for commercial purposes except as permitted by RCW 42.17.260(9).

(3) If the requester desires, the department will provide a form to be used for public record requests.

(4) The public records officer or designee will assist members of the public to clarify a request or to identify specific records or types of records. The department may require a requester to provide additional information to sufficiently identify records or to determine whether a lawful exemption applies.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-025, filed 12/21/04, effective 7/1/05.]

WAC 357-07-030 How will the department respond to my request? (1) Within five days of receiving a public records request, the department will

- (a) Make the requested record(s) available;
- (b) Deny all or part of the request as described in WAC 357-07-070; or
- (c) Acknowledge receipt of the request and estimate the reasonable time period needed to respond to the request as permitted by RCW 42.17.320.

(2) The director or designee within two working days of the denial will review denials of requests for public records.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-030, filed 12/21/04, effective 7/1/05.]

WAC 357-07-035 What happens if the department determines that all or part of a requested public record is exempt from disclosure? (1) The department must determine whether all or any portion of a requested public record is exempt from disclosure under chapter 42.17 RCW or other applicable law.

(2) The public records officer may delete information from any record before permitting public inspection or copying if the information is exempt from disclosure according to RCW 42.17.310, another section of chapter 42.17 RCW or other applicable law. After such data is deleted, the remainder of the record must be made available.

(3) The department must accompany any denial of a requested public record, or portion of a record, with a written statement specifying the reason for the denial. The statement must include a reference to the specific exemption in chapter 42.17 RCW that authorizes withholding the record or portion of the record, and a brief explanation of how the exemption applies to the material being withheld.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-035, filed 12/21/04, effective 7/1/05.]

WAC 357-07-040 When are public records available? Public records are available for inspection and copying from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-040, filed 12/21/04, effective 7/1/05.]

WAC 357-07-045 Where can I inspect a public record? The department makes nonexempt public records available for inspection at its offices during office hours under the conditions described in WAC 357-07-040. There is no fee to inspect public records.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-045, filed 12/21/04, effective 7/1/05.]

WAC 357-07-050 What is the fee to copy a public record? (1) The department makes copies of its rules available at no charge. Otherwise, the following fees apply:

- (a) Fifteen cents per page for copies of public records; or
- (b) The actual cost of postage or delivery and for duplicating tape recordings, videotapes, photographs, slides, disks, or similar media.

(2) Charges are ordinarily payable at the time copies are furnished. If copying costs are expected to exceed fifty dollars, the department may request payment in advance of making copies.

(3) The public records officer may waive any of the foregoing fees for good cause, including but not limited to circumstances when total copying costs would be negligible.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-050, filed 12/21/04, effective 7/1/05.]

WAC 357-07-055 What restrictions apply when I come to inspect or get copies of public records? In order to adequately protect the public records of the department, the following restrictions apply:

(1) No requester may remove a public record from the department's premises.

(2) A requester may only inspect public records in the presence of a designated department employee.

(3) During inspection, a requester must not mark or alter a public record in any manner.

(4) Public records that are maintained in a file or jacket, or in chronological order, may not be dismantled except by a department employee for purposes of copying.

(5) When copying public documents, a department employee will operate the copy machine.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-055, filed 12/21/04, effective 7/1/05.]

WAC 357-07-060 When is the department of personnel permitted to dispose of public records? Public records as defined in RCW 40.14.010 or 42.17.020 are the property of the state of Washington and may only be disposed of as authorized by the state records committee under chapter 40.14 RCW.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-060, filed 12/21/04, effective 7/1/05.]

WAC 357-07-065 How is the department of personnel organized? The staff is organized in five general areas:

(1) Personnel services which provides consultation and services related to recruitment, assessment, affirmative action, salary surveys, compensation plan administration, and classification to state agencies, institutions of higher education, and related higher education boards.

(2) Human resource development services (located at 600 South Franklin Street, Olympia, Washington) which provides consultation on human resource development activities to agencies, training which is interagency in scope, and guidelines for agency planning and evaluation of human resource development.

(3) Administrative services which provides departmental fiscal management, facilities, agency personnel services, affirmative action, client relations, and labor relations services. Within the administrative division, the employee advisory service offices are at the following locations: 3400 Capitol Boulevard, Olympia, Washington; 613 - 19th Avenue E., Suite 101, Seattle, Washington; and at Suite 604, Northtown Office Building, Spokane, Washington.

(4) Client and employee relations services which provides general human resource consulting services and organizational development services.

(5) Human resources information services (located at Building #1, Rowesix, 4224 6th Avenue, Lacey, Washington) which administers the central personnel/payroll and insurance eligibility computer systems.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-065, filed 12/21/04, effective 7/1/05.]

WAC 357-07-070 What is the department of personnel's general method of operation? (1) Agency business is conducted as described in chapters 41.04 and 41.06 RCW, and Title 357 WAC.

(2) All interested parties may participate in formulation of agency rules. The department is required to provide twenty days notice of formal action by the director or the personnel resources board on any rule, classification plan, or compensation plan.

(3) For matters other than rule making under the Administrative Procedure Act, chapter 34.05 RCW or quasi-judicial matters as defined in RCW 42.30.140(2), the board may call a special meeting upon twenty-four hour notice as provided in the Open Public Meetings Act, RCW 42.30.080.

(4) Before rule proposals are made to the board or director, department staff may conduct informal work sessions as necessary to ensure representation from interested parties.

(5) The department must conduct all business in accessible facilities and in a manner that reasonably accommodates the needs of disabled persons.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-070, filed 12/21/04, effective 7/1/05.]

WAC 357-07-075 How can I contact the department of personnel? The central office of the department of personnel is located at 521 Capitol Way S., PO Box 47500, Olympia, Washington 98504. The department only accepts public records requests as described in WAC 357-07-025.

[Statutory Authority: Chapter 41.06 RCW. 05-01-202, § 357-07-075, filed 12/21/04, effective 7/1/05.]

**Chapter 357-10 WAC
CLASSIFICATION PLAN**

WAC

357-10-005	Definitions.
357-10-010	Classification plan—Framework and general direction.
357-10-020	Classification plan—Implementation—Appeal.

WAC 357-10-005 Definitions. The following definitions apply to the rules in chapter 357-10 WAC:

- (1) Board is the Washington personnel resources board.
- (2) Director is the director of department of personnel.
- (3) Employee is a person working in the classified service who is subject to chapter 41.06 RCW and the civil service rules as codified in Title 357 WAC.
- (4) Employer is a state agency, an institution of higher education, or a related higher education board.
- (5) Position is a group of duties and responsibilities to be performed by an employee

[Statutory Authority: RCW 41.06.150. 04-07-052, § 357-10-005, filed 3/11/04, effective 1/1/05.]

WAC 357-10-010 Classification plan—Framework and general direction. (1) Beginning January 1, 2005, the director must implement a comprehensive classification plan that includes allocation and reallocation of positions. The plan must support state government's efforts to deliver effective and efficient services to the citizens of the state. To achieve this goal, the classification plan, and any modifications to it, shall be designed in accordance with the following goals for the state:

- (a) The plan shall be modern, simple, and streamlined, with the number of job classifications and administrative processes kept to a reasonable minimum;
- (b) It must be flexible and able to quickly respond to a dynamic workplace and workforce, changing technologies, varying economic and social conditions, and citizen needs;
- (c) It must facilitate the reorganization and decentralization of government services;
- (d) It must enhance employee mobility and career advancement opportunities; and,
- (e) It must support the value state government places on workplace diversity.

(2) The plan shall be prepared in consultation with employers, employee organizations, and other interested parties. Following twenty calendar days' notice, the director shall hold open public hearings prior to adoption or revision of the plan.

(3) Subsequent revisions to the classification plan that are initiated by the director, employers, employees, and/or

employee organizations must adhere to the goals listed in subsection (1), and any other provisions adopted by the director.

[Statutory Authority: RCW 41.06.150. 04-07-052, § 357-10-010, filed 3/11/04, effective 1/1/05.]

WAC 357-10-020 Classification plan—Implementation—Appeal. (1) Any employee who believes that the new comprehensive classification plan adopted by the director does not adhere to the goals listed in WAC 357-10-010 and can demonstrate how the plan doesn't meet the goals may appeal to the board by filing written notice within 30 calendar days of notification of the director's action.

(2) The board will review the appeal and:

(a) Notify the parties of the time for submitting written argument; or

(b) Notify the parties of a time and place for hearing oral argument.

(3) The party filing the appeal has the burden of proof.

(4) The board's decision is final and not subject to further appeal.

[Statutory Authority: RCW 41.06.150. 04-07-052, § 357-10-020, filed 3/11/04, effective 1/1/05.]

Chapter 357-13 WAC CLASSIFICATION

WAC

357-13-010	Who adopts the classification plan?
357-13-015	What must the classification plan be based upon?
357-13-020	When and how is the classification plan to be revised?
357-13-025	What criteria must be met in order for the director to adopt revisions or salary adjustments to the classification plan?
357-13-030	Must employers maintain position descriptions?
357-13-035	Must a standard form be used for each position description?
357-13-040	What must be included in each position description?
357-13-045	Who is responsible for completing the position description form?
357-13-050	Who is responsible for allocating or reallocating each position?
357-13-055	What must allocations or reallocations be based upon?
357-13-060	Must employers have a procedure that addresses when positions are to be reviewed for reallocation?
357-13-065	Must the employer's procedure allow an employee to request a review of his/her position?
357-13-070	Must an employer notify an employee when the employee's position is reallocated?
357-13-075	Must the notice of reallocation inform the employee of the right to request a director's review of the reallocation?
357-13-080	Can an employee request a director's review of a position review or reallocation of the employee's position?
357-13-085	How is the effective date of a reallocation determined?
357-13-090	How is an employee affected when his/her position is reallocated?

WAC 357-13-010 Who adopts the classification plan? The director adopts a comprehensive classification plan and any subsequent revisions to the plan. Following twenty calendar days of notice, the director must hold open, public hearings prior to the adoption or revision of the plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-010, filed 12/21/04, effective 7/1/05.]

WAC 357-13-015 What must the classification plan be based upon? The classification plan must be based on a

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review and analysis of duties and responsibilities, and must include a description of each class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-015, filed 12/21/04, effective 7/1/05.]

WAC 357-13-020 When and how is the classification plan to be revised? The classification plan is prepared and revised, as needed, in consultation with employers, employee organizations, and other interested parties.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-020, filed 12/21/04, effective 7/1/05.]

WAC 357-13-025 What criteria must be met in order for the director to adopt revisions or salary adjustments to the classification plan? (1) The following three criteria must be met for the director to adopt revisions or salary adjustments to the classification plan:

(a) Implementation of the proposed revision or salary adjustment will result in net cost savings, increased efficiencies, or improved management of personnel or services;

(b) The office of financial management has reviewed the fiscal impact statement of the employer and concurs that the biennial cost of the revision or salary adjustment is absorbable within the employer's current authorized level of funding for the current fiscal biennium and subsequent fiscal biennia; and

(c) The revision or salary adjustment is due to one of the following causes:

(i) Documented recruitment and retention difficulties;

(ii) Salary compression or inversion;

(iii) Increased duties and responsibilities; or

(iv) Salary inequities caused by similar work assigned to different job classes with a salary disparity greater than 7.5%.

(2) The provisions of subsection (1)(b) and (1)(c) of this section do not apply to the higher education hospital special pay plan or to any adjustments to the classification plan that are due to emergency conditions requiring the establishment of positions necessary for the preservation of the public health, safety, or general welfare.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-025, filed 12/21/04, effective 7/1/05.]

WAC 357-13-030 Must employers maintain position descriptions? Employers must maintain a current position description for each position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-030, filed 12/21/04, effective 7/1/05.]

WAC 357-13-035 Must a standard form be used for each position description? A standard form developed by the director or one containing components similar to those found in the director's form must be used for each position description.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-035, filed 12/21/04, effective 7/1/05.]

WAC 357-13-040 What must be included in each position description? Each position description must:

(1) List the primary duties and responsibilities currently assigned to the position

- (2) List the required competencies as determined by the employer;
- (3) Identify the essential functions; and
- (4) Include any other job-related information as needed.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-040, filed 12/21/04, effective 7/1/05.]

WAC 357-13-045 Who is responsible for completing the position description form? The manager of the position is responsible for completing the position description form. If the position is filled, input from the incumbent is recommended.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-045, filed 12/21/04, effective 7/1/05.]

WAC 357-13-050 Who is responsible for allocating or reallocating each position? The employer must allocate or reallocate each classified position to an established class in the classification plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-050, filed 12/21/04, effective 7/1/05.]

WAC 357-13-055 What must allocations or reallocations be based upon? Allocations or reallocations must be based upon a review and analysis of the duties and responsibilities of the position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-055, filed 12/21/04, effective 7/1/05.]

WAC 357-13-060 Must employers have a procedure that addresses when positions are to be reviewed for reallocation? The employer must establish a procedure that specifies when positions are to be reviewed for reallocation based upon substantive and permanent changes in job duties and scope of responsibility.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-060, filed 12/21/04, effective 7/1/05.]

WAC 357-13-065 Must the employer's procedure allow an employee to request a review of his/her position? The employer's procedure must allow an employee to request the employer to review his/her position at least every six months.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-065, filed 12/21/04, effective 7/1/05.]

WAC 357-13-070 Must an employer notify an employee when the employee's position is reallocated? Employers must provide written notice to an employee when the employee's position is reallocated. If the reallocation is to a class with a lower salary range maximum, the employee must receive at least fifteen calendar days' written notice of the reallocation. The employee may request to waive or shorten the fifteen day notice period.

For purposes of this rule, written notice of reallocation, excluding reallocation to a class with a lower salary range maximum, may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-070, filed 12/21/04, effective 7/1/05.]

WAC 357-13-075 Must the notice of reallocation inform the employee of the right to request a director's review of the reallocation? Notice of reallocation must include information regarding the employee's right to request a director's review of the reallocation per WAC 357-13-080. This requirement does not apply when the employee is being reallocated to a class with the same salary range maximum based upon the director taking action to implement a new classification plan under the provisions of RCW 41.06.136.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-075, filed 12/21/04, effective 7/1/05.]

WAC 357-13-080 Can an employee request a director's review of a position review or reallocation of the employee's position? (1) An employee may request a director's review of the results of a position review or reallocation of the employee's position, per WAC 357-49-010. The employee must request the director's review within thirty calendar days of being provided the results of a position review or the notice of reallocation.

(2) When an employee's position is reallocated to a class with the same salary range maximum based upon the director implementing a new classification plan under the provisions of RCW 41.06.136, an employee does not have the right to request a director's review. The employee may request a position review in accordance with the provisions of WAC 357-13-065. Following the position review, the employee may request a director's review of the results of the position review per WAC 357-49-010.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-080, filed 12/21/04, effective 7/1/05.]

WAC 357-13-085 How is the effective date of a reallocation determined? The effective date of a reallocation is determined as follows:

(1) The effective date of a reallocation resulting from the director's implementation or revisions to the classification plan is the effective date of the director's action.

(2) The effective date of an employer-initiated reallocation is determined by the employer.

(3) The effective date of a reallocation resulting from an employee request for a position review is the date the request was filed with the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-085, filed 12/21/04, effective 7/1/05.]

WAC 357-13-090 How is an employee affected when his/her position is reallocated?

This table is used to determine how an employee whose position is reallocated is affected.			
	Employee's position reallocated to:		
	Class with a higher salary range maximum	Class with an equal salary range maximum	Class with a lower salary range maximum
Reallocation results from:			
A position review requested by the employee or initiated by the employer	<p><i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i></p> <p>→ The employee remains in the position and retains existing appointment status.</p> <p><i>If the reallocation is the result of a change in the duties of the position and the employee has not performed the higher level duties for six months or more:</i></p> <p>→ The employer must give the employee the opportunity to compete for the position. The employer may choose to promote the employee without competition as long as the employee meets the competencies and any other position requirements.</p> <p>If the employee is not selected for the position, the employer's layoff procedure applies. If the employee is appointed, the employee must serve a trial service period.</p> <p>Upon appointment to the higher class, the employee's base salary must be increased a minimum of a two step increase, not to exceed the top step of the range as provided in WAC 357-28-115.</p>	<p><i>If the employee meets the competencies and other position requirements:</i></p> <p>→ The employee remains in the position and retains existing appointment status.</p> <p>→ The employee retains the previous base salary in accordance with WAC 357-28-120.</p> <p><i>If the employee does not meet the competencies and other position requirements:</i></p> <p>→ The employer's layoff procedure applies.</p>	<p><i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i></p> <p>→ The employee retains appointment status; has the right to be placed on the employer's internal layoff list; and has his/her salary set in accordance with WAC 357-28-120.</p> <p><i>If the employee chooses to vacate the position or does not meet the competencies and other position requirements:</i></p> <p>→ The employer's layoff procedure applies.</p>
The director implementing a new classification plan under provisions of RCW 41.06.136 or revising the classification plan.	The employee remains in the position and keeps existing appointment status. See WAC 357-28-125 and 357-28-130 for determining the employee's salary.		

[Statutory Authority: Chapter 41.06 RCW. 05-01-201, § 357-13-090, filed 12/21/04, effective 7/1/05.]

Chapter 357-16 WAC		357-16-030	For affirmative action purposes, may the department or employers add job seekers who are affected group members to applicant pools?
RECRUITMENT, ASSESSMENT, AND CERTIFICATION		357-16-040	What is the college recruitment program?
WAC		357-16-045	What is the purpose of the college recruitment program?
357-16-005	What is the department's role in recruiting applicants and assessing candidates for positions in the classified service?	357-16-050	How does the college recruitment program operate?
357-16-010	What authority do general government employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration?	357-16-055	Can an employer establish promotional organizational units?
357-16-015	What authority do higher education employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration?	357-16-060	Must employers use a standardized application form when recruiting?
357-16-020	Who is responsible for determining what recruitment methods are appropriate to meet the hiring needs of the employer?	357-16-065	How does an applicant affirm that an application is complete and that the information in the application is truthful?
357-16-025	How must employers and the department inform prospective applicants of recruitments?	357-16-070	What screening methodologies may employers use?
		357-16-075	Can the employer apply screening methodologies that would limit the number of eligible applicants considered or admitted to an examination?
		357-16-085	What are the requirements for developing and administering examinations?

- 357-16-090 Who has the responsibility for requesting and granting reasonable accommodation in the examination process?
- 357-16-095 How must exams be scored?
- 357-16-100 How soon must employers notify applicants of their examination results?
- 357-16-105 May an employee be granted release time to take an examination or otherwise participate in an assessment process (which may include assessment tools such as phone screens, interviews, performance tests, etc.)?
- 357-16-110 Do veterans receive any preference in the hiring process?
- 357-16-115 Can an employer decline to further consider eligible applicants or candidates during the assessment process?
- 357-16-120 How does the employer determine which eligible candidates to certify to the employing official for hiring consideration?
- 357-16-125 What must be specified in the employer's certification procedure?
- 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration?
- 357-16-135 When may an employer certify candidates for affirmative action purposes?
- 357-16-140 Who may be certified using supplemental certification?
- 357-16-150 Must employers develop a promotional policy?
- 357-16-155 Can an eligible's name be removed from an applicant or candidate pool for a class or all classes in an occupational category/class series?
- 357-16-160 How must an employer notify an applicant or candidate who has been removed from an applicant or candidate pool?
- 357-16-170 Can an applicant or candidate request a review of his/her examination results or the removal of his/her name from an applicant or candidate pool?
- 357-16-175 To whom and by when must an applicant or candidate request a review of the results of an examination or removal from an applicant or candidate pool?
- 357-16-177 What procedure must an employer use to review an applicant's or candidate's examination results or the removal of his/her name from an applicant or candidate pool under the provisions of WAC 357-16-170?
- 357-16-180 Are assessment review decisions subject to appeal?
- 357-16-190 What happens if an individual is certified in error?
- 357-16-195 Can an eligible candidate be required to pass a medical or psychological examination?
- 357-16-200 If a medical or psychological examination is required, who pays for it?
- 357-16-205 If a job-related disability is revealed during a medical or psychological examination what is the employer's responsibility?

WAC 357-16-005 What is the department's role in recruiting applicants and assessing candidates for positions in the classified service? On the behalf of employers, the department may recruit applicants, assess candidates, create candidate pools, and assist with the certification of candidates for positions in the classified service.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-005, filed 12/21/04, effective 7/1/05.]

WAC 357-16-010 What authority do general government employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration? Under the authority of the director, general government employers may carry out the activities detailed in chapter 357-16 WAC including recruiting, creating and maintaining pools of eligible candidates, assessing candidates, and determining the certified pool. At anytime, the director may designate the department to carry out any of these activities on the employer's behalf.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-010, filed 12/21/04, effective 7/1/05.]

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WAC 357-16-015 What authority do higher education employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration? Higher education employers are authorized under RCW 41.06.133 and 41.06.150 to carry out the activities detailed in chapter 357-16 WAC including recruiting, creating and maintaining pools of eligible candidates, assessing candidates, and determining the certified pool. Upon the request of a higher education employer, the director may designate the department to act on the employer's behalf.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-015, filed 12/21/04, effective 7/1/05.]

WAC 357-16-020 Who is responsible for determining what recruitment methods are appropriate to meet the hiring needs of the employer? The department and employers may use the recruiting methods that they determine to be most appropriate for their hiring needs when establishing pools of eligible applicants.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-020, filed 12/21/04, effective 7/1/05.]

