

# Title 357 WAC

## PERSONNEL, DEPARTMENT OF—PERSONNEL RESOURCES BOARD

### Chapters

<b>357-01</b>	<b>Definitions.</b>
<b>357-04</b>	<b>General provisions.</b>
<b>357-07</b>	<b>Public records.</b>
<b>357-10</b>	<b>Classification plan.</b>
<b>357-13</b>	<b>Classification.</b>
<b>357-16</b>	<b>Recruitment, assessment, and certification.</b>
<b>357-19</b>	<b>Appointment and reemployment.</b>
<b>357-22</b>	<b>Personnel files.</b>
<b>357-25</b>	<b>Affirmative action.</b>
<b>357-26</b>	<b>Reasonable accommodation.</b>
<b>357-28</b>	<b>Compensation.</b>
<b>357-31</b>	<b>Holidays and leave.</b>
<b>357-34</b>	<b>Employee training and development.</b>
<b>357-37</b>	<b>Performance management.</b>
<b>357-40</b>	<b>Discipline.</b>
<b>357-43</b>	<b>Employee business units.</b>
<b>357-46</b>	<b>Layoff and separation.</b>
<b>357-49</b>	<b>Director's review.</b>
<b>357-52</b>	<b>Appeals.</b>
<b>357-55</b>	<b>Combined fund drive.</b>
<b>357-58</b>	<b>Washington management service.</b>

### Chapter 357-01 WAC

#### DEFINITIONS

### WAC

357-01-005	Affected groups.
357-01-010	Affirmative action program.
357-01-015	Affirmative action plan.
357-01-020	Allocation.
357-01-022	Anniversary date (higher education).
357-01-023	Anniversary date (general government).
357-01-025	Appointing authority.
357-01-035	Availability.
357-01-040	Base salary.
357-01-045	Board.
357-01-050	Career development.
357-01-055	Career planning.
357-01-060	Certification.
357-01-065	Certified pool.
357-01-070	Charges.
357-01-072	Child.
357-01-075	Class.
357-01-080	Class series/occupational category.
357-01-085	Classified service.
357-01-090	Competencies.
357-01-095	Demotion.
357-01-100	Department.
357-01-105	Developmental opportunities.
357-01-110	Director.
357-01-115	Disabled veteran.
357-01-120	Dismissal.
357-01-125	Eligible applicant.
357-01-130	Eligible candidate.
357-01-135	Elevation.
357-01-138	Emergency health condition.
357-01-140	Employee.
357-01-145	Employer.
357-01-150	Employing official.
357-01-155	Employee performance management process.
357-01-160	Examination.

357-01-165	Examination process.
357-01-170	Examination results.
357-01-172	Family members.
357-01-173	Furlough.
357-01-174	Full-time employee.
357-01-175	General government employer.
357-01-180	Higher education employer.
357-01-182	Household members.
357-01-185	Job analysis.
357-01-190	Job seeker.
357-01-195	Layoff unit.
357-01-200	List.
357-01-202	Minor/dependent child.
357-01-205	Nonrepresented employee.
357-01-210	Nonpermanent appointment.
357-01-215	Occupational category/class series.
357-01-220	Overtime eligible employee.
357-01-225	Overtime-exempt employee.
357-01-227	Parent.
357-01-228	Parent-in-law.
357-01-229	Part-time employee.
357-01-230	Performance management confirmation.
357-01-232	Periodic increment date (PID).
357-01-235	Persons with disabilities.
357-01-240	Position.
357-01-245	Premium.
357-01-250	Probationary period.
357-01-260	Promotion.
357-01-265	Promotional organizational unit.
357-01-270	Reallocation.
357-01-275	Reassignment.
357-01-280	Reemployment.
357-01-285	Regular rate.
357-01-290	Reversion.
357-01-295	Salary range.
357-01-300	Screening.
357-01-301	Separation.
357-01-305	Shared employment.
357-01-310	Special employment program.
357-01-315	Special pay salary ranges.
357-01-320	Supplemental certification.
357-01-325	Suspension.
357-01-327	Temporary appointment.
357-01-330	Training.
357-01-335	Transfer.
357-01-340	Transition review period.
357-01-345	Trial service period.
357-01-348	Unbroken service date (general government).
357-01-350	Underutilization.
357-01-355	Vietnam era veteran.
357-01-360	Washington general service (WGS).
357-01-365	Washington management service (WMS).
357-01-370	Workweek.

**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 357-01-022 Anniversary date (higher education).** For employees of higher education institutions or related higher education boards, anniversary date is the most recent date of hire into state service. The anniversary date is used to determine when vacation leave over two hundred forty (240) hours is lost. Higher education employers may make the anniversary date the first calendar day of the month in which the date of hire occurred. A higher education employee receives a new anniversary date when that employee is rehired following a break in state service, but not when the employee promotes, demotes, or transfers to another higher education employer.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-022, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-023 Anniversary date (general government).** For employees of general government agencies, anniversary date is the unbroken service date plus prior state service minus leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345. The anniversary date is used to determine when vacation leave over two hundred forty hours is lost and for computing the rate of vacation leave accrual beginning with the fifth year of total state employment.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-023, filed 5/27/05, 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 357-01-072 Child.** A biological, adopted, or foster child, or a stepchild, a legal ward, or a child of a person standing in loco parentis.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-01-072, filed 8/20/07, effective 9/20/07; 07-03-054, § 357-01-072, filed 1/12/07, effective 2/15/07; 06-19-063, § 357-01-072, filed 9/19/06, effective 10/20/06; 05-12-093, § 357-01-072, filed 5/27/05, 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:

(1) Entitled to disability compensation under laws administered by the Veterans Administration for disability

(2009 Ed.)

rated at 30 percent or more or disability rated at least 10 percent in the case of a veteran who has been determined by the Veterans Administration to have a serious employment handicap; or

(2) 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. 05-19-006, § 357-01-115, filed 9/8/05, effective 10/10/05; 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 357-01-138 Emergency health condition.** A sudden, generally unexpected occurrence or set of circumstances related to a person's health, which requires immediate action and is typically short-term in nature.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-138, filed 5/27/05, 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 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 357-01-172 Family members.** Individuals considered to be members of the family are parent, step-parent, sister, brother, parent-in-law, spouse, grandparent, grandchild, minor/dependent child, and child. For the purpose of WAC 357-31-730(2) family member also includes a domestic partner as defined in RCW 26.60.020 or a person with whom the employee has a dating relationship as defined in RCW 26.50.010.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-01-172, filed 7/11/08, effective 10/1/08; 05-12-093, § 357-01-172, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-173 Furlough.** The temporary cessation of an employee's service in accordance with WAC 357-46-063.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-01-173, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-174 Full-time employee.** An employee who is scheduled to work:

- Forty hours in one workweek;
- For hospital personnel assigned to a fourteen-day schedule, eighty hours over a fourteen-day period; or
- For law enforcement positions, one hundred sixty hours in the twenty-eight-day work period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-174, filed 5/27/05, effective 7/1/05.]

[Title 357 WAC—p. 4]

**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 357-01-182 Household members.** Persons who reside in the same home who have reciprocal duties to and provide financial support for one another. The term does not include persons sharing the same house when the living style is primarily that of a dormitory or commune.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-182, filed 5/27/05, 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 layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

[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 357-01-202 Minor/dependent child.** A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is:

- Under eighteen years of age, or
- Eighteen years of age or older and incapable of self-care because of a mental or physical disability.

Persons who are *in loco parentis* are those with day-to-day responsibilities to care for and financially support a child.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-202, filed 5/27/05, 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 357-01-227 Parent.** A biological or adoptive parent of an employee or an individual who stood *in loco parentis* to an employee when the employee was a child. A person who had day-to-day responsibilities to care for and financially support the employee when he or she was a child is considered to have stood *in loco parentis* to the employee.

[Statutory Authority: Chapter 41.06 RCW. 06-19-063, § 357-01-227, filed 9/19/06, effective 10/20/06; 05-12-093, § 357-01-227, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-228 Parent-in-law.** A biological parent of an employee's spouse or an individual who stood *in loco parentis* to an employee's spouse when the employee's spouse was a child. A person who had day-to-day responsibilities to care for and financially support the employee's spouse when he or she was a child is considered to have stood *in loco parentis* to the employee's spouse.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-228, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-229 Part-time employee.** An employee who is scheduled to work less than that required for a full-time employee.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-229, filed 5/27/05, effective 7/1/05.]

(2009 Ed.)

**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.]

**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 357-01-301 Separation.** Separation from state employment for nondisciplinary purposes.

[Statutory Authority: Chapter 41.06 RCW. 05-12-092, § 357-01-301, filed 5/27/05, effective 7/1/05; 05-08-134, § 357-01-301, filed 4/6/05, 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.

[Title 357 WAC—p. 6]

[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 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 357-01-348 Unbroken service date (general government).** The date a general government employee began current continuous state service. This date is used for computing the rate of vacation leave accrual through and including the employee's fourth year of continuous service. The unbroken service date is adjusted by leave without pay when it exceeds fifteen consecutive calendar days as provided in WAC 357-31-345.

[Statutory Authority: Chapter 41.06 RCW. 05-12-093, § 357-01-348, filed 5/27/05, 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.]

**WAC 357-01-360 Washington general service (WGS).** The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which are not exempt under RCW 41.06.070 and which do not meet the definition of manager found in RCW 41.06.022.

[Statutory Authority: Chapter 41.06 RCW. 05-12-091, § 357-01-360, filed 5/27/05, effective 7/1/05.]

**WAC 357-01-365 Washington management service (WMS).** The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

[Statutory Authority: Chapter 41.06 RCW. 05-12-091, § 357-01-365, filed 5/27/05, effective 7/1/05.]

(2009 Ed.)

**WAC 357-01-370 Workweek.** A regular recurring period of 168 hours beginning at a time determined by the appointing authority and continuing for seven consecutive 24-hour periods.

[Statutory Authority: Chapter 41.06 RCW. 06-23-089, § 357-01-370, filed 11/14/06, effective 12/18/06.]

**Chapter 357-04 WAC  
GENERAL PROVISIONS**

**WAC**

- 357-04-005 What is the purpose of the civil service rules?
- 357-04-010 Who is covered by the civil service rules?
- 357-04-015 Who is not covered by civil service rules?
- 357-04-020 May the director exempt other positions from civil service?
- 357-04-025 What rights does a classified employee have when the position he/she holds is exempted from the civil service rules?
- 357-04-030 What right does an employee have to return to the classified service from exempt service?
- 357-04-035 Who defines exempt status for student, part-time, or temporary employees and part-time professional consultants for higher education employers?
- 357-04-040 Which student employees of higher education employers are exempt from civil service rules?
- 357-04-045 Which part-time or temporary employees of higher education employers are exempt from civil service rules?
- 357-04-050 Which part-time professional consultants of higher education employers are exempt from civil service rules?
- 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?
- 357-04-060 For which exempt positions does the director establish the salary?
- 357-04-065 What are the duties of the board?
- 357-04-070 What are the powers and duties of the director?
- 357-04-075 Must higher education employers designate a personnel officer?
- 357-04-080 What are the duties of personnel officers for higher education employers?
- 357-04-085 What role does the state board for community and technical colleges have?
- 357-04-090 May authority be delegated?
- 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?
- 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?
- 357-04-105 When the civil service rules require an applicant, candidate, employee, or employer to receive notice, how must notice be provided?
- 357-04-110 How is time computed under the civil service rules?
- 357-04-115 What happens if any part of these rules is held invalid?
- 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, 357-19-200, and 357-19-205. 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. 06-15-067, § 357-04-030, filed 7/13/06, effective 8/14/06; 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 appropriate bargaining unit for purposes of collective bar-



gaining, 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.]

(2009 Ed.)

**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

[Title 357 WAC—p. 10]

provided in chapters 357-40 and 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 chapters 357-40 and 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. 05-12-079, § 357-04-105, filed 5/27/05, effective 7/1/05; 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  
357-07-010

What is the purpose of this chapter?  
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?
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 42.56 RCW. The statutes that specifically address public records are found in RCW 42.56.-001 through 42.56.902.

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-005, filed 9/19/06, effective 10/20/06; 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, RCW 42.56.010, have the same meaning when used in these rules.

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-010, filed 9/19/06, effective 10/20/06; 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 42.56.070(3).

(2) The index includes:

- (a) Personnel resource board decisions;
- (b) Department of personnel (DOP) strategic plan;
- (c) Washington management service strategic plan;
- (d) Administrative staff manuals;
- (e) DOP employee survey;
- (f) DOP affirmative action plan;
- (g) DOP internal policies;
- (h) Director's reviews;
- (i) Director's meeting minutes;
- (j) Referrals; and
- (k) Registers.

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

(4) The department revises and updates the index monthly.

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-015, filed 9/19/06, effective 10/20/06; 05-01-202, § 357-07-015, filed 12/21/04, effective 7/1/05.]

(2009 Ed.)

**WAC 357-07-020 How can I obtain a copy of the department's records index?** The index can be found at: <http://www.dop.wa.gov/>. A paper copy will be available upon request to the agency public disclosure coordinator:

Public Disclosure Coordinator  
Washington State Department of Personnel  
521 Capitol Way South  
P.O. Box 47500  
Olympia, Washington 98504  
E-mail: [publicrecords@dop.wa.gov](mailto:publicrecords@dop.wa.gov)

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-020, filed 9/19/06, effective 10/20/06; 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) Requests for public records may be made in writing, by e-mail, fax, or orally to the public disclosure coordinator at:

Public Disclosure Coordinator  
Washington State Department of Personnel  
521 Capitol Way South  
P.O. Box 47500  
Olympia, Washington 98504  
E-mail: [publicrecords@dop.wa.gov](mailto:publicrecords@dop.wa.gov)  
Fax: 360-586-4694  
Phone: 360-664-6318

(2) A form is available at <http://www.dop.wa.gov/> for a public records request but is not required as long as the request contains 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 42.56.070(9).

(3) The public disclosure coordinator 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.] 06-19-064, § 357-07-025, filed 9/19/06, effective 10/20/06; 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?** Within five days of receiving a public records request, the department will respond and either:

- (1) Make the requested record(s) available;
- (2) Make the requested record(s) available on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure.

(3) Deny all or part of the request as described in WAC 357-07-070; or

(4) Acknowledge receipt of the request and estimate the reasonable time period needed to respond to the request as permitted by chapter 42.56 RCW.

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-030, filed 9/19/06, effective 10/20/06; 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 42.56 RCW or other applicable law.

(2) The department may delete information from any record before permitting public inspection or copying if the information is exempt from disclosure according to chapter 42.56 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 42.56 RCW or other applicable law which 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.] 06-19-064, § 357-07-035, filed 9/19/06, effective 10/20/06; 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 exceeding 25 pages; 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 and must be paid with a money order or cashier's check; cash, credit cards, and personal checks are not an acceptable form of payment. The department may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request.

[Title 357 WAC—p. 12]

(3) The public disclosure coordinator 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.] 06-19-064, § 357-07-050, filed 9/19/06, effective 10/20/06; 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 42.56.010 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.] 06-19-064, § 357-07-060, filed 9/19/06, effective 10/20/06; 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 six general areas:

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

(2) Organizational and employee development services (located at 600 South Franklin Street, Olympia, Washington): Provides organizational, management, and employee development services to all state agencies.

(3) Administrative services: Provides support services for facilities and supplies, financial services including payroll and travel, duplicating and mailroom services, combined fund drive, forms and records management, administration of agency and statewide master contracts, and administers the statewide employee survey. Within the administrative division, the employee assistance program (EAP) helps with personal or work related problems affecting work performance. EAP offices are at the following locations: 1222 State Ave. N.E., Suite 201, Olympia, Washington; 701 Dexter Ave. N. #108, Seattle, Washington; and at 4407 N. Division, Suite 210, Spokane, Washington.

(4) Legal affairs: Provides affirmative action consultation, rule interpretation, labor/employment discrimination guidance, legislative services and responds to requests for

(2009 Ed.)

public records. Provides director's review and appeal services (located at 2828 Capitol Blvd., Olympia, Washington), processes and adjudicates requests for director's reviews and provides administrative support for personnel resources board appeals.

(5) Director's office: Provides agency leadership, internal human resources, planning and performance, communication services, and operational support.

(6) Information services (located at Building #1, Rowesix, 4224 6th Avenue, Lacey, Washington): Administers all central statewide technology systems supporting human resources activities.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-07-065, filed 3/17/08, effective 4/18/08; 07-23-007, § 357-07-065, filed 11/8/07, effective 12/11/07; 06-19-064, § 357-07-065, filed 9/19/06, effective 10/20/06; 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 presiding officer of the governing body of a public agency or a majority of the board members 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.

[Statutory Authority: [Chapter 41.06 RCW.] 06-19-064, § 357-07-070, filed 9/19/06, effective 10/20/06; 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., P.O. 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 thirty 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 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;

[Title 357 WAC—p. 14]

(b) The office of financial management has reviewed the fiscal impact statement of the affected 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, as defined by the director in the classification and pay guidelines:

- (i) Documented recruitment or retention difficulties;
- (ii) Salary compression or inversion;
- (iii) Classification plan maintenance;
- (iv) Higher level duties and responsibilities; or
- (v) Inequities.

(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. 08-07-062, § 357-13-025, filed 3/17/08, effective 4/18/08; 07-17-127, § 357-13-025, filed 8/20/07, effective 9/20/07; 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.

(2009 Ed.)

[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.

[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	<i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i>	<i>If the employee meets the competencies and other position requirements:</i>	<i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i>

	<p>→ The employee remains in the position and is appointed with permanent status provided the probationary or trial service period for the class to which the position is reallocated is six months in duration. If the probationary period or trial service period is longer than six months and the employee has not performed higher level duties for the length of the probationary period or trial service period, the employer may require the employee serve the remainder of the probationary or trial service period before gaining permanent status in the reallocated position.</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 and he/she has already gained permanent status, the employee must serve a trial service period. If the employee has not completed the probationary period, then the new trial service period will overlap provided the higher and lower classes are in the same or a closely related field. If the classes are not in the same or closely related field, then the employee will start their probationary period over in the new class.</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>→ 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>→ 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>
<p>The director implementing a new classification plan under provisions of RCW 41.06.136 or revising the classification plan.</p>	<p>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.</p>		

[Statutory Authority: Chapter 41.06 RCW. 06-23-090, § 357-13-090, filed 11/14/06, effective 12/18/06; 05-12-088, § 357-13-090, filed 5/27/05, effective 7/1/05; 05-01-201, § 357-13-090, filed 12/21/04, effective 7/1/05.]