WAC 357-16-025 How must employers and the department inform prospective applicants of recruitments? Notice of recruitment must be issued publicly. The notice must specify the period of recruitment and include information about the length of time eligible applicants will be retained in a pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-025, filed 12/21/04, effective 7/1/05.]

WAC 357-16-030 For affirmative action purposes, may the department or employers add job seekers who are affected group members to applicant pools? For affirmative action purposes, the department or employers may at any time recruit and screen persons with disabilities, Vietnam era veterans, disabled veterans, and persons age 40 and over for placement in eligible applicant pools in those areas where goals exist.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-030, filed 12/21/04, effective 7/1/05.]

WAC 357-16-040 What is the college recruitment program? The college recruitment program is a method of recruiting that employers can use to target recruitment activity to college graduates.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-040, filed 12/21/04, effective 7/1/05.]

WAC 357-16-045 What is the purpose of the college recruitment program? The purpose of the college recruitment program is to:

- (1) Recognize and support the present and future value of applicants with bachelor's and master's degrees for entry professional positions in state government;
- (2) Provide an efficient method for all college graduates to apply for state employment;
- (3) Enhance affirmative action and workforce diversity programs; and
- (4) Ensure that employers maintain a competitive posture in the recruitment market.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-045, filed 12/21/04, effective 7/1/05.]

WAC 357-16-050 How does the college recruitment program operate? Employers using the college recruitment program may limit their outreach efforts to recent college graduates and require that job seekers have completed specific internships, work-study assignments, fellowships, or received degrees from accredited higher education institutions in order to be eligible to apply.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-050, filed 12/21/04, effective 7/1/05.]

WAC 357-16-055 Can an employer establish promotional organizational units? Employers may establish promotional organizational units for purposes of promotional recruitment and hiring. Employers may limit who can apply to employees within one or more promotional organizational units by specifying that on the recruitment notice.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-055, filed 12/21/04, effective 7/1/05.]

WAC 357-16-060 Must employers use a standardized application form when recruiting? General government employers must use the standard application for employment prescribed by the director or an application form approved by the director. Higher education employers may develop their own application forms without director approval.

[Statutory Authority: Chapter 41.06 RCW. 05-01-188, § 357-16-060, filed 12/21/04, effective 7/1/05.]

WAC 357-16-065 How does an applicant affirm that an application is complete and that the information in the application is truthful? If the materials are submitted on paper, the job seeker's signature affirms that the information submitted is complete and truthful. If the materials are submitted electronically, the act of submitting them is considered affirmation that the information is complete and truthful.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-065, filed 12/21/04, effective 7/1/05.]

WAC 357-16-070 What screening methodologies may employers use? Employers may use the screening methods that they determine best evaluate a person's competencies to perform the duties and responsibilities of a class and/or a position. Screening methods must be based upon job analysis and may include, but are not limited to, reviewing resumes, interviewing applicants, and developing supplemental questionnaires for applicants to provide additional information.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-070, filed 12/21/04, effective 7/1/05.]

WAC 357-16-075 Can the employer apply screening methodologies that would limit the number of eligible applicants considered or admitted to an examination? When the number of job seekers is expected to result in a number of eligible applicants that exceeds the employer's needs or the number of eligible applicants is expected to result in a pool of candidates that exceeds the employer's

needs, the employer may apply screening methods to limit the number of eligible applicants to be considered further or admitted to an examination.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-075, filed 12/21/04, effective 7/1/05.]

WAC 357-16-085 What are the requirements for developing and administering examinations? Examinations must be based upon documented job analysis that identifies the competencies needed to perform successfully in a position. Any examination must be administered uniformly to those individuals being examined unless reasonable accommodation in the examination process has been requested and granted. A person with a visible disability which might interfere with his/her ability to do the job may be asked to demonstrate how he/she would do specific, job related tasks.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-085, filed 12/21/04, effective 7/1/05.]

WAC 357-16-090 Who has the responsibility for requesting and granting reasonable accommodation in the examination process? An applicant or candidate who needs reasonable accommodation in the examination process is responsible for requesting reasonable accommodation. The employer is responsible for providing reasonable accommodation unless the employer can demonstrate undue hardship. The employer must publish information regarding the procedure for requesting accommodation.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-090, filed 12/21/04, effective 7/1/05.]

WAC 357-16-095 How must exams be scored? Examinations must be scored using a consistent rating or scoring procedure that rates job-related competencies identified through job analysis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-095, filed 12/21/04, effective 7/1/05.]

WAC 357-16-100 How soon must employers notify applicants of their examination results? Employers must notify applicants in writing of their final examination results within a reasonable time period as determined by the employer. For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-100, filed 12/21/04, effective 7/1/05.]

WAC 357-16-105 May an employee be granted release time to take an examination or otherwise participate in an assessment process (which may include assessment tools such as phone screens, interviews, performance tests, etc.)? Employers may release employees, without a loss in pay, to take an examination or otherwise participate in an assessment process with a state agency, higher education institution or related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-105, filed 12/21/04, effective 7/1/05.]

WAC 357-16-110 Do veterans receive any preference in the hiring process? (1) If an employer is administering an examination prior to certification, the employer must grant preference to veterans in accordance with the veterans scoring criteria provisions of RCW 41.04.010.

(2) If no examination is administered prior to certification, the employer must refer eligible veterans or eligible veterans' widows or widowers to the employing official under the provisions of RCW 73.16.010 as long as the veteran or veteran's widow or widower meets the competencies and other position requirements.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-110, filed 12/21/04, effective 7/1/05.]

WAC 357-16-115 Can an employer decline to further consider eligible applicants or candidates during the assessment process? Employers may end consideration of an eligible applicant or candidate at any time during the assessment process for job-related reasons including, but not limited to, an applicant or candidate lacking required competencies, or not satisfying other requirements such as shift or geographical availability. Those applicants or candidates removed from consideration for position specific reasons may remain eligible to be considered for other positions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-115, filed 12/21/04, effective 7/1/05.]

WAC 357-16-120 How does the employer determine which eligible candidates to certify to the employing official for hiring consideration? Each employer must have a written certification procedure that specifies how the employer will determine the pool of eligible candidates to be certified to the employing official.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-120, filed 12/21/04, effective 7/1/05.]

WAC 357-16-125 What must be specified in the employer's certification procedure? The employer's certification procedure must:

(1) Specify how the employer determines the pool of eligible candidates to be certified to the employing official in accordance with WAC 357-16-130;

(2) Specify how the employer determines the number of names certified if the number of eligible candidates certified to the employing official is limited;

(3) Provide for veterans' preference in accordance with WAC 357-16-110;

(4) Provide for supplemental certification of affected group members in accordance with WAC 357-16-135;

(5) Require that employing officials consider all eligible candidates certified;

(6) Provide for optional consideration of employees who have completed employer-approved training programs and are determined by the employer to meet the competencies and other position requirements;

(7) For general government employers, must provide for consideration of transition pool candidates when a certified pool contains eligible candidates other than candidates from

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the employer's internal or statewide layoff list or the employer's internal promotional eligibles; and

(8) Address when the employer will certify qualified individuals seeking reemployment under the provisions of WAC 357-19-470.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-125, filed 12/21/04, effective 7/1/05.]

WAC 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration? Only eligible candidates who satisfy the competencies and other requirements of the position to be filled will be certified. The order for certifying must follow these criteria:

(1) If there are names on the employer's internal layoff list for the class, all eligible candidates on the internal layoff list are certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified.

(2) If there are no names on the employer's internal layoff list and there are names on the statewide layoff list for the class, all eligible candidates on the statewide layoff list must be certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified. If the certification of candidates from the statewide layoff list and internal promotional candidates does not result in at least ten eligible candidates being certified, the employer may certify other eligible candidates. If a general government employer certifies other eligible candidates, all transition pool candidates who satisfy the competencies and other position requirements must be certified.

(3) If there are no names on the internal or statewide layoff list, the employer may then certify other available eligible candidates. For general government employers, all transition pool candidates who satisfy the competencies and other position requirements must be certified. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-130, filed 12/21/04, effective 7/1/05.]

WAC 357-16-135 When may an employer certify candidates for affirmative action purposes? An employer may use supplemental certification to add to the certified pool when:

(1) Per the employer's certification procedure, the number of eligible candidates being certified is fewer than the total number of candidates eligible for certification;

(2) The employer's approved affirmative action plan shows that a goal exists in the job category for the particular affected group; and

(3) There are no individuals on the internal layoff list or statewide layoff list for the class who satisfy the competencies and other position requirements for the position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-135, filed 12/21/04, effective 7/1/05.]

WAC 357-16-140 Who may be certified using supplemental certification? Supplemental certification may apply to eligible goal area candidates who meet the competencies

and other position requirements and are members of the affected groups of persons with disabilities, Vietnam era veterans, disabled veterans, or persons of age forty and over.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-140, filed 12/21/04, effective 7/1/05.]

WAC 357-16-150 Must employers develop a promotional policy? Each employer must have a written promotional policy which:

(1) Defines who is considered a promotional candidate, including whether probationary employees and permanent employees who have left the employer to accept project or nonpermanent appointments with other employers are considered as promotional candidates;

(2) Identifies the employer's promotional organizational units, if any;

(3) Identifies how promotional preference will be applied in recruitment and certification, if at all; and

(4) Specifies the duration of any promotional candidate lists or pools.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-150, filed 12/21/04, effective 7/1/05.]

WAC 357-16-155 Can an eligible's name be removed from an applicant or candidate pool for a class or all classes in an occupational category/class series? An employer or the department may disqualify an individual by removing the individual's name from an applicant and/or candidate pool for a class or all classes in an occupational category/class series at anytime for good and sufficient reason.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-155, filed 12/21/04, effective 7/1/05.]

WAC 357-16-160 How must an employer notify an applicant or candidate who has been removed from an applicant or candidate pool? An employer must notify an applicant or candidate who has been removed from an applicant or candidate pool at the time of the removal. The notice must be in writing and specify the reason for the removal. The notice must explain the right to request a review of the removal under the provisions of WAC 357-16-170, 357-16-175 and 357-16-180. For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-160, filed 12/21/04, effective 7/1/05.]

WAC 357-16-170 Can an applicant or candidate request a review of his/her examination results or the removal of his/her name from an applicant or candidate pool? An applicant or candidate may request a review of his/her examination results or the removal of his/her name from an applicant or candidate pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-187, § 357-16-170, filed 12/21/04, effective 7/1/05.]

WAC 357-16-175 To whom and by when must an applicant or candidate request a review of the results of an examination or removal from an applicant or candi-

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date pool? If the employer is responsible for the assessment process, requests for reviews under the provisions of WAC 357-16-170 must be made to the employer. If the department is responsible for the assessment process, requests for reviews under the provisions of WAC 357-16-170 must be made to the director.

The request for a review must be received at the employer's office or the director's office within twenty calendar days following notice of the action for which a review is requested.

[Statutory Authority: Chapter 41.06 RCW. 05-01-187, § 357-16-175, filed 12/21/04, effective 7/1/05.]

WAC 357-16-177 What procedure must an employer use to review an applicant's or candidate's examination results or the removal of his/her name from an applicant or candidate pool under the provisions of WAC 357-16-170? Each employer must develop a review procedure that specifies the procedure the employer will use to review an applicant's or candidate's examination results or name removal from a pool. The procedure must minimally specify that the review will be conducted by a representative of the employer that was not involved in the action under review.

[Statutory Authority: Chapter 41.06 RCW. 05-01-188, § 357-16-177, filed 12/21/04, effective 7/1/05.]

WAC 357-16-180 Are assessment review decisions subject to appeal? Review decisions made under the provisions of WAC 357-16-170 are final and not subject to further review or appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-187, § 357-16-180, filed 12/21/04, effective 7/1/05.]

WAC 357-16-190 What happens if an individual is certified in error? The director or the employer may invalidate the trial service or probationary appointment of an individual who was not eligible to be certified, but was certified in error.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-190, filed 12/21/04, effective 7/1/05.]

WAC 357-16-195 Can an eligible candidate be required to pass a medical or psychological examination? After a conditional offer of employment is made, an eligible candidate may be required to pass a medical or psychological examination relevant to the demands of the work.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-195, filed 12/21/04, effective 7/1/05.]

WAC 357-16-200 If a medical or psychological examination is required, who pays for it? The employer is responsible for the cost of any medical or psychological examination required under WAC 357-16-195.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-200, filed 12/21/04, effective 7/1/05.]

WAC 357-16-205 If a job-related disability is revealed during a medical or psychological examination what is the employer's responsibility? If a medical or psychological examination reveals a job-related disability and

the candidate is otherwise qualified, the employer must consider ways to provide reasonable accommodation for the disability before making an appointment decision.

[Statutory Authority: Chapter 41.06 RCW. 05-01-200, § 357-16-205, filed 12/21/04, effective 7/1/05.]

Chapter 357-19 WAC

APPOINTMENT AND REEMPLOYMENT

WAC

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WAC 357-19-005 What is the authority of general government employers to appoint employees to positions in the classified service? Under the authority of the director, general government employers may carry out the activities detailed in chapter 357-19 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-005, filed 12/21/04, effective 7/1/05.]

WAC 357-19-010 What is the authority of higher education employers to appoint employees to positions in the classified service? Under the authority of RCW 41.06-133 and 41.06.150, higher education employers may carry out the activities in chapter 357-19 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-010, filed 12/21/04, effective 7/1/05.]

WAC 357-19-015 What must employers use as the basis for appointments under the civil service rules? Appointments within the classified service must be made on the basis of the appointee's ability to meet the competencies and other position requirements that are identified through job analysis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-015, filed 12/21/04, effective 7/1/05.]

WAC 357-19-017 What is the purpose of the probationary and trial service period? The probationary and trial service periods provide the employer with an opportunity to observe and assess an employee's work and to train and aid the employee in adjusting to the position in order to determine if the employee will be granted permanent status in that position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-017, filed 12/21/04, effective 7/1/05.]

WAC 357-19-020 When must an employee serve a probationary period? An employee who does not have permanent status must serve a probationary period when appointed to a permanent position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-020, filed 12/21/04, effective 7/1/05.]

WAC 357-19-025 When must an employee serve a trial service period? A permanent employee must serve a trial service period upon promotional appointment to a position in a new class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-025, filed 12/21/04, effective 7/1/05.]

WAC 357-19-030 When may an employee be required to serve a trial service period? A permanent employee who transfers, voluntarily demotes or is elevated may be required by the employer to serve a trial service period in accordance with the employer's policy per WAC 357-19-090. (See WAC 357-46-110 for information on when an employee may be required to serve a transition review period.)

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-030, filed 12/21/04, effective 7/1/05.]

WAC 357-19-040 How long is the probationary period? The director must establish the duration of the probationary period on a class-wide basis. The probationary period for a class must be from six to twelve months long.

The probationary period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training

commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-040, filed 12/21/04, effective 7/1/05.]

WAC 357-19-045 Can the length of a probationary period be extended? The probationary period for the class of campus police officer (or successor title) may not be extended. For all other classes, employers may extend the probationary period for an individual employee or for all employees in a class as long as the extension does not cause the total period to exceed twelve months.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-045, filed 12/21/04, effective 7/1/05.]

WAC 357-19-050 How long is a trial service period? The director must establish the duration of the trial service period on a class-wide basis. The trial service period for a class must be from six to twelve months in duration.

The trial service period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-050, filed 12/21/04, effective 7/1/05.]

WAC 357-19-060 Can the length of a trial service period be extended? The trial service period for the class of campus police officer (or successor title) may not be extended. For all other classes, employers may extend the trial service period for an individual employee or for all employees in a class as long as the extension does not cause the total period to exceed twelve months.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-060, filed 12/21/04, effective 7/1/05.]

WAC 357-19-065 Is an employee's probationary or trial service period affected by the use of leave? An employee's probationary or trial service period is affected by the use of leave according to chapter 357-31 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-065, filed 12/21/04, effective 7/1/05.]

WAC 357-19-070 What happens if an employee who is serving a probationary or trial service period accepts an appointment to another permanent position with the same employer? If an employee accepts an appointment to another permanent position with the same employer while serving a probationary or trial service period, the following applies:

(1) Time served in the initial probationary or trial service period counts towards the probationary or trial service period of the new position if the employer determines the positions or classes to which the positions are allocated are closely related; or

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(2) The probationary or trial service period starts over if the employer determines the positions or classes to which the positions are allocated are not closely related.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-070, filed 12/21/04, effective 7/1/05.]

WAC 357-19-075 What happens if an employee who is serving a probationary or trial service period is reassigned by the employer? If an employee is reassigned while serving a probationary or trial service period, time spent in the initial probationary or trial service period counts towards the probationary or trial service period of the position to which the employee was reassigned.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-075, filed 12/21/04, effective 7/1/05.]

WAC 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period? (1) If a permanent employee accepts a nonpermanent appointment during a trial service period and the employer has agreed to return the employee to a position at the conclusion of the nonpermanent appointment, the employer may: Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;

(2) Require the trial service period to start over when the employee returns from the nonpermanent appointment; or

(3) Count the time worked in the nonpermanent appointment towards the trial service period.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-080, filed 12/21/04, effective 7/1/05.]

WAC 357-19-085 Does time worked in a nonpermanent appointment count towards the probationary or trial service period for a permanent position? If an employee in a nonpermanent appointment is subsequently appointed permanently to the same or a similar position, the employer may count time worked in the nonpermanent appointment towards the probationary or trial service period for the permanent position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-085, filed 12/21/04, effective 7/1/05.]

WAC 357-19-090 Must employers have a policy on probationary and trial service periods? Employers must publish a policy on probationary and trial service periods that minimally addresses the employer's basis for determining and notifying an employee:

(1) When a trial service period is required upon transfer, voluntary demotion or elevation as provided in WAC 357-19-030.

(2) When a probationary or trial service period is extended, per WAC 357-19-045 and 357-19-060; and

(3) When a probationary or trial service period is continued, per WAC 357-19-070.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-090, filed 12/21/04, effective 7/1/05.]

WAC 357-19-095 What happens if an employee fails to meet the employer's standards during the probationary period? The employer may separate any probationary employee who fails to meet the employer's standards. The separation must be in accordance with WAC 357-46-180.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-095, filed 12/21/04, effective 7/1/05.]

WAC 357-19-100 What happens if an employee fails to meet the employer's standards during the trial service period? The employer may revert any employee who fails to meet the employer's standards during the trial service period. The employee must be notified in accordance with WAC 357-19-105. Upon reversion, the employee has the rights provided by WAC 357-19-115 and 357-19-117.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-100, filed 12/21/04, effective 7/1/05.]

WAC 357-19-105 How much notice must an employer give when reverting an employee? An employer must give seven calendar days' written notice to an employee who is being reverted during a trial service period. If during the last seven days of a trial service period, the employee commits an egregious act which warrants reversion, the employer may immediately revert the employee without seven calendar days notice.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-105, filed 12/21/04, effective 7/1/05.]

WAC 357-19-110 Can an employee voluntarily revert during the trial service period? (1) Within thirty calendar days from the date of appointment, an employee has the right to voluntarily revert during a trial service period by providing seven calendar days' written notice to the current employer. After thirty calendar days from the date of appointment, an employee may voluntarily revert only at the discretion of the employer to which the employee has reversion rights.

(2) Upon voluntary reversion, the employee has the rights provided by WAC 357-19-115 through 357-19-117 with the **current employer**. At the discretion of the former employer, employees may voluntarily revert to the former employer and have the rights provided by WAC 357-19-115 through 357-19-117 with the former employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-110, filed 12/21/04, effective 7/1/05.]

WAC 357-19-115 To which employer and position would an employee revert? An employee who does not satisfactorily complete the trial service period has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(1) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

(a) Allocated to the class the employee last held permanent status in; or

(b) If no positions are available, allocated to a class which has the same or lower salary range maximum.

(2) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class which has the same or lower salary range maximum as the class from which the employee is reverting.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-115, filed 12/21/04, effective 7/1/05.]

WAC 357-19-117 Can a reverted employee be placed on a layoff list and in the general government transition pool? If the reverted employee is not returned to a permanent position in the class in which the employee last held permanent status, the employee is eligible to be placed on the employer's internal layoff list upon request. General government employees may also apply for placement in the transition pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-117, filed 12/21/04, effective 7/1/05.]

WAC 357-19-120 Can employees be granted additional reversion rights? Employers may make agreements with employees for additional reversion rights within their own organization.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-120, filed 12/21/04, effective 7/1/05.]

WAC 357-19-135 Can an employee appeal a trial service reversion? Employees who are reverted do not have the right to appeal the reversion.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-135, filed 12/21/04, effective 7/1/05.]

WAC 357-19-140 Can an employer increase the hours of a position which is normally scheduled to work less than forty hours a week? As necessary, employers may increase the hours assigned to a position which is normally scheduled to work less than forty hours a week.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-140, filed 12/21/04, effective 7/1/05.]

WAC 357-19-145 If an employer permanently increases the hours of a position, may an employee choose not to continue in the position? A permanent employee may choose not to continue in a position that has been permanently increased in hours of work in accordance with WAC 357-19-140. The employee has layoff rights in accordance with the employer's layoff procedure.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-145, filed 12/21/04, effective 7/1/05.]

WAC 357-19-155 Can an employee voluntarily demote? Permanent employees may request to voluntarily demote to a position for which they meet the competencies and other position requirements.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-155, filed 12/21/04, effective 7/1/05.]

WAC 357-19-160 Can an employee be elevated following a demotion? Employers may elevate an employee with permanent status to the class held by the employee immediately prior to being demoted or to a class in the same occupational category/class series which is between the current class and the class from which the employee was demoted. Elevation must be to a position for which they meet the competencies and other position requirements. The employer may require the elevated employee to serve a trial service period.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-160, filed 12/21/04, effective 7/1/05.]

WAC 357-19-165 What is the difference between reassignment and transfer? A reassignment is an employer-initiated move of an employee from one position to a comparable position in the same class or a different class with the same salary range maximum. A transfer is an employee-initiated move from one position within or between employers in the same class or a different class with the same salary range maximum.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-165, filed 12/21/04, effective 7/1/05.]

WAC 357-19-170 Can an appointing authority reassign an employee? Within an agency or higher education institution/related board, an appointing authority may reassign an employee to a different position within the same class as long as the employee meets the competencies and other position requirements. (See WAC 357-19-175 for special provisions covering reassignments to different geographic areas.)

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-170, filed 12/21/04, effective 7/1/05.]

WAC 357-19-175 What are the provisions for reassigning a permanent employee to a different geographic area? When reassigning a permanent employee to a position in a different geographic area, the following applies:

- (1) If the reassignment is within a reasonable commute of the employee's domicile, the appointing authority may reassign the employee without the employee's agreement.
- (2) If the reassignment is outside of a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employer's layoff procedure applies
- (3) The employer defines what is within a reasonable commute.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-175, filed 12/21/04, effective 7/1/05.]

WAC 357-19-177 How does a reassignment affect an employee's status and pay? Reassignment must not result in a change in status and the employee's base salary must not be reduced. In accordance with WAC 357-19-075, the probationary period or trial service period continues if an employee is reassigned while serving a probationary period or trial service period.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-177, filed 12/21/04, effective 7/1/05.]

WAC 357-19-180 Can an employee transfer? Permanent employees may request to transfer to another position in the same class or a different class with the same salary range maximum as long as the employee meets the competencies and other position requirements. The employer may require the employee to serve a trial service period following a transfer. If the employee was in trial service status at the time of the transfer, the provisions of WAC 357-19-070 apply.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-180, filed 12/21/04, effective 7/1/05.]

WAC 357-19-190 When is an employee appointed to a position with permanent status? An appointing authority must make a permanent status appointment of an employee under the following conditions:

- (1) Upon successful completion of a probationary, trial service, or transition review period;
- (2) Upon reassignment of a permanent employee who is not in trial service status;
- (3) Upon transfer, demotion, or elevation when the employee is not required to serve a trial service period;
- (4) Upon rehire from layoff or appointment to a position as a layoff option when a transition review period is not required;
- (5) Upon conversion of an exempt position to the classified service, per WAC 357-19-225, if the incumbent has been employed for at least an amount of time equal to the probationary period for the class; and

- If the incumbent has not been employed that long, the employee must serve a probationary period. The employer may count the time spent in the position prior to conversion towards the probationary period.

- (5) Upon the director conferring permanent status to an employee under remedial action provisions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-190, filed 12/21/04, effective 7/1/05.]

WAC 357-19-193 What happens if a permanent employee, who has received approval to participate in the state internship program, leaves a classified position to participate in the state internship program created under RCW 43.06.410? A permanent employee who leaves a classified position to participate in the state internship program created under RCW 43.06.410:

- (1) Has the right to return to his/her previous position at any time during the internship or upon completion of the internship;
- (2) Continues to receive all fringe benefits as if he/she had never left his/her classified position; and
- (3) Continues to accrue seniority.

[Statutory Authority: Chapter 41.06 RCW. 05-01-199, § 357-19-193, filed 12/21/04, effective 7/1/05.]

WAC 357-19-195 If a permanent employee in a classified position accepts an appointment to an exempt position, what is the employee's right to return to a position in the classified service? A permanent employee who accepts

an appointment to an exempt position has the right to return to classified service at any time as long as the employee was not terminated from an exempt position for gross misconduct or malfeasance.

The employee's right is to a position in the highest class in which the employee previously held permanent status or to a position of similar nature and salary. The return right is to the most recent employer with which permanent status in the highest class was held. A position in the highest class does not necessarily mean return to the most recent employer.

If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-195, filed 12/21/04, effective 7/1/05.]

WAC 357-19-200 When must an employee apply to return to classified service from exempt service? Employees exercising return rights should provide as much advance notice as is practicable to the receiving employer. The employee must apply to return to classified service within thirty calendar days of:

- Separation from employment in the exempt position, or
- Separation from employment in any subsequent exempt position if there is no break in state service of more than thirty calendar days between initial and subsequent exempt appointments.

Employees who apply for return to classified service within thirty calendar days must be returned to a position at the time of separation from the exempt appointment or the time of application, whichever is later.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-200, filed 12/21/04, effective 7/1/05.]

WAC 357-19-205 Upon return from exempt service, how is the employee's salary set? The employee's base salary must not be less than the employee's previous base salary in classified service, adjusted according to any changes to salary range that occurred while the employee was in exempt service.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-205, filed 12/21/04, effective 7/1/05.]

WAC 357-19-215 Does an employee who was hired directly into exempt service have any rights to a classified position or layoff list? Exempt employees who did not leave the classified service specifically to take an exempt position **do not** have any rights under the civil service rules and are not eligible for placement on layoff lists in the general government transition pool.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-215, filed 12/21/04, effective 7/1/05.]

WAC 357-19-220 What happens to an employee whose classified service position is converted to an exempt position? An employee who holds a classified service position that is exempted from civil service has the following rights:

(1) If the employee has permanent status and is appointed to the exempt position or to another exempt position, the employee has the right to return to the classified service at the conclusion of the exempt appointment as specified in WAC 357-19-195.

(2) If the employee has permanent status and is **not** appointed to the exempt position or another exempt position, the employee has the right to assume a position in the highest class previously held, or to a position of similar nature and salary. If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

The employee may appeal the exemption of the position in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-220, filed 12/21/04, effective 7/1/05.]

WAC 357-19-225 How is an incumbent, whose position is converted from exempt to classified, placed within classified service? An incumbent whose position is converted from exempt to classified service may be placed within the classified service as follows:

(1) If the incumbent has been continuously employed for a period of time equivalent to or greater than the probationary period established for the classified position, the incumbent will have permanent status and does not serve a probationary period. If the incumbent has been employed for less than the duration of the probationary period, WAC 357-19-020 applies.

(2) The incumbent is not required to pass a qualifying examination.

(3) Salary is set in accordance with WAC 357-28-165.

(4) The incumbent is credited with unused accrued sick leave at the time of conversion and continues to accrue sick leave as provided in chapter 357-31 WAC (Leave and holidays chapter).

(5) The incumbent is credited with unused accrued vacation leave at the time of conversion and accrues vacation leave at the same rate as for classified employees as provided in chapter 357-31 WAC.

(6) Seniority is established using the date of hire into the position that is being converted to classified service.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-225, filed 12/21/04, effective 7/1/05.]

WAC 357-19-230 What are the provisions for appointing participants of the police corps programs? According to the terms and conditions of the federal Police Corps Act, employers may appoint participants of the police corps program to positions in the classified service. Upon appointment, the civil service rules apply.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-230, filed 12/21/04, effective 7/1/05.]

WAC 357-19-235 What are in-training positions? In-training positions are permanent positions for which the employer uses defined training steps to train employees to successfully perform the duties and responsibilities of the

goal class. Each in-training position must have an in-training plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-235, filed 12/21/04, effective 7/1/05.]

WAC 357-19-240 What positions can be designated as in-training? Employers may designate specific positions, groups of positions, or all positions in a class or an occupational category, as in-training positions. Unless other staffing methods have been exhausted, positions with primary responsibility for supervision should not be designated as in-training positions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-240, filed 12/21/04, effective 7/1/05.]

WAC 357-19-245 What components must be included in an in-training plan? The in-training plan must document:

- (1) The title of the goal class of the in-training plan.
- (2) The duties and responsibilities of the goal class.
- (3) The training steps and job classes that will be used to reach the goal class.
- (4) The training content for each step of the in-training plan. The training must include at least one of the following components:
 - (a) On-the-job training (knowledge and skill developed through experience);
 - (b) Classroom or field instruction;
 - (c) Courses conducted by an educational institution, vocational school, or professional training organization; or
 - (d) Written, oral, and/or practical examination(s).
- (5) The length of the training steps that are being used to reach the goal class.
- (6) The competencies that must be acquired by the employee while in training to the goal class.
- (7) The method(s) that will be used to determine if the employee has successfully completed the requirements of the in-training plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-245, filed 12/21/04, effective 7/1/05.]

WAC 357-19-250 During an in-training plan, when does an employee advance to the next training step? The employee automatically advances to the next training step and job class after satisfactory completion of the training requirements of the lower step. After successful completion of all training steps, the employee moves to the goal class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-250, filed 12/21/04, effective 7/1/05.]

WAC 357-19-255 How long must an employee be at each step in an in-training plan? In-training plans must provide a minimum of six months at each step of the in-training plan before progressing to the next step. The training plan at each step must include specific, quantifiable training objectives. Upon demonstration that the employee has satisfactorily achieved those training objectives in less than six months, the employer may waive the remainder of the time required at that training step.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-255, filed 12/21/04, effective 7/1/05.]

WAC 357-19-260 While an employee is in an in-training appointment, what class is used to determine the employee's salary, work period designation, performance evaluation? For each in-training step, the training plan must identify the job class to which the employee's work is being allocated. The employee's salary, work period designation, and performance evaluation must be based upon the allocated class of the in-training step.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-260, filed 12/21/04, effective 7/1/05.]

WAC 357-19-265 Must the employee serve a probationary or trial service period during an in-training appointment? An employee who does not have permanent status must serve a probationary period when appointed to an in-training position. Once an employee has permanent status, the employee must serve a trial service period at each training step within the in-training plan. When an employee is still in a probationary or trial service period and is advanced to the next training step in the in-training plan, the original probationary or trial service period continues and the employee begins the trial service period of the next step. The original probationary or trial service period and the new trial service period run concurrently until the terms of the original probationary or trial service period are completed.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-265, filed 12/21/04, effective 7/1/05.]

WAC 357-19-270 Does time spent in a position before the in-training appointment count towards the in-training period? Time spent in nonpermanent appointments in an in-training position before a permanent appointment to the in-training position is not usually counted towards the requirements of the in-training plan. If the employer determines that the work performed in the nonpermanent appointment and the competencies developed satisfy the training plan requirements, the employer may count the time.

The employer determines if time spent in a position before the position was designated as an in-training position counts towards the requirements of the in-training plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-270, filed 12/21/04, effective 7/1/05.]

WAC 357-19-280 If an employee transfers from one in-training position to another in-training position, how is the training period affected? If an employee transfers from one in-training position to another in-training position, the terms of the in-training plan for the new position are in effect.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-280, filed 12/21/04, effective 7/1/05.]

WAC 357-19-285 What happens to an employee who fails to progress satisfactorily through an in-training plan?

This table is used to determine what happens when an employee appointed to an in-training position fails to satisfactorily progress through the in-training plan.

	Type of In-Training Position:	
	Class Series/Occupational Category: All positions in the occupational category/class series are designated as in-training positions by the employer	Individual position: The individual position is designated as an in-training position
Employee Status:		
Employee in Probationary Period	→ The employee must be separated in accordance with WAC 357-46-185.	→ The employee must be separated in accordance with WAC 357-46-185.
Employee in Trial Service Period	<i>If the employee WAS PERMANENT before the in-training appointment:</i> → The employee has reversion rights in accordance with WAC 357-19-115 to the class the employee held permanent status in before the in-training appointment. <i>If the employee was NOT PERMANENT before the in-training appointment:</i> → The employee must be dismissed under the provisions of WAC 357-40-010.	→ The employee has reversion rights in accordance with WAC 357-19-115 to the class in which the employee was most recently permanent.
Employee achieved permanent status in job class of the current in-training step but is failing to progress to the next step	<i>If the employee WAS PERMANENT before the in-training appointment:</i> → The employee has reversion rights in accordance with WAC 357-19-115 to the class the employee held permanent status in before the in-training appointment. <i>If the employee was NOT PERMANENT before the in-training appointment:</i> → The employee must be dismissed under the provisions of WAC 357-40-010.	→ The employee is removed from the in-training position and has reversion rights in accordance with WAC 357-19-115 to a position, if available, in the class in which the employee currently holds permanent status.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-285, filed 12/21/04, effective 7/1/05.]

WAC 357-19-290 What are the provisions for appointments under the Intergovernmental Mobility Act (P.L. 91-648)? The director may authorize appointments into the classified service from other governmental units for purposes of cross training or sharing of expertise across governmental boundaries, in accordance with the intent of the Intergovernmental Personnel Act (P.L. 91-648) and RCW 41.04.-170. Appointments made under this section must be time-limited.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-290, filed 12/21/04, effective 7/1/05.]

WAC 357-19-295 What are cyclic year positions? Cyclic year positions are positions within higher education institutions and related higher education boards which are scheduled to work less than twelve full months each year, due to:

- Known, recurring periods in the annual cycle when the position is not needed; or
- Limited funding of the position.

Cyclic year positions are permanent positions and must be filled in accordance with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-295, filed 12/21/04, effective 7/1/05.]

WAC 357-19-297 What are the notification requirements for appointing an employee to a cyclic year position? Upon appointment and before the start of each annual cycle, incumbents of cyclic year positions must be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Scheduled, cyclic leave without pay does not constitute a break in service and is not deducted from the employees' seniority and does not affect the employees' vacation leave accrual rate.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-297, filed 12/21/04, effective 7/1/05.]

WAC 357-19-305 What are project positions? Project positions are classified positions established for purpose of a defined project for which the employer expects the work to be of a time-limited nature with an expected end date.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-305, filed 12/21/04, effective 7/1/05.]

WAC 357-19-310 How are project positions filled? Project positions must be filled in accordance with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-310, filed 12/21/04, effective 7/1/05.]

WAC 357-19-315 What are the notification requirements for appointing an employee to a project position? An employee appointed to a project position must be notified, in writing, of the status of the appointment and the expected ending date of the position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-315, filed 12/21/04, effective 7/1/05.]

WAC 357-19-320 Must an employee appointed to a project position serve a probationary period? An employee who does not have permanent status in classified service must serve a probationary period when appointed to a project position. The employee gains permanent status upon completion of the probationary period.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-320, filed 12/21/04, effective 7/1/05.]

WAC 357-19-325 Must an employee with permanent status who is appointed to a project position serve a trial service period? In accordance with WAC 357-19-025, a permanent employee must serve a trial service period upon promotional appointment to project position.

In accordance with WAC 357-19-030, a permanent employee who voluntarily transfers or voluntarily demotes to a project position may be required by the employer to serve a trial service period.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-325, filed 12/21/04, effective 7/1/05.]

WAC 357-19-330 What notices must employees and their employers provide to each other when an employee accepts an appointment to a project position? If a permanent employee wants to have return rights to the current employer, the employee must give fourteen calendar days' notice to the current employer before moving to a project position. The employer and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employer must notify the employee in writing of his/her return right at the conclusion of the appointment to the project position.

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-330, filed 12/21/04, effective 7/1/05.]

WAC 357-19-340 What return rights must an employer provide to a permanent employee who accepts an appointment to a project position? At a minimum, an employer must provide a permanent employee who left a permanent position to accept an appointment to a project position access to the employer's internal layoff list. If the employer agrees to return the employee to a position, the employee must provide fourteen calendar days' notice to the employer of his/her intent to return to a permanent position unless the employee and employer agree otherwise. Upon return to a permanent position, the employee's salary is determined by the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-340, filed 12/21/04, effective 7/1/05.]

WAC 357-19-345 What happens to employees in project positions at the conclusion of the project? At the conclusion of an appointment to a project position, the layoff provisions of chapter 357-46 WAC apply. In addition to the layoff rights provided by chapter 357-46 WAC, a permanent status employee who left a permanent position to accept appointment to a project position without a break in service has the additional rights provided by WAC 357-19-340.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-345, filed 12/21/04, effective 7/1/05.]

WAC 357-19-360 For what reasons may a general government employer make nonpermanent appointments? A general government employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

- (1) A permanent employee is absent from the position;
- (2) The agency is recruiting to fill a vacant position with a permanent appointment;
- (3) The agency needs to address a short-term immediate workload peak or other short-term needs;
- (4) The agency is not filling a position with a permanent appointment due to the impending or actual layoff of a permanent employee(s); or

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(5) The nature of the work is sporadic and does not fit a particular pattern.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-360, filed 12/21/04, effective 7/1/05.]

WAC 357-19-365 When is it inappropriate for a general government employer to fill a position with a nonpermanent appointment to address a short-term immediate workload peak or other short term needs? General government employers **must not** fill a position with a nonpermanent appointment under the provisions of WAC 357-19-360(3) when the work of the position is scheduled, ongoing and permanent in nature. If at any time during a nonpermanent appointment, a short-term workload peak or other short term need becomes ongoing and permanent in nature, the employer must take action to fill the position on a permanent basis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-365, filed 12/21/04, effective 7/1/05.]

WAC 357-19-370 How long can a general government nonpermanent appointment last? (1) Agencies are encouraged to limit the duration of a nonpermanent appointment to twelve months from the appointment date.

(2) A nonpermanent appointment for a reason specified in WAC 357-19-360 (1) through (4) **must not** exceed twenty-four months unless the director has approved an extension of the appointment due to the continued absence of a permanent employee. An employer may choose to not count time spent in formal training programs towards the twenty-four month limit. On-the-job training is not considered a formal training program for purposes of this rule.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-370, filed 12/21/04, effective 7/1/05.]

WAC 357-19-373 What notification must a general government employer give a nonpermanent appointee? (1) Upon appointment, all nonpermanent appointees must be notified in writing of the conditions of their appointment and/or upon any subsequent change to the conditions of their appointment.

(2) The written notification must at a minimum contain the following information:

- (a) The reason for the nonpermanent appointment in accordance with WAC 357-19-360;
- (b) The hours of work and the base salary;
- (c) The anticipated short-term duration or sporadic nature of the appointment;
- (d) A statement regarding the receipt or nonreceipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received; and
- (e) The right to request remedial action as provided in WAC 357-19-425.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-373, filed 12/21/04, effective 7/1/05.]

WAC 357-19-375 Can an employee receive consecutive general government nonpermanent appointments? Individuals may receive consecutive nonpermanent appoint-

ments as long as any subsequent appointment is to a different position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-375, filed 12/21/04, effective 7/1/05.]

WAC 357-19-377 What provisions apply to general government nonpermanent appointments? General government nonpermanent appointments are subject to the following provisions:

(1) Nonpermanent appointees must meet the competencies and other requirements of the position to which they are appointed.

(2) Nonpermanent appointments may be filled on a non-competitive basis which means the employer is not required to comply with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

(3) Nonpermanent appointments may be filled using the competitive process specified in chapter 357-16 WAC as long as the eligible applicant indicates a willingness to accept a nonpermanent appointment.

(4) Agencies may underfill a position with a nonpermanent appointment.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-377, filed 12/21/04, effective 7/1/05.]

WAC 357-19-380 What provisions of the civil service rules apply to nonpermanent employees? The leave and holiday provisions of chapter 357-31 WAC and compensation provisions of chapter 357-28 WAC apply to employees in nonpermanent appointments.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-380, filed 12/21/04, effective 7/1/05.]

WAC 357-19-385 Can a permanent employee accept a nonpermanent appointment? A permanent employee may accept a general government nonpermanent appointment.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-385, filed 12/21/04, effective 7/1/05.]

WAC 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment? Employees who accept a nonpermanent appointment must give their current employers at least fourteen calendar days' notice before moving to a nonpermanent appointment. The current agency and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employee's permanent agency must notify the employee in writing of his/her return right to the agency at the conclusion of the nonpermanent appointment.

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-388, filed 12/21/04, effective 7/1/05.]

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WAC 357-19-395 What return rights must an agency provide to a permanent employee who accepts a nonpermanent appointment? At a minimum, the agency must provide the permanent employee access to the agency's internal layoff list. If the agency agrees to return the employee to a position, the employee must notify the agency of his/her intent to return to a permanent position at least fourteen calendar days in advance of return unless the employee and agency agree otherwise. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-395, filed 12/21/04, effective 7/1/05.]

WAC 357-19-400 Can the agency convert a general government nonpermanent appointment to a probationary or trial service appointment? (1) When an agency uses a competitive process to make a nonpermanent appointment to fill a position in the absence of a permanent employee or fill a position nonpermanently due to the impending or actual layoff of a permanent employee(s), the agency may change the status of the appointment to probationary or trial service if:

(a) The permanent employee does not return to the position or the layoff action has been implemented; and

(b) The agency needs to fill the position permanently.

(2) The agency may change the appointment status to trial service only if the employee held permanent status prior to accepting a nonpermanent appointment.

At the discretion of the appointing authority, time spent in the nonpermanent appointment may count towards the probationary or trial service period for the permanent position.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-400, filed 12/21/04, effective 7/1/05.]

WAC 357-19-410 How much notice must an employer give for ending a nonpermanent appointment? The end date of a nonpermanent appointment may be set in the appointment letter. If the end date is not set in the appointment letter, the employer must give written notice of the termination date of the nonpermanent appointment. If the employee is a permanent state employee, the employer must provide at least fifteen calendar days' notice. If the employee is not a permanent state employee, the employer must give one work day's notice.