**Chapter 357-16 WAC  
RECRUITMENT, ASSESSMENT, AND  
CERTIFICATION**

**WAC**

- 357-16-005 What is the department's role in recruiting applicants and assessing candidates for positions in the classified service?
- 357-16-010 What authority do general government employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration?
- 357-16-015 What authority do higher education employers have to recruit applicants, assess candidates, and certify candidates for hiring consideration?
- 357-16-020 Who is responsible for determining what recruitment methods are appropriate to meet the hiring needs of the employer?
- 357-16-025 How must employers and the department inform prospective applicants of recruitments?
- 357-16-030 For affirmative action purposes, may the department or employers add job seekers who are affected group members to applicant pools?
- 357-16-040 What is the college recruitment program?
- 357-16-045 What is the purpose of the college recruitment program?
- 357-16-050 How does the college recruitment program operate?
- 357-16-055 Can an employer establish promotional organizational units?
- 357-16-060 Must employers use a standardized application form when recruiting?
- 357-16-065 How does an applicant affirm that an application is complete and that the information in the application is truthful?
- 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 Must employers make final examination results available to an applicant?
- 357-16-105 Must an employee be granted leave with pay to take an examination or participate in an interview during scheduled work hours?
- 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?
- 357-16-157 Is an eligible's name removed from applicant and/or candidate pools when he/she is appointed to a position?
- 357-16-160 Must an applicant or candidate who has been removed for good and sufficient reason per WAC 357-16-155 be notified of the removal?
- 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.]

**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?** Employers shall determine the appropriate method to solicit job seekers, which may include but not be limited to, public announcements; searching the state central talent pool; or, using an employer maintained talent pool. Recruitment announcements shall inform prospective job seekers how to apply for, or express interest in, positions which may come open for recruitment.

[Statutory Authority: Chapter 41.06 RCW. 07-23-009, § 357-16-025, filed 11/8/07, effective 12/11/07; 06-19-065, § 357-16-025, filed 9/19/06, effective 10/20/06; 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 accommo-

dation 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 Must employers make final examination results available to an applicant?** An applicant's final examination results must be made available within a reasonable time period as determined by the employer.

[Statutory Authority: Chapter 41.06 RCW. 06-19-065, § 357-16-100, filed 9/19/06, effective 10/20/06; 05-01-200, § 357-16-100, filed 12/21/04, effective 7/1/05.]

**WAC 357-16-105 Must an employee be granted leave with pay to take an examination or participate in an interview during scheduled work hours?** In accordance with WAC 357-31-325, an employee must be granted leave with pay to take an examination or participate in an interview during scheduled work hours when applying or being considered for a position with a state agency, higher education institution or related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 05-21-054, § 357-16-105, filed 10/13/05, effective 11/15/05; 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 the following individuals to the employing official under the provisions of RCW 73.16.010 as long as the individual meets the competencies and other position requirements:

- (a) Eligible veterans;
- (b) Surviving spouses of eligible veterans; or
- (c) Spouses of honorably discharged veterans who have a service connected permanent and total disability.

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-16-110, filed 5/27/05, effective 7/1/05; 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.

(2009 Ed.)

[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 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 internal layoff list, the employer:

(a) Must certify all statewide layoff candidates who satisfy the competencies and other position requirements.

(b) May then certify other available eligible candidates. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

[Title 357 WAC—p. 19]

(3) General government employers must certify transition pool candidates, who satisfy the competencies and other position requirements, when a certified pool contains eligible candidates other than layoff or internal promotional candidates.

[Statutory Authority: Chapter 41.06 RCW. 06-03-073, § 357-16-130, filed 1/12/06, effective 2/13/06; 05-12-083, § 357-16-130, filed 5/27/05, effective 7/1/05; 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 for the class who satisfy the competencies and other position requirements for the position.

[Statutory Authority: Chapter 41.06 RCW. 05-21-061, § 357-16-135, filed 10/13/05, effective 11/15/05; 05-16-043, § 357-16-135, filed 7/27/05, effective 9/1/05; 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.]

[Title 357 WAC—p. 20]

**WAC 357-16-157 Is an eligible's name removed from applicant and/or candidate pools when he/she is appointed to a position?** An eligible's name is removed from the applicant and/or candidate pool for the class to which he/she is appointed and all lower classes in the same class series/occupational category.

[Statutory Authority: Chapter 41.06 RCW. 06-03-071, § 357-16-157, filed 1/12/06, effective 2/13/06.]

**WAC 357-16-160 Must an applicant or candidate who has been removed for good and sufficient reason per WAC 357-16-155 be notified of the removal?** When an applicant or candidate is removed from an applicant or candidate pool for good and sufficient reason per WAC 357-16-155, the employer or the department must notify the applicant or candidate 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. 06-03-071, § 357-16-160, filed 1/12/06, effective 2/13/06; 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 when the removal is due to good and sufficient reason under the provisions of WAC 357-16-155.

[Statutory Authority: Chapter 41.06 RCW. 06-03-071, § 357-16-170, filed 1/12/06, effective 2/13/06; 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 candidate 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**

- 357-19-005 What is the authority of general government employers to appoint employees to positions in the classified service?
- 357-19-010 What is the authority of higher education employers to appoint employees to positions in the classified service?
- 357-19-015 What must employers use as the basis for appointments under the civil service rules?
- 357-19-017 What is the purpose of the probationary and trial service period?
- 357-19-020 When must an employee serve a probationary period?
- 357-19-025 When must an employee serve a trial service period?

(2009 Ed.)

- 357-19-030 When may an employee be required to serve a trial service period?
- 357-19-035 When is a trial service period not allowed for an employee who is reverted to a position?
- 357-19-040 How long is the probationary period?
- 357-19-045 Can the length of a probationary period be extended?
- 357-19-050 How long is a trial service period?
- 357-19-060 Can the length of a trial service period be extended?
- 357-19-065 Is an employee's probationary or trial service period affected by the use of leave?
- 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?
- 357-19-075 What happens if an employee who is serving a probationary or trial service period is reassigned by the employer?
- 357-19-080 What happens if a permanent employee accepts a non-permanent appointment during a trial service period?
- 357-19-085 Does time worked in a nonpermanent appointment count towards the probationary or trial service period for a permanent position?
- 357-19-090 Must employers have a policy on probationary and trial service periods?
- 357-19-095 What happens if an employee fails to meet the employer's standards during the probationary period?
- 357-19-100 What happens if an employee fails to meet the employer's standards during the trial service period?
- 357-19-105 How much notice must an employer give when reverting an employee?
- 357-19-110 Can an employee voluntarily revert during the trial service period?
- 357-19-115 To which employer and position would an employee revert?
- 357-19-117 Can a reverted employee be placed on a layoff list and in the general government transition pool?
- 357-19-120 Can employees be granted additional reversion rights?
- 357-19-125 What happens to a permanent Washington management service (WMS) employee who promotes, transfers or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period?
- 357-19-135 Can an employee appeal a trial service reversion?
- 357-19-140 Can an employer increase the hours of a position which is normally scheduled to work less than forty hours a week?
- 357-19-145 If an employer permanently increases the hours of a position, may an employee choose not to continue in the position?
- 357-19-155 Can an employee voluntarily demote?
- 357-19-160 Can an employee be elevated following a demotion?
- 357-19-165 What is the difference between reassignment and transfer?
- 357-19-170 Can an appointing authority reassign an employee?
- 357-19-175 What are the provisions for reassigning a permanent employee to a different geographic area?
- 357-19-177 How does a reassignment affect an employee's status and pay?
- 357-19-180 Can an employee transfer?
- 357-19-181 When is an employee appointed to a position with permanent status?
- 357-19-183 Must DEL conduct background checks on all employees in covered positions and individuals being considered for a covered position?
- 357-19-184 Besides the DEL, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?
- 357-19-185 What is a covered position for purposes of WAC 357-19-183, 357-19-187, and 357-19-191?
- 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DEL and what are the results of the background check used for?
- 357-19-187 For purposes of WAC 357-19-183, must an employee and/or individual being considered for a covered position authorize the director of the DEL or designee to conduct a background check and what happens if the employee or individual being considered for a covered position does not provide authorization?

357-19-188	What happens when a permanent DEL employee is disqualified because of a background check?		ment and what notices must the employee and employer provide each other when an employee accepts the acting appointment?
357-19-189	What are the responsibilities of the director of the DEL in carrying out the requirement to conduct background checks?	357-19-353	What return rights must an employer provide to a permanent WGS employee who accepts an acting WMS appointment?
357-19-191	Does a permanent employee of DEL who is disqualified from a covered position as a result of a background check have the right to request a review of the disqualification?	357-19-360	For what reasons may a general government employer make nonpermanent appointments?
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?	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?
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?	357-19-370	How long can a general government nonpermanent appointment last?
357-19-200	When must an employee apply to return to classified service from exempt service?	357-19-373	What notification must a general government employer give a nonpermanent appointee?
357-19-205	Upon return from exempt service, how is the employee's salary set?	357-19-375	Can an employee receive consecutive general government nonpermanent appointments?
357-19-215	Does an employee who was hired directly into exempt service have any rights to a classified position or layoff list?	357-19-377	What provisions apply to general government nonpermanent appointments?
357-19-220	What happens to an employee whose classified service position is converted to an exempt position?	357-19-380	What provisions of the civil service rules apply to nonpermanent employees?
357-19-225	How is an incumbent, whose position is converted from exempt to classified, placed within classified service?	357-19-385	Can a permanent employee accept a nonpermanent appointment?
357-19-230	What are the provisions for appointing participants of the police corps programs?	357-19-388	What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment?
357-19-235	What are in-training positions?	357-19-395	What return rights must an employer provide to a permanent employee who accepts a nonpermanent appointment?
357-19-240	What positions can be designated as in-training?	357-19-400	Can the agency convert a general government nonpermanent appointment to a probationary or trial service appointment?
357-19-245	What components must be included in an in-training plan?	357-19-410	How much notice must an employer give for ending a nonpermanent appointment?
357-19-250	During an in-training plan, when does an employee advance to the next training step?	357-19-420	What are the appeal rights of general government nonpermanent employees?
357-19-255	How long must an employee be at each step in an in-training plan?	357-19-425	How does a general government nonpermanent employee request remedial action?
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?	357-19-430	When may the director take remedial action for general government nonpermanent employees and what does remedial action include?
357-19-265	Must the employee serve a probationary or trial service period during an in-training appointment?	357-19-435	For what reasons may a higher education employer make a temporary appointment?
357-19-270	Does time spent in a position before the in-training appointment count towards the in-training period?	357-19-440	What provisions govern higher education temporary appointments?
357-19-280	If an employee transfers from one in-training position to another in-training position, how is the training period affected?	357-19-441	What provisions of civil service rules apply to individuals in temporary appointments?
357-19-285	What happens to an employee who fails to progress satisfactorily through an in-training plan?	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)?
357-19-290	What are the provisions for appointments under the Intergovernmental Mobility Act (P.L. 91-648)?	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?
357-19-295	What are cyclic year positions?	357-19-444	What notification must a higher education employer give to a temporary appointee?
357-19-297	What are the notification requirements for appointing an employee to a cyclic year position?	357-19-445	What records must higher education employers maintain for individuals in temporary appointments?
357-19-300	What is a seasonal appointment?	357-19-447	What are the appeal rights of individuals in higher education temporary appointments?
357-19-301	Does chapter 357-16 WAC apply to seasonal appointments?	357-19-448	How does an individual in a higher education temporary appointment request remedial action?
357-19-302	Do employees appointed to seasonal appointments serve a probationary period and gain permanent status?	357-19-450	When may the director take remedial action for individuals in higher education temporary appointments and what does remedial action include?
357-19-303	What provisions govern the layoff of employees from seasonal appointments?	357-19-455	What is reemployment?
357-19-305	What are project positions?	357-19-460	Is certification required to reemploy a former permanent status employee?
357-19-310	How are project positions filled?	357-19-465	Must employers provide reemployment services to employees separated due to disability under the provisions of WAC 357-46-160?
357-19-315	What are the notification requirements for appointing an employee to a project position?	357-19-470	What reemployment services does the employer provide to a former employee seeking reemployment under the provisions of WAC 357-19-465?
357-19-320	Must an employee appointed to a project position serve a probationary period?	357-19-475	To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?
357-19-325	Must an employee with permanent status who is appointed to a project position serve a trial service period?	357-19-480	Will employees returning from separation under WAC 357-19-465 serve a probationary period?
357-19-330	What notices must employees and their employers provide to each other when an employee accepts an appointment to a project position?	357-19-505	What is the purpose of the return-to-work initiative program?
357-19-340	What return rights must an employer provide to a permanent employee who accepts an appointment to a project position?		
357-19-345	What happens to employees in project positions at the conclusion of the project?		
357-19-350	May a permanent WGS employee accept an acting Washington management service (WMS) appoint-		

- 357-19-510 Who is responsible for administering the return-to-work initiative program?
- 357-19-515 Who is eligible to participate in the return-to-work initiative program?
- 357-19-525 What are the employer's responsibilities for return-to-work?
- 357-19-530 Who is eligible to participate in the employer's return-to-work program?
- 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?

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

- 357-19-190 When is an employee appointed to a position with permanent status? [Statutory Authority: Chapter 41.06 RCW. 05-01-206, § 357-19-190, filed 12/21/04, effective 7/1/05.] Repealed by 05-12-085, filed 5/27/05, effective 7/1/05. Statutory Authority: Chapter 41.06 RCW.

**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.]

(2009 Ed.)

**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 class in which the employee has not held permanent status.

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-19-025, filed 5/27/05, effective 7/1/05; 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, is elevated, or is reverted to a position 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. 05-19-009, § 357-19-030, filed 9/8/05, effective 10/10/05; 05-01-206, § 357-19-030, filed 12/21/04, effective 7/1/05.]

**WAC 357-19-035 When is a trial service period not allowed for an employee who is reverted to a position?** Employers are not allowed to require a trial service period when an employee is being reverted to a comparable position with the same job duties as the position in which the employee last held permanent status. The employer determines the comparability of the position.

[Statutory Authority: Chapter 41.06 RCW. 05-19-009, § 357-19-035, filed 9/8/05, effective 10/10/05.]

**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

(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?** 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:

(1) 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. 05-12-077, § 357-19-080, filed 5/27/05, effective 7/1/05; 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, reversion 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. 05-19-009, § 357-19-090, filed 9/8/05, effective 10/10/05; 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?** A permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period or has failed to progress to the next step of an in-training plan in accordance with WAC 357-19-285, 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. 07-03-052, § 357-19-115, filed 1/12/07, effective 2/15/07; 06-15-065, § 357-19-115, filed 7/13/06, effective 8/14/06; 05-12-077, § 357-19-115, filed 5/27/05, effective 7/1/05; 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

(2009 Ed.)

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 357-19-125 What happens to a permanent Washington management service (WMS) employee who promotes, transfers or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period?** A permanent Washington management service (WMS) employee who promotes, transfers, or demotes to a Washington general service (WGS) position but fails to satisfactorily complete the trial service period has reversion rights in accordance with WAC 357-58-375.

[Statutory Authority: Chapter 41.06 RCW. 05-12-089, § 357-19-125, filed 5/27/05, 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

[Title 357 WAC—p. 25]

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.

[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 357-19-181 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, reversion, 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 the director conferring permanent status to an employee under remedial action provisions; and
- (6) 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. 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.

[Statutory Authority: Chapter 41.06 RCW. 05-19-009, § 357-19-181, filed 9/8/05, effective 10/10/05; 05-12-085, § 357-19-181, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-183 Must DEL conduct background checks on all employees in covered positions and individuals being considered for a covered position?** (1) The director of the department of early learning (DEL) or designee must conduct background checks on all employees in covered positions and individuals being considered for a covered position.

- (2) The requirement for background checks must include the following:
  - (a) Current employees in covered positions.
  - (b) Any employee considered for a covered position because of a layoff, reallocation, transfer, promotion, demotion, or other actions that result in the employee being in a covered position.
  - (c) Any individual being considered for positions which are covered positions.
- (3) Considered for positions includes decisions about:
  - (a) Initial hiring, layoffs, reallocations, transfers, promotions, demotions, or
  - (b) Other decisions that result in an individual being in a position that will or may have unsupervised access to children as an employee, an intern, or a volunteer.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-19-183, filed 3/17/08, effective 4/18/08; 07-17-125, § 357-19-183, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-183, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-184 Besides the DEL, may other employers conduct background checks on applicants or employees and what is the requirement to notify applicants or employees?** (1) Employers may conduct background checks on applicants and/or employees if required by state or federal law, or if the employer identifies the need for a background check to verify that the applicant or employee satisfies the position requirements.

(2) Employers who conduct background checks must develop procedures regarding how and when background checks will be conducted. The procedures must include notification to applicants and/or employees if a background check is required.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-184, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-184, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-185 What is a covered position for purposes of WAC 357-19-183, 357-19-187, and 357-19-191?** For purposes of WAC 357-19-183, 357-19-187 and 357-19-191 a covered position is one in which a person will or may have unsupervised access to children.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-185, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-185, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-186 For purposes of WAC 357-19-183, what information is considered in a background check conducted by DEL and what are the results of the background check used for?** (1) The background check information considered by the director of the DEL will include but not be limited to conviction records, pending charges, and disciplinary board final decisions.

(2) The results of the background check must be used solely for the purpose of determining the character, suitability and competence of the applicant and/or employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-186, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-186, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-187 For purposes of WAC 357-19-183, must an employee and/or individual being considered for a covered position authorize the director of the DEL or designee to conduct a background check and what happens if the employee or individual being considered for a covered position does not provide authorization?** An employee and/or individual applying for or being considered to remain in a covered position must authorize the director of the DEL or designee to conduct a background check.

Failure to authorize the director of the DEL or designee to conduct a background check disqualifies an employee or individual from consideration for any covered position including their current covered position.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-19-187, filed 3/17/08, effective 4/18/08; 07-17-125, § 357-19-187, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-187, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-188 What happens when a permanent DEL employee is disqualified because of a background check?** (1) A permanent employee with a background check

(2009 Ed.)

disqualification may be subject to any of the following actions in no specific order:

- (a) Voluntary demotion;
- (b) Job restructuring;
- (c) Voluntary resignation;
- (d) Job reassignment;
- (e) Nondisciplinary separation in accordance with WAC 357-46-195; or
- (f) Disciplinary action in accordance with WAC 357-40-010.