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-410, filed 12/21/04, effective 7/1/05.]

WAC 357-19-420 What are the appeal rights of general government nonpermanent employees? Employees without permanent status appointed to general government nonpermanent appointments have no appeal rights with the

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exception of remedial action as provided in WAC 357-19-430.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-420, filed 12/21/04, effective 7/1/05.]

WAC 357-19-425 How does a general government nonpermanent employee request remedial action? Requests for remedial action by nonpermanent employees must be received in writing within thirty days as provided in chapter 357-49 WAC. Following a director's review of the remedial action request, an employee may file exceptions to the director's decision in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-425, filed 12/21/04, effective 7/1/05.]

WAC 357-19-430 When may the director take remedial action for general government nonpermanent employees and what does remedial action include? The director may take remedial action to confer permanent status, set base salary, and establish seniority when it is determined that the following conditions exist:

- (1) The employer has made an appointment that does not comply with rules on nonpermanent appointment; or
- (2) The duration of a nonpermanent appointment as defined in WAC 357-19-360 (1) through (4) has exceeded twenty-four months without director approval.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-430, filed 12/21/04, effective 7/1/05.]

WAC 357-19-435 For what reasons may a higher education employer make a temporary appointment? A higher education employer may make a temporary appointment for the following reasons:

- (1) The number of hours to be worked by the individual will not exceed one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, in accordance with WAC 357-04-045; or
- (2) The employing official formally assigns a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-435, filed 12/21/04, effective 7/1/05.]

WAC 357-19-440 What provisions govern higher education temporary appointments? (1) Temporary appointments may be made without regard to rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

(2) Each higher education employer must develop for director approval a procedure which indicates the employer's system for controlling and monitoring exempt part-time and temporary positions as identified in WAC 357-04-045. The procedure must include a mechanism to access and report hours worked by an individual temporary employee.

(3) A higher education employer may petition the director in writing for approval of exceptions to the one thousand fifty hours threshold as specified in WAC 357-19-435(1).

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(4) No temporary appointment shall take the place of employees laid off under the provisions of WAC 357-46-010.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-440, filed 12/21/04, effective 7/1/05.]

WAC 357-19-441 What provisions of civil service rules apply to individuals in temporary appointments? (1) Individuals appointed to temporary appointments under the provisions of WAC 357-19-435(1) are exempt from the civil service rules except for the provisions of remedial action as provided in WAC 357-04-045 and 357-19-450.

(2) Employees temporarily assigned higher level duties under the provisions of WAC 357-19-435(2) are classified employees and as such are covered by the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-441, filed 12/21/04, effective 7/1/05.]

WAC 357-19-442 What happens to an employee's salary and periodic increment date when he/she is temporarily appointed to the higher level class under provisions of WAC 357-19-435(2)? Upon temporary appointment under the provisions the [of] WAC 357-19-435(2), the employee's base salary is determined in accordance with WAC 357-28-110 and his/her periodic increment date is unchanged.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-442, filed 12/21/04, effective 7/1/05.]

WAC 357-19-443 Does a permanent employee who is temporarily appointed to a higher level class under the provision of WAC 357-19-435(2) have the right to resume a position at the conclusion of the temporary appointment? At the conclusion of a temporary appointment to a higher level class under the provisions of WAC 357-19-435(2), a permanent employee has a right to resume a position in the class the employee was in prior to the temporary appointment. Upon return to a position in the prior class, the employee's base salary is reinstated and the employee is credited with any increment increases that would have occurred had the employee not been temporarily appointed to a higher class.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-443, filed 12/21/04, effective 7/1/05.]

WAC 357-19-444 What notification must a higher education employer give to a temporary appointee? (1) Prior to the start of a temporary appointment, the temporary appointee must be notified in writing of the conditions of the appointment.

(2) The written notification must contain the following information regarding the condition of the appointment:

- (a) The reason for the temporary appointment (see WAC 357-19-435);
- (b) The hours of work and the hourly rate of pay;
- (c) The anticipated duration of appointment;
- (d) A statement regarding the receipt or nonreceipt of benefits;
 - If the appointee is eligible to receive benefits, the state must identify which benefits will be received.

(e) The employee's original date of hire in a temporary appointment under the provisions of WAC 357-19-435(1); and

(f) The right to request remedial action as provided in WAC 357-19-448 and 357-19-450.

(3) For purposes of this rule, written notice of the conditions of temporary appointment must be provided as follows:

(a) By personal delivery, United States mail, or by telephone facsimile transmission with same-day mailing of copies; or

(b) By using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery.

(4) Service of the notice is considered to be completed:

(a) When personal delivery has been accomplished;

(b) Upon deposit in the United States mail, properly stamped and addressed;

(c) Upon production by telephone facsimile transmission of confirmation of the transmission; or

(d) If an alternative method of delivery was used, when the notice is received by the temporary appointee.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-444, filed 12/21/04, effective 7/1/05.]

WAC 357-19-445 What records must higher education employers maintain for individuals in temporary appointments? Higher education employers must maintain records of the information contained in WAC 357-19-444 for individuals in temporary appointments.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-445, filed 12/21/04, effective 7/1/05.]

WAC 357-19-447 What are the appeal rights of individuals in higher education temporary appointments? The right to appeal for individuals appointed to higher education temporary appointments is limited to remedial action as provided in WAC 357-19-450.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-447, filed 12/21/04, effective 7/1/05.]

WAC 357-19-448 How does an individual in a higher education temporary appointment request remedial action? Requests for remedial action must be received in writing within thirty calendar days as provided in chapter 357-49 WAC. Following a director's review of the remedial action request, an employee may file exceptions to the director's decision in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-448, filed 12/21/04, effective 7/1/05.]

WAC 357-19-450 When may the director take remedial action for individuals in higher education temporary appointments and what does remedial action include? For individuals in higher education temporary appointments under the provisions of WAC 357-19-435(1), the director may take remedial action to confer permanent status, set base salary, and establish seniority when it is determined that the following conditions exist:

(1) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1,

1989, whichever is later. (Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the one thousand fifty hours.)

(2) The position or positions are subject to civil service.

(3) The employee has not taken part in any willful failure to comply with these rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-192, § 357-19-450, filed 12/21/04, effective 7/1/05.]

WAC 357-19-455 What is reemployment? Reemployment is the appointment of a former permanent employee.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-455, filed 12/21/04, effective 7/1/05.]

WAC 357-19-460 Is certification required to reemploy a former permanent status employee? (1) Employers may directly reemploy without certification former permanent status employees who have submitted an application for employment as long as:

(a) The employer's internal layoff list or statewide layoff list for the class has no eligible candidates;

(b) The former employee satisfies the competencies and other requirements of the position to which the employee is being reemployed; and

(c) The former employee has applied for reemployment in accordance with any employer-established timeframes within which former employees must apply.

(2) Upon reemployment, the employee must serve a probationary period unless the employer determines otherwise.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-460, filed 12/21/04, effective 7/1/05.]

WAC 357-19-465 Must employers provide reemployment services to employees separated due to disability under the provisions of WAC 357-46-160? Employers must provide special reemployment assistance to separated former permanent status classified employees of the employer for two years following separation due to disability under the provisions of WAC 357-46-160.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-465, filed 12/21/04, effective 7/1/05.]

WAC 357-19-470 What reemployment services does the employer provide to a former employer seeking reemployment under the provisions of WAC 357-19-465? The employer will provide assistance, such as the following, to an eligible former employee seeking reemployment under the provisions of WAC 357-19-465:

(1) Determination of job classes and/or positions for which the former employee is qualified;

(2) Assistance regarding the employment/application process;

(3) Reemployment consideration in accordance with the employer's certification procedure for positions for which the individual meets the competency and other position requirements; and

(4) Access to training programs relevant to the job classes for which the former employee may become qualified.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-470, filed 12/21/04, effective 7/1/05.]

WAC 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do? To be eligible for reemployment the former employee must:

- (1) Complete and submit an application(s) for reemployment to the employer;
- (2) Meet the competencies and other requirements of the class and/or position for which the former employee is applying; and
- (3) Submit to the appointing authority a statement from a licensed health care provider affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory, or mental disability of the individual.

(a) If the licensed health care provider's statement provides inadequate information, the former employee will obtain the necessary clarification from the licensed health care provider or provide a release to the personnel officer/appointing authority to communicate directly with the licensed health care provider regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense.

(b) The employer may require that the former employee be examined by a licensed health care provider of the employer's choice at the employer's expense.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-475, filed 12/21/04, effective 7/1/05.]

WAC 357-19-480 Will employees returning from separation under WAC 357-19-465 serve a probationary period? Former permanent status employees returning from separation due to disability as set forth in WAC 356-19-465 [357-19-465] must serve a probationary period unless the employer determines otherwise. Upon successful completion of the probationary period, the time between separation and reemployment will be treated as leave without pay and must not be considered a break in service.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-480, filed 12/21/04, effective 7/1/05.]

WAC 357-19-505 What is the purpose of the return-to-work initiative program? The purpose of the return-to-work initiative program is to assist eligible general government permanent employees to return to work following an industrial injury. Eligibility requirements are specified in WAC 357-19-515.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-505, filed 12/21/04, effective 7/1/05.]

WAC 357-19-510 Who is responsible for administering the return-to-work initiative program? The department is responsible for administering the general government return-to-work initiative program. The director must develop and implement appropriate operating procedures to facilitate this program.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-510, filed 12/21/04, effective 7/1/05.]

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WAC 357-19-515 Who is eligible to participate in the return-to-work initiative program? The return-to-work initiative program applies to general government permanent employees who have been separated due to disability or are at risk of separation due to disability because of an accepted industrial injury condition. They must also meet the following criteria to participate in the program:

- (1) The employee must be a former permanent employee or a current employee of an employer who participates in the program;
- (2) The employer must approve the participation of the employee to be in the program;
- (3) The employee must be permanently unable to return to the job of injury due to the effects of the industrial injury; however, the employee must be capable of returning to some form of gainful employment;
- (4) The employee must have an open industrial insurance claim for which the employee is receiving current time loss compensation benefits; and
- (5) The department must be able to secure authorization from the department of labor and industries to bill return-to-work services against the industrial insurance claim.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-515, filed 12/21/04, effective 7/1/05.]

WAC 357-19-525 What are the employer's responsibilities for return-to-work? Each employer must:

- (1) Adopt a written return-to-work policy and submit a copy to the department.
- (2) Designate an employer representative to be responsible for coordinating the employer's return-to-work program.
- (3) Provide information on the employer's return-to-work policy to employees.
- (4) Provide training of appropriate supervisors on implementation of the employer return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee; general knowledge of available return-to-work options, resources available; and awareness that the return-to-work program expects cooperation and participation by all employers.
- (5) Coordinate participation of applicable employee assistance programs, as appropriate.
- (6) If possible, provide time-limited opportunities to employees who are in the return-to-work program.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-525, filed 12/21/04, effective 7/1/05.]

WAC 357-19-530 Who is eligible to participate in the employer's return-to-work program? Employees are eligible to participate in the return-to-work employer's program under the following conditions:

- (1) The employee is a permanent employee.
- (2) The employee is receiving compensation under RCW 51.32.090.
- (3) The employee has a temporary disability which makes him/her temporarily unable to return to his or her previous work, but who is capable of carrying out work of a lighter or modified nature as evidenced by a written statement from a physician or licensed mental health professional.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-530, filed 12/21/04, effective 7/1/05.]

WAC 357-19-535 Are an employee's return-to-work opportunities limited to the agency or institution/related board which was the employer at the time of the qualifying injury? Permanent state employees who are receiving compensation under RCW 51.32.090 for a temporary disability are eligible to participate in agency or institution/related board return-to-work programs statewide when appropriate job classifications are not available with the employer that was the appointing authority at the time of qualifying injury. Employers must coordinate and cooperate with one another to provide return-to-work opportunities on a statewide basis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-535, filed 12/21/04, effective 7/1/05.]

Chapter 357-22 WAC PERSONNEL FILES

WAC

357-22-010	Must an employer maintain a personnel file for each employee?
357-22-015	Must an employer develop and publish a policy on personnel files?
357-22-020	Can an employee review his/her personnel file?
357-22-025	What information must be sent from one employer to another when an employee changes employers within state government?
357-22-030	Who is responsible for the management of official personnel files?
357-22-035	Must the employee be given a copy of information placed in the personnel file?
357-22-040	How long must information be kept in the employee's personnel file?
357-22-045	When may an employee add information in his/her personnel file?

WAC 357-22-010 Must an employer maintain a personnel file for each employee? An employer must maintain an official file of each employee showing a record of employment and such other information as may be required for business and legal purposes. The employer has the burden of demonstrating the legal or business need for the record.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-010, filed 12/21/04, effective 7/1/05.]

WAC 357-22-015 Must an employer develop and publish a policy on personnel files? Each employer must develop and publish a policy pertaining to the retention and confidentiality of personnel records in accordance with chapter 357-22 WAC and all relevant state and federal laws. The employer's policy must include the requirement that personnel and payroll records are open to the inspection of the board, state auditor, the director or director's designee, and prospective employers.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-015, filed 12/21/04, effective 7/1/05.]

WAC 357-22-020 Can an employee review his/her personnel file? An employee and/or any person authorized in writing by the employee may review the employee's personnel file at least annually according to the policy of the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-020, filed 12/21/04, effective 7/1/05.]

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WAC 357-22-025 What information must be sent from one employer to another when an employee changes employers within state government? When an employee accepts an appointment with a different employer, the most recent former employer must provide employee information to the new employer in a transmittal package developed by the department.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-025, filed 12/21/04, effective 7/1/05.]

WAC 357-22-030 Who is responsible for the management of official personnel files? Each employer must designate the position(s) within the employer's organization responsible for managing and maintaining the official personnel files.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-030, filed 12/21/04, effective 7/1/05.]

WAC 357-22-035 Must the employee be given a copy of information placed in the personnel file? An employee must be provided a copy of all adverse material placed in the personnel file at the time the material is included in the file. Upon the employee's request, the employee must be provided with a copy of any information in the employee's personnel file. Copies will be provided in accordance with the employer's personnel records policy as required by WAC 357-22-015.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-035, filed 12/21/04, effective 7/1/05.]

WAC 357-22-040 How long must information be kept in the employee's personnel file? (1) Information must be kept in the employee's personnel file as long as it has a reasonable bearing on:

- (a) The employee's job performance; or
- (b) The employer's efficient and effective management of the agency, institution, or related higher education board.

(2) Adverse material proven to be inaccurate or false, or information related to employee misconduct or alleged misconduct which is determined to be false, and all such information in situations where the employee has been fully exonerated of wrong doing must be promptly destroyed unless:

- (a) The employee requests that the information be kept;
- or
- (b) The information is related to pending legal action or legal action(s) may reasonably be expected to result.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-040, filed 12/21/04, effective 7/1/05.]

WAC 357-22-045 When may an employee add information in his/her personnel file? After an employee becomes aware that adverse information has been placed in his/her personnel file, he/she has the right to add a statement of rebuttal or correction of such information. At anytime, an employee has the right to add job performance information to his/her personnel file.

[Statutory Authority: Chapter 41.06 RCW. 05-01-198, § 357-22-045, filed 12/21/04, effective 7/1/05.]

Chapter 357-25 WAC**AFFIRMATIVE ACTION****WAC**

357-25-005	What is the purpose of this chapter?
357-25-010	What is the function of the governor's affirmative action policy committee?
357-25-015	Who administers the statewide affirmative action program?
357-25-020	What are the administrative responsibilities of the department?
357-25-025	What are the policy statement requirements that employers must comply with for the purpose of chapter 357-25 WAC?
357-25-030	What are the affirmative action reporting requirements that employers must comply with for purposes of chapter 357-25 WAC?
357-25-035	What is the purpose of affirmative action plans and updates?
357-25-040	What must an employer include in an affirmative action plan and update?
357-25-045	When must employers establish affirmative action goals?
357-25-050	How does an employer determine the affirmative action goal for an affected group?
357-25-055	What affirmative action tools may employers use to increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in applicant pools and certified pools?

WAC 357-25-005 What is the purpose of this chapter? The purpose of chapter 357-25 WAC is to provide guidance to employers on affirmative action regarding the development and implementation of affirmative action goals and the monitoring of progress toward those goals.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-005, filed 12/21/04, effective 7/1/05.]

WAC 357-25-010 What is the function of the governor's affirmative action policy committee? The governor's affirmative action policy committee oversees the development and approval of affirmative action plans and updates. The committee is established by the governor's executive order on affirmative action.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-010, filed 12/21/04, effective 7/1/05.]

WAC 357-25-015 Who administers the statewide affirmative action program? The department is responsible for administering the statewide affirmative action program. The department provides technical assistance to employers in the development and implementation of affirmative action plans, updates, and programs.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-015, filed 12/21/04, effective 7/1/05.]

WAC 357-25-020 What are the administrative responsibilities of the department? In accordance with state and federal laws, the department:

- (1) Establishes guidelines to assist in developing and implementing affirmative action plans;
- (2) Provides the essential data for determining availability of affected groups;
- (3) Reviews and approves the technical aspect of affirmative action plans and updates;

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(4) Assists in recruiting affected group members, including targeted recruitment when the representation of affected group members is less than its availability;

(5) Reviews the progress of employers in meeting goals and addressing problems identified in affirmative action plans and programs; and

(6) Reviews statewide employment trends for general government such as appointment, promotion, transfer, terminations, and formal disciplinary actions for adverse impact, as necessary.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-020, filed 12/21/04, effective 7/1/05.]

WAC 357-25-025 What are the policy statement requirements that employers must comply with for the purpose of chapter 357-25 WAC? (1) All employers must maintain:

(a) An affirmative action and equal employment opportunity policy statement; and

(b) Policy statements on sexual harassment and reasonable accommodation.

(2) The employer's affirmative action and equal opportunity policy statement must be reviewed and approved by the head of the agency, institution, or related higher education board each year. The policy statements on sexual harassment and reasonable accommodation must be updated as needed.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-025, filed 12/21/04, effective 7/1/05.]

WAC 357-25-030 What are the affirmative action reporting requirements that employers must comply with for purposes of chapter 357-25 WAC? Employers must report affirmative action information to the department as follows:

(1) If an employer has federal affirmative action reporting obligations, the employer must submit an affirmative action plan on a two-year cycle as set by the department.

(2) If the employer does not have federal affirmative action reporting obligations, the reporting requirements depend upon the employer's size.

(a) Employers with 25 - 49 full-time equivalent (FTE) employees must submit a small agency/institution workforce profile annually.

(b) Employers with 50 or more FTE employees must submit an affirmative action plan on a four-year cycle as set by the department, with an update to the affirmative action plan two years into the cycle.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-030, filed 12/21/04, effective 7/1/05.]

WAC 357-25-035 What is the purpose of affirmative action plans and updates? Affirmative action plans and updates are designed to increase the representation of affected group members in the workforce when it is determined that a particular affected group is underutilized.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-035, filed 12/21/04, effective 7/1/05.]

WAC 357-25-040 What must an employer include in an affirmative action plan and update? An employer's affirmative action plan and update must address the employer's recruitment, appointment, promotion, transfer, training and career development practices. It must include all of the following components:

(1) A workforce profile reflecting total employees and total employees sorted by affected group status. The affirmative action update must also show a comparison between the current workforce profile and the previous submission.

(2) A utilization and goals report by job group, for each affected group, showing where goals have been set. The affirmative action update must reflect a goals analysis report indicating where goals have been met for the reporting period.

(3) A section containing a detailed narrative of the strategies to be employed to reach goals. The affirmative action update must also reflect the strategies employed during the reporting period.

(4) A response to the governor's affirmative action policy committee recommendations from the previous plan or update.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-040, filed 12/21/04, effective 7/1/05.]

WAC 357-25-045 When must employers establish affirmative action goals? Employers must establish affirmative action goals for hiring and/or promoting members of affected groups when underutilization exists within a job group. Underutilization exists when the utilization percent is less than the availability percent for a particular affected group within a job group.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-045, filed 12/21/04, effective 7/1/05.]

WAC 357-25-050 How does an employer determine the affirmative action goal for an affected group? The affirmative action goal for an affected group is equal to the affected group's availability.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-050, filed 12/21/04, effective 7/1/05.]

WAC 357-25-055 What affirmative action tools may employers use to increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in applicant pools and certified pools? To increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in applicant pools, employers may at any time recruit and screen these individuals for placement in eligible applicant pools in accordance with WAC 357-16-030.

To increase the representation of persons with disabilities, Vietnam-era veterans, disabled veterans, and persons age 40 and over in certified pools, the employer may certify these individuals in accordance with WAC 357-16-135.

These affirmative action tools must only be used when a goal exists for the specific affected group.

[Statutory Authority: Chapter 41.06 RCW. 05-01-197, § 357-25-055, filed 12/21/04, effective 7/1/05.]

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Chapter 357-26 WAC

REASONABLE ACCOMMODATION

WAC

357-26-005	What is the purpose of this chapter?
357-26-010	When must an employer provide reasonable accommodation?
357-26-015	What actions may an employer take to provide reasonable accommodation?
357-26-020	What is the requirement for employers to have a policy and procedure covering reasonable accommodation?
357-26-025	May an employee who is unable to perform the essential functions of a position request to be separated from employment?