(2) An appointing authority may use the following interim measures while exploring the availability of actions (not to exceed thirty calendar days except in cases where there are investigations of pending charges):

- (a) Voluntary use of accrued vacation, exchange, and/or compensatory time;
- (b) Authorized leave without pay, if there is no paid leave available, or if the employee chooses not to use paid leave; and/or
- (c) Reassignment to another work location.
- (d) When considering the above actions, the agency will consider the least restrictive means necessary to prevent unsupervised access.

(3) Before a permanent employee may be separated due to a background check disqualification, the search for a non-covered position will occur over a period of thirty calendar days.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-188, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-188, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-189 What are the responsibilities of the director of the DEL in carrying out the requirement to conduct background checks?** (1) In order to implement the requirements of WAC 357-19-183, the director of the DEL or designee must:

- (a) Notify employees and individuals being considered for covered positions that a background check is required for covered positions; and
- (b) Develop policies and procedures pertaining to background checks.

(2) Information contained in background checks must be used solely for the purpose of determining the character, suitability and competence of the employee and/or individual being considered for covered positions. The information must not be disseminated further. Dissemination and use of such information is governed by the criminal records privacy act, chapter 10.97 RCW. Unlawful dissemination of information protected by the criminal records privacy act is a criminal offense and may result in prosecution and/or disciplinary action as provided in chapter 357-40 WAC. However, results of a background check may be discoverable pursuant to the rules of civil discovery, or subject to disclosure pursuant to a public records request.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-189, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-189, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-191 Does a permanent employee of DEL who is disqualified from a covered position as a result of a background check have the right to request a**

[Title 357 WAC—p. 27]

**review of the disqualification?** A permanent employee of DEL who is disqualified from a covered position as a result of a background check has the right to present to the director of the DEL or designee evidence that mitigates convictions, pending charges, and disciplinary board final decisions including, but not limited to:

- (1) The employee's background check authorization and disclosure form;
- (2) The employee's age at the time of conviction, charge, or disciplinary board final decision;
- (3) The nature and severity of the conviction, charge, or disciplinary board final decision;
- (4) The length of time since the conviction, charge, or disciplinary board final decision;
- (5) The nature and number of previous offenses;
- (6) Vulnerability of the child to which the employee will or may have unsupervised access; and
- (7) The relationship between the potentially disqualifying event and the duties of the employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-125, § 357-19-191, filed 8/20/07, effective 9/20/07; 05-12-097, § 357-19-191, filed 5/27/05, 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.

(2009 Ed.)

(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.

[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

[Title 357 WAC—p. 29]

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.		
	<b>Type of In-Training Position:</b>	
	<b>Class Series/Occupational Category:</b> All positions in the occupational category/class series are designated as in-training positions by the employer	<b>Individual position:</b> The individual position is designated as an in-training position
<b>Employee Status:</b>		
<b>Employee in Probationary Period</b>	→ The employee must be separated in accordance with WAC 357-46-185.	→ The employee must be separated in accordance with WAC 357-46-185.
<b>Employee in Trial Service Period</b>	<i>If the employee WAS PERMANENT before the in-training appointment:</i> → The employee has reversion rights in accordance with WAC 357-19-115 through 357-19-117 to the class the employee held permanent status in before the in-training appointment. <i>If the employee was NOT PERMANENT before</i>	→ The employee has reversion rights in accordance with WAC 357-19-115 through 357-19-117 to the class in which the employee was most recently permanent.

	<i>the in-training appointment:</i> →The employee must be dismissed under the provisions of WAC 357-40-010.	
<b>Employee achieved permanent status in job class of the current in-training step but is failing to progress to the next step</b>	<i>If the employee WAS PERMANENT before the in-training appointment:</i> → The employee has reversion rights in accordance with WAC 357-19-115 through 357-19-117 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 through 357-19-117. The employee has reversion rights to a position, if available, in the class in which the employee currently holds permanent status.

[Statutory Authority: Chapter 41.06 RCW. 06-15-065, § 357-19-285, filed 7/13/06, effective 8/14/06; 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 357-19-300 What is a seasonal appointment?** A seasonal appointment is an appointment made by general government employers that is cyclical in nature, recurs at approximately the same time each year, and lasts for a minimum of five months but less than twelve months in duration during any consecutive twelve-month period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-076, § 357-19-300, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-301 Does chapter 357-16 WAC apply to seasonal appointments?** Seasonal appointments must be made accordance with the rules on recruitment, assessment, and certification as provided in chapter 357-16 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-076, § 357-19-301, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-302 Do employees appointed to seasonal appointments serve a probationary period and gain permanent status?** General government employees who do not have permanent status and receive a seasonal appointment must complete a probationary period. The probationary period may be completed in consecutive seasonal appointments with the same employer. Upon completion of the probationary period, employees in seasonal appointments gain permanent status.

[Statutory Authority: Chapter 41.06 RCW. 05-12-076, § 357-19-302, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-303 What provisions govern the layoff of employees from seasonal appointments?** (1) Employers may take actions to layoff employees in seasonal appointments in accordance with WAC 357-46-005 and 357-46-010.

(2) Employers who use seasonal appointments must address the following within their layoff procedures:

- (a) Definition of seasonal layoff units.
- (b) Description of separate internal layoff lists for seasonal positions.
- (c) Notification of layoff for employees in seasonal appointments.
  - (i) Probationary employees in seasonal appointments must receive at least one calendar day's notice.
  - (ii) Permanent employees in seasonal appointments must receive at least two working days' notice.
- (d) Layoff options in accordance with WAC 357-46-035 within the seasonal layoff unit for seasonal employees being laid off.

[Statutory Authority: Chapter 41.06 RCW. 05-12-076, § 357-19-303, filed 5/27/05, 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.]

(2009 Ed.)

**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 357-19-350 May a permanent WGS employee accept an acting Washington management service (WMS) appointment and what notices must the employee and employer provide each other when an employee accepts the acting appointment?** Permanent WGS employees may accept acting appointments to WMS positions.

The employee must give his/her current employer at least fourteen calendar days' written notice before moving to an acting WMS appointment. The current 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 acting WMS 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. 05-12-094, § 357-19-350, filed 5/27/05, effective 7/1/05.]

**WAC 357-19-353 What return rights must an employer provide to a permanent WGS employee who accepts an acting WMS appointment?** At a minimum, the employer must provide the permanent employee who is leaving a WGS position with the employer to accept a WMS acting appointment access to the employer's internal layoff list at the conclusion of the acting appointment. If the employer agrees to return the employee to a position, the employee must notify the employer of his/her intent to return to a permanent position at least fourteen (14) calendar days in advance of return unless the employee and employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. 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. 05-12-094, § 357-19-353, filed 5/27/05, effective 7/1/05.]

[Title 357 WAC—p. 32]

**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
- (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 appointments as long as:

(1) Any subsequent appointment is to a different position; or

(2) The multiple appointments are of a seasonal nature but don't meet the definition of seasonal appointment because each appointment last less than five months in duration during any consecutive twelve-month period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-076, § 357-19-375, filed 5/27/05, effective 7/1/05; 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

(2009 Ed.)

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 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. 05-12-077, § 357-19-388, filed 5/27/05, effective 7/1/05; 05-01-206, § 357-19-388, filed 12/21/04, effective 7/1/05.]

**WAC 357-19-395 What return rights must an employer provide to a permanent employee who accepts a nonpermanent appointment?** At a minimum, the employer must provide the permanent employee who is leaving his/her position with the employer to accept a nonpermanent appointment access to the employer's internal layoff list at the conclusion of the nonpermanent appointment. If the employer agrees to return the employee to a position, the employee must notify the employer of his/her intent to return to a permanent position at least fourteen calendar days in advance of return unless the employee and employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. 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. 05-12-095, § 357-19-395, filed 5/27/05, effective 7/1/05; 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 if the employee held permanent status prior to the nonpermanent appointment to 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) 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. 06-15-066, § 357-19-400, filed 7/13/06, effective 8/14/06; 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

[Title 357 WAC—p. 33]

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 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

[Title 357 WAC—p. 34]

- (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).

- (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

(2009 Ed.)

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 statement 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.]

(2009 Ed.)

**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 time frames 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 employee 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. 08-07-062, § 357-19-470, filed 3/17/08, effective 4/18/08; 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 employer 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. 05-12-077, § 357-19-475, filed 5/27/05, effective 7/1/05; 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 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.

[Title 357 WAC—p. 36]

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-19-480, filed 3/17/08, effective 4/18/08; 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.]

**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

(2009 Ed.)

awareness that the return-to-work program expects cooperation and participation by all employees.

(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.

(2009 Ed.)

[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.]

**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?
357-25-027	What must be included in the agency's sexual harassment policy?
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.

[Title 357 WAC—p. 38]

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;

(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 employment 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.

(3) Agencies as defined in RCW 41.06.020 must submit their sexual harassment policy as follows:

(a) Agencies with fifty or more full time equivalent employees must submit their policy to the department with the employer's affirmative action plan and affirmative action plan update.

(b) Agencies with twenty-five to forty-nine full time equivalent employees must submit their policy to the department with their small agency workforce profile.

(c) Agencies with fewer than twenty-five full time equivalent employees must submit their policy to the department at least every two years.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-25-025, filed 11/8/07, effective 12/11/07; 05-01-197, § 357-25-025, filed 12/21/04, effective 7/1/05.]

**WAC 357-25-027 What must be included in the agency's sexual harassment policy?** Agencies as defined in RCW 41.06.020 must at a minimum include the following in their policy on sexual harassment:

- (1) Indicate who is covered by the policy;
- (2) Provide that the employer is committed to providing a working environment free from sexual harassment of any kind;
- (3) State that sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60;
- (4) The definition of sexual harassment as defined by the Equal Employment Opportunity Commission;
- (5) Notify the employee or individual of their right to file a complaint with the Washington State Human Rights Commission under RCW 49.60.230 or the Federal Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964;
- (6) Identify how and to whom employees or individuals may raise concerns or file complaints. The policy should allow multiple avenues for an employee or individual to raise complaints or concerns and should clearly identify the positions or entities charged with receiving these complaints;
- (7) Advise all individuals covered by the policy that the employer is under a legal obligation to respond to allegations concerning a violation of the policy;
- (8) Identify the manner by which the employer will respond to alleged violations of the policy, including a formal investigation if necessary;
- (9) State that the complainant shall be informed of the status and the outcome of an investigation;
- (10) Identify the agency's investigation or response procedure;
- (11) Define the roles and responsibilities of employees, managers, supervisors, and others covered by the policy with respect to the following:
  - (a) Preventing or not engaging in sexual harassment;
  - (b) Responding to concerns or allegations of violations of the policy;
  - (c) Participation in an investigation under the policy; and
  - (d) The prohibition against retaliation.
- (12) State that confidentiality cannot be guaranteed;
- (13) Advise that retaliation against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation is prohibited;
- (14) Advise that any employee found to have violated the policy will be subject to corrective and/or disciplinary action, up to and including dismissal; and
- (15) Advise that any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal.

(2009 Ed.)

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-25-027, filed 11/8/07, effective 12/11/07.]

**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

[Title 357 WAC—p. 39]

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.]

## 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.]

[Title 357 WAC—p. 40]

**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 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?
357-28-026	For what reasons may the director adopt special pay ranges and/or compensation practices for institutions of higher education and related boards?
357-28-027	How long will higher education special pay ranges remain in effect?
357-28-028	By whom and for what reasons may a higher education special pay request be submitted to the director?

(2009 Ed.)



- 357-28-029 When making a special pay request for higher education, what information must the requesting party provide department of personnel staff?
- 357-28-030 Must employers have a salary determination policy?
- 357-28-035 What must be addressed in the employer's salary determination policy?
- 357-28-040 Can an employee's base salary be set above the maximum of the salary range?
- 357-28-045 How is part-time employment compensated?
- 357-28-050 What is the periodic increment date (PID)?
- 357-28-055 How is the periodic increment date determined for a general government employee?
- 357-28-056 How is the periodic increment date determined for a higher education employee?
- 357-28-060 When does an employee receive an increment increase?
- 357-28-065 What are the effective dates of increment increases?
- 357-28-070 Can an employer adjust the timing and amount of increment increases?
- 357-28-075 Can an employer accelerate or defer increment increases based on performance?
- 357-28-080 How does an employee allocated to a class with a special pay salary range progress through the range?
- 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons?
- 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position?
- 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an incumbent or candidate for a position?
- 357-28-110 Must an employee who is promoted to a position in a class with a higher salary range receive a salary increase?
- 357-28-115 Must an employee occupying a position that is reallocated to a class with a higher salary range receive a salary increase?
- 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range?
- 357-28-125 How is an employee's base salary affected when the employee's position is allocated to a new class as a result of the director taking action to implement the new classification plan as required by WAC 357-10-010(1)?
- 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?
- 357-28-145 How is an employee's salary determined upon reassignment?
- 357-28-150 How is an employee's salary determined upon reversion?
- 357-28-155 How is an employee's salary determined upon demotion?
- 357-28-160 How is an employee's salary determined upon elevation?
- 357-28-165 When an exempt position is converted to classified, how is the base salary of the incumbent determined?
- 357-28-175 What is assignment pay?
- 357-28-180 When may employers authorize assignment pay?
- 357-28-185 What is the requirement for employers to compensate employees for being called back to work?
- 357-28-190 When must an employee receive shift premium?
- 357-28-195 What general government positions must be paid supplemental shift premium?
- 357-28-200 When must an employee receive holiday premium pay?
- 357-28-205 When must an employee receive standby pay?
- 357-28-210 What is the rate of compensation for standby pay?
- 357-28-220 How are hours of work established for employees?
- 357-28-225 Are employers required to develop flexible time schedules?
- 357-28-230 Can an employer assign or reassign an employee to a flex-time schedule?
- 357-28-235 Can an employee request assignment to a flex-time schedule?
- 357-28-240 Must employers assign an overtime eligibility designation to each position?

- 357-28-245 Is approval required when a general government employer changes a position's overtime eligibility designation?
- 357-28-250 Must employers inform employees whether they are eligible to receive overtime compensation or not?
- 357-28-252 Under what conditions can the employer change an overtime eligible employee's assigned hours?
- 357-28-255 What constitutes overtime for an overtime eligible employee?
- 357-28-260 At what rate must overtime be compensated?
- 357-28-265 For the purpose of computing eligibility for overtime compensation, are holidays and leave with pay considered time worked?
- 357-28-275 When may compensatory time off be granted in lieu of pay?
- 357-28-280 When may compensatory time off be used?
- 357-28-285 When must compensatory time be paid in cash?
- 357-28-295 Who may provide performance recognition pay to employees?
- 357-28-300 Is there a limit to the amount an employee can receive for performance recognition pay?
- 357-28-310 When can an employee receive relocation compensation?
- 357-28-315 What would cause an employee to be required to pay back the relocation payment?
- 357-28-320 Must the employer develop written criteria for relocation compensation?
- 357-28-325 When will salary surveys be done?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) When a unique configuration of work requires skills, duties, or working conditions beyond those typically required of comparable positions;

(2) To alleviate employment problems such as recruitment and/or retention;

(3) When failure to grant special pay could result in recruitment and/or retention problems which would seriously jeopardize the effective operation of the institution; or

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

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

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

(1) Data supporting the pay practice in the locality of the institution for which the request is being made; and

(2) Rationale supporting the request; and

(3) When applicable, data showing recruitment/retention difficulty.

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

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

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

[Title 357 WAC—p. 42]

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

(1) Setting base salary for new employees;

(2) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a position in a new class;

(3) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a permanent position while in a nonpermanent appointment;

(4) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;

(5) Setting base salary when an employee accepts a lay-off option, accepts a demotion in lieu of layoff, is appointed from an internal or statewide layoff list, or is reallocated to a position with a lower range and the employee's previous base salary is not within the salary range of the new position;

(6) Setting base salary when an employee demotes for reasons other than accepting a demotion in lieu of layoff or accepting a demotion when a position is reallocated;

(7) Setting base salary when an employee is reverted following a voluntary demotion; and

(8) Authorizing premiums for recruitment and retention as provided in WAC 357-28-095 and 357-28-100.

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

**WAC 357-28-040 Can an employee's base salary be set above the maximum of the salary range?** An employee's base salary may be set above the maximum of the salary range assigned to the position's class when allowed under any provisions of Title 357 WAC or when approved by the director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2009 Ed.)

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

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

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

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

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

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

**WAC 357-28-075 Can an employer accelerate or defer increment increases based on performance?**

Employers who have received performance management confirmation from the director may in accordance with the employer's policy on performance-based increments:

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

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

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

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

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

**WAC 357-28-090 Can an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business related reasons?** The employer may adjust an employee's base salary within the salary range to address issues that are related to recruitment, retention or other business related rea-

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

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 WAC 357-10-010(1)?** 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 WAC 357-10-010(1), the employee's salary will be adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

[Statutory Authority: Chapter 41.06 RCW. 07-11-100, § 357-28-125, filed 5/16/07, effective 7/1/07; 05-01-205, § 357-28-125, filed 12/21/04, effective 7/1/05.]

**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 implementation 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 adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

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

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

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

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

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

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

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

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

[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.

(2009 Ed.)

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 45]

teed. The minimum of two hours of pay and any hours worked in excess of two hours must be compensated in accordance with WAC 357-28-255 if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

(4) An employee assigned to a shift that qualifies for shift premium pay must receive the same shift premium for authorized periods of paid leave and holidays and for up to five days of a temporary assignment to a shift that does not qualify. Continued payment of shift premium for a temporary assignment exceeding five days is at the discretion of the employer.

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

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

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

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

(7) For higher education employers, shift premium must not apply to police and fire officers where special pay salaries

are correlated with a rotating shift in accordance with local practice.

(8) Employees may waive shift premium.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**WAC 357-28-210 What is the rate of compensation for standby pay?** The rate of standby compensation must be specified in the compensation plan. The director may approve

exceptions to standby rates based upon business requirements.

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

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

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

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

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

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

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

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

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

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

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

**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.

(2009 Ed.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 47]

(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.

[Title 357 WAC—p. 48]

(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?**

Over an annual period, performance recognition pay may not exceed fifteen percent of an employee's annual base salary unless approved by the director.

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

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

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

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

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

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

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

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

(1) A description of the circumstances for which relocation compensation will be granted; and

(2) The method that will be used to determine the amount of relocation compensation.



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

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

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

**Chapter 357-31 WAC  
HOLIDAYS AND LEAVE**

**WAC**

- 357-31-005 For the purpose of chapter 357-31 WAC, what days are recognized as holidays?
- 357-31-010 Which employees qualify for holiday compensation?
- 357-31-015 How many hours are general government employees compensated for on a holiday?
- 357-31-020 For general government part-time employees, how is holiday compensation pro rated?
- 357-31-025 How many hours are higher education employees compensated for on a holiday?
- 357-31-030 What happens when a holiday falls on an employee's scheduled day off?
- 357-31-035 How is an employee who works on a holiday compensated?
- 357-31-040 What happens when a holiday as identified in WAC 357-31-005 falls on Saturday or Sunday?
- 357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday?
- 357-31-050 How is an employee's holiday determined when an employee works a night shift schedule which begins on one calendar day and ends on the next?
- 357-31-055 When does an employee qualify for a personal holiday?
- 357-31-060 How many hours are general government employees compensated for when taking a personal holiday?
- 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday?
- 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?
- 357-31-075 Within what time frame must the personal holiday be taken?
- 357-31-080 What happens if an employee requests to use his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request?
- 357-31-090 Can an employee request to donate or use part of a personal holiday?
- 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours?
- 357-31-100 Must an employer have a policy for requesting and approving leave?
- 357-31-105 How will an unauthorized absence be treated?
- 357-31-110 What happens to an employee's accrued leave when the employee changes employers?
- 357-31-115 How many hours of sick leave does an employee earn each month?
- 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?
- 357-31-125 For general government part-time employees, how is leave accrual pro rated?
- 357-31-130 When can an employee use accrued sick leave?
- 357-31-135 When and how does an employee request the use of sick leave?
- 357-31-140 May an employee use sick leave before it is accrued?
- 357-31-145 When an employee is on vacation leave and a condition listed in WAC 357-31-130(1) arises, can the employee use sick leave in place of vacation leave?
- 357-31-150 Can an employee be paid for accrued sick leave?
- 357-31-155 Does an employee who separates for any reason other than retirement or death get paid for accrued sick leave?
- 357-31-160 When a former employee is re-employed, is sick leave restored?
- 357-31-165 At what rate do employees accrue vacation leave?

- 357-31-170 At what rate do part-time employees accrue vacation leave?
- 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?
- 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?
- 357-31-185 When and how does an employee request the use of vacation leave?
- 357-31-190 When can an employee start to use accrued vacation leave?
- 357-31-195 Can an employee use vacation leave before it is accrued?
- 357-31-200 When must an employer grant the use of vacation leave?
- 357-31-205 What must an employer consider in granting the use of vacation leave?
- 357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate?
- 357-31-215 When may vacation leave be accumulated above the maximum two hundred forty hours?
- 357-31-220 What must be included in the statement of necessity for excess vacation leave?
- 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?
- 357-31-230 When can an employee use accrued compensatory time?
- 357-31-235 May an employee use leave if the employee sustains a work-related injury or illness that is compensable under the state workers' compensation law?
- 357-31-240 What happens if an employee uses accrued sick leave during a period when he/she is receiving time loss compensation?
- 357-31-245 What happens if an employee uses accrued vacation leave, accrued compensatory time, or receives holiday pay during a period when he/she is receiving time loss compensation?
- 357-31-250 Are employees entitled to paid bereavement leave?
- 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?
- 357-31-260 When may an agency head or institution president suspend operations?
- 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?
- 357-31-270 When an employer has suspended operations, how are employees who are required to work during the closure affected?
- 357-31-275 What must be included in the employer's suspended operations procedure?
- 357-31-280 How long can operations be suspended?
- 357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies?
- 357-31-290 What qualifies as a family care emergency?
- 357-31-295 What type of leave may employees use for family care emergencies?
- 357-31-300 Is there a limit to how much leave can be used for a family care emergency?
- 357-31-305 Is advance approval required for an employee to take time off for a family care emergency?
- 357-31-310 If an employee is required to report for jury duty service, must the employee be granted a leave of absence with pay?
- 357-31-315 May employees keep compensation received for serving as a member of a jury?
- 357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay?
- 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination?
- 357-31-327 Must an employer grant leave without pay for other miscellaneous reasons?
- 357-31-330 For what reasons may an employer authorize leave without pay?
- 357-31-335 How long can an employee remain on leave without pay?
- 357-31-340 When an employee returns from authorized leave without pay, what position will he/she be returned to?
- 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date and periodic increment date?
- 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?
- 357-31-347 Does leave without pay affect a higher education employee's seniority date?

357-31-350	How does leave without pay affect a general government employee's seniority date?	357-31-550	When an employee returns from an absence designated as FMLA, what position will the employee return to?
357-31-355	How does leave without pay affect the duration of an employee's probationary period or trial service period?	357-31-555	Must employers continue health insurance benefits when an employee is on leave designated as FMLA?
357-31-360	Must employees who have been ordered to active duty or active training duty be granted paid military leave?	357-31-560	Must the employer have a family and medical leave policy?
357-31-370	In addition to paid military leave, must an employee be granted a military leave of absence without pay?	357-31-565	May employers grant paid leave for purposes of recognition?
357-31-373	Is an employee whose spouse is a member of the armed forces of the United States entitled to take leave from work when the military spouse has been called to active duty or when the military spouse is on leave from deployment?	357-31-567	When must an employer grant the use of recognition leave?
357-31-375	What provisions exist for employees to participate in medical expense plans?	357-31-570	What is the purpose of a sick leave pool?
357-31-380	What is the purpose of the state leave sharing program?	357-31-575	Must an agency have a written policy regarding sick leave pools?
357-31-390	What criteria does an employee have to meet to be eligible to receive shared leave?	357-31-580	What criteria does an employee have to meet to be eligible to participate in a sick leave pool?
357-31-395	What definitions apply to shared leave?	357-31-585	Is participation in a sick leave pool voluntary?
357-31-400	How much shared leave may an employee receive?	357-31-590	When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?
357-31-405	What documentation may an employee seeking shared leave be required to submit?	357-31-595	Is a participant eligible to use sick leave from a pool if his/her illness or injury is work-related?
357-31-410	May employees donate leave to employees in other agencies, institutions of higher education, or related higher education boards?	357-31-600	Is there a limit to the amount of sick leave a participating employee may withdraw from a sick leave pool?
357-31-415	Can donated leave be used for any purpose?	357-31-605	What rate of pay is the participant who withdraws sick leave from the pool paid?
357-31-420	What rate of pay is the employee receiving shared leave paid?	357-31-610	How does a part-time participating employee withdraw sick leave credits from a sick leave pool?
357-31-425	What types of leave can an employee donate for the purposes of the state leave sharing program?	357-31-615	When a participating employee uses leave from a sick leave pool will he/she be required to recontribute such sick leave to the pool?
357-31-430	How will shared leave be administered?	357-31-620	When an agency has determined that abuse of a sick leave pool has occurred will the employee have to repay the sick leave credits drawn from the pool?
357-31-435	Must employees use their own leave before using shared leave?	357-31-625	When an employee cancels his/her membership in a sick leave pool, can the employee withdraw the days of sick leave he/she had contributed to the pool?
357-31-440	How must employees who are receiving shared leave be treated during their absence?	357-31-630	Can a participant who moves from one general government position to a different general government position transfer from one sick leave pool to another sick leave pool?
357-31-445	What happens to leave that was donated under the state leave sharing program and was not used by the recipient?	357-31-635	What records must an employer maintain pertaining to sick leave pools?
357-31-450	Must an employee who receives shared leave repay the value of the leave that he or she used?	357-31-640	What is the purpose of the uniformed service shared leave pool?
357-31-455	What records must an employer maintain pertaining to the state leave sharing program?	357-31-645	Who will administer the uniformed service shared leave pool?
357-31-460	For what purposes must parental leave be granted?	357-31-650	What definitions apply to the uniformed service shared leave pool?
357-31-465	Who qualifies for parental leave?	357-31-655	Must employers have a written policy regarding the uniformed service shared leave pool?
357-31-470	How and when can an employee request to be off work on parental leave?	357-31-660	Is participation in the uniformed service shared leave pool voluntary?
357-31-475	How long can an employee request to be off work for parental leave?	357-31-665	What criteria does an employee have to meet to be eligible to request leave from the uniformed service shared leave pool?
357-31-480	Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?	357-31-670	How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence?
357-31-485	If an employee's request for parental leave exceeds the provisions of WAC 357-31-525, how and when must an employer respond to an employee's request for parental leave?	357-31-675	Is shared leave received under the uniformed service shared leave pool included in the two hundred sixty-one day total specified in RCW 41.04.665?
357-31-490	Will time off for parental leave be paid or unpaid?	357-31-680	May employees donating leave direct the donation to a specific individual?
357-31-495	Will time off for parental leave be designated under the Family and Medical Leave Act?	357-31-685	What types of leave can an employee donate for the purposes of the uniformed service shared leave pool?
357-31-500	When must disability leave due to pregnancy and/or childbirth be granted?	357-31-690	How much leave may an employee withdraw from the uniformed service shared leave pool?
357-31-505	How does an employee request disability leave due to pregnancy and/or childbirth?	357-31-695	How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated?
357-31-510	Is the employee required to provide the employer with medical certification during disability leave due to pregnancy and/or childbirth?	357-31-700	What documentation is required to verify military salary and status?
357-31-515	Will time off during the period of disability leave due to pregnancy and/or childbirth be paid?	357-31-705	What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool?
357-31-520	How does the Family and Medical Leave Act of 1993 and the Family Care Law interact with the civil service rules?	357-31-710	What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests?
357-31-525	What is an employee entitled to under the Family and Medical Leave Act of 1993?	357-31-715	May employers establish restrictions on the amount of leave an employee may receive under this section?
357-31-530	Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?	357-31-720	May an employer establish restrictions on the amount of leave an employee may donate under this section?
357-31-535	Who designates absences which meet the criteria of the Family and Medical Leave Act?	357-31-725	When an employer has determined that abuse of the uniformed service shared leave pool has occurred will
357-31-540	Who chooses if an employee will use paid leave or leave without pay for absences granted under the Family and Medical Leave Act?		
357-31-545	Under the Family and Medical Leave Act, can an employee request an intermittent or reduced schedule?		

- 357-31-730 the employee have to repay the shared leave drawn from the pool?  
When an employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and the employee is seeking to use accrued leave or unpaid leave what documentation may the employee be required to submit?

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

- 357-31-001 What definitions apply to this chapter of the civil service rules? [Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-001, filed 4/6/05, effective 7/1/05.] Repealed by 05-12-093, filed 5/27/05, effective 7/1/05. Statutory Authority: Chapter 41.06 RCW.

**WAC 357-31-005 For the purpose of chapter 357-31 WAC, what days are recognized as holidays?** The following days are designated as holidays for the purpose of chapter 357-31 WAC:

- (1) The first day of January (New Year's Day);
- (2) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (3) The third Monday of February (Presidents' Day);
- (4) The last Monday of May (Memorial Day);
- (5) The fourth day of July (Independence Day);
- (6) The first Monday in September (Labor Day);
- (7) The eleventh day of November (Veterans Day);
- (8) The fourth Thursday of November (Thanksgiving Day);
- (9) The day immediately following Thanksgiving Day; and
- (10) The twenty-fifth day of December (Christmas Day).

Higher education employers may designate other days to be observed in place of the above holidays. Holiday schedules for higher education employers may be determined on a calendar or fiscal year basis. When a higher education employer establishes a modified schedule, paid holidays must be granted based on the modified schedule.

[Statutory Authority: Chapter 41.06 RCW. 05-21-057, § 357-31-005, filed 10/13/05, effective 11/15/05; 05-08-136, § 357-31-005, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-010 Which employees qualify for holiday compensation?** (1) Full-time employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are employed before the holiday and are in pay status:

- (a) For at least eighty nonovertime hours during the month of the holiday; or
- (b) For the entire work shift preceding the holiday.
- (2) Full-time higher education employees and cyclic year position employees who work full monthly schedules qualify for holiday compensation if they are in pay status for the entire work shift preceding the holiday.
- (3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day before the holiday(s) in that month.

(4) Part-time general government employees who are in pay status during the month of the holiday qualify for holiday pay on a pro rata basis in accordance with WAC 357-31-020, except that part-time employees hired during the month of

(2009 Ed.)

the holiday will not receive compensation for holidays that occur prior to their hire date.

(5) Part-time higher education employees who satisfy the requirements of subsection (1) of this section are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

[Statutory Authority: Chapter 41.06 RCW. 06-11-049, § 357-31-010, filed 5/11/06, effective 6/12/06; 05-08-136, § 357-31-010, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-015 How many hours are general government employees compensated for on a holiday?** When a holiday designated under WAC 357-31-005 falls on a general government employee's scheduled work day:

- (1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on that day.
- (2) Part-time employees are entitled to the number of paid hours on a holiday on a pro rata basis in accordance with WAC 357-31-020 (General government pro rata).

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-015, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-020 For general government part-time employees, how is holiday compensation pro rated?** Compensation for holidays (including personal holiday) for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment, excluding all holiday hours.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-020, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-025 How many hours are higher education employees compensated for on a holiday?** When a holiday as designated under WAC 357-31-005 falls on a higher education employee's scheduled work day:

(1) Full-time employees receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use of accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a holiday that their monthly schedule bears to a full-time schedule.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-025, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off?** When a holiday (as identified in WAC 357-31-005) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

(1) For a full-time employee who is eligible for holiday compensation, the employer may:

(a) Designate the prior or the following work day as the holiday;

(b) Provide the employee with equivalent paid time off; or

(c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the

employee request an alternate day off within the same pay period as the holiday.

(2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC 357-31-020.

(3) For a part-time higher education employee who is eligible for holiday compensation, the employee is entitled to the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-030, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-035 How is an employee who works on a holiday compensated?** Time worked on a holiday must be compensated as provided in WAC 357-28-200.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-035, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-040 What happens when a holiday as identified in WAC 357-31-005 falls on Saturday or Sunday?** When a holiday falls on Saturday, the preceding Friday is observed as the nonworking or legal holiday. When a holiday falls on Sunday, the following Monday is observed as the nonworking or legal holiday.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-040, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-045 If an employee resigns or is dismissed or separated during a month in which there is a holiday, will he/she be compensated for the holiday?** Employees who resign or are dismissed or separated before a holiday do not qualify for holidays occurring after the effective date of resignation, dismissal or separation.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-045, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-050 How is an employee's holiday determined when an employee works a night shift schedule which begins on one calendar day and ends on the next?** For employees working a shift which begins on one calendar day and ends on the next, the twenty-four hour period during which the holiday occurs must be determined by the employer to start either at the start of the shift that begins on the legal or observed holiday, or at the start of the shift that precedes the legal or observed holiday.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-050, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-055 When does an employee qualify for a personal holiday?** Employees are entitled to one paid personal holiday per calendar year in addition to those specified in WAC 357-31-005 if the employee is scheduled to be, or has been, continuously employed by the state of Washington for at least four months.

An employee who is scheduled to work less than six continuous months over a period covering two calendar years only receives one personal holiday during this period.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-055, filed 4/6/05, effective 7/1/05.]

[Title 357 WAC—p. 52]

**WAC 357-31-060 How many hours are general government employees compensated for when taking a personal holiday?** (1) Full-time employees receive holiday pay for the number of hours they are scheduled to work on the day they select as their personal holiday.

(2) Part-time employees are entitled to the number of paid hours for a personal holiday on a pro rata basis in accordance with WAC 357-31-020.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-060, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-065 How many hours are higher education employees compensated for when taking a personal holiday?** (1) Full-time employees receive eight hours of regular holiday pay on a personal holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(2) Part-time higher education employees are entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full time schedule.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-065, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-070 When is an employer required to approve an employee's request to use a personal holiday?**

(1) An employer must approve the use of a personal holiday as long as:

(a) The employee is entitled to a personal holiday in accordance with RCW 1.16.050 and WAC 357-31-055;

(b) The employee has requested the personal holiday in accordance with the employer's leave procedures; and

(c) The employee's absence does not interfere with the operational needs of the employer.

(2) At any time, an employer must allow an employee to use part or all of the personal holiday for any of the following reasons:

(a) To care for a minor/dependent child with a health condition that requires treatment or supervision;

(b) To care for a spouse, parent, parent-in-law or grandparent of the employee who has a serious health condition or an emergency health condition;

(c) If the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or

(d) In accordance with WAC 357-31-373, for an employee to be with a spouse who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse has been notified of an impending call or order to active duty, before deployment, or when the military spouse is on leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-070, filed 7/11/08, effective 10/1/08; 07-03-054, § 357-31-070, filed 1/12/07, effective 2/15/07; 05-08-136, § 357-31-070, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-075 Within what time frame must the personal holiday be taken?** The personal holiday must be used within the calendar year.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-075, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-080 What happens if an employee requests to use his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request?** If before the end of the calendar year the employee requests the use of his/her personal holiday in accordance with the employer's leave procedures and the employer denies the request, the employee is entitled to carry over the personal holiday to the next calendar year.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-080, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-090 Can an employee request to donate or use part of a personal holiday?** An employee is only allowed to use part of a personal holiday in these two circumstances:

(1) When donating a portion of the personal holiday to the shared leave program as provided in WAC 357-31-425(3), or

(2) When using a portion of the personal holiday to provide care as provided in WAC 357-31-070(2).

Any portion of the personal holiday that remains and is not used for the purposes specified in WAC 357-31-070(2) must be taken by the employee in one absence not to exceed the work shift on the day of the absence.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-090, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-095 If an employee donates a personal holiday to another employee and a portion of the personal holiday is returned, can the donating employee use the remaining hours?** An employee who has donated his/her personal holiday for purposes of shared leave and then has a portion of the personal holiday returned to him/her during the same calendar may use the remaining hours. If the hours are returned during a different calendar, the employee cannot use the remaining hours.

[Statutory Authority: Chapter 41.06 RCW. 05-16-044, § 357-31-095, filed 7/27/05, effective 9/1/05; 05-08-136, § 357-31-095, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-100 Must an employer have a policy for requesting and approving leave?** Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

(1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies, or for an emergency health condition as provided in WAC 357-31-200(2);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim, or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008; and

(3) Address advance notice from the employee when the employee is seeking leave under subsection (2) of this section. When advance notice cannot be given because of an

(2009 Ed.)

emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-100, filed 7/11/08, effective 10/1/08; 05-08-136, § 357-31-100, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-105 How will an unauthorized absence be treated?** Unauthorized absence must be treated as unauthorized leave without pay and may be grounds for separation under the provisions of WAC 357-46-210 or discipline under chapter 357-40 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-105, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-110 What happens to an employee's accrued leave when the employee changes employers?** Unused sick and vacation leave credits of employees who change state employers without a break in service, as defined in WAC 357-01-145, transfer with the employee to the new employer.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-110, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-115 How many hours of sick leave does an employee earn each month?** (1) Full-time employees earn eight hours of sick leave per month.