WAC 357-26-005 What is the purpose of this chapter? The purpose of chapter 357-26 WAC is to provide guidance to employers regarding reasonable accommodation as it specifically relates to employment and separation due to disability within the provisions of the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-196, § 357-26-005, filed 12/21/04, effective 7/1/05.]

WAC 357-26-010 When must an employer provide reasonable accommodation? An employer must reasonably accommodate a known disability of a qualified candidate or employee as required by chapter 49.60 RCW and the federal Americans with Disabilities Act.

[Statutory Authority: Chapter 41.06 RCW. 05-01-196, § 357-26-010, filed 12/21/04, effective 7/1/05.]

WAC 357-26-015 What actions may an employer take to provide reasonable accommodation? For persons with disabilities, as defined by state or federal law, reasonable accommodation may include, but is not limited to:

(1) Accommodation in application procedures, testing, and the interview process; or

(2) Modifications or adjustments to a job, work method, or work environment that make it possible for a qualified person with a disability to perform the essential functions of a position, or enjoy the benefits and privileges of employment equal to employees without disabilities.

[Statutory Authority: Chapter 41.06 RCW. 05-01-196, § 357-26-015, filed 12/21/04, effective 7/1/05.]

WAC 357-26-020 What is the requirement for employers to have a policy and procedure covering reasonable accommodation? (1) In accordance with the policy statement requirements of WAC 357-25-025, employers must develop and maintain a policy statement on reasonable accommodation.

(2) In accordance with state and federal laws, employers must develop and make readily available a procedure regarding reasonable accommodation of employees with disabilities.

(a) Each employee who requests reasonable accommodation must be provided access to the employer's reasonable accommodation procedure in an accessible format.

(b) Employees who request reasonable accommodation must be notified in writing that in the event he or she cannot be accommodated in his or her current position, and placement in an alternative vacant position is not possible, the

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appointing authority may initiate a disability separation in accordance with WAC 357-46-160.

[Statutory Authority: Chapter 41.06 RCW. 05-01-196, § 357-26-020, filed 12/21/04, effective 7/1/05.]

WAC 357-26-025 May an employee who is unable to perform the essential functions of a position request to be separated from employment? An employee who is unable to perform the essential functions of the employee's position due to mental, sensory, or physical incapacity may notify the employer that he or she does not wish to pursue accommodation and would like to be separated from employment. In this case, the appointing authority is not required to consider a reasonable accommodation and may initiate a disability separation in accordance with WAC 357-46-160.

[Statutory Authority: Chapter 41.06 RCW. 05-01-196, § 357-26-025, filed 12/21/04, effective 7/1/05.]

**Chapter 357-28 WAC
COMPENSATION**

WAC

- 357-28-010 Who adopts the compensation plan?
- 357-28-015 How is the compensation plan prepared and revised?
- 357-28-020 What must the compensation plan include?
- 357-28-025 Can the director adopt special pay salary ranges?
- 357-28-030 Must employers have a salary determination policy?
- 357-28-035 What must be addressed in the employer's salary determination policy?
- 357-28-040 Can an employee's base salary be set above the maximum of the salary range?
- 357-28-045 How is part-time employment compensated?
- 357-28-050 What is the periodic increment date (PID)?
- 357-28-055 How is the periodic increment date determined?
- 357-28-060 When does an employee receive an increment increase?
- 357-28-065 What are the effective dates of increment increases?
- 357-28-070 Can an employer adjust the timing and amount of increment increases?
- 357-28-075 Can an employer accelerate or defer increment increases based on performance?
- 357-28-080 How does an employee allocated to a class with a special pay salary range progress through the range?
- 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons?
- 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position?
- 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an incumbent or candidate for a position?
- 357-28-110 Must an employee who is promoted to a position in a class with a higher salary range receive a salary increase?
- 357-28-115 Must an employee occupying a position that is reallocated to a class with a higher salary range receive a salary increase?
- 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range?
- 357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by RCW 41.06.136?
- 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class after the initial implementation of the classification plan?
- 357-28-135 How is an employee's salary determined when the employee is appointed to a position due to a layoff action?
- 357-28-140 How is an employee's salary determined upon transfer?

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- 357-28-145 How is an employee's salary determined upon reassignment?
- 357-28-150 How is an employee's salary determined upon reversion?
- 357-28-155 How is an employee's salary determined upon demotion?
- 357-28-160 How is an employee's salary determined upon elevation?
- 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?
- 357-28-175 What is assignment pay?
- 357-28-180 When may employers authorize assignment pay?
- 357-28-185 What is the requirement for employers to compensate employees for being called back to work?
- 357-28-190 When must an employee receive shift premium?
- 357-28-195 What general government positions must be paid supplemental shift premium?
- 357-28-200 When must an employee receive holiday premium pay?
- 357-28-205 When must an employee receive standby pay?
- 357-28-210 What is the rate of compensation for standby pay?
- 357-28-220 How are hours of work established for employees?
- 357-28-225 Are employers required to develop flexible time schedules?
- 357-28-230 Can an employer assign or reassign an employee to a flex-time schedule?
- 357-28-235 Can an employee request assignment to a flex-time schedule?
- 357-28-240 Must employers assign an overtime eligibility designation to each position?
- 357-28-245 Is approval required when a general government employer changes a position's overtime eligibility designation?
- 357-28-250 Must employers inform employees whether they are eligible to receive overtime compensation or not?
- 357-28-252 Under what conditions can the employer change an overtime-eligible employee's assigned hours?
- 357-28-255 What constitutes overtime for an overtime-eligible employee?
- 357-28-260 At what rate must overtime be compensated?
- 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked?
- 357-28-275 When may compensatory time off be granted in lieu of pay?
- 357-28-280 When may compensatory time off be used?
- 357-28-285 When must compensatory time be paid in cash?
- 357-28-295 Who may provide performance recognition pay to employees?
- 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?
- 357-28-310 When can an employee receive relocation compensation?
- 357-28-315 What would cause an employee to be required to pay back the relocation payment?
- 357-28-325 When will salary surveys be done?

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

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

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

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

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

- (1) A general salary schedule including minimum and maximum amounts for each salary range assigned to a class;

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(2) Special salary schedules including the minimum and maximum amounts for each special pay range assigned to a class or position;

(3) Assignment pay premiums, shift premiums, and standby pay rates as determined by the director;

(4) Definitions and application of overtime eligibility designations.

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

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

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-035, filed 12/21/04, effective 7/1/05.]

WAC 357-28-040 Can an employee's base salary be set above the maximum of the salary range? An employee's base salary may be set above the maximum of the

salary range assigned to the position's class when allowed under any provisions of Title 357 WAC or when approved by the director.

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

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-055, filed 12/21/04, effective 7/1/05.]

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

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

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

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

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

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

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

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

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

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

WAC 357-28-075 Can an employer accelerate or defer increment increases based on performance? Employers who have received performance management confirmation from the director may in accordance with the employer's policy on performance-based increments:

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

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

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

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

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

WAC 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons? The employer may adjust an employee's base salary within the salary range to address issues that are related to recruitment, retention or other business related rea-

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son, such as equity, alignment, or competitive market conditions.

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

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

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

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

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

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

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

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

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

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

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

WAC 357-28-110 Must an employee who is promoted to a position in a class with a higher salary range receive a salary increase? An employee who is promoted to a position in a class with a higher salary range must receive a

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minimum increase of two steps not to exceed the top step of the salary range. The employer may grant higher increases if:

- (1) Significant increases in duties and responsibilities, as documented by the employer, warrant greater compensation,
- (2) The increase is necessary for internal salary alignment, retention of the employee, or other documented business needs, or
- (3) The increase is necessary to bring the employee to the minimum of the salary range for the position.

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

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

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

WAC 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range? An employee occupying a position that is reallocated to a class with the same or lower salary range must be placed within the new salary range at an amount equal to his/her previous base salary. If the previous base salary exceeds the new salary range, the employee's base salary must be set equal to the maximum of the salary range for the reallocated position. The employee's base salary may be set higher than the range maximum, but not exceeding the previous base salary, if allowed by the employer's salary determination policy.

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

WAC 357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by RCW 41.06.136? When an employee's position is reallocated to a new class as a result of the director taking action to implement the new classification plan as required by RCW 41.06.136, the employee retains his/her previous base salary and periodic increment date upon reallocation unless the employee's previous base salary is less than the minimum step of the salary range assigned to the new class. In that case, the employee's base salary is the minimum step of the salary range assigned the new class and the periodic increment date is six months from the effective date of reallocation.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-125, filed 12/21/04, effective 7/1/05.]

WAC 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class after the initial implementation of the classification plan? When reallocation is necessary because the director creates, abolishes, or revises a class after the initial imple-

mentation of the classification plan, an employee's base salary is determined as follows:

- (1) An employee occupying a position reallocated to a class with the same or lower salary range must be paid an amount equal to his/her previous base salary.
- (2) An employee occupying a position reallocated to a class with a higher salary range must have his/her base salary set in accordance with the salary provisions established by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-130, filed 12/21/04, effective 7/1/05.]

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

- (1) An employee who accepts a layoff option to a different position with the same salary range keeps the same base salary.
- (2) An employee who accepts a demotion in lieu of layoff or accepts a layoff option to a position with a lower salary range maximum must be placed within the new range at a salary equal to the employee's previous base salary. If the previous base salary exceeds the new range, the employee's base salary must be set equal to the new range maximum. The employee's base salary may be set higher than the range maximum, but not exceeding the previous base salary, if allowed by the employer's salary determination policy.
- (3) An employee who is appointed from an internal or statewide layoff list to a position with the same range as the position from which the employee was laid off must be placed within the range at a salary equal to the employee's previous base salary.
- (4) An employee who is appointed from an internal or statewide layoff list to a position with a lower range maximum than the position from which the employee was laid off must have the salary determined by the employer's salary determination policy.

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined? If an exempt position is converted to classified status under the provisions of WAC 357-19-150, the base salary of the incumbent must not be less than the exempt salary at the time of conversion. If the employee's salary at the time of conversion exceeds the maximum of the salary range, the employee's base salary must be set outside the range in accordance with WAC 357-28-040.

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

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

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

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

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

WAC 357-28-185 What is the requirement for employers to compensate employees for being called back to work? (1) If an overtime-eligible employee has finished

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the work shift and has left the worksite or is in paid leave status and is called to return to work outside of regularly scheduled hours to handle emergency situations which could not be anticipated, a minimum of two hours' pay must be guaranteed. The minimum of two hours of pay and any hours worked in excess of two hours must be compensated in accordance with WAC 357-28-255 if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(4) An employee assigned to a shift that qualifies for shift premium pay must receive the same shift premium for authorized periods of paid leave and holidays and for up to five days of a temporary assignment to a shift that does not qualify. Continued payment of shift premium for a temporary assignment exceeding five days is at the discretion of the employer.

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

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

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

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

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

(8) Employees may waive shift premium.

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

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

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

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

WAC 357-28-200 When must an employee receive holiday premium pay? (1) Overtime-eligible employees who are directed to work on a designated holiday as listed in chapter 357-31 WAC, must receive their regular rate of pay for the holiday. In addition, employees must receive premium pay at the overtime rate for all hours worked on the holiday. This does not apply to employees assigned an emergency response fire officer work schedule; They must receive the overtime rate for eight hours rather than all hours worked. The employer may offer compensatory time off in lieu of monetary payment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 357-28-260 At what rate must overtime be compensated? Overtime worked by an overtime-eligible employee must be compensated at a rate of one and one-half times the employee's regular rate.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-260, filed 12/21/04, effective 7/1/05.]

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

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

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

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

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

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

WAC 357-28-285 When must compensatory time be paid in cash? (1) The accumulation of unused compensatory time of any amount that exceeds two hundred forty hours, or

four hundred eighty hours for employees engaged in public safety or emergency response activity, must be paid in cash at the regular rate earned by the employee at the time the employee receives such payment.

(2) Upon termination of employment, an employee must be paid for unused compensatory time in accordance with applicable state and federal law.

[Statutory Authority: Chapter 41.06 RCW. 05-01-205, § 357-28-285, filed 12/21/04, effective 7/1/05.]

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 42]

Chapter 357-34 WAC

EMPLOYEE TRAINING AND DEVELOPMENT

WAC

357-34-005	What is the purpose of this chapter?
357-34-010	Who is responsible for employee training and development?
357-34-015	What are the employer's training and development responsibilities?
357-34-020	Can employers require employees to attend training?
357-34-025	What are the director's training and development responsibilities?
357-34-030	What are the requirements for the employer's training and development plan?
357-34-035	Can an employee get a copy of the employer's training and development plan?
357-34-045	Are employers required to provide release time for non-required training?
357-34-050	Can an employee be given an assignment for career development purposes?
357-34-055	Are employees appointed to a supervisory or management position required to complete any special supervisory or managerial training?
357-34-060	What administrative requirements must be met for the employee to satisfy the training required by WAC 357-34-055?
357-34-065	What must be included in the required supervisory or managerial training?
357-34-070	When must employees appointed to supervisory or management positions be enrolled in the required training?
357-34-075	Under what circumstances may the employer waive the requirement for an employee to complete supervisory or managerial training?
357-34-085	Who is responsible for designating positions as supervisory or management positions for the purpose of identifying which positions are covered by the training requirement?
357-34-090	Who provides the required supervisory or managerial training?

WAC 357-34-005 What is the purpose of this chapter? The purpose of chapter 357-34 WAC, the employee training and development rules, is to:

(1) Establish rules which support employees in developing occupational and professional skills, and

(2) Assign responsibilities for providing training and development for employees.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-005, filed 12/21/04, effective 7/1/05.]

WAC 357-34-010 Who is responsible for employee training and development? Employers, employees, and the department share the responsibility for employee training and development.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-010, filed 12/21/04, effective 7/1/05.]

WAC 357-34-015 What are the employer's training and development responsibilities? Each employer is responsible for:

(1) Developing a training and development plan as prescribed by WAC 357-34-030; and

(2) Providing employee orientation, required job-related training, and assistance with career planning.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-015, filed 12/21/04, effective 7/1/05.]

WAC 357-34-020 Can employers require employees to attend training? Employers may require employees to attend training that is job-related, meets an identified

employer need, and/or is required by state or federal law. Required attendance during and/or outside of working hours is considered time worked and must be compensated in accordance with the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-020, filed 12/21/04, effective 7/1/05.]

WAC 357-34-025 What are the director's training and development responsibilities? The director is responsible for supporting employee training and development by:

- (1) Providing training which is interagency and/or public sector in scope;
- (2) Consulting with employers about their employee training and development activities, upon request;
- (3) Providing guidelines for employee training and development planning and evaluation;
- (4) Promoting interagency collaboration and sharing of resources and/or support services for training and career development; and
- (5) Providing for the evaluation of training and career development programs and plans based on the minimum standards established in WAC 357-34-030.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-025, filed 12/21/04, effective 7/1/05.]

WAC 357-34-030 What are the requirements for the employer's training and development plan? (1) The employer's training and development plan must be based on an assessment of the organization's employee training and development needs. The director or department may provide assistance to the employer in assessing the organization's need.

(2) The employer's training and development plan must state the employer's policies and objectives for employee training and development. The policies must address, at a minimum, the following:

- (a) Identification of the position(s) responsible for employee training and development;
- (b) Criteria for employee eligibility;
- (c) Criteria for determining employees' work status while participating in employee training and development activities;
- (d) Criteria for educational leave;
- (e) Tuition reimbursement or fee waiver policy;
- (f) Mandated training in accordance with state and federal regulations;
- (g) Entry-level management/supervisory training;
- (h) Assessment of employee training and development needs;
- (i) Evaluation of the training and development programs; and
- (j) Assignments for career development as described in WAC 357-34-050 and approval of such assignments by the employer's human resources office.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-030, filed 12/21/04, effective 7/1/05.]

WAC 357-34-035 Can an employee get a copy of the employer's training and development plan? Copies of the (2005 Ed.)

training and development plan must be made available to employees upon request.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-035, filed 12/21/04, effective 7/1/05.]

WAC 357-34-045 Are employers required to provide release time for nonrequired training? Employers may release employees from work without a loss in pay to participate in nonrequired training.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-045, filed 12/21/04, effective 7/1/05.]

WAC 357-34-050 Can an employee be given an assignment for career development purposes? (1) Employers may make the following planned training assignments for employee career development without incurring reallocation or compensation obligations:

- (a) Performance of responsibilities outside the current job class on a time-limited basis.
 - (b) Intra-agency or interagency rotational or special project assignments.
- (2) The employee and the employer(s) shall mutually agree in writing, including time limits, to assignments identified in subsection (1)(a) and (b) of this section.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-050, filed 12/21/04, effective 7/1/05.]

WAC 357-34-055 Are employees appointed to a supervisory or management position required to complete any special supervisory or managerial training? Employees appointed to a permanent supervisory or management position must successfully complete entry-level supervisory or managerial training. (See WAC 357-34-075 for exceptions to this requirement.)

[Statutory Authority: Chapter 41.06 RCW. 04-15-015, § 357-34-055, filed 7/8/04, effective 7/1/05.]

WAC 357-34-060 What administrative requirements must be met for the employee to satisfy the training required by WAC 357-34-055? For an employee to satisfy the entry-level supervisory or managerial training required by WAC 357-34-055, all of the following requirements must be met:

- (1) The training program must include at least twenty-four hours of instruction.
- (2) The training must have occurred in the last five years.
- (3) The program must be sponsored by a state agency, post-secondary educational institution, vocational school, or professional organization.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-060, filed 12/21/04, effective 7/1/05.]

WAC 357-34-065 What must be included in the required supervisory or managerial training? At a minimum, the entry-level supervisory or managerial training required by WAC 357-34-055 must include all of the following topics:

- (1) The role and legal responsibilities of a supervisor/manager.

(2) Performance management, including employee performance evaluation, development, counseling or coaching, and discipline.

(3) Employee motivation, recognition, and rewards.

(4) Communication skills and principles.

(5) Leadership styles and methods.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-065, filed 12/21/04, effective 7/1/05.]

WAC 357-34-070 When must employees appointed to supervisory or management positions be enrolled in the required training? Employees appointed to a permanent supervisory or management position must be enrolled in the required training within six months of the date of their appointment, or if a program is not available, as soon as possible after it becomes available. When training opportunities are available, the employer may suspend the entry-level training requirement for up to a maximum of an additional six months in cases where the ability of the employer to perform its responsibilities would be adversely affected by the absence of the employee from the work site.

[Statutory Authority: Chapter 41.06 RCW. 04-15-015, § 357-34-070, filed 7/8/04, effective 7/1/05.]

WAC 357-34-075 Under what circumstances may the employer waive the requirement for an employee to complete supervisory or managerial training? The employer may waive the requirement for entry-level supervisory or managerial training in cases where:

(1) The employee has at least one year of experience in a supervisory or management position at some point prior to the present appointment and has demonstrated experience and competence as a substitute for training; or

(2) The employee can demonstrate that before this appointment the employee completed training that satisfies the requirements of WAC 357-34-060 and 357-34-065.

[Statutory Authority: Chapter 41.06 RCW. 04-15-015, § 357-34-075, filed 7/8/04, effective 7/1/05.]

WAC 357-34-085 Who is responsible for designating positions as supervisor or management positions for the purpose of identifying which positions are covered by the training requirement? For purposes of WAC 357-34-055, each employer must designate individual positions, or groups of positions, as being supervisor or management positions. The employer's designations are subject to review by the director.

[Statutory Authority: Chapter 41.06 RCW. 04-15-015, § 357-34-085, filed 7/8/04, effective 7/1/05.]

WAC 357-34-090 Who provides the required supervisory or managerial training? The department provides training activities to fulfill the requirement in WAC 357-34-055 and/or consultative services, as requested, to assist the employers to develop their own programs. Employer-developed training must satisfy the requirements of WAC 357-34-060 and 357-34-065.

[Statutory Authority: Chapter 41.06 RCW. 05-01-195, § 357-34-090, filed 12/21/04, effective 7/1/05.]

[Title 357 WAC—p. 44]

Chapter 357-37 WAC

PERFORMANCE MANAGEMENT

WAC

357-37-010	What is the purpose of an employee performance management process?
357-37-015	What is the employer's responsibility for an employee performance management process?
357-37-020	What objectives must an employee performance management process satisfy?
357-37-025	What is the employee's responsibility within the performance management process?
357-37-030	When and how often must performance feedback be provided to an employee through the formal evaluation process?
357-37-035	How should an employee be notified of unsatisfactory performance?
357-37-040	What forms and procedures must employers use to plan for and evaluate employee performance?
357-37-045	Can an employer supplement the standardized employee performance evaluation procedures and forms?
357-37-050	Can an employer factor performance into compensation and layoff decisions?
357-37-055	How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions?
357-37-060	What elements will the director evaluate to determine if an employer should be granted performance management confirmation?
357-37-065	May employers develop employee recognition programs?
357-37-070	What factors should employers consider in developing employee recognition programs?
357-37-075	Can an employee request the employer to review the performance evaluation process or procedure used for the employee's evaluation?
357-37-080	Can an employee request the director to review the performance evaluation process or procedure used for the employee's evaluation?

WAC 357-37-010 What is the purpose of an employee performance management process? An employee performance management process is part of a positive, performance-based culture. It fosters employee competence and productivity, supports achievement of organizational goals and objectives, and provides documentation of employee's strengths and areas in need of improvement.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-010, filed 12/21/04, effective 7/1/05.]