(2) Part-time general government employees earn sick leave on a pro rata basis in accordance with WAC 357-31-125.

(3) Part-time higher education employees earn sick leave on the same pro rata basis that their appointment bears to a full-time appointment.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-115, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-120 Do employees accrue sick leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of sick leave.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of sick leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-120, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-125 For general government part-time employees, how is leave accrual pro rated?** Vacation and sick leave accruals for part-time general government employees will be proportionate to the number of hours in pay status in the month to that required for full-time employment.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-125, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-130 When can an employee use accrued sick leave?** The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) Because of and during illness, disability, or injury that has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) To care for a minor/dependent child with a health condition requiring treatment or supervision.

(d) To care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or emergency health condition.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300, and 357-31-305.

(f) For personal health care appointments.

(g) For family members' health care appointments when the presence of the employee is required if arranged in advance with the employing official or designee.

(h) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee/employee's spouse who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, child, grandchild, grandparent or parent.

(i) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(j) In accordance with WAC 357-31-373, for an employee to be with a spouse who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse has been notified of an impending call or order to active duty, before deployment, or when the military spouse is on leave from deployment.

(2) Employers **may** allow the use of accrued sick leave under the following conditions:

(a) For condolence or bereavement.

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-130, filed 7/11/08, effective 10/1/08; 05-08-136, § 357-31-130, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-135 When and how does an employee request the use of sick leave?** All requests for sick leave must be made as specified in the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-135, filed 4/6/05, effective 7/1/05.]

[Title 357 WAC—p. 54]

**WAC 357-31-140 May an employee use sick leave before it is accrued?** An employee is not entitled to use sick leave in advance of its accrual.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-140, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-145 When an employee is on vacation leave and a condition listed in WAC 357-31-130(1) arises, can the employee use sick leave in place of vacation leave?** When a condition listed in WAC 357-31-130(1) arises while the employee is on vacation leave, the employer may allow the employee to use accrued sick leave in place of vacation leave. The employee must request the use of accrued sick leave in place of vacation leave according to the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-145, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-150 Can an employee be paid for accrued sick leave?** In accordance with the attendance incentive program established by RCW 41.04.340, employees are eligible to be paid for accrued sick leave as follows:

(1) In January of each year, an employee whose sick leave balance at the end of the previous year exceeds four hundred eighty hours may elect to convert the sick leave hours earned in the previous calendar year, minus those hours used during the year, to monetary compensation.

(a) No sick leave hours may be converted which would reduce the calendar year-end balance below four hundred eighty hours.

(b) Monetary compensation for converted hours is paid at the rate of twenty-five percent and is based on the employee's current salary.

(c) All converted hours are deducted from the employee's sick leave balance.

(d) Hours which are accrued, donated, and returned from the shared leave program in the same calendar year may be included in the converted hours for monetary compensation.

(e) For the purpose of this section, hours which are contributed to a sick leave pool per WAC 357-31-570 are considered hours used.

(2) Employees who separate from state service because of retirement or death must be compensated for their total unused sick leave accumulation at the rate of twenty-five percent. The employer may deposit equivalent funds for a retiring employee in a medical expense plan as provided in WAC 357-31-375. Compensation must be based on the employee's salary at the time of separation. For the purpose of this subsection, retirement does not include "vested out-of-service" employees who leave funds on deposit with the department of retirement systems (DRS).

(3) No contributions are to be made to the department of retirement systems (DRS) for payments under subsection (1) or (2) of this section, nor are such payments reported to DRS as compensation.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-31-150, filed 3/17/08, effective 4/18/08; 07-11-095, § 357-31-150, filed 5/16/07, effective 7/1/07; 07-03-051, § 357-31-150, filed 1/12/07, effective 2/15/07; 05-08-136, § 357-31-150, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-155 Does an employee who separates for any reason other than retirement or death get paid for accrued sick leave?** Employees who separate for any reason other than retirement or death are **not** paid for their accrued sick leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-155, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-160 When a former employee is re-employed, is sick leave restored?** Former employees who are re-employed within five years of their separation from service must be restored unused sick leave credits, if any, to which they were entitled at the time of separation. The employee may use the restored balance in accordance with WAC 357-31-130.

If the employee was retired from government service before being re-employed, when the employee subsequently retires again or dies, only that unused sick leave accrued since the date of reemployment minus that taken within the same period may be compensated per the conversion provisions of WAC 357-31-150.

[Statutory Authority: Chapter 41.06 RCW. 05-08-136, § 357-31-160, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-165 At what rate do employees accrue vacation leave?** (1) Full-time employees accrue vacation leave at the following rates:

(a) During the first year of continuous state employment - twelve days (eight hours per month);

(b) During the second year of continuous state employment - thirteen days (eight hours, forty minutes per month);

(c) During the third and fourth years of continuous state employment - fourteen days (nine hours, twenty minutes per month);

(d) During the fifth, sixth, and seventh years of total state employment - fifteen days (ten hours per month);

(e) During the eighth, ninth, and tenth years of total state employment - sixteen days (ten hours, forty minutes per month);

(f) During the eleventh year of total state employment - seventeen days (eleven hours, twenty minutes per month).

(g) During the twelfth year of total state employment - eighteen days (twelve hours per month).

(h) During the thirteenth year of total state employment - nineteen days (twelve hours, forty minutes per month).

(i) During the fourteenth year of total state employment - twenty days (thirteen hours, twenty minutes per month).

(j) During the fifteenth year of total state employment - twenty-one days (fourteen hours per month).

(k) During the sixteenth and succeeding years of total state employment - twenty-two days (fourteen hours, forty minutes per month).

(2) Higher education employers may establish accrual rates that exceed the rates listed in subsection (1) of this section.

(3) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or incumbent for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section

(2009 Ed.)

and must not exceed the maximum listed in subsection (1)(k) of this section.

(4) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Each contract year, or equivalent, of full-time faculty and/or administrative exempt employment with a higher education employer is credited as one year of qualifying service.

(d) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.

[Statutory Authority: Chapter 41.06 RCW. 05-21-059, § 357-31-165, filed 10/13/05, effective 11/15/05; 05-12-080, § 357-31-165, filed 5/27/05, effective 7/1/05; 05-08-137, § 357-31-165, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-170 At what rate do part-time employees accrue vacation leave?** (1) Part-time general government employees accrue vacation leave credits on a pro rata basis in accordance with WAC 357-31-125.

(2) Part-time higher education employees accrue on the same pro rata basis that their appointment bears to a full-time appointment.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-170, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-175 Do employees accrue vacation leave if they have taken leave without pay during the month?** (1) Full-time general government employees who are in pay status for less than eighty nonovertime hours in a month do not earn a monthly accrual of vacation leave.

(2) Full-time and part-time higher education employees who have more than ten working days of leave without pay in a month do not earn a monthly accrual of vacation leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-175, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-180 When an employee has taken leave without pay during the month is the employee's rate of accrual adjusted for the leave without pay?** Leave without pay taken for military leave of absence without pay or for scheduled mandatory periods of leave without pay for employees in cyclic year positions do not affect the rate at which employees accrue vacation leave. For all other periods of leave without pay, the following applies:

(1) When a general government employee takes leave without pay which exceeds fifteen consecutive calendar days, the employee's anniversary date and unbroken service date are adjusted in accordance with WAC 357-31-345. These adjustments affect the rate at which an employee accrues vacation leave.

(2) When a higher education employee takes more than ten working days of leave without pay, that month does not qualify as a month of employment under WAC 357-31-165.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-180, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-185 When and how does an employee request the use of vacation leave?** All requests for vacation leave must be made in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-185, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-190 When can an employee start to use accrued vacation leave?** An employee (part-time or full-time) must complete six months of continuous state employment before he/she can use vacation leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-190, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-195 Can an employee use vacation leave before it is accrued?** An employee is not entitled to use vacation leave in advance of its accrual.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-195, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-200 When must an employer grant the use of vacation leave?** (1) An employee's request to use vacation leave must be approved under the following conditions:

- (a) As a result of the employee's serious health condition.
- (b) To care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition.
- (c) To care for a minor/dependent child with a health condition that requires treatment or supervision.
- (d) For parental leave as provided in WAC 357-31-460.
- (e) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.
- (f) In accordance with WAC 357-31-373, for an employee to be with a spouse who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse has been notified of an impending call or order to active duty, before deployment, or when the military spouse is on leave from deployment.

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) through (f) above may be subject to verification that the condition or circumstance exists.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-200, filed 7/11/08, effective 10/1/08; 05-08-137, § 357-31-200, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-205 What must an employer consider in granting the use of vacation leave?** When considering requests for vacation leave, the employer must consider the needs of the employee but may require that leave be taken when it will least interfere with the operational needs of the employer.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-205, filed 4/6/05, effective 7/1/05.]

[Title 357 WAC—p. 56]

**WAC 357-31-210 What is the maximum number of hours of vacation leave that an employee can accumulate?** Vacation leave may be accumulated to a maximum of thirty working days (240 hours). Exceptions to this maximum are described in WAC 357-31-215.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-210, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-215 When may vacation leave be accumulated above the maximum two hundred forty hours?** There are two circumstances in which vacation leave may be accumulated above the maximum of thirty working days (240 hours).

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave (240 hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1), employees may also accumulate vacation leave in excess of two hundred forty (240) hours as follows:

(a) An employee may accumulate the vacation leave days between the time thirty days is accrued and his/her next anniversary date of state employment.

(b) Leave accumulated above two hundred forty hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) Any leave accumulated above two hundred forty hours without a statement of necessity between anniversary dates must not, regardless of circumstances, be deferred by the employer by a statement of necessity as described in (1) above. For example:

On June 15, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time. On June 15, the employee's vacation leave balance is 260 hours. The employee accrues 10 hours monthly and his/her anniversary date is October 16. If a statement of necessity is filed in June, his/her leave accrual for the four months between June and October will be deferred and not lost as long as the employee uses those 40 deferred hours by his/her next anniversary date (October 16 of the following year). The hours of excess vacation leave the employee has on June 15 (20 hours) will not be deferred and will be lost if not used by the approaching anniversary date (October 16 of the present year).

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-215, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-220 What must be included in the statement of necessity for excess vacation leave?** At a minimum, a statement of necessity for excess vacation leave must include all of the following:

(1) The date on which the statement of necessity was authorized;

(2) Justification of denial of the employee's leave request;



- (3) Date upon which the employee will be able to resume leave usage;
- (4) The employee's total leave balance on his/her anniversary date;
- (5) The employee's accrual rate; and
- (6) The employee's leave balance at the time of the request.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-220, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?** (1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC 357-31-215(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment, or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW 41.06.070.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-225, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-230 When can an employee use accrued compensatory time?** (1) Employees must request to use accrued compensatory time in accordance with the employer's leave policy. When considering employees' requests, employers must consider the work requirements of the department and the wishes of the employee.

(2) An employee must be granted the use of accrued compensatory time to care for a spouse, parent, parent-in-law, or grandparent of the employee who has a serious health condition or an emergency health condition, or to care for a minor/dependent child with a health condition that requires treatment or supervision. In accordance with the employer's leave policy, approval of the employee's request to use accrued compensatory time maybe subject to verification that the condition exists.

(3) An employee must be granted the use of accrued compensatory time if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(2009 Ed.)

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued compensatory time to be with a spouse who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse has been notified of an impending call or order to active duty, before deployment, or when the military spouse is on leave from deployment.

(5) Compensatory time off may be scheduled by the employer during the final sixty days of a biennium.

(6) Employers may require that accumulated compensatory time be used before vacation leave is approved, except in those instances where this requirement would result in loss of accumulated vacation leave.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-230, filed 7/11/08, effective 10/1/08; 05-08-137, § 357-31-230, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-235 May an employee use leave if the employee sustains a work-related injury or illness that is compensable under the state workers' compensation law?**

An employee who sustains a work related injury or illness that is compensable under the workers' compensation law may choose to receive time-loss compensation exclusively, use accrued paid leave exclusively, or combine time loss compensation and accrued paid leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-235, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-240 What happens if an employee uses accrued sick leave during a period when he/she is receiving time loss compensation?**

An employee who uses accrued sick leave during a period when the employee receives time-loss compensation must have his/her payment for sick leave reduced by the amount of time-loss compensation received by the employee. Until eligibility for workers' compensation is determined by the department of labor and industries, the employer may pay full sick leave; however, the employee must return any overpayment to the employer when the salary adjustment is determined.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-240, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-245 What happens if an employee uses accrued vacation leave, accrued compensatory time, or receives holiday pay during a period when he/she is receiving time loss compensation?**

An employee who uses accrued vacation leave, accrued compensatory time, or receives holiday pay during a period when he/she is receiving time loss compensation is entitled to time-loss compensation and full pay for vacation leave, compensatory time, and holiday pay.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-245, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-250 Are employees entitled to paid bereavement leave?**

(1) If an employee's family member or household member dies, the employee is entitled to three days of paid bereavement leave. An employee may request less than three days of paid bereavement leave.

[Title 357 WAC—p. 57]

(2) In accordance with the employer's leave policy, the employer may require verification of the family member's or household member's death.

(3) In addition to paid bereavement leave, the employer may approve an employee's request to use paid leave (accrued compensatory time, sick leave, vacation leave, and/or a personal holiday) or to take leave without pay for purposes of bereavement.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-250, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-255 What types of leave may an employee use when absent from work or arriving late to work because of inclement weather?** When the employer determines inclement weather conditions exist, the employer's leave policy governs the order in which accrued leave and compensatory time may be used to account for the time an employee is absent from work due to the inclement weather. The employer's policy must allow the use of accrued vacation leave, accrued sick leave up to a maximum of three days in any calendar year, and the use of leave without pay in lieu of paid leave at the request of the employee. The employer's policy may allow leave with pay when an employee is absent due to inclement weather.

[Statutory Authority: Chapter 41.06 RCW. 07-11-093, § 357-31-255, filed 5/16/07, effective 7/1/07; 05-08-137, § 357-31-255, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-260 When may an agency head or institution president suspend operations?** When it is determined that public safety, health, or property is jeopardized due to emergency conditions, the agency head or institution president may suspend operations for the entire agency, higher education institution, related board, or any portion of the organization, in accordance with the employer's suspended operations procedure.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-260, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-265 What is the effect of suspended operations on employees who are not required to work during the closure?** At a minimum, employees not required to work during suspended operations must be allowed to use their personal holiday or accrued vacation leave. Overtime eligible employees must also be allowed to use accrued compensatory time to account for the time lost due to the closure. Overtime eligible employees may be allowed to use leave without pay and given an opportunity to make up work time lost (as a result of suspended operations) within the work week. For overtime eligible employees, compensation for making up lost work time must be in accordance with WAC 357-28-255, 357-28-260, and 357-28-265 if it causes the employee to work in excess of forty hours in the workweek, and must be part of the employer's suspended operations procedures. The amount of compensation earned under this section must not exceed the amount of salary lost by the employee due to suspended operation.

If the employer's suspended operations procedure allows, employees may be released without a loss in pay.

[Title 357 WAC—p. 58]

[Statutory Authority: Chapter 41.06 RCW. 07-11-096, § 357-31-265, filed 5/16/07, effective 7/1/07; 05-08-137, § 357-31-265, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-270 When an employer has suspended operations, how are employees who are required to work during the closure affected?** Employees required to work during the closure must receive their regular rate of pay for work performed during the period of suspended operations. Overtime worked during the closure must be compensated in accordance with chapter 357-28 WAC. The employer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operations.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-270, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-275 What must be included in the employer's suspended operations procedure?** Each employer must develop a suspended operations procedure. The procedure must at a minimum address all of the following:

- (1) How employees will be notified of suspended operations.
- (2) What happens when prior notification has not been given and employees are released until further notice after reporting to work.
- (3) How employees who are not required to work during suspended operations are affected.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-275, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-280 How long can operations be suspended?** The period of suspended operations must not exceed fifteen calendar days without director approval.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-280, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-285 Is an employer required to authorize the absence of an employee for family care emergencies?** Absence because of an employee's inability to report for or continue scheduled work due to a family care emergency:

- (1) **Must** be authorized for care of the employee's spouse, household member or the employee's/spouse's minor/dependent child, parent or grandparent up to the limits specified in WAC 357-31-300.
- (2) **May** be authorized for care of others, including a child over the age of eighteen who is capable of self care, in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 07-03-054, § 357-31-285, filed 1/12/07, effective 2/15/07; 05-08-137, § 357-31-285, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-290 What qualifies as a family care emergency?** The employer's leave policy must define what qualifies as a family care emergency. At a minimum, the employer's definition must include:

- (1) Minor/dependent child care emergencies such as unexpected absence of regular care provider, unexpected clo-

sure of child's school, or unexpected need to pick up child at school earlier than normal.

(2) Elder care emergencies such as the unexpected absence of a regular care provider or unexpected closure of an assisted living facility.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-290, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-295 What type of leave may employees use for family care emergencies?** (1) After an employee has used all accrued compensatory time, the employee may choose any of following leave categories to use to account for time away from work for family care emergencies:

- (a) Vacation leave.
- (b) Sick leave in accordance with WAC 357-31-130.
- (c) Leave without pay.
- (d) Personal holiday.

(2) Use of any of these leave categories is dependent on the employee's eligibility to use that leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-295, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-300 Is there a limit to how much leave can be used for a family care emergency?** (1) For purposes of family care emergencies, each calendar year an employee must be allowed to use up to three work days of:

- (a) Vacation leave,
- (b) Sick leave, and
- (c) Leave without pay.

(2) At the employer's discretion, additional leave in excess of three days for each category of leave may be granted.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-300, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-305 Is advance approval required for an employee to take time off for a family care emergency?** No advance approval is required for an employee to take time off for a family care emergency; however, the employee must notify the employer at the beginning of the absence. In accordance with the employer's leave policy, the employee may be required to provide verification of the need to take leave and that the situation was such that advance notice was not possible.

[Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-305, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-310 If an employee is required to report for jury duty service, must the employee be granted a leave of absence with pay?** The employer must grant a leave of absence with pay when an employee is required to report for jury duty service. Employers may require documentation or verification of jury service.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-310, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-315 May employees keep compensation received for serving as a member of a jury?** Employees are allowed to keep any compensation they receive for serving as a member of a jury in addition to their regular pay.

(2009 Ed.)

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-315, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay?** The employer must grant a leave of absence with pay for the employee to respond to a subpoena when:

- (1) The employee has been subpoenaed on the employer's behalf; or
- (2) The subpoena is for a legal proceeding which is unrelated to the personal or financial matters of the employee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-320, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination?** (1) Leave with pay must be granted to an employee:

- (a) To allow an employee to receive assessment from the employee assistance program; or
- (b) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(i) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(ii) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(2) An employer may grant leave with pay for an employee to perform civil duties as a volunteer including but not limited to fire fighting, search and rescue efforts, or donating blood.

(3) In the department of natural resources, leave with pay equivalent to one regular workshift may be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-31-325, filed 3/17/08, effective 4/18/08; 05-21-055, § 357-31-325, filed 10/13/05, effective 11/15/05; 05-08-138, § 357-31-325, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-327 Must an employer grant leave without pay for other miscellaneous reasons?** An employer must grant leave without pay under the following conditions:

(1) When an employee who is a volunteer fire fighter is called to duty to respond to a fire, natural disaster, or medical emergency;

(2) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws [of] 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; or

(3) In accordance with WAC 357-31-373, for an employee to be with a spouse who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse has been notified of an impending call or

[Title 357 WAC—p. 59]

order to active duty, before deployment, or when the military spouse is on leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-327, filed 7/11/08, effective 10/1/08; 07-17-129, § 357-31-327, filed 8/20/07, effective 9/20/07.]

**WAC 357-31-330 For what reasons may an employer authorize leave without pay?** Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

- (1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;
- (2) Educational leave;
- (3) Leave for government service in the public interest;
- (4) Military leave of absence as required by WAC 357-31-370;
- (5) Parental leave as required by WAC 357-31-460;
- (6) Family care emergencies as required by WAC 357-31-295;
- (7) Bereavement or condolence;
- (8) Absence due to inclement weather as provided in WAC 357-31-255;
- (9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;
- (10) Serious health condition of an eligible employee's child, spouse, or parent as required by WAC 357-31-525;
- (11) Leave taken voluntarily to reduce the effect of an employer's layoff;
- (12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability; or
- (13) Employees receiving time loss compensation.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-330, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-335 How long can an employee remain on leave without pay?** The employer determines the length of time an employee may remain on leave without pay. The employer's leave policy must address any limitations on the length of time for which leave without pay will be approved.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-335, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-340 When an employee returns from authorized leave without pay, what position will he/she be returned to?** Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class and in the same geographical area, provided that such return to employment is not in conflict with rules relating to layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-340, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-345 How does leave without pay affect a general government employee's anniversary date, unbroken service date and periodic increment date?** (1) For a general government employee, the anniversary date, unbroken service date, and periodic increment date is adjusted for any period of leave without pay which exceeds

fifteen consecutive calendar days except when the leave without pay is taken for:

- (a) Military leave of absence without pay as provided in WAC 357-31-370;
  - (b) Compensable work-related injury or illness leave;
  - (c) Government service leave not to exceed two years and one month;
  - (d) Educational leave, contingent upon successful completion of the coursework; and/or
  - (e) Voluntarily reducing the effect of an employer's lay-off.
- (2) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's anniversary date, unbroken service date and periodic increment date must be moved forward in an amount equal to the number of calendar days on leave without pay.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-345, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-346 Does leave without pay affect a higher education employee's periodic increment date?**

For a higher education employee, the periodic increment date will be moved forward by one month when any period of leave without pay which exceeds ten working days in a month or ten consecutive working days except when the leave without pay is taken for:

- (1) Military leave of absence without pay as provided in WAC 357-31-370;
- (2) Compensable work-related injury or illness leave; and/or
- (3) Scheduled periods of leave without pay for cyclic appointments in accordance with WAC 357-19-295.

[Statutory Authority: Chapter 41.06 RCW. 05-12-081, § 357-31-346, filed 5/27/05, effective 7/1/05.]

**WAC 357-31-347 Does leave without pay affect a higher education employee's seniority date?** In accordance with WAC 357-46-053, each higher education employer's layoff procedure defines how seniority is determined including any adjustments made for periods of leave without pay. As provided by WAC 357-19-297, scheduled cyclic leave without pay for an employee in cyclic year positions does not affect the employee's seniority date.

[Statutory Authority: Chapter 41.06 RCW. 05-12-081, § 357-31-347, filed 5/27/05, effective 7/1/05.]

**WAC 357-31-350 How does leave without pay affect a general government employee's seniority date?** WAC 357-46-055 describes how leave without pay affects a general government employee's seniority date.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-350, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-355 How does leave without pay affect the duration of an employee's probationary period or trial service period?** If an employee uses leave without pay for an entire workshift while serving a probationary period or trial service period, the probationary period or trial service

period is extended by one work day for each workshift of leave without pay.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-355, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-360 Must employees who have been ordered to active duty or active training duty be granted paid military leave?** (1) Employees must be granted military leave with pay not to exceed twenty-one working days during each year, beginning October 1st and ending the following September 30th, in order to report for active duty or to take part in active training duty in the Washington National Guard or the Army, Navy, Air Force, Coast Guard, or Marine Corps reserves of the United States or any organized reserve or armed forces of the United States.

(2) Military leave with pay is in addition to any vacation and sick leave to which an employee is entitled and does not reduce benefits, performance ratings, privileges, or pay.

(3) During paid military leave, the employee must receive the normal base salary.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service must receive full pay for the time required to complete the examination.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-360, filed 7/11/08, effective 10/1/08; 05-08-138, § 357-31-360, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-370 In addition to paid military leave, must an employee be granted a military leave of absence without pay?** (1) Employees must be granted a military leave of absence without pay for service in the uniformed services of the United States or the state, and to reinstatement as provided in chapter 73.16 RCW.

(2) No adjustments are made to the seniority date, anniversary date, unbroken service date, vacation leave accrual rate, or periodic increment date while an employee is on paid military leave or a military leave of absence without pay or any combination thereof.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-370, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-373 Is an employee whose spouse is a member of the armed forces of the United States entitled to take leave from work when the military spouse has been called to active duty or when the military spouse is on leave from deployment?** (1) During a period of military conflict, an employee who is a spouse of a member of the armed forces of the United States, National Guard, or reserves who has been notified of an impending call or order to active duty or has been deployed is entitled to a total of fifteen days of unpaid leave per deployment. The employee is entitled to the fifteen days of unpaid leave after the military spouse has been notified of an impending call or order to active duty and before deployment or when the military spouse is on leave from deployment. The employee may choose to substitute accrued leave to which the employee is entitled for any part of the leave without pay.

(2) An employee who seeks leave under this section must provide the employer with notice:

(2009 Ed.)

(a) Within five business days of the employee's spouse receiving official notice of an impending call or order to active duty; or

(b) Within five business days of the employee's spouse receiving official notice of leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-373, filed 7/11/08, effective 10/1/08.]

**WAC 357-31-375 What provisions exist for employees to participate in medical expense plans?** (1) Employers may provide a medical expense plan to eligible employees that provides for reimbursement of medical expenses. Instead of cash out of sick leave at retirement as provided in WAC 357-31-150(2), employers may deposit equivalent funds in a medical expense plan for eligible employees. The medical expense plan must meet the requirements of the Internal Revenue Code.

(2) Medical expense plans must be implemented only after consultation with affected groups of employees.

(3) As a condition of participation, the medical expense plan must require that each covered eligible employee sign an agreement with the employer. The agreement must include the following provisions.

(a) A provision to hold the employer harmless should the United States government find that the employer or the employee is indebted to the United States as a result of:

(i) The employee not paying income taxes due on the equivalent funds placed into the plan, or

(ii) The employer not withholding or deducting a tax, assessment, or other payment on funds placed into the plan as required by federal law.

(b) A provision to require each covered eligible employee to forfeit remuneration for accrued sick leave at retirement if the employee is covered by a medical expense plan and the employee refuses to sign the required agreement.

(4) Each medical expense plan offered by an agency must apply to all eligible employees in any one of the following groups:

(a) Employees in a state agency or higher education institution;

(b) Employees in a major organizational subdivision of a state agency or higher education institution;

(c) Employees at a major operating location of a state agency or higher education institution;

(d) Classified employees in a bargaining unit established by the Public Employees Relations Commission;

(e) Another group of employees defined by the employer that is not designed to provide an individual-employee choice regarding participation in a medical expense plan.

(5) The following definitions are used for the medical expense plan:

(a) "Eligible employees" means all employees in a designated group in (4) of this section.

(b) "Covered eligible employee" means an eligible employee who is in a group for which the employer has established a medical expense plan.

(6) An established medical expense plan must be applicable to all retirements of covered eligible employees within a calendar year. The medical expense plan may be discontinued in any future year, but once discontinued it may not be

reinstated for the same group of eligible employees within the same calendar year as it was discontinued.

[Statutory Authority: Chapter 41.06 RCW. 05-08-138, § 357-31-375, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-380 What is the purpose of the state leave sharing program?** The purpose of the state leave sharing program is to permit state employees, at no significantly increased cost to the state for providing leave, to come to the aid of another state employee who is likely to take leave without pay or terminate his or her employment because:

(1) The employee has been called to service in the uniformed services;

(2) The employee is volunteering with a governmental agency or a nonprofit organization when a state of emergency has been declared within the United States;

(3) The employee or a relative or household member is suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition; or

(4) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-380, filed 7/11/08, effective 10/1/08; 08-07-063, § 357-31-380, filed 3/17/08, effective 4/18/08; 05-08-139, § 357-31-380, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-390 What criteria does an employee have to meet to be eligible to receive shared leave?** An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature;

(b) The employee has been called to service in the uniformed services;

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers his/her services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services; or

(d) The employee is a victim of domestic violence, sexual assault, or stalking as defined in RCW 41.04.655.

(2) The illness, injury, impairment, condition, call to service, or emergency volunteer service, or consequence of domestic violence, sexual assault, or stalking has caused, or is likely to cause, the employee to:

(a) Go on leave without pay status; or

(b) Terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete his or her:

(a) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and accrued sick leave if the employee qualifies under subsection (1)(a) of this section; or

(b) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 if the employee qualifies under subsection (1)(b) of this section; or

(c) Compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and accrued vacation leave if the employee qualifies under (1)(c) or (d) of this section.

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a) of this section.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-390, filed 7/11/08, effective 10/1/08; 08-07-063, § 357-31-390, filed 3/17/08, effective 4/18/08; 07-17-126, § 357-31-390, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-390, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-395 What definitions apply to shared leave?** (1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(2) "Employee's relative" normally must be limited to the employee's spouse, child, grandchild, grandparent, or parent.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

(4) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(5) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the President of the United States in time of war or national emergency.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-395, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-400 How much shared leave may an employee receive?** The employer determines the amount of leave, if any, which an employee may receive under these rules. However, an employee must not receive more than two hundred sixty-one days of shared leave during total state employment and a nonpermanent employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the expected end date of the appointment. Leave used under the sick leave pool program, as described

in WAC 357-31-570, is included in the two hundred sixty-one day limit.

Employers are encouraged to consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time, or special assignments in place of shared leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-400, filed 5/16/07, effective 7/1/07; 05-08-139, § 357-31-400, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-405 What documentation may an employee seeking shared leave be required to submit? (1)**

For employees seeking shared leave under WAC 357-31-390 (1)(a), the employer may require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition before the employer approves or disapproves the request.

(2) For employees seeking shared leave under WAC 357-31-390 (1)(b), the employer may require the employee to submit a copy of the military orders verifying the employee's required absence before the employer approves or disapproves the request.

(3) For employees seeking shared leave under WAC 357-31-390 (1)(c), proof of acceptance of an employee's offer to volunteer for either a governmental agency or a non-profit organization during a declared state of emergency.

(4) For employees seeking shared leave under WAC 357-31-390 (1)(d), the employer may require that the request be supported by documentation. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

(a) A police report indicating that the employee was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee from the perpetrator of the act of domestic violence, sexual assault, or stalking;

(c) Evidence from the court or prosecuting attorney that the employee appeared or is scheduled to appear in court in connection with an incident of domestic violence, sexual assault, or stalking;

(d) An employee's written statement that the employee is a victim of domestic violence, sexual assault, or stalking; or

(e) Documentation that the employee is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-405, filed 7/11/08, effective 10/1/08; 07-17-126, § 357-31-405, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-405, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-410 May employees donate leave to employees in other agencies, institutions of higher education, or related higher education boards?** Leave donated under the civil service rules and shared leave statutes may be transferred from employees of one employer to an employee of the same employer or, with the approval of the heads of both employers, to an employee of another state employer.

(2009 Ed.)

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-410, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-415 Can donated leave be used for any purpose?** Vacation leave, sick leave, or all or part of a personal holiday transferred from a donating employee under these rules must be used solely for the purpose stated in WAC 357-31-380.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-415, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-420 What rate of pay is the employee receiving shared leave paid?** The receiving employee is paid his/her regular rate of pay. Therefore, the value of one hour of shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-420, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-425 What types of leave can an employee donate for the purposes of the state leave sharing program?** An employee may donate vacation leave, sick leave, or all or part of a personal holiday to another employee for purposes of the state leave sharing program under the following conditions:

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to an employee authorized to receive shared leave and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to an employee authorized to receive shared leave and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

Any portion of a personal holiday that is accrued, donated as shared leave, and then returned during the same calendar year to the donating employee, may be taken by the donating employee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-425, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-430 How will shared leave be administered?** The calculation of the recipient's leave value must be in accordance with applicable office of financial management policies, regulations, and procedures. The dollar value of the leave is converted from the donor to the recipient. The leave received is coded as shared leave and is maintained separately from all other leave balances.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-430, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-435 Must employees use their own leave before using shared leave?** Employees who qualify for shared leave under WAC 357-31-390 (1)(a) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, sick leave, and vacation leave that they have accrued before using shared leave. Employees who qualify under WAC 357-31-390 (1)(b) must first use all of their compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, accrued vacation leave, and paid military leave allowed under RCW 38.40.060 before using shared leave. Employees who qualify under WAC 357-31-390 (1)(c) and (d) must first use all compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, and vacation leave that they have accrued before using shared leave.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-435, filed 7/11/08, effective 10/1/08; 08-07-063, § 357-31-435, filed 3/17/08, effective 4/18/08; 05-08-139, § 357-31-435, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-440 How must employees who are receiving shared leave be treated during their absence?** An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

Employees who, during their probationary period or trial service period, go on shared leave must have their probationary period or trial service period extended by the number of calendar days they are on shared leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-440, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-445 What happens to leave that was donated under the state leave sharing program and was not used by the recipient?** (1) Any shared leave not used by the recipient during each incident/occurrence as determined by the employer must be returned to the donor(s).

If shared leave has been granted under WAC 357-31-390 (1)(a), before the employer makes a determination to return the unused leave to the donor(s) the employer must receive from the affected employee's licensed physician or health care practitioner a statement verifying that the employee is released to return to work.

The remaining shared leave must be returned to the donors and reinstated to the respective donors' appropriate leave balances based on each employee's current salary rate at the time of the reversion. The shared leave returned must be returned in accordance with office of financial management policies.

(2) Unused shared leave may not be cashed out by a recipient.

[Statutory Authority: Chapter 41.06 RCW. 07-17-126, § 357-31-445, filed 8/20/07, effective 9/20/07; 05-08-139, § 357-31-445, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-450 Must an employee who receives shared leave repay the value of the leave that he or she used?** An employee who uses leave that is donated under the state leave sharing program is not required to repay the value of the leave that he or she used.

[Title 357 WAC—p. 64]

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-450, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-455 What records must an employer maintain pertaining to the state leave sharing program?** Agencies must maintain records which contain sufficient information to provide for any state review.

[Statutory Authority: Chapter 41.06 RCW. 05-08-139, § 357-31-455, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-460 For what purposes must parental leave be granted?** (1) Employers must grant parental leave to employees for purposes of:

(a) The birth and care of a newborn child of the employee; or

(b) Placement of a minor/dependent child with the employee for adoption or foster care.

(2) Parental leave must be taken during the first year following the child's birth or placement of the minor/dependent child with the employee for adoption or foster care.

[Statutory Authority: Chapter 41.06 RCW. 07-03-054, § 357-31-460, filed 1/12/07, effective 2/15/07; 05-08-140, § 357-31-460, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-465 Who qualifies for parental leave?**

Only permanent employees or employees who have worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period qualify for parental leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-465, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-470 How and when can an employee request to be off work on parental leave?** The employee must submit a written request for parental leave in accordance with the employer's leave policy. The employee must provide not less than thirty days' notice, except when a child's birth or placement requires leave to begin in less than thirty days, in which case the employee must provide notice as soon as is practicable.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-470, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-475 How long can an employee request to be off work for parental leave?** Employees are entitled to request six months of parental leave for the purposes specified WAC 357-31-460. Employers may only deny requests for that portion of the parental leave that exceeds the provisions of WAC 357-31-525. The only basis for denial is operational necessity. Employers may approve requests for more than six months of parental leave.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-475, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-480 Is parental leave in addition to any leave for sickness or temporary disability because of pregnancy and/or childbirth?** Under RCW 49.78.390, the family leave required by the Federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6) must be in addition to any leave for sickness or temporary

(2009 Ed.)



disability because of pregnancy or childbirth as provided in WAC 357-31-500.

[Statutory Authority: Chapter 41.06 RCW. 08-07-062, § 357-31-480, filed 3/17/08, effective 4/18/08; 07-17-124, § 357-31-480, filed 8/20/07, effective 9/20/07; 07-11-094, § 357-31-480, filed 5/16/07, effective 7/1/07; 05-08-140, § 357-31-480, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-485** If an employee's request for parental leave exceeds the provisions of WAC 357-31-525, how and when must an employer respond to an employee's request for parental leave? If the employee's parental leave request is for time off which exceeds the provisions of WAC 357-31-525, the employer must respond in writing to the employee's request within ten working days of the receipt of the request. If the leave is denied, the employer must provide a rationale supporting the operational necessity.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-485, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-490** Will time off for parental leave be paid or unpaid? (1) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay. Sick leave may be used if the criteria in WAC 357-31-130 are met. The combination and use of paid and unpaid leave during a parental leave is at the employee's choice.