WAC 357-37-015 What is the employer's responsibility for an employee performance management process? Each employer must develop and implement an employee performance management process. Employers must develop a performance management policy that documents the key points of the process.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-015, filed 12/21/04, effective 7/1/05.]

WAC 357-37-020 What objectives must an employee performance management process satisfy? The employee performance management process must:

(1) Explain the employee's responsibility for successfully performing assigned job duties and responsibilities;

(2) Assess how well the employee has contributed to efficiency and effectiveness in fulfilling the objectives of the organization and the position; and

(3) Recognize an employee's successful job performance and identify any necessary changes in job performance.

(2005 Ed.)

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-020, filed 12/21/04, effective 7/1/05.]

WAC 357-37-025 What is the employee's responsibility within the performance management process? The employee has the responsibility to:

- (1) Request clarification of any job duty, standard, or expectation that is unclear;
- (2) Perform work as assigned and meet job standards and expectations;
- (3) Participate in the performance evaluation process; and
- (4) Communicate with supervisor and share successes and problems so the supervisor can better measure progress and provide assistance.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-025, filed 12/21/04, effective 7/1/05.]

WAC 357-37-030 When and how often must performance feedback be provided to an employee through the formal evaluation process? Employers must provide feedback and formally evaluate the performance of:

- (1) A probationary employee or a permanent employee serving a trial service period or transition review period before the employee attains permanent status in the position; and
- (2) A permanent employee on an annual basis.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-030, filed 12/21/04, effective 7/1/05.]

WAC 357-37-035 How should an employee be notified of unsatisfactory performance? A probationary or permanent employee whose work performance is determined to be unsatisfactory must be notified in writing of the deficiency(ies). Unless the deficiency is extreme, the employee must be given an opportunity to demonstrate improvement.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-035, filed 12/21/04, effective 7/1/05.]

WAC 357-37-040 What forms and procedures must employers use to plan for and evaluate employee performance? Employers must use standardized employee performance planning and evaluation procedures and forms developed by the director or alternate procedures and forms approved by the director.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-040, filed 12/21/04, effective 7/1/05.]

WAC 357-37-045 Can an employer supplement the standardized employee performance evaluation procedures and forms? Employers may supplement the standardized planning and evaluation forms and procedures with special performance factors and assessment approaches that are specific to organizational needs. Employers do not need approval to supplement the standardized forms or procedures.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-045, filed 12/21/04, effective 7/1/05.]

(2005 Ed.)

WAC 357-37-050 Can an employer factor performance into compensation and layoff decisions? An employer may factor an employee's performance into compensation and layoff decisions if the employer has received performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-050, filed 12/21/04, effective 7/1/05.]

WAC 357-37-055 How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions? Employers may request performance management confirmation from the director. The director will use the elements listed in WAC 357-37-060 to assess and evaluate an employer's readiness to fairly and objectively factor performance into compensation and layoff decisions. If the director determines that the employer has developed a performance management program that encompasses the necessary elements, the employer will be granted performance management confirmation.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-055, filed 12/21/04, effective 7/1/05.]

WAC 357-37-060 What elements will the director evaluate to determine if an employer should be granted performance management confirmation? The director will evaluate the following elements to determine if an employer should receive performance management confirmation:

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-060, filed 12/21/04, effective 7/1/05.]

WAC 357-37-065 May employers develop employee recognition programs? Employers may develop employee recognition and reward programs, utilizing tools available in RCW 41.60.150 and chapter 357-28 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-065, filed 12/21/04, effective 7/1/05.]

WAC 357-37-070 What factors should employers consider in developing employee recognition programs? Employee recognition programs must be designed to recognize verifiable accomplishments. Programs may be linked to individual or group accomplishments as described in RCW 41.60.150 or to accomplishments that further the employer's mission, strategic goals or objectives.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-070, filed 12/21/04, effective 7/1/05.]

WAC 357-37-075 Can an employee request the employer to review the performance evaluation process or procedure used for the employee's evaluation? If the employer has developed an internal review procedure, an employee may request the employer to review alleged irregularities in the use of the approved performance evaluation form and/or procedures. Employees must be notified in writing of the results of the employer's review.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-075, filed 12/21/04, effective 7/1/05.]

WAC 357-37-080 Can an employee request the director to review the performance evaluation process or procedure used for the employee's evaluation? As provided in WAC 357-49-010, and within thirty days of receipt of a completed and signed performance evaluation or the results of an employer review as provided in WAC 357-37-075, an employee may request a director's review of alleged irregularities in the use of the approved performance evaluation form and/or procedures outlined in the civil service rules. The content of an evaluation is not subject to review.

[Statutory Authority: Chapter 41.06 RCW. 05-01-194, § 357-37-080, filed 12/21/04, effective 7/1/05.]

Chapter 357-40 WAC DISCIPLINE

WAC

357-40-010	Can an appointing authority take disciplinary action?
357-40-015	Can an appointing authority take action other than dismissal, suspension, demotion or reduction in base salary to address unsatisfactory performance?
357-40-020	When must an employee be notified of a demotion or reduction in base salary?
357-40-025	What must be in the written notice of dismissal, demotion, or reduction in base salary?
357-40-030	What notice is required to dismiss an employee?
357-40-035	When must an employee be notified of a suspension?
357-40-040	What must be in the written notice of suspension?
357-40-045	Is there a limitation to how long an employee can be suspended?

WAC 357-40-010 Can an appointing authority take disciplinary action? An appointing authority may dismiss, suspend without pay, demote, or reduce the base salary of a permanent employee under his/her jurisdiction for just cause.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-010, filed 9/1/04, effective 7/1/05.]

WAC 357-40-015 Can an appointing authority take action other than dismissal, suspension, demotion or reduction in base salary to address unsatisfactory performance? Employers may develop a corrective discipline policy that identifies actions that an appointing authority may

take other than dismissal, suspension, demotion, or reduction in base salary, that represent alternative formal measures that do not deprive an employee of pay, yet still help an employee address unsatisfactory performance. Actions taken by an appointing authority in accordance with the employer's corrective discipline policy carry the same weight as disciplinary actions which impact pay.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-015, filed 9/1/04, effective 7/1/05.]

WAC 357-40-020 When must an employee be notified of a demotion or reduction in base salary? The appointing authority must notify an employee in writing at least fifteen (15) calendar days before the effective date of the demotion or reduction in base salary.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-020, filed 9/1/04, effective 7/1/05.]

WAC 357-40-025 What must be in the written notice of dismissal, demotion, or reduction in base salary? The notice must include the specific charge(s) and the employee's right to appeal to the board as provided in chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-025, filed 9/1/04, effective 7/1/05.]

WAC 357-40-030 What notice is required to dismiss an employee? An appointing authority may dismiss an employee with fifteen (15) calendar days' written notice or without fifteen (15) calendar days' notice as follows:

(1) An appointing authority may dismiss an employee effective immediately with pay in lieu of the fifteen (15) calendar days' notice period. As required by WAC 357-40-025 the appointing authority must still provide written notice of the specific charge(s) and the employee's rights to appeal to the board as provided in chapter 357-52 WAC.

(2) An appointing authority may dismiss an employee effective immediately without pay in lieu of the fifteen (15) calendar days' notice period if the appointing authority determines that continued employment of the employee jeopardizes the good of the service. The appointing authority must provide written notice of the immediate dismissal stating the reason(s) for dismissal, the reasons immediate action is necessary, and the employee's right to appeal to the board as provided in chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-030, filed 9/1/04, effective 7/1/05.]

WAC 357-40-035 When must an employee be notified of a suspension? An employee being suspended must be notified in writing no later than one day after the suspension takes effect.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-035, filed 9/1/04, effective 7/1/05.]

WAC 357-40-040 What must be in the written notice of suspension? The suspension notice must include the specific charge(s) and the duration of the suspension. It must also include the employee's right to appeal to the board as provided in chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-040, filed 9/1/04, effective 7/1/05.]

WAC 357-40-045 Is there a limitation to how long an employee can be suspended? An appointing authority may not suspend without pay a permanent employee for more than fifteen calendar days as a single penalty or more than thirty calendar days in any one calendar year as an accumulation of several penalties.

[Statutory Authority: Chapter 41.06 RCW. 04-18-113, § 357-40-045, filed 9/1/04, effective 7/1/05.]

Chapter 357-43 WAC EMPLOYEE BUSINESS UNITS

WAC

357-43-001	What definitions apply to this chapter of the civil service rules?
357-43-005	What is the purpose of this chapter?
357-43-007	What provisions apply when an employee's position is eliminated because of the employer has awarded a contract through the competitive contracting process?
357-43-010	Do the other rules in Title 357 WAC governing classified employees apply to employee business unit members?
357-43-015	Which rules explain employee business unit bid submittal and bid evaluation?
357-43-020	Are employee business unit members classified employees?
357-43-025	What establishes the terms and conditions of employment for employee business unit members?
357-43-030	Must employment within an employee business unit comply with applicable federal, state and municipal statutes and regulations?
357-43-035	May authority be delegated within an employee business unit?
357-43-040	Must employee business unit members complete employer required training?
357-43-050	Must an employer include positions in an employee business unit in the employer's affirmative action plan?
357-43-055	Can employee business unit members accrue vacation leave?
357-43-060	Can employee business unit members accrue sick leave?
357-43-065	Can employee business unit members cash out sick leave?
357-43-070	Are employee business unit members eligible for legal holidays?
357-43-075	Are employee business unit members eligible to receive a personal holiday?
357-43-080	Are employee business unit members eligible to participate in the employer's shared leave program?
357-43-085	Are employee business unit members eligible to receive military leave?
357-43-095	Must an employee business unit have a layoff procedure?
357-43-100	What layoff rights must be included in the employee business unit's layoff procedure?
357-43-105	When is a general government employee business unit member eligible for placement in the general government transition pool?
357-43-110	Can an employee business unit member accept an appointment in an exempt position or a classified position outside of the employee business unit?
357-43-115	What return rights does a former employee business unit member have following appointment to an exempt position?

WAC 357-43-001 What definitions apply to this chapter of the civil service rules? The following definitions apply to chapter 357-43 WAC:

(1) **Appointing authority:** An individual lawfully authorized to appoint, transfer, layoff, reduce, dismiss, suspend, or demote employees.

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(2) **Competitive contracting:** The process by which classified employees compete with businesses, individuals, nonprofit organizations, or other entities for the performance of services those employees have customarily and historically performed.

(3) **Contract:** A formal and binding agreement or an amendment to an agreement between an employer and an employee business unit for performing services as defined in the competitive contracting solicitation.

(4) **Displaced employee:** A classified employee whose position or work would be eliminated, resulting in the employee being laid off or assigned to a different job classification, as a result of an award via the competitive contracting process.

(5) **Employee business unit:** A group of employees who perform services for which an employer proposes to competitively contract and who:

(a) Notify the agency of their intent to submit a bid for the performance of those services through competitive contracting; or

(b) Receive award of a contract from the employer as a result of being a successful bidder.

(6) **Employee business unit member:** A classified employee working under the provisions of chapter 357-43 WAC.

(7) **Employer:** A state agency, an institution of higher education, or a related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-001, filed 12/21/04, effective 7/1/05.]

WAC 357-43-005 What is the purpose of this chapter? The purpose of this chapter is to establish the chapter of civil service rules that apply to employee business unit members when employed under a contract.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-005, filed 12/21/04, effective 7/1/05.]

WAC 357-43-007 What provisions apply when an employee's position is eliminated because of the employer has awarded a contract through the competitive contracting process? WAC 357-46-012 governs layoff actions resulting from the competitive contacting [contracting] process.

[Statutory Authority: Chapter 41.06 RCW. 05-01-185, § 357-43-007, filed 12/21/04, effective 7/1/05.]

WAC 357-43-010 Do the other rules in Title 357 WAC governing classified employees apply to employee business unit members? Except for chapter 357-43 WAC, the civil service rules do not apply to employee business unit members unless specifically referenced within chapter 357-43 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-010, filed 12/21/04, effective 7/1/05.]

WAC 357-43-015 Which rules explain employee business unit bid submittal and bid evaluation? The rules explaining employee business unit bid submittals and evaluation of those bids are included in chapter 236-51 WAC, Competitive contracting.

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[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-015, filed 12/21/04, effective 7/1/05.]

WAC 357-43-020 Are employee business unit members classified employees? Employee business unit members continue to be classified employees.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-020, filed 12/21/04, effective 7/1/05.]

WAC 357-43-025 What establishes the terms and conditions of employment for employee business unit members? The terms and conditions of employee business unit employment are established by the contract or by appointment actions taken under that contract.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-025, filed 12/21/04, effective 7/1/05.]

WAC 357-43-030 Must employment within an employee business unit comply with applicable federal, state and municipal statutes and regulations? Employment within an employee business unit must comply with applicable federal, state and municipal statutes and regulations and executive orders as applicable.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-030, filed 12/21/04, effective 7/1/05.]

WAC 357-43-035 May authority be delegated within an employee business unit? The duties of an appointing authority may be delegated to an employee business unit member.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-035, filed 12/21/04, effective 7/1/05.]

WAC 357-43-040 Must employee business unit members complete employer required training? Employee business unit members must complete any training required by the contracting employer or must satisfy training requirements as prescribed by the employee business unit contract.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-040, filed 12/21/04, effective 7/1/05.]

WAC 357-43-050 Must an employer include positions in an employee business unit in the employer's affirmative action plan? Positions in an employee business unit must be included in the employer's affirmative action plan.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-050, filed 12/21/04, effective 7/1/05.]

WAC 357-43-055 Can employee business unit members accrue vacation leave? Employee business unit members accrue vacation leave as provided in RCW 43.01.040 through 43.01.044.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-055, filed 12/21/04, effective 7/1/05.]

WAC 357-43-060 Can employee business unit members accrue sick leave? Employee business unit members accrue sick leave as provided in RCW 41.48.140.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-060, filed 12/21/04, effective 7/1/05.]

[Title 357 WAC—p. 48]

WAC 357-43-065 Can employee business unit members cash out sick leave? Employee business unit members may cash out sick leave as provided in RCW 41.04.340.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-065, filed 12/21/04, effective 7/1/05.]

WAC 357-43-070 Are employee business unit members eligible for legal holidays? Those holidays listed in RCW 1.16.050 are recognized as legal holidays for employee business unit members. Compensation for such holidays will be determined by the terms of the contract.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-070, filed 12/21/04, effective 7/1/05.]

WAC 357-43-075 Are employee business unit members eligible to receive a personal holiday? Employee business unit members are eligible to receive one personal holiday per year as provided in RCW 1.16.050.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-075, filed 12/21/04, effective 7/1/05.]

WAC 357-43-080 Are employee business unit members eligible to participate in the employer's shared leave program? Employee business unit members are eligible to participate in the employer's shared leave program as provided in RCW 41.04.650 through 41.04.670.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-080, filed 12/21/04, effective 7/1/05.]

WAC 357-43-085 Are employee business unit members eligible to receive military leave? Employee business unit members are eligible to receive military leave as provided in RCW 38.40.060.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-085, filed 12/21/04, effective 7/1/05.]

WAC 357-43-095 Must an employee business unit have a layoff procedure? Each employee business unit must establish a layoff procedure that describes the process the employee business unit will follow when it is necessary to reduce or eliminate a position in the employee business unit.

[Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-095, filed 12/21/04, effective 7/1/05.]

WAC 357-43-100 What layoff rights must be included in the employee business unit's layoff procedure? The employee business unit layoff procedure must provide employee business unit members layoff rights within the boundaries of employee business unit.

[Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-100, filed 12/21/04, effective 7/1/05.]

WAC 357-43-105 When is a general government employee business unit member eligible for placement in the general government transition pool? A general government employee business unit member is eligible for placement in the general government transition pool under the provisions of WAC 357-46-095 as follows:

(1) Upon layoff of the employee business unit member, or

(2) In the event the contract with the employee business unit has been terminated or it has expired.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-105, filed 12/21/04, effective 7/1/05.]

WAC 357-43-110 Can an employee business unit member accept an appointment in an exempt position or a classified position outside of the employee business unit? An employee business unit member may accept an appointment to an exempt position or a classified position outside of the employee business unit.

Chapter 357-43 WAC does not apply to appointments to classified positions outside of a employee business unit.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-110, filed 12/21/04, effective 7/1/05.]

WAC 357-43-115 What return rights does a former employee business unit member have following appointment to an exempt position? A former employee business member who was appointed to an exempt position from the employee business unit has return rights provided in RCW 41.06.070.

[Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-115, filed 12/21/04, effective 7/1/05.]

Chapter 357-46 WAC LAYOFF AND SEPARATION

WAC

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WAC 357-46-005 What is the impact of a layoff?

Layoff is an employer-initiated action taken in accordance with WAC 357-46-010 that results in:

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

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-005, filed 9/1/04, effective 7/1/05.]

WAC 357-46-010 What are the reasons for layoff?

(1) Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules. The reasons for layoff include, but are not limited to, the following:

- (a) Lack of funds;
 - (b) Lack of work; or
 - (c) Organizational change.
- (2) Examples of layoff actions due to lack of work may include, but are not limited to:
- (a) Termination of a project or special employment;
 - (b) Availability of fewer positions than there are employees entitled to such positions;
 - (c) Employee's ineligibility to continue in a position following its reallocation to a class with a higher salary range maximum; or

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(d) Employee's ineligibility to continue, or choice not to continue, in a position following its reallocation to a class with a lower salary range maximum.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-010, filed 9/1/04, effective 7/1/05.]

WAC 357-46-015 How does an employer implement a layoff action? The employer must have a layoff procedure. When the employer determines a layoff is necessary, the procedure must be followed. The layoff procedure must be available either electronically or in writing to employees subject to layoff.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-015, filed 9/1/04, effective 7/1/05.]

WAC 357-46-020 What must be included in the employer's layoff procedure? The employer's layoff procedure must:

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

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

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

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-46-025;

(4) Provide layoff options for permanent employees being laid off as provided in WAC 357-46-035;

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

(6) Define what the employer considers when determining the comparability of a position;

(7) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-46-035;

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress.

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

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

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-020, filed 9/1/04, effective 7/1/05.]

WAC 357-46-025 How much layoff notice must employers give employees? (1) Probationary employees being separated due to layoff must receive at least one calendar day's notice. (See WAC 357-46-185)

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(2) Permanent employees being laid off must receive at least fifteen calendar days' notice unless the employer and employee agree to waive the fifteen day notice period.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-025, filed 9/1/04, effective 7/1/05.]

WAC 357-46-030 What must be included in the layoff notice? The layoff notice for permanent employees must be in writing and minimally include all the following items:

(1) The reason or basis for layoff.

(2) The employee's layoff options as determined by WAC 357-46-035, including any requirement for the employee to serve a transition review period.

(3) The specific layoff list(s) that the employee is entitled to request placement on according to WAC 357-46-070 and 357-46-080 and information on how to request placement on the statewide layoff list.

(4) The date by when the employee must select a layoff option.

(5) The employee's right to appeal the layoff.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-030, filed 9/1/04, effective 7/1/05.]

WAC 357-46-035 Layoff option. (1) What option does a permanent employee have to take a position when the employee is scheduled for layoff?

Within the layoff unit, a permanent employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The position is allocated to the class in which the employee holds permanent status at the time of the layoff. If no option to a position in the current class is available, the employee's option is to a position in a class in which the employee has held permanent status that is at the same salary range. If the employee has no option to take a position at the same salary range, the employee must be given an opportunity to take a position in a lower class in an occupational category/class series in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the lower class in order to be offered the option to take a position in the class.

(b) The position is comparable to the employee's current position as defined by the employer's layoff procedure.

(c) The employee satisfies the competencies and other position requirements.

(d) The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating.

(2) What if the employee has no option under subsection 1?

(a) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an available position in the layoff unit to offer the employee in lieu of separation that meets the following criteria:

(i) The position is at the same or lower salary range maximum as the position the employee is being laid off from;

(ii) The position is vacant and less than comparable or held by a probationary employee or an employee in a nonpermanent appointment; and

(iii) The position is one for which the employee meets the competencies and other position requirements.

(b) If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

(3) What happens when a class in which the employee previously held permanent status has been revised or abolished?

If a class in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching class to offer as a layoff option. The closest matching class must be at the same or lower salary range maximum as the class from which the employee is being laid off.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-035, filed 9/1/04, effective 7/1/05.]

WAC 357-46-040 What makes one position comparable to another when determining layoff options? Comparability of positions is defined by the employer's layoff procedure, and may include such factors as geographic location, number of hours per week, the shift time of the position, and any other factors as defined by the employer in its layoff procedure.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-040, filed 9/1/04, effective 7/1/05.]

WAC 357-46-045 How do employers establish competency and other position requirements? In establishing competency and other position requirements, employers may use any of the following documented criteria:

- (1) Licensing/certification requirements;
- (2) Position description;
- (3) Class specification;
- (4) Skills/competencies listed on the position's most recent recruitment announcement or the last announcement used to fill the position;
- (5) Bona fide occupational requirement(s) approved by the Washington human rights commission; or
- (6) Additional documented competencies or requirements not reflected in the position description.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-045, filed 9/1/04, effective 7/1/05.]

WAC 357-46-050 How does an employer determine an employee's employment retention rating? The employer determines an employee's employment retention rating using seniority as calculated in WAC 357-46-055. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-050, filed 9/1/04, effective 7/1/05.]