(2) If necessary while on approved parental leave, the employee must be allowed to use a minimum of eight hours per month of the accrued paid leave identified in subsection (1) of this section during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer designates when during the month paid leave will be interspersed to maintain benefits.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-490, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-495** Will time off for parental leave be designated under the Family and Medical Leave Act? Employers may designate a total of twelve work weeks of accrued paid leave or leave without pay for purposes of parental leave as family and medical leave under the Family and Medical Leave Act. These twelve weeks are in addition to any paid or unpaid leave the employee is eligible for and takes for sickness or temporary disability due pregnancy or childbirth.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-495, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-500** When must disability leave due to pregnancy and/or childbirth be granted? Leave of absence must be granted for the period of time that a permanent employee is sick or temporarily disabled because of pregnancy and/or childbirth.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-500, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-505** How does an employee request disability leave due to pregnancy and/or childbirth? The employee must submit a written request for disability leave

(2009 Ed.)

due to pregnancy and/or childbirth in accordance with the employer's leave policy.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-505, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-510** Is the employee required to provide the employer with medical certification during disability leave due to pregnancy and/or childbirth? In accordance with the employer's leave policy, the employee may be required to submit medical certification or verification for the period of disability leave due to pregnancy and/or childbirth.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-510, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-515** Will time off during the period of disability leave due to pregnancy and/or childbirth be paid? Disability leave due to pregnancy and/or childbirth may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave without pay. The combination and use of paid and unpaid leave must be per the choice of the employee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-515, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-520** How does the Family and Medical Leave Act of 1993 and the Family Care Law interact with the civil service rules? Benefits provided through state laws and civil service rules must not be diminished or withheld in complying with the Family and Medical Leave Act of 1993.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-520, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-525** What is an employee entitled to under the Family and Medical Leave Act of 1993? (1) The Family and Medical Leave Act of 1993 (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825, provide that an eligible employee must be granted, during a twelve-month period, a total of twelve work weeks of absence:

- (a) As a result of the employee's serious health condition;
- (b) To care for an employee's parent, spouse, or minor/dependent child who has a serious health condition; and/or
- (c) For the birth of and to provide care to an employee's newborn, adopted or foster child as provided in WAC 357-31-460.

(2) An eligible employee who is the spouse, son, daughter, parent, or next of kin of a covered service member shall be entitled to a total of twenty-six work weeks of leave during a twelve-month period to care for the service member who is suffering from a serious illness or injury arising from injuries incurred in the line of duty. The leave described in this paragraph shall only be available during a single twelve-month period.

(a) For purposes of this section, "next of kin" with respect to an individual means the nearest blood relative of that individual.

(b) For purposes of this section, "covered service member" is a member of the armed forces, including the National Guard or reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or

is otherwise on a temporary disability retired list for a serious illness or injury.

(c) For purposes of this section, "serious illness or injury" means an injury or illness incurred by the covered service member in the line of duty while on active duty in the armed forces that may render the service member medically unfit to perform the duties of the service member's office, grade, rank, or rating.

(3) During the twelve-month period described in subsection (2) above, an eligible employee shall be entitled to a combined total of twenty-six work weeks of leave under subsections (1) and (2) above. Nothing in this section shall be construed to limit the availability of leave under subsection (1) during any other twelve-month period.

(4) For general government employers, the twelve-month period in subsections (1) and (2) above is measured forward from the date the requesting employee begins leave under the Family and Medical Leave Act of 1993. The employee's next twelve-month period would begin the first time leave under the Family and Medical Leave Act is taken after completion of the previous twelve-month period. Higher education employers must define within their family and medical leave policy how the twelve months are measured.

[Statutory Authority: Chapter 41.06 RCW. 08-11-008, § 357-31-525, filed 5/9/08, effective 6/10/08; 05-12-086, § 357-31-525, filed 5/27/05, effective 7/1/05; 05-08-140, § 357-31-525, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-530 Under the Family and Medical Leave Act of 1993, how is an eligible employee defined?** In accordance with 29 CFR Part 825, an eligible employee is an employee who has worked for the state for at least twelve months and for at least one thousand two hundred fifty hours during the previous twelve-month period. Vacation leave, sick leave, the personal holiday, compensatory time off, or shared leave is not counted towards the one thousand two hundred and fifty hour eligibility requirement.

[Statutory Authority: Chapter 41.06 RCW. 05-21-061, § 357-31-530, filed 10/13/05, effective 11/15/05; 05-12-090, § 357-31-530, filed 5/27/05, effective 7/1/05; 05-08-140, § 357-31-530, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-535 Who designates absences which meet the criteria of the Family and Medical Leave Act?** The employer designates absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave, excluding compensatory time, used for that designated absence must be counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-535, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-540 Who chooses if an employee will use paid leave or leave without pay for absences granted under the Family and Medical Leave Act?** The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay must be in accordance with the civil service rules.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-540, filed 4/6/05, effective 7/1/05.]

[Title 357 WAC—p. 66]

**WAC 357-31-545 Under the Family and Medical Leave Act, can an employee request an intermittent or reduced schedule?** Employee absence granted for the purpose of WAC 357-31-525 (1)(a) and (b) must be granted on an intermittent or reduced schedule at the employee's request when medically necessary. Employee absence granted for the purpose of WAC 357-31-525(2) must also be granted on an intermittent or reduced schedule at the employee's request.

[Statutory Authority: Chapter 41.06 RCW. 08-11-008, § 357-31-545, filed 5/9/08, effective 6/10/08; 05-08-140, § 357-31-545, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-550 When an employee returns from an absence designated as FMLA, what position will the employee return to?** Following absence designated as FMLA the employee must be returned to the same or equivalent position held prior to the absence.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-550, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-555 Must employers continue health insurance benefits when an employee is on leave designated as FMLA?** The employer must continue an eligible employee's existing employer-paid health insurance benefits during paid or unpaid leave granted in accordance with the Family and Medical Leave Act. The employee is responsible for any existing employee-paid premiums necessary to maintain health insurance benefits.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-555, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-560 Must the employer have a family and medical leave policy?** Each employer must develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, the civil service rules, and the Family and Medical Leave Act of 1993 law and regulations found in 29 CFR Part 825.

[Statutory Authority: Chapter 41.06 RCW. 05-08-140, § 357-31-560, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-565 May employers grant paid leave for purposes of recognition?** Employers who have received performance management confirmation may grant employees up to five days of paid leave within a twelve-month period to recognize outstanding accomplishments or the achievement of predefined work goals by individual employees or units. Leave granted under this provision:

(1) Is not payable upon layoff, dismissal, separation, or resignation or transferable between employers;

(2) Must be used within twelve months of the leave being granted.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-31-565, filed 8/20/07, effective 9/20/07; 06-23-091, § 357-31-565, filed 11/14/06, effective 12/18/06; 05-08-140, § 357-31-565, filed 4/6/05, effective 7/1/05.]

**WAC 357-31-567 When must an employer grant the use of recognition leave?** (1) An employee's request to use recognition leave must be approved under the following conditions:

(a) An employee must be granted the use of recognition leave if the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in section 2, chapter 286, Laws of 2008. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730; and

(b) In accordance with WAC 357-31-373, an employee must be granted the use of recognition leave to be with a spouse who is a member of the Armed Forces of the United States, National Guard, or Reserves after the military spouse has been notified of an impending call or order to active duty, before deployment, or when the military spouse is on leave from deployment.

(2) In accordance with the employer's leave policy, approval for the reasons listed in (1)(a) and (b) above may be subject to verification that the condition or circumstance exists.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-567, filed 7/11/08, effective 10/1/08.]

**WAC 357-31-570 What is the purpose of a sick leave pool?** The purpose of a sick leave pool is to allow general government state employees, within an agency, to pool sick leave to be used by participating employees who have a personal illness, accident, or injury. Sick leave contributed to a sick leave pool will be deducted from the contributing employee's sick leave balance.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-570, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-575 Must an agency have a written policy regarding sick leave pools?** Prior to creating a sick leave pool, an agency that decides to participate in the sick leave pool program must appoint an administrator for each sick leave pool and develop a written policy which at a minimum addresses:

- (1) Eligibility requirements for employees who wish to participate;
- (2) Enrollment process including when open enrollment will occur;
- (3) Amount of sick leave an employee must initially contribute to become a participant;
- (4) Amount of sick leave a participating employee must contribute when a pool becomes depleted;
- (5) When a pool will be considered to be "depleted";
- (6) What happens when a participating employee does not have enough leave to contribute to the pool;
- (7) The process and criteria that will be used when a sick leave pool participant needs to withdraw sick leave from the pool;
- (8) What happens when there is not enough leave in a pool to cover pool participants' requests to withdraw leave;
- (9) The manner in which alleged abuse of the sick leave pool will be investigated and what actions will be taken if it has been determined that abuse has occurred;
- (10) The manner in which employees can request an internal review of a finding of wrongdoing under subsection (9) of this section;
- (11) Transferring of sick leave credits when a pool participant moves from one pool to another pool; and

(2009 Ed.)

(12) What happens to leave credits that are in a pool if the pool is disbanded.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-575, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-580 What criteria does an employee have to meet to be eligible to participate in a sick leave pool?** An employee is eligible to participate in a sick leave pool after one continuous year of state employment and after accruing at least forty-eight hours of unused sick leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-580, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-585 Is participation in a sick leave pool voluntary?** Participation in a sick leave pool must, at all times, be voluntary on the part of the employee.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-585, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-590 When is an employee who participates in a sick leave pool eligible to use sick leave from the pool?** A participating employee is eligible to use sick leave from a pool only when the employee has a personal illness, accident, or injury and the employee has exhausted all of his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-590, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-595 Is a participant eligible to use sick leave from a pool if his/her illness or injury is work-related?** If the illness or injury is work-related and the participant has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW the participant may be eligible to use leave from a pool if he/she has exhausted all of his/her personal holiday and all of his/her sick, vacation, and compensatory time.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-595, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-600 Is there a limit to the amount of sick leave a participating employee may withdraw from a sick leave pool?** A participating employee may not withdraw more than two hundred sixty-one days from a sick leave pool for the entire duration of state employment. The two hundred sixty-one days includes any days an employee has received under the Washington shared leave program. One day equals eight hours of leave.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-600, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-605 What rate of pay is the participant who withdraws sick leave from the pool paid?** A participant who withdraws sick leave from a sick leave pool will be paid his/her regular rate of pay.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-605, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-610 How does a part-time participating employee withdraw sick leave credits from a sick leave pool?** A part-time participating employee withdraws sick leave credits from a sick leave pool on a pro rata basis.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-610, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-615 When a participating employee uses leave from a sick leave pool will he/she be required to retribute such sick leave to the pool?** When a participating employee uses leave from a sick leave pool he/she will not be required to retribute such leave to the pool unless the agency has determined that abuse of the pool has occurred.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-615, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-620 When an agency has determined that abuse of a sick leave pool has occurred will the employee have to repay the sick leave credits drawn from the pool?** Alleged abuse of the use of a sick leave pool will be investigated, and, on a finding of wrongdoing, the employee must repay all of the sick leave credits drawn from the sick leave pool. The employee may be subject to disciplinary action as determined by the agency head. The only time an employee will have to repay sick leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-620, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-625 When an employee cancels his/her membership in a sick leave pool, can the employee withdraw the days of sick leave he/she had contributed to the pool?** An employee who cancels his/her membership in a sick leave pool is not eligible to withdraw the hours of sick leave he/she had contributed to the pool.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-625, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-630 Can a participant who moves from one general government position to a different general government position transfer from one sick leave pool to another sick leave pool?** A participant who moves between general government positions within his/her agency or with a different agency may transfer from one pool to another if the eligibility criteria of the pools are comparable and the administrators of the pools have agreed on a formula for transfer of credits.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-630, filed 5/16/07, effective 7/1/07.]

**WAC 357-31-635 What records must an employer maintain pertaining to sick leave pools?** Each agency shall maintain accurate and reliable records showing the amount of sick leave which has been accumulated and available to sick leave pool participants and the amount of leave that has been used by participants.

[Statutory Authority: Chapter 41.06 RCW. 07-11-095, § 357-31-635, filed 5/16/07, effective 7/1/07.]

[Title 357 WAC—p. 68]

**WAC 357-31-640 What is the purpose of the uniformed service shared leave pool?** The uniformed service shared leave pool was created so that state employees who are called to service in the uniformed services will be able to maintain a level of compensation and employee benefits consistent with the amount they would have received had they remained in active state service. The pool was also created to allow general government and higher education employees to voluntarily donate their leave to be used by any eligible employee who has been called to service in the uniform services for the purpose set forth herein.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-640, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-645 Who will administer the uniformed service shared leave pool?** The military department, in consultation with the department of personnel and the office of financial management, shall administer the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-645, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-650 What definitions apply to the uniformed service shared leave pool?** The following definitions apply to the uniformed service shared leave pool:

(1) "Employee" means any employee who is entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained. This does not include employees of school districts and educational service districts.

(2) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty, and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(3) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard, and any other category of persons designated by the president of the United States in time of war or national emergency.

(4) "Military salary" means the base, specialty, and other pay, but does not include allowances such as the basic allowance for housing.

(5) "Monthly salary" means the monthly salary and special pay and shift differential, or the monthly equivalent for hourly employees. Monthly salary does not include overtime pay, callback pay, standby pay or performance bonuses.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-650, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-655 Must employers have a written policy regarding the uniformed service shared leave pool?** Each employer must have a written policy which at a minimum addresses:

- (1) Eligibility requirements for use of the uniformed service shared leave pool;
- (2) Donation of leave;
- (3) Use of pool leave; and
- (4) Abuse of pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-655, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-660 Is participation in the uniformed service shared leave pool voluntary?** Participation in the uniformed service shared leave pool, must at all times, be voluntary on the part of the donating and receiving employee.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-660, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-665 What criteria does an employee have to meet to be eligible to request leave from the uniformed service shared leave pool?** Employees are eligible to request leave from the uniformed service shared leave pool if they are called to service in one of the uniformed services and eligible for shared leave under RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-665, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-670 How must employees who are receiving leave from the uniformed service shared leave pool be treated during their absence?** An employee using shared leave under these rules continues to be classified as a state employee and receives the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued vacation leave or sick leave.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-670, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-675 Is shared leave received under the uniformed service shared leave pool included in the two hundred sixty-one day total specified in RCW 41.04.665?** Shared leave received under the uniformed service shared leave pool is not included in the two hundred sixty-one day total specified in RCW 41.04.665.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-675, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-680 May employees donating leave direct the donation to a specific individual?** Leave donated under this section is "pooled" and is withdrawn from the pool by eligible employees according to priorities established by the military department. Leave donated cannot be directed to a specific individual.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-680, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-685 What types of leave can an employee donate for the purposes of the uniformed service shared leave pool?** An employee may donate vacation leave, sick leave, or all or part of a personal holiday for purposes of the uniformed service shared leave pool under the following conditions:

(2009 Ed.)

(1) Vacation leave: The donating employee's employer approves the employee's request to donate a specified amount of vacation leave to the uniformed service shared leave pool and the full-time employee's request to donate leave will not cause his/her vacation leave balance to fall below eighty hours after the transfer. For part-time employees, requirements for vacation leave balances are prorated.

(2) Sick leave: The donating employee's employer approves the employee's request to donate a specified amount of sick leave to the uniformed service shared leave pool and the employee's request to donate leave will not cause his/her sick leave balance to fall below one hundred seventy-six hours after the transfer.

(3) Personal holiday: The donating employee's employer approves the employee's request to donate all or part of his/her personal holiday to an employee authorized to receive leave under the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-685, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-690 How much leave may an employee withdraw from the uniformed service shared leave pool?** Shared leave paid under this section, in combination with military salary, as defined in WAC 357-31-650(4), shall not exceed the level of the employee's state monthly salary as defined in WAC 357-31-650(5). However, up to eight hours per month of shared leave under this section may be withdrawn and used to continue coverage under the public employees' benefits board, regardless of the employee's monthly salary and military salary.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-690, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-695 How is the maximum shared leave pay, which will be granted from the uniformed service shared leave pool calculated?** The basis for calculating the maximum shared leave pay granted from the uniformed service shared leave pool is the greater of:

(1) The difference between the employee's current monthly salary (as defined in WAC 357-31-650(5)) and his/her monthly military salary (as defined in WAC 357-31-650(4)) or;

(2) The dollar value associated with the number of hours required to maintain eligibility for employee benefits.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-695, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-700 What documentation is required to verify military salary and status?** Employees must provide the military department earnings statements verifying military salary and a copy of their orders of service. Employees must notify the military department of any changes to orders of service or military salary and shall submit updated copies of their earnings statements and orders of service when requested by the military department.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-700, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-705 What rate of pay is paid to the employee receiving leave under the uniformed service shared leave pool?** The receiving employee is paid his/her regular rate of pay. Therefore, the value of one hour of donated shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-705, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-710 What happens if the uniformed service shared leave pool does not have sufficient balance to cover all leave requests?** The uniformed service shared leave pool cannot grant more leave than the leave balance available at the time a request is received.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-710, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-715 May employers establish restrictions on the amount of leave an employee may receive under this section?** Except in the event of a violation of rule or statute, an employer is required to permit an eligible employee to receive leave from the uniformed service shared leave pool.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-715, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-720 May an employer establish restrictions on the amount of leave an employee may donate under this section?** An employer may limit the amount of leave an employee may donate under this section, if authorization of such donation would be in violation of rule or statute.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-720, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-725 When an employer has determined that abuse of the uniformed service shared leave pool has occurred will the employee have to repay the shared leave drawn from the pool?** Employers shall investigate any alleged abuse of the uniformed service shared leave pool and on a finding of wrongdoing the employee may be required to repay all of the shared leave received from the uniformed service shared leave pool. The only time an employee will have to repay leave credits is when there is a finding of wrongdoing.

[Statutory Authority: Chapter 41.06 RCW. 07-17-123, § 357-31-725, filed 8/20/07, effective 10/1/07.]

**WAC 357-31-730 When an employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking and the employee is seeking to use accrued leave or unpaid leave what documentation may the employee be required to submit?** (1) When an employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking, as defined in section 2, chapter 286, Laws of 2008, and the employee is seeking to use their accrued leave or take leave without pay the employer may require that the request be supported by verification. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

(a) A police report indicating that the employee or the employee's family member was a victim of domestic violence, sexual assault, or stalking;

(b) A court order protecting or separating the employee or employee's family member from the perpetrator of the act of domestic violence, sexual assault, or stalking;

(c) Evidence from the court or prosecuting attorney that the employee or the employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault, or stalking;

(d) An employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking; or

(e) Documentation that the employee or the employee's family member is a victim of domestic violence, sexual assault, or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault, or stalking: An advocate for victims of domestic violence, sexual assault, or stalking; an attorney; a member of the clergy; or a medical or other professional.

(2) If the victim of domestic violence, assault, or stalking is the employee's family member, as defined in chapter 357-01 WAC, verification of the familial relationship between the employee and the victim may include but is not limited to: A statement from the employee; a birth certificate; a court document; or other similar documentation.

[Statutory Authority: Chapter 41.06 RCW. 08-15-043, § 357-31-730, filed 7/11/08, effective 10/1/08.]

## 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?

357-34-100	How often are general government employees required to complete sexual harassment awareness and prevention training?
357-34-105	How often are general government managers and supervisors required to complete additional sexual harassment awareness and prevention training?
357-34-110	Under what circumstances may the general government employer waive the required sexual harassment awareness and prevention training for a new employee?
357-34-115	What must be included in the required sexual harassment awareness and prevention training?
357-34-120	Who provides the required sexual harassment awareness and prevention training?
357-34-125	How do agencies report their compliance with WAC 357-34-100 to the department?

**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;

(2009 Ed.)

(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 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:

[Title 357 WAC—p. 71]

(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?** (1) At a minimum, the entry-level supervisory or managerial training required by WAC 357-34-055 must include all of the following topics:

(a) The role and legal responsibilities of a supervisor/manager.

(b) Performance management, including employee performance evaluation, development, counseling or coaching, and discipline.

(c) Compensation practices.

(d) Recruitment and selection processes and practices.

(e) Labor relations practices and processes.

(2) In addition, supervisors and managers may also receive training on other topics identified by the employer.

[Statutory Authority: Chapter 41.06 RCW. 06-19-062, § 357-34-065, filed 9/19/06, effective 10/20/06; 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 employers in development of 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. 06-19-062, § 357-34-090, filed 9/19/06, effective 10/20/06; 05-01-195, § 357-34-090, filed 12/21/04, effective 7/1/05.]

**WAC 357-34-100 How often are general government employees required to complete sexual harassment awareness and prevention training?** Employees of agencies defined in RCW 41.06.020 are required to complete sexual harassment awareness and prevention training at least every five years. For new employees sexual harassment awareness and prevention training should be completed within the first six months of employment, or earlier if required by the employer's sexual harassment policy.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-100, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-105 How often are general government managers and supervisors required to complete additional sexual harassment awareness and prevention training?** Effective July 1, 2008, in addition to the training



described in WAC 357-34-100, all managers and supervisors of agencies defined in RCW 41.06.020 are required to complete training on managers' roles and responsibilities regarding sexual harassment every three years. For new supervisors and managers, training on roles and responsibilities should be completed within the first six months of becoming a manager or supervisor.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-105, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-110 Under what circumstances may the general government employer waive the required sexual harassment awareness and prevention training for a new employee?** Agencies as defined in RCW 41.06.020 may waive the sexual harassment awareness and prevention training or the managers' roles and responsibilities training required for a new employee if the employee can show proof of attending training given by another state agency, within the time frame that satisfies the requirements of this chapter.

If the sexual harassment awareness and prevention training is waived for a new employee the agency must review their sexual harassment policy with the new employee. The employee must take the next training within five years of completion of the sexual harassment awareness and prevention training or within three years of completion of the managers' roles and responsibilities training with their former state agency.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-110, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-115 What must be included in the required sexual harassment awareness and prevention training?** The requirements of the sexual harassment awareness and prevention training will be published by the department. All training must satisfy the requirements by July 1, 2008.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-115, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-120 Who provides the required sexual harassment awareness and prevention training?** Either the department or the agency may provide the sexual harassment awareness and prevention training.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-120, filed 11/8/07, effective 12/11/07.]

**WAC 357-34-125 How do agencies report their compliance with WAC 357-34-100 to the department?** Agencies as defined in RCW 41.06.020 must report to the department at least every two years regarding their compliance with WAC 357-34-100 and 357-34-105. These agencies must submit a statement signed by the agency head indicating the percentage of employees who are current in the required sexual harassment awareness and prevention training and the percentage of managers and supervisors who are current in the required roles and responsibilities training. Agencies will submit their statements as follows:

(1) Agencies with fifty or more full time equivalent employees must submit their statement to the department

(2009 Ed.)

with the employer's affirmative action plan and affirmative action plan update.

(2) Agencies with twenty-five to forty-nine full time equivalent employees must submit their statement to the department with their small agency workforce profile.

(3) Agencies with fewer than twenty-five full time equivalent employees must submit their statement to the department with the agency's sexual harassment policy.

[Statutory Authority: Chapter 41.06 RCW. 07-23-010, § 357-34-125, filed 11/8/07, effective 12/11/07.]

## 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?
357-37-200	Can an employer require an employee to submit to drug/alcohol testing?

**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.

[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.]

[Title 357 WAC—p. 74]

**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.]

**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.

(2009 Ed.)

[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?** (1) 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, a WGS 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.

(2) A WMS employee may request an internal agency review of alleged irregularities in the use of the approved performance evaluation form and/or procedures outlined in the civil service rules in accordance with the agency's WMS performance management procedures. The content of an evaluation is not subject to review.

[Statutory Authority: Chapter 41.06 RCW. 06-15-070, § 357-37-080, filed 7/13/06, effective 8/14/06; 05-01-194, § 357-37-080, filed 12/21/04, effective 7/1/05.]

**WAC 357-37-200 Can an employer require an employee to submit to drug/alcohol testing?** In addition to drug/alcohol testing required by state or federal law, an employer may require a specific employee to submit to drug/alcohol testing designed to identify the presence in the body of controlled substances referenced under chapter 69.50 RCW, other than drugs prescribed by a physician, if:

- (1) The employer has a policy that:
  - (a) Complies with legal requirements;

(2009 Ed.)

(b) Establishes procedures under which the test may be conducted;

(c) Provides for the confidential treatment of drug and or alcohol test results as required by law or in an action or proceeding challenging any disciplinary action arising from the circumstances which led to the test; and

(2) One of the following conditions apply:

(a) The employee is subject to testing because:

(i) The employer has specific, objective grounds to believe the employee's work performance is impaired due to the presence of such substances in the body; or

(ii) While on duty the employee is involved in an accident or incident as described by the employer's policy;

(b) The employer determines that employees in positions with any of the following responsibilities are subject to testing:

(i) Providing security on state property or ensuring public safety;

(ii) Administering or dispensing medication; or

(iii) Utilizing a firearm as called for in performance of job duties.

[Statutory Authority: Chapter 41.06 RCW. 05-12-096, § 357-37-200, filed 5/27/05, 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?
357-40-050	How must notice of disciplinary action be provided to an employee?

**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.

[Title 357 WAC—p. 75]

[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.]

**WAC 357-40-050 How must notice of disciplinary action be provided to an employee?** Notice of dismissal, suspension, demotion, or reduction in base salary must be provided by personal service or certified letter through the United States mail. Service of notice will be regarded as completed when personal delivery has been accomplished; or upon deposit of a certified letter in the United States mail properly stamped and addressed to the employee's last known home address.

[Statutory Authority: Chapter 41.06 RCW. 05-12-079, § 357-40-050, filed 5/27/05, 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?
357-43-003	Can EBU members choose which civil service rules will apply to them?
357-43-005	What is the purpose of this chapter?
357-43-007	What provisions apply when an employee's position is eliminated because the employer has awarded a contract through the competitive contracting process as described in Title 236 WAC?
357-43-008	What happens if an employee chooses to not be a part of the employee business unit?
357-43-015	Which rules explain employee business unit bid submital 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?
357-43-110	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	If an employee business unit member accepts an appointment to an exempt position, what are the employee's return rights?

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

357-43-010	Do the other rules in Title 357 WAC governing classified employees apply to employee business unit members? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-010, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
357-43-055	Can employee business unit members accrue vacation leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-055, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
357-43-060	Can employee business unit members accrue sick leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-060, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.

- 357-43-065 Can employee business unit members cash out sick leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-065, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-070 Are employee business unit members eligible for legal holidays? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-070, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-075 Are employee business unit members eligible to receive a personal holiday? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-075, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-080 Are employee business unit members eligible to participate in the employer's shared leave program? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-080, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-085 Are employee business unit members eligible to receive military leave? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-085, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-095 Must an employee business unit have a layoff procedure? [Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-095, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-100 What layoff rights must be included in the employee business unit's layoff procedure? [Statutory Authority: Chapter 41.06 RCW. 05-01-186, § 357-43-100, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-105 When is a general government employee business unit member eligible for placement in the general government transition pool? [Statutory Authority: Chapter 41.06 RCW. 05-01-193, § 357-43-105, filed 12/21/04, effective 7/1/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.
- 357-43-120 Can EBU members receive financial incentives for any cost savings that result from completing performance requirements for less cost or better efficiency than what was anticipated in the agreement with the EBU? [Statutory Authority: Chapter 41.06 RCW. 05-19-010, § 357-43-120, filed 9/8/05, effective 10/10/05.] Repealed by 07-11-092, filed 5/16/07, effective 7/1/07. Statutory Authority: Chapter 41.06 RCW.

**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.
- (2) **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.
- (3) **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.
- (4) **Employee business unit member:** A classified employee working under the provisions of chapter 357-43 WAC.

(2009 Ed.)

(5) **Employer:** A state agency, an institution of higher education, or a related higher education board.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-001, filed 5/16/07, effective 7/1/07; 05-01-193, § 357-43-001, filed 12/21/04, effective 7/1/05.]

**WAC 357-43-003 Can EBU members choose which civil service rules will apply to them?** EBU members may choose to opt out of civil service rules that are not required in statute.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-003, filed 5/16/07, effective 7/1/07.]

**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 the employer has awarded a contract through the competitive contracting process as described in Title 236 WAC?** WAC 357-46-012 governs layoff actions resulting from the competitive contracting process as described in Title 236 WAC.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-007, filed 5/16/07, effective 7/1/07; 05-01-185, § 357-43-007, filed 12/21/04, effective 7/1/05.]

**WAC 357-43-008 What happens if an employee chooses to not be a part of the employee business unit?** When an employee chooses to not be a part of the employee business unit, the following applies:

- (1) If the employee chooses to not be a part of the employee business unit before the employer's notification of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the employee has layoff rights in accordance with WAC 357-46-012.

- (2) If the employee chooses to not be a part of the employee business unit after the employer's notification of the intent to award the contract to the employee business unit (as described in WAC 236-51-600), the employee has no layoff rights under chapter 357-46 WAC and is considered to have resigned when his/her position is eliminated.

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-008, filed 5/16/07, effective 7/1/07; 05-19-003, § 357-43-008, filed 9/8/05, effective 10/10/05.]

**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.

[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.

[Title 357 WAC—p. 77]

[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 357-43-110 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 If an employee business unit member accepts an appointment to an exempt position, what are the employee's return rights?** A former employee business unit member who was appointed to an exempt position from the employee business unit has return rights provided in RCW 41.06.070.

[Title 357 WAC—p. 78]

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-43-115, filed 5/16/07, effective 7/1/07; 05-01-193, § 357-43-115, filed 12/21/04, effective 7/1/05.]

## Chapter 357-46 WAC LAYOFF AND SEPARATION

### WAC

357-46-005	What is the impact of a layoff?
357-46-010	What are the reasons for layoff?
357-46-012	Following the award of a contract under the competitive contracting process (as described in Title 236 WAC), how does an employer lay off employees whose positions are being eliminated due to the awarded contract?
357-46-015	How does an employer implement a layoff action?
357-46-020	What must be included in the employer's layoff procedure?
357-46-025	How much layoff notice must employers give employees?
357-46-030	What must be included in the layoff notice?
357-46-035	Layoff option.
357-46-040	What makes one position comparable to another when determining layoff options?
357-46-045	How do employers establish competency and other position requirements?
357-46-050	How does an employer determine an employee's employment retention rating?
357-46-053	How is a higher education employee's seniority date determined?
357-46-055	How is a general government employee's seniority date determined?
357-46-056	How does a general government employee's seniority as of June 30, 2005 transfer under Title 357 WAC?
357-46-057	When is an employee considered to have a break in state service?
357-46-058	Is an employee who is rehired following layoff considered to have had a break in state service?
357-46-060	Does a veteran receive any preference in layoff?
357-46-063	May an employer temporarily layoff an employee?
357-46-064	Are there any limits to temporary layoff?
357-46-065	Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for an employee to perform?
357-46-066	What is the notice requirement to temporarily layoff an employee?
357-46-067	What is an employee's status during temporary layoff?
357-46-068	At the conclusion of a temporary layoff, does an employee have the right to return to the position he/she held immediately prior to being temporarily laid off?
357-46-070	Which employees are eligible to have their name placed on an employer's internal layoff list?
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?
357-46-080	Which employees are eligible to have their name placed on an employer's statewide layoff list?
357-46-085	How are eligible candidates certified from the internal and statewide layoff list?
357-46-090	What is the purpose of the general government transition pool program?
357-46-095	Who is eligible for the general government transition pool program?
357-46-100	Who administers and establishes operating procedures for the general government transition pool program?
357-46-105	Do employees have the right to appeal actions taken within the transition pool program?
357-46-110	Must employees who are appointed to a position through the layoff process serve any type of review period?
357-46-115	When is a transition review period not allowed?
357-46-120	What are the employer's obligations when the employer requires a transition review period?
357-46-125	What happens if an employee does not complete the transition review period?
357-46-130	How long is an individual eligible to have his/her name on an employer's internal and statewide layoff list?
357-46-135	What causes an individual's name to be removed from a layoff list?

- 357-46-140 What is the notice requirement when an individual's name has been removed from an internal or state-wide layoff list?
- 357-46-145 To whom and by when must an individual request a review of the removal from an internal or statewide layoff list?
- 357-46-147 What procedure must an employer use to review the removal of an individual from an internal or state-wide layoff list under the provisions of WAC 357-46-140?
- 357-46-150 If an employee wants to resign from employment, how much notice should the employee give the employer?
- 357-46-155 Can an employee withdraw a resignation?
- 357-46-160 What is a disability separation?
- 357-46-165 When may an employer separate an employee in accordance with WAC 357-46-160?
- 357-46-170 What is the notice requirement before separating an employee due to disability under the provisions of WAC 357-46-160?
- 357-46-175 Can an employee appeal a disability separation?
- 357-46-180 Can an employee be separated during the probationary period?
- 357-46-185 What are the notice requirements before separating a probationary employee?
- 357-46-190 Can an individual appeal being separated during the probationary period?
- 357-46-195 Can an employer separate an employee for nondisciplinary reasons?
- 357-46-200 What is the notice requirement before separating an employee for nondisciplinary reasons under the provisions of WAC 357-46-195?
- 357-46-205 Can an employee appeal being separated for nondisciplinary reasons in accordance with WAC 357-46-195 and 357-46-200?
- 357-46-210 When can an employer separate a permanent employee for unauthorized absence?
- 357-46-215 How is an employee who is being separated for unauthorized absence notified?
- 357-46-220 How can a permanent employee separated for unauthorized absence petition for reinstatement?
- 357-46-222 Must the employer respond to an employee's petition for reinstatement within a specific time frame?
- 357-46-225 Can a permanent employee appeal if the employer does not reinstate the employee under WAC 357-46-220?

#### **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;

(2009 Ed.)

(c) Employee's ineligibility to continue in a position following its reallocation to a class with a higher salary range maximum; or

(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.

(e) Elimination of a position due to the work of the position being competitively contracted.

[Statutory Authority: Chapter 41.06 RCW. 07-17-124, § 357-46-010, filed 8/20/07, effective 9/20/07; 05-19-004, § 357-46-010, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-010, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-012 Following the award of a contract under the competitive contracting process (as described in Title 236 WAC), how does an employer lay off employees whose positions are being eliminated due to the awarded contract?** (1) If an employee business unit as defined by WAC 357-43-001 is not awarded the contract, all employees whose positions are being eliminated are subject to the employer's layoff procedure when the positions are eliminated or reduced.

(2) Employees whose positions are being eliminated who are not part of the employee business unit awarded the contract are subject to the employer's layoff procedure when the employees' positions are eliminated or reduced. (See WAC 357-43-008 for what happens if an employee chooses to not be a part of the employee business unit.)

[Statutory Authority: Chapter 41.06 RCW. 07-11-092, § 357-46-012, filed 5/16/07, effective 7/1/07; 05-19-004, § 357-46-012, filed 9/8/05, effective 10/10/05.]

**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, employee business units, 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, 07-11-092, § 357-46-020, filed 5/16/07, effective 7/1/07; 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)

(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 for general government employees and 357-46-053 for higher education employees. Employers with performance management confirmation may consider properly documented performance in addition to seniority. If performance is not considered, an employee's employment retention rating is equal to the employee's seniority.

[Statutory Authority: Chapter 41.06 RCW. 05-12-084, § 357-46-050, filed 5/27/05, effective 7/1/05; 04-18-114, § 357-46-050, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-053 How is a higher education employee's seniority date determined?** For higher education employees, the seniority date is determined in accordance with the employer's layoff procedure. The employer's layoff procedure must specify a uniform method for determining the seniority date for employees of the higher education institution or related board who are covered by the civil service rules. Employees on military leave as provided in WAC 357-31-370 must not have their seniority date adjusted for the time spent on military leave without pay.

[Statutory Authority: Chapter 41.06 RCW. 05-12-075, § 357-46-053, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-055 How is a general government employee's seniority date determined?** (1) For a full-time general government employee, the seniority date is the employee's most recent date of hire into state service as adjusted for any period of leave without pay which exceeds fifteen consecutive calendar days except when the leave without pay is taken for:

- (a) Military leave as provided in WAC 357-31-370;
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;
- (d) Educational leave, contingent upon successful completion of the coursework; and/or
- (e) Reducing the effects of layoff.
- (f) When an employee is on leave without pay for more than fifteen consecutive calendar days and the absence is not due to one of the reasons listed above, the employee's seniority date must be moved forward in an amount equal to the number of calendar days on leave without pay.

(2) For a part-time general government employee, the seniority date is calculated by determining the number of actual hours worked and/or in paid status. Time spent in leave without pay status is not credited unless the leave without pay is taken for:

- (a) Military leave as provided in WAC 357-31-370;
- (b) Compensable work-related injury or illness leave;
- (c) Government service leave not to exceed two years and one month;

(2009 Ed.)

(d) Educational leave, contingent upon successful completion of the coursework; and/or

(e) Reducing the effects of layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-08-135, § 357-46-055, filed 4/6/05, effective 7/1/05.]

**WAC 357-46-056 How does a general government employee's seniority as of June 30, 2005 transfer under Title 357 WAC?** A general government employee's unbroken service date as of June 30, 2005 will become the employee's seniority date as of July 1, 2005. From July 1, 2005 forward, any adjustments to the seniority date for leave without pay must be in accordance with WAC 357-46-055.

[Statutory Authority: Chapter 41.06 RCW. 05-08-135, § 357-46-056, filed 4/6/05, effective 7/1/05.]

**WAC 357-46-057 When is an employee considered to have a break in state service?** An employee has a break in his/her continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-46-063 is not considered a break in continuous state service.

[Statutory Authority: Chapter 41.06 RCW. 05-12-073, § 