WAC 357-46-060 Does a veteran receive any preference in layoff? (1) An eligible veteran receives a preference by having his/her seniority increased. This is done by adding

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the eligible veteran's total active military service, not to exceed five (5) years, to his/her unbroken service date.

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

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

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

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

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

(3) "An eligible veteran" does not include any person who as a veteran voluntarily retired with twenty (20) or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

(4) The unmarried widow/widower of an eligible veteran is entitled to veteran's seniority preference for up to five (5) years as outlined in subsection (1) and (2) of this section regardless of whether the veteran had at least one year of active military service.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-060, filed 9/1/04, effective 7/1/05.]

WAC 357-46-070 Which employees are eligible to have their name placed on an employer's internal layoff list? (1) Permanent employees of the employer who satisfy the following criteria must have their name placed on the employer's internal layoff list if the employee exercises this option within the two-year eligibility period:

(a) **Employees who are laid off or have been notified by the employer that they are scheduled to be laid off** are eligible to be on the internal layoff list for classes in which they held permanent status during the current period of unbroken service at the same or lower salary range and lower classes in the same occupational category/class series. Permanent status is not required for the lower classes in the occupational category/class series.

(b) **Employees who accept a voluntary demotion in lieu of layoff** are eligible to be on the internal layoff list for the class from which they demoted and classes at that salary range and lower salary ranges in which the employee held permanent status during the current period of unbroken service and lower classes in the same occupational category. Permanent status is not required for the lower classes in the occupational category.

(c) **Employees who accepted less than comparable positions** as defined by the employer's layoff procedure are eligible to be on the internal layoff list for classes in which they held permanent status at the same or lower salary range and lower classes in the same occupational category. Permanent status is not required for the lower classes in the occupational category.

(d) **Employees who have not successfully completed a trial service period and are placed in a nonpermanent position following reversion** are eligible to be on the internal layoff list for classes in which the employee previously

held permanent status during the current period of unbroken service.

(e) **Employees who remain in a position reallocated to a lower salary range** are eligible to be on the internal layoff list for the class the employee held permanent status in prior to the reallocation.

(2) Employees who have been demoted for cause from a class are **not** eligible to be on the internal layoff list for that class.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-070, filed 9/1/04, effective 7/1/05.]

WAC 357-46-075 Can an employee be on an internal layoff list for classes with a higher salary range than the class from which the employee is being laid off? An employee may be on the internal layoff list for classes with a higher salary range than the class from which the employee is being laid off as long as the employee has held permanent status in the higher class and the employer's layoff procedure allows access to higher level classes.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-075, filed 9/1/04, effective 7/1/05.]

WAC 357-46-080 Which employees are eligible to have their name placed on an employer's statewide layoff list? (1) Permanent employees who satisfy the following criteria must have their name placed on the statewide layoff for other employers if the employee exercises this option within the two-year eligibility period:

(a) Employees who are laid off or notified by the employer that they are scheduled to be laid off are eligible to be on the statewide layoff list for classes in which they held permanent status during the current period of unbroken service at the same or lower salary range and lower classes in the same occupational category/class series. Permanent status is not required in the lower classes in the occupational category/class series.

(b) Employees who accept a voluntary demotion in-lieu of layoff are eligible to be on the statewide list for the class from which they demoted and classes at that salary range and lower salary ranges in which the employees held permanent status and lower classes in the same occupational category/class series. Permanent status is not required for the lower classes in the occupational category/class series.

(c) Employees who accepted less-than-comparable positions at the time of layoff are eligible to be on the statewide layoff list for classes in which they held permanent status at the current or lower salary range and lower classes in the same occupational category/class series. Permanent status is not required for the lower classes in the occupational category/class series.

(2) Employees who have been demoted for cause from a class are **not** eligible to be on the statewide layoff list for that class.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-080, filed 9/1/04, effective 7/1/05.]

WAC 357-46-085 How are eligible candidates certified from the internal and statewide layoff list? Certification from the employer's internal layoff list and the statewide

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layoff list must be made in accordance with WAC 357-16-130.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-085, filed 9/1/04, effective 7/1/05.]

WAC 357-46-090 What is the purpose of the general government transition pool program? The purpose of the transition pool program is to minimize the effects of staff reductions on general government employees while meeting needs of general government employers to fill vacant positions. The program does not apply to higher education employees.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-090, filed 9/1/04, effective 7/1/05.]

WAC 357-46-095 Who is eligible for the general government transition pool program? The following individuals are eligible to participate in the general government transition pool program:

(1) All general government permanent employees separated by layoff or notified by their employer that they are at risk of layoff;

(2) Employees who are eligible to participate in the return-to-work initiative program in accordance with chapter 357-19 WAC;

(3) Permanent Washington management service employees who accept a position in Washington general service and are being voluntarily or involuntarily reverted during the trial service period;

(4) Former permanent classified general government employees who have submitted a written request for reemployment within two (2) years of disability separation and who have met the reemployment requirements of WAC 357-19-475; and

(5) General government employee business unit members whose contract has expired or been terminated.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-095, filed 9/1/04, effective 7/1/05.]

WAC 357-46-100 Who administers and establishes operating procedures for the general government transition pool program? The department administers the general government transition pool program. The director develops and implements appropriate operating procedures to facilitate the program. The operating procedures include the following requirements:

(1) General government employers must certify transition pool candidates when a certified pool contains eligible candidates other than layoff or internal promotional candidates.

(2) Transition pool candidates must satisfy the competency and other position requirements to be considered for a position.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-100, filed 9/1/04, effective 7/1/05.]

WAC 357-46-105 Do employees have the right to appeal actions taken within the transition pool program? Employees participating in the transition pool program do not have the right of appeal within this program.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-105, filed 9/1/04, effective 7/1/05.]

WAC 357-46-110 Must employees who are appointed to a position through the layoff process serve any type of review period? An employer may require a transition review period when an employee is appointed to a position as a layoff option or is appointed from the internal or statewide layoff list or the general government transition pool. (See WAC 357-46-115 for exceptions to this rule.)

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-110, filed 9/1/04, effective 7/1/05.]

WAC 357-46-115 When is a transition review period not allowed? Employers are not allowed to require a transition review period when an employee is being appointed to a comparable position with the same job duties as the position the employee held permanent status in prior to layoff. The employer determines the comparability of the position.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-115, filed 9/1/04, effective 7/1/05.]

WAC 357-46-120 What are the employer's obligations when the employer requires a transition review period? (1) When an employer requires a transition review period is required for a position, the employer must provide the employee with written notice of the transition review period.

(2) During the transition review period, the employer must provide the employee with instruction and/or training in the duties of the new position.

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

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-120, filed 9/1/04, effective 7/1/05.]

WAC 357-46-125 What happens if an employee does not complete the transition review period? (1) The employer may involuntarily separate an employee from a position during the transition review period or the employee may choose to voluntarily separate from a position. An employee may voluntarily separate a maximum of three times as a result of a single layoff action.

(2) If an employee is separated during a transition review period, the employee's name is reinstated on any layoff list from which it was removed at the time of placement in the position. The employee remains on the list until the employee's initial eligibility expires or he/she is rehired. The time served during the transition review period does not extend the period of eligibility for a layoff list or the transition pool.

(3) Separation during the transition review period is not subject to appeal.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-125, filed 9/1/04, effective 7/1/05.]

WAC 357-46-130 How long is an individual eligible to have his/her name on an employer's internal and statewide layoff list? An individual is eligible to have his/her

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name on an employer's internal and statewide layoff lists for two years from the effective date of the qualifying action.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-130, filed 9/1/04, effective 7/1/05.]

WAC 357-46-135 What causes an individual's name to be removed from a layoff list? (1) An individual's name **must** be removed from an internal layoff list or statewide layoff list at the request of the individual or upon an employee's retirement, resignation, expiration of eligibility or dismissal from the employer.

(2) An individual's name **may** be removed from the internal and/or statewide layoff list for a class when:

(a) The individual is appointed to a position in the class. The individual may also be removed from the internal and/or layoff list for any classes with a lower salary range maximum.

(b) The individual has been certified from the layoff list and waives consideration for a position in the class three times.

(c) The employer determines good and sufficient reason exists.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-135, filed 9/1/04, effective 7/1/05.]

WAC 357-46-140 What is the notice requirement when an individual's name has been removed from an internal or statewide layoff list? An individual whose name has been removed from an internal or statewide layoff list in accordance with WAC 357-46-135(2) must be notified in writing at the time of removal. The notification must provide the specific reason for the removal and inform the individual of the right to request a review of the removal under the provisions of WAC 357-46-145. Only individuals who have had their name removed under the provisions of WAC 357-46-135(2) have the right to request a review of the removal.

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-184, § 357-46-140, filed 12/21/04, effective 7/1/05.]

WAC 357-46-145 To whom and by when must an individual request a review of the removal from an internal or statewide layoff list? If the employer is responsible for maintaining the layoff list, requests for review of removal from a layoff list must be made to the employer. If the director is responsible for maintaining the layoff list, requests for review of removal from a layoff list must be made to the department.

The request for a review must be received at the employer's office or the department's office within twenty (20) calendar days following notice of the action for which a review is requested.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-145, filed 9/1/04, effective 7/1/05.]

WAC 357-46-147 What procedure must an employer use to review the removal of an individual from an internal or statewide layoff list under the provisions of WAC 357-46-140? Each employer must develop a review procedure that specifies the procedure the employer will use to review the removal of an individual's name from an internal or statewide layoff list. The procedure must minimally specify that the review will be conducted by a representative of the employer that was not involved in the action under review.

[Statutory Authority: Chapter 41.06 RCW. 05-01-189, § 357-46-147, filed 12/21/04, effective 7/1/05.]

WAC 357-46-150 If an employee wants to resign from employment, how much notice should the employee give the employer? An employee who intends to resign from state service should provide his/her resignation to the appointing authority or employing official at least fifteen calendar days before the effective date of the resignation.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-150, filed 9/1/04, effective 7/1/05.]

WAC 357-46-155 Can an employee withdraw a resignation? An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-155, filed 9/1/04, effective 7/1/05.]

WAC 357-46-160 What is a disability separation? A disability separation is an action taken to separate an employee from service when the employer determines that the employee is unable to perform the essential functions of the employee's position or class with or without reasonable accommodation due to mental, sensory, or physical incapacity. Disability separation is not a disciplinary action.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-160, filed 9/1/04, effective 7/1/05.]

WAC 357-46-165 When may an employer separate an employee in accordance with WAC 357-46-160? An employer may separate an employee due to disability when any of the following circumstances exist:

- (1) The employer is unable to reasonably accommodate the employee.
- (2) The employer has medical documentation of the employee's inability to work in any capacity.
- (3) The employee requests separation due to disability and the employer has medical information which documents that the employee cannot perform the essential functions of the employee's position or class.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-165, filed 9/1/04, effective 7/1/05.]

WAC 357-46-170 What must a permanent employee be notified of before he/she is separated due to disability? A permanent employee being separated due to disability must be informed in writing of the option to apply for reemployment as provided in WAC 357-19-475.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-170, filed 9/1/04, effective 7/1/05.]

[Title 357 WAC—p. 54]

WAC 357-46-175 Can an employee appeal a disability separation? A permanent employee who has been separated due to disability may appeal the separation as provided in chapter 357-52 WAC unless separation is at the employee's request.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-175, filed 9/1/04, effective 7/1/05.]

WAC 357-46-180 Can an employee be separated during the probationary period? An appointing authority may separate a probationary employee who has not completed his/her probationary period.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-180, filed 9/1/04, effective 7/1/05.]

WAC 357-46-185 What are the notice requirements before separating a probationary employee? A probationary employee must receive a minimum of one calendar day's written notice before being separated.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-185, filed 9/1/04, effective 7/1/05.]

WAC 357-46-190 Can an individual appeal being separated during the probationary period? An individual separated during a probationary period does not have the right to appeal the separation.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-190, filed 9/1/04, effective 7/1/05.]

WAC 357-46-195 Can an employer separate an employee for nondisciplinary reasons? An employer may separate a permanent employee from a position or from employment for nondisciplinary reasons such as failure to comply with the conditions of employment which may or may not have existed at the time of initial appointment or failure to authorize or to pass a background check required by the position.

The employer may consider other employment options such as transfer or voluntary demotion in lieu of separation.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-195, filed 9/1/04, effective 7/1/05.]

WAC 357-46-200 What is the notice requirement before separating an employee for nondisciplinary reasons under the provisions of WAC 357-46-195? (1) Before separating an employee from employment under the provisions of WAC 357-46-195, the employer must provide at least fifteen calendar days' written notice to the employee and state the reason for separation. If, within the notice period, the employee satisfactorily demonstrates why the separation should not occur, the appointing authority may rescind the separation notice.

(2) The employer should consider reassignment during the notice period if continued employment in the position represents a liability.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-200, filed 9/1/04, effective 7/1/05.]

WAC 357-46-205 Can an employee appeal being separated for nondisciplinary reasons in accordance with

WAC 357-46-195 and 357-46-200? A permanent employee separated under WAC 357-46-195 may appeal as provided in chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-205, filed 9/1/04, effective 7/1/05.]

WAC 357-46-210 When can an employer separate a permanent employee for unauthorized absence? An employer may separate a permanent employee who has been absent without authorized leave for a period of three consecutive working days.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-210, filed 9/1/04, effective 7/1/05.]

WAC 357-46-215 How is an employee who is being separated for unauthorized absence notified? Following an unauthorized absence of at least three consecutive working days, the employer may separate an employee by sending a separation notice to the employee by personal service or by United States mail to the last known address of the employee.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-215, filed 9/1/04, effective 7/1/05.]

WAC 357-46-220 How can an employee separated for unauthorized absence petition for reinstatement? A permanent employee separated for unauthorized absence may petition the appointing authority in writing to consider reinstatement. The employee must provide proof that the absence was involuntary or unavoidable. The employer must receive the employee's petition within seven calendar days of personal service or deposit in the United States mail of the separation notice.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-220, filed 9/1/04, effective 7/1/05.]

WAC 357-46-225 Can a permanent employee appeal if the employer does not reinstate the employee under WAC 357-46-220? If a permanent employee is not reinstated under WAC 357-46-220, the employee must be notified in writing of the right to appeal to the board as provided in chapter 357-52 WAC. Appeals may not be based on information other than that shared with the employer at the time of the request for reinstatement.

[Statutory Authority: Chapter 41.06 RCW. 04-18-114, § 357-46-225, filed 9/1/04, effective 7/1/05.]

Chapter 357-49 WAC DIRECTOR'S REVIEW

WAC

357-49-010	A director's review may be requested for what actions?
357-49-015	How does an individual or employee request a director's review?
357-49-020	What process is used to conduct a director's review?

WAC 357-49-010 A director's review may be requested for what actions? (1) If the department is responsible for the assessment process, an applicant or candidate may request a director's review of his/her examination results or the removal of his/her name from an applicant or candidate pool as specified in WAC 357-16-175. Director review deci-

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sions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are final and not subject to further review or appeal.

(2) If the department is responsible for maintaining the layoff list, an individual may request the a director's review of the removal of his/her name from a layoff list as specified in WAC 357-46-145.

(3) An employee may request a director's review of the following:

- (a) Allocation or reallocation per WAC 357-13-080; or
- (b) Performance evaluation process or procedure per WAC 357-37-080.

(4) In addition to the subjects listed in section (2) of this rule, an employee may request a director's review of an alleged violation of the civil service laws or rules within thirty calendar days of the date the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim or the stated effective date, whichever is later. An employee may not request a director's review of allegations arising from the development and adoption of the classification plan under the provisions of WAC 357-10-020 or the actions of reduction, dismissal, suspension, demotion or separation.

(5) An individual may request the director review his/her request for remedial action per WAC 357-19-430 or 357-19-450. Requests for remedial action must be received within thirty calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules.

[Statutory Authority: Chapter 41.06 RCW. 05-01-182, § 357-49-010, filed 12/21/04, effective 7/1/05.]

WAC 357-49-015 How does an individual or employee request a director's review? (1) Director's review requests must be filed in writing at the office of the director.

(2) Review requests must include:

- (a) The name and address of the employee, applicant or candidate;
- (b) The name of the employer that took the action for which a review is requested;
- (c) A telephone number at which the employee, applicant or candidate can be reached;
- (d) The job classification or position of the employee;
- (e) A short statement of the grounds or reasons for the request, and if applicable, the rule(s) the employee believes has been violated; and
- (f) A short statement of the relief or remedy sought by the employee, applicant or candidate.

(3) The employee, applicant or candidate is responsible for notifying the director of any change in address or telephone number. Employees, applicants or candidates who are represented shall include the name, address and telephone number of their representative.

[Statutory Authority: Chapter 41.06 RCW. 05-01-183, § 357-49-015, filed 12/21/04, effective 7/1/05.]

WAC 357-49-020 What process is used to conduct a director's review? (1) The director's review is informal and conducted by the director or designee.

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-01-183, § 357-49-020, filed 12/21/04, effective 7/1/05.]

Chapter 357-52 WAC APPEALS

WAC

357-52-005	May the board waive the procedural rules contained in chapter 357-52 WAC?
357-52-010	What actions may be appealed?
357-52-015	By when must an appeal be filed and received in order to be considered timely?
357-52-020	What information must be submitted with the appeal?
357-52-025	Who is responsible for notifying the board of any change in address, telephone number or representation?
357-52-030	Are standardized forms available for filing appeals?
357-52-035	What happens if the appellant does not submit all the information required by WAC 357-52-020?
357-52-040	How does the board acknowledge receipt of an appeal?
357-52-045	Are appeals reviewed for timeliness?
357-52-050	How does the board notify the parties when the appeal is set for hearing?
357-52-055	May anyone other than the board adjudicate appeals or conduct prehearing meetings?
357-52-060	Can appeals be mediated?
357-52-065	Who mediates appeals?
357-52-070	How are mediations conducted?
357-52-075	What happens at the conclusion of mediation conducted by the board?
357-52-077	What happens when the parties settle an appeal without the assistance of a board mediator?
357-52-080	What can a prehearing conference be used for?
357-52-085	How and when may a prehearing conference be held?
357-52-090	How are the results of a prehearing conference documented?
357-52-095	What happens if one of the parties fails to participate in the prehearing conference?
357-52-100	How are appeal hearings conducted?
357-52-105	Can hearings and conferences be conducted by electronic means?
357-52-110	Who has the burden of proof at hearings?
357-52-115	How may a party request that a hearing be continued?
357-52-120	When may a written motion be filed?
357-52-125	Must the board consider untimely motions?
357-52-130	What must be included with a motion?
357-52-135	How many copies of a motion must be submitted?
357-52-140	What may the board decide based on a motion?
357-52-145	Must parties submit prehearing statements?
357-52-150	When must prehearing statements be filed?
357-52-155	What should be included in a prehearing statement?
357-52-160	How many copies of the prehearing statement must be provided?
357-52-165	Must the board consider untimely prehearing statements?
357-52-170	What actions may be taken by a hearing officer following a hearing?
357-52-175	What actions may be taken by the board following a hearing?
357-52-180	How is a hearing officer's recommended decision served?
357-52-185	Can a party file exceptions to a hearing officer's recommended decision?
357-52-190	What must be included in a party's written exceptions?
357-52-195	When is a written response in opposition to exceptions due?
357-52-200	When does a hearing officer's recommended decision become final?
357-52-205	What is the subject of a hearing on exceptions?
357-52-210	Can a decision by the board be appealed?
357-52-215	When may the board dismiss an appeal on its own motion?

357-52-220	Will the parties be given notice of the potential dismissal of an appeal on the board's motion and when must a party respond?
357-52-225	How must written documents be filed with the board?
357-52-230	How must written documents be served on the parties?
357-52-235	How must exhibits for hearings be prepared and exchanged?
357-52-240	Who may prepare, sign and issue a subpoena?
357-52-245	What must a subpoena include?
357-52-250	How must a subpoena be served?
357-52-255	Which discovery procedures must a party follow?
357-52-260	When and who may make a motion to quash?
357-52-265	What actions may the board take when a motion to quash is filed?

WAC 357-52-005 May the board waive the procedural rules contained in chapter 357-52 WAC? In order to prevent hardship, delay, or for other good cause, the board may waive any of the procedural rules contained in chapter 357-52 WAC for any party not represented by legal counsel. The board may not waive a jurisdictional rule.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-005, filed 12/21/04, effective 7/1/05.]

WAC 357-52-010 What actions may be appealed? (1) Any permanent employee subject to the statutory jurisdiction of the board who is dismissed, suspended, demoted, or separated or whose base salary is reduced may appeal to the board.

(2) Any employee, subject to the statutory jurisdiction of the board who is affected by a violation of the state civil service law (chapter 41.06 RCW) or the rules contained in Title 357 WAC, or an employer, may appeal to the board by filing written exceptions to the director's review determination, except as provided in WAC 357-49-010(1).

(3) Through December 31, 2005, an employee in a position at the time of its allocation or reallocation or the employer may appeal to the personnel appeals board by filing written exceptions to the director's review determination in accordance with Title 358 WAC. As of January 1, 2006, an employee in a position at the time of its allocation or reallocation or the employer may appeal to the personnel resources board by filing written exceptions to the director's review determination.

(4) An employee whose position has been exempted from chapter 41.06 RCW may appeal the exemption to the board.

(5) An individual or the employer may appeal remedial action to the board by filing written exceptions to the director's review determination.

(6) Any permanent Washington management service employee who is dismissed, suspended, demoted, or separated, or whose base salary is reduced may appeal to the board. A determination of which Washington management service positions will be eliminated in a reduction-in-force action is not subject to appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-010, filed 12/21/04, effective 7/1/05.]

WAC 357-52-015 By when must an appeal be filed and received in order to be considered timely? In order to be considered timely, an appeal must be received in writing at the office of the board within thirty calendar days after:

(1) The effective date of the disciplinary action or separation,

(2) Service of the director's determination unless the rules specifically state that the director's determination is final, or

(3) The effective date of the exemption of a position or the notice of exemption, whichever is later.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-015, filed 12/21/04, effective 7/1/05.]

WAC 357-52-020 What information must be submitted with the appeal? (1) The appeal must include:

(a) The name and address of the appellant and if represented the name, address and telephone number of the representative,

(b) The name of the employer and the department that took the action which is being appealed,

(c) A telephone number at which the appellant can be reached,

(d) The job classification or position of the employee at the time of the action which is being appealed,

(e) A short statement of the grounds or reasons for the appeal, and if applicable, the rule(s) the appellant believes has been violated,

(f) A short statement of the relief or remedy sought by the appellant, and

(g) A short statement of whether the appellant believes the case would or would not be appropriate for mediation.

(2) An appeal of a disciplinary action, separation, or exemption must also include the effective date of the action and the employee's appointment status at the time of the action. The appeal must include a short statement of the nature of the action being appealed or a copy of the action letter from the employer.

(3) An appeal on exception to a director's determination must also detail the specific items of the director's determination to which exception is taken and should include a copy of the director's determination.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-020, filed 12/21/04, effective 7/1/05.]

WAC 357-52-025 Who is responsible for notifying the board of any change in address, telephone number or representation? The appellant is responsible for notifying the board of any change in address, telephone number or representation.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-025, filed 12/21/04, effective 7/1/05.]

WAC 357-52-030 Are standardized forms available for filing appeals? The department makes standardized forms available for filing appeals. Appellants may prepare and use their own appeal documents. Appellants' documents must contain all of the information required by WAC 357-52-020.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-030, filed 12/21/04, effective 7/1/05.]

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WAC 357-52-035 What happens if the appellant does not submit all the information required by WAC 357-52-020? (1) When the board receives an appeal, it reviews the document(s) to determine whether the information required by this section has been provided.

(2) If any of the required information is not provided with the appeal, the board directs the appellant to provide the missing information and sends a copy of the notice to all affected parties.

(3) The appellant must provide the missing information as requested within twenty-one calendar days of the date the notification is mailed.

(4) When the board receives the requested information, it sends a copy to the other affected parties.

(5) If the appellant fails to comply with the requirements of this section the board may dismiss the appeal according to WAC 357-52-215.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-035, filed 12/21/04, effective 7/1/05.]

WAC 357-52-040 How does the board acknowledge receipt of an appeal? (1) When the board receives an appeal, it sends a written acknowledgement to the appellant and a copy to the other affected parties.

(2) If necessary, the board requests a copy of the action letter from the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-040, filed 12/21/04, effective 7/1/05.]

WAC 357-52-045 Are appeals reviewed for timeliness? (1) The board reviews all appeal(s) for timeliness. When an appeal appears to be untimely, the board directs the parties to submit affidavits and/or written argument addressing the timeliness of the appeal.

(2) In addition, any party to an appeal may submit a motion to dismiss for untimeliness at any time during the appeal process.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-045, filed 12/21/04, effective 7/1/05.]

WAC 357-52-050 How does the board notify the parties when the appeal is set for hearing? The board must notify the parties of record in writing of the time and place of the hearing. The notice of hearing must be mailed at least thirty calendar days before the date of the hearing, unless all parties agree to a shorter notice period.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-050, filed 12/21/04, effective 7/1/05.]

WAC 357-52-055 May anyone other than the board adjudicate appeals or conduct prehearing meetings? The board may designate one or more hearing officers or the director to act as a board designee to mediate appeals, conduct prehearing conferences and/or hearings, and make recommended or final decisions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-055, filed 12/21/04, effective 7/1/05.]

[Title 357 WAC—p. 57]

WAC 357-52-060 Can appeals be mediated? When both parties to an appeal agree, the appeal can be mediated.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-060, filed 12/21/04, effective 7/1/05.]

WAC 357-52-065 Who mediates appeals? The board may assign the case to a mediator. Nothing in this section prevents the parties from selecting their own mediator. However, if a mediator other than the one designated by the board is selected, the parties must pay the cost of the mediator.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-065, filed 12/21/04, effective 7/1/05.]

WAC 357-52-070 How are mediations conducted?

(1) After the board assigns a mediator, the parties must meet and confer at least once and engage in a good faith attempt to negotiate a resolution of the appeal. The mediator may decide to hold the mediation by telephone. The appellant and at least one designee of the employer must personally participate in the mediation. If the designee of the employer does not have authority to act on behalf of the employer, a person with the requisite authority must be available by telephone.

(2) Mediation and settlement discussions are privileged and the proceedings must not be reported or recorded in any manner, except for agreements reached by the parties.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-070, filed 12/21/04, effective 7/1/05.]

WAC 357-52-075 What happens at the conclusion of mediation conducted by the board? (1) If a settlement is reached, the agreement must be put in writing. The agreement will be binding on all parties to that agreement. The appellant must sign a request to withdraw the appeal.

(2) If a settlement is not reached, the mediator must inform the board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-075, filed 12/21/04, effective 7/1/05.]

WAC 357-52-077 What happens when the parties settle an appeal without the assistance of a board mediator? If a settlement is reached, the appellant must inform the board and must sign and submit a request to withdraw the appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-077, filed 12/21/04, effective 7/1/05.]

WAC 357-52-080 What can a prehearing conference be used for? The board may direct the parties or their representatives to engage in a prehearing conference(s) to consider the following:

- (1) Simplification or limitation of issues;
- (2) Possibility of obtaining stipulations, admissions of fact, and admissions of the genuineness of documents that will avoid unnecessary proof;
- (3) Discovery, discovery methods and discovery deadlines;
- (4) Number of witnesses expected to be called and their names when possible;
- (5) Approximate time necessary for presentation of the evidence of the respective parties;
- (6) Whether or when motions may be brought;

[Title 357 WAC—p. 58]

- (7) Exhibits;
- (8) Affidavits; and
- (9) Such other matters as may aid in the prompt disposition of the appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-080, filed 12/21/04, effective 7/1/05.]

WAC 357-52-085 How and when may a prehearing conference be held? (1) A prehearing conference may be held in conjunction with a mediation.

(2) Prehearing conferences may be held by telephone.

(3) The parties are encouraged where possible to resolve their disputes by agreement. To facilitate such resolution, the prehearing conference may be recessed at any time to give the parties time to discuss settlement of their dispute. In the event settlement is reached, the parties must notify the board and the appellant must sign and submit a request to withdraw the appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-085, filed 12/21/04, effective 7/1/05.]

WAC 357-52-090 How are the results of a prehearing conference documented? The results of the prehearing conference must be stated in a written statement of results. The statement must include, where applicable, agreements concerning issues, admissions, stipulations, witnesses, discovery, length of hearing, motions, exhibits, affidavits, and other matters that may expedite the appeal hearing. The statement resulting from the prehearing conference must control the subsequent course of the appeal, subject to modification upon a filing of exceptions to the statement.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-090, filed 12/21/04, effective 7/1/05.]

WAC 357-52-095 What happens if one of the parties fails to participate in the prehearing conference? Failure of a party to participate in a prehearing conference may result in dismissal of the appeal, or other appropriate sanctions.

[Statutory Authority: Chapter 41.06 RCW. 05-01-190, § 357-52-095, filed 12/21/04, effective 7/1/05.]

WAC 357-52-100 How are appeal hearings conducted? Appeal hearings are conducted as follows:

(1) Hearings on all appeals are open to the public unless the board determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing is informal. Technical rules of evidence do not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the board.

(4) All testimony is under oath administered by a member of the board or the hearing officer. Testimony by affidavit is not admitted at a hearing except for good cause shown, or as otherwise permitted in these rules, as provided in a prehearing conference statement or by stipulation of the parties.

(5) One member of the board may hold a hearing and take testimony to be reported for action by the board.

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(6) The board prepares an official audio record of the hearing.

(7) The board is not required to transcribe the record. If the proceedings were recorded, a copy of the audio recording may be ordered from the board for a reasonable charge.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-100, filed 12/21/04, effective 7/1/05.]

WAC 357-52-105 Can hearings and conferences be conducted by electronic means? All conferences and hearings before the board may be conducted by telephone or other electronic means as determined by the board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-105, filed 12/21/04, effective 7/1/05.]

WAC 357-52-110 Who has the burden of proof at hearings? At any hearing on appeal from a dismissal, suspension, demotion, reduction in base salary, or separation, the employer has the burden of supporting the charges upon which the action was initiated. At any other hearing, the party filing the appeal has the burden of proof.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-110, filed 12/21/04, effective 7/1/05.]

WAC 357-52-115 How may a party request that a hearing be continued? (1) Any party to a hearing may make a written motion to the board to continue a hearing for good cause. The motion must state the specific reason(s) and the period of time for which a continuance is necessary.

(2) Any party desiring a continuance must first orally contact the opposing party to determine whether agreement to a continuance can be reached. The requesting party is responsible for filing a written motion for continuance with the board. The motion must include the reason(s) for the request, the opposing party's response to the request, and a date certain for the hearing on which both parties and the board are available.

(3) The motion for continuance must be filed with the board and the opposing party at least fourteen calendar days before the scheduled hearing date. The board must review the motion, decide whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(4) In unusual circumstances or emergency situations, and only where the reason(s) for the continuance could not have been foreseen, the board may allow a motion for continuance with less than fourteen calendar day's notice.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-115, filed 12/21/04, effective 7/1/05.]

WAC 357-52-120 When may a written motion be filed? (1) Except as otherwise provided in a prehearing conference statement or as otherwise specifically provided in these rules, written motions and any supporting affidavits must be filed and served not less than thirty calendar days before the hearing date. Any opposing affidavits must be filed and served within fourteen calendar days after the motion is filed. Any reply and counter affidavits by the moving party must be filed and served within seven calendar days after the opposing response is filed.

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(2) Time requirements for motions for continuance are found in WAC 357-52-115.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-120, filed 12/21/04, effective 7/1/05.]

WAC 357-52-125 Must the board consider untimely motions? The board may refuse to consider motions that are not filed on time.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-125, filed 12/21/04, effective 7/1/05.]

WAC 357-52-130 What must be included with a motion? Any party submitting documents in support of or in opposition to a motion must include proposed findings, conclusions, and order.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-130, filed 12/21/04, effective 7/1/05.]

WAC 357-52-135 How many copies of a motion must be submitted? When the motion will be considered by the board, the party submitting the documents must provide the original and three copies to the board and one copy to each opposing party. When the motion will be considered by a hearing officer the original will go to the hearing officer, and one copy to each opposing party.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-135, filed 12/21/04, effective 7/1/05.]

WAC 357-52-140 What may the board decide based on a motion? (1) The board or hearing officer may decide all or any part of an appeal by motion if the documents, depositions and affidavits on file show there is no genuine issue as to any material fact and the appeal should be decided or dismissed as a matter of law. The board or hearing officer must allow oral argument on dispositive or summary judgment motions at the request of either party. Oral argument may be presented by telephone or other electronic media.

(2) An order must be issued when an appeal is dismissed or decided on motion.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-140, filed 12/21/04, effective 7/1/05.]

WAC 357-52-145 Must parties submit prehearing statements? (1) The board may require all parties to file a prehearing statement of position.

(2) If the board does not require statements, parties may still choose to file a prehearing statement.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-145, filed 12/21/04, effective 7/1/05.]

WAC 357-52-150 When must prehearing statements be filed? (1) If a party is filing a prehearing statement, the statement must be provided to the board and opposing party at least fourteen calendar days before the scheduled hearing date or at such time as set at the prehearing conference.

(2) Any opposing response to these statements must be provided to the board and opposing party at least seven calendar days before the scheduled hearing date or at such time as set at the prehearing conference.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-150, filed 12/21/04, effective 7/1/05.]

WAC 357-52-155 What should be included in a prehearing statement? The prehearing statements must include a summary of the evidence the party intends to present; a listing of the rules or statutes upon which the party intends to rely; a statement of the remedy requested; and an argument as to why the party is entitled to the requested remedy.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-155, filed 12/21/04, effective 7/1/05.]

WAC 357-52-160 How many copies of the prehearing statement must be provided? A party submitting prehearing statement(s) must provide the original and three copies to the board and one copy to each opposing party. When the prehearing statement will be considered by a hearing officer the original will go to the hearing officer, and one copy to each opposing party.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-160, filed 12/21/04, effective 7/1/05.]

WAC 357-52-165 Must the board consider untimely prehearing statements? The board may refuse to consider prehearing statements that are not filed on time.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-165, filed 12/21/04, effective 7/1/05.]

WAC 357-52-170 What actions may be taken by a hearing officer following a hearing? (1) At the conclusion of a hearing, the hearing officer may require post-hearing briefs.

(2) The hearing officer may affirm, reverse or modify an action of an employer or remand the matter for further proceedings.

(3) When the hearing officer reduces a dismissal to a suspension, the period of suspension is not limited by RCW 41.06.170(1).

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-170, filed 12/21/04, effective 7/1/05.]

WAC 357-52-175 What actions may be taken by the board following a hearing? (1) At the conclusion of a hearing, the board may require post-hearing briefs.

(2) The board may affirm, reverse or modify the action of an employer or the recommended decision of the hearing officer or remand the matter for further proceedings.

(3) When the board reduces a dismissal to a suspension, the period of suspension is not limited by RCW 41.06.170(1).

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-175, filed 12/21/04, effective 7/1/05.]

WAC 357-52-180 How is a hearing officer's recommended decision served? The hearing officer must provide the recommended decision to the board, to the employer, to the appellant, and to the appellant's representative (if any). The copies to the employer, appellant, and appellant's representative must be sent by certified mail with a return receipt requested.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-180, filed 12/21/04, effective 7/1/05.]

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WAC 357-52-185 Can a party file exceptions to a hearing officer's recommended decision? Either party may file written exceptions to the board. The exceptions must be filed within thirty calendar days of the date that notice of the recommended decision was sent by certified mail.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-185, filed 12/21/04, effective 7/1/05.]

WAC 357-52-190 What must be included in a party's written exceptions? The written exceptions must set forth specific exceptions to the recommended decision and any additional errors a party contends were made by the hearing officer. If a party contends that the hearing officer has made an error which requires a review of the record, the party must identify the specific portion(s) of the record that support each claimed error.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-190, filed 12/21/04, effective 7/1/05.]

WAC 357-52-195 When is a written response in opposition to exceptions due? The due date for any written response to the exceptions is thirty calendar days following the date the exceptions were filed.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-195, filed 12/21/04, effective 7/1/05.]

WAC 357-52-200 When does a hearing officer's recommended decision become final? If no exceptions are filed, the recommended decision becomes final thirty calendar days after service, unless the board notifies each party within that thirty-day period that the board on its own motion will reconsider the recommended decision.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-200, filed 12/21/04, effective 7/1/05.]

WAC 357-52-205 What is the subject of a hearing on exceptions? Hearings on exceptions are limited to the contentions set forth in the notice of exceptions unless the board itself chooses to review other matters.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-205, filed 12/21/04, effective 7/1/05.]

WAC 357-52-210 Can a decision by the board be appealed? Decisions and orders of the board are final.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-210, filed 12/21/04, effective 7/1/05.]

WAC 357-52-215 When may the board dismiss an appeal on its own motion? The board may dismiss an appeal on its own motion when:

(1) An appellant has failed to provide information required under WAC 357-52-020;

(2) The parties have notified the board that the case has been settled and the appeal has not been withdrawn within thirty calendar days of the notice of settlement;

(3) An appeal is not filed on time;

(4) The board lacks jurisdiction over the subject matter or parties to the appeal;

(5) A party fails to participate in a prehearing conference as described in WAC 357-52-095; or

(6) The board is unable to contact the appellant at the last address and telephone number provided by the appellant.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-215, filed 12/21/04, effective 7/1/05.]

WAC 357-52-220 Will the parties be given notice of the potential dismissal of an appeal on the board's motion and when must a party respond? The parties must be served with written notice that the appeal will be dismissed unless, within fifteen calendar days following the date of service, a written request is made to the board showing good cause why the appeal should not be dismissed. If no timely request is made, the board must dismiss the appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-220, filed 12/21/04, effective 7/1/05.]

WAC 357-52-225 How must written documents be filed with the board? (1) **Filing generally.** Papers that must be filed with the board are considered to be filed only when the papers are actually received in the board's office in Olympia, Washington.

(2) **Filing by telephone facsimile.**

(a) Written documents filed with the board by telephone facsimile are considered received when a legible copy of the document is reproduced on the board's telephone facsimile equipment in the board's office. If transmission begins after customary office hours, which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, the document will be deemed filed on the next business day.

(b) Any document filed with the board by telephone facsimile should be preceded by a cover page identifying the addressee; the party making the transmission, including the address, telephone and telephone facsimile number of such party; the appeal to which the document relates; the date of transmission; and the total number of pages included in the transmission.

(c) The party attempting to file papers by telephone facsimile bears the risk that the papers will not be timely received or legibly printed, regardless of the cause. If the telephone facsimile is not legible, it will be considered as if it had never been sent.

(d) The original of any document filed by telephone facsimile should be mailed to the board within twenty-four hours of the time that the telephone facsimile was sent.

(e) The filing of papers by electronic mail ("e-mail") is not authorized without the express prior approval of the board, and only under such circumstances as the board allows.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-225, filed 12/21/04, effective 7/1/05.]

WAC 357-52-230 How must written documents be served on the parties? (1) In matters of appeal the board must serve all orders, notices, and other papers issued by it. Every other notice, document or paper required to be served must be served by the party filing it.

(2) All notices, documents, or papers served by either the board or any other party must be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. Service of papers must be made by per-

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sonal delivery; by mail; or by telephone facsimile transmission with same-day mailing of copies. Correspondence between the board and employers may be sent via the state mail service.

(3) Service upon parties will be regarded as completed when personal service has been accomplished; or upon deposit in the mail, properly stamped and addressed; or upon production by telephone facsimile transmission of confirmation of transmission.

(4) Service upon parties by electronic mail ("e-mail") is not authorized without the express prior approval of the board, and only under such circumstances as the board allows.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-230, filed 12/21/04, effective 7/1/05.]

WAC 357-52-235 How must exhibits for hearings be prepared and exchanged? (1) When exhibits are offered at any hearing, one copy must be provided for the official file, sufficient copies must be provided for the board (three copies) or hearing officer (one copy), one copy must be provided to the opposing party, and one copy provided for the witness stand.

(2) The parties must arrive at the hearing location at least thirty minutes before the scheduled hearing for the purpose of exchanging exhibits. The parties must premark their exhibits for identification and present copies to the other party and the board's staff before the beginning of the hearing.

(3) The number, scope and timing of exhibits may be limited by the prehearing statement of results.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-235, filed 12/21/04, effective 7/1/05.]

WAC 357-52-240 Who may prepare, sign and issue a subpoena? (1) Subpoenas may be signed and issued by any member of the board, or the board's designee, or the attorney of record of the party requiring the appearance of the witness.

(2) Parties desiring subpoenas to be signed by a member of the board or the board's designee must prepare subpoenas for issuance and submit the subpoenas for signature at least ten calendar days before a hearing or deposition.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-240, filed 12/21/04, effective 7/1/05.]

WAC 357-52-245 What must a subpoena include? Every subpoena must name the board and the title of the proceedings and must command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under the person's control at the specified time and place.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-245, filed 12/21/04, effective 7/1/05.]

WAC 357-52-250 How must a subpoena be served? (1) Parties requesting subpoenas must make arrangements for and bear the expense of service. It is recommended that all subpoenas be served at least five calendar days before a hearing or deposition.

(2) Subpoenas must be personally served upon the designated individual. The individual where entitled, may demand

the fees for one day's attendance and the mileage allowed by law.

(3) A copy of the subpoena must also be provided to the opposing party or the party's representative and to the employer's human resource office.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-250, filed 12/21/04, effective 7/1/05.]

WAC 357-52-255 Which discovery procedures must a party follow? Parties may use discovery procedures in a manner consistent with the civil rules for the superior courts of the state of Washington and as provided in any prehearing statement of results or other order of the board.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-255, filed 12/21/04, effective 7/1/05.]

WAC 357-52-260 When and who may make a motion to quash? A party to the appeal or the person to whom the subpoena or discovery is directed may make a motion to quash. The motion must be filed at least two calendar days following the receipt of a subpoena or discovery request.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-260, filed 12/21/04, effective 7/1/05.]

WAC 357-52-265 What actions may the board take when a motion to quash is filed? When a motion to quash is filed, the board provides notice to the party who issued the subpoena or discovery and allow the party to provide a response to the motion. After considering the motion and response the board may:

- (1) Deny the motion;
- (2) Grant the motion if the subpoena or discovery is unreasonable or requires evidence not relevant to any matter in issue; or
- (3) Modify the contents of the subpoena or scope of the discovery request for just and reasonable cause.

[Statutory Authority: Chapter 41.06 RCW. 05-01-191, § 357-52-265, filed 12/21/04, effective 7/1/05.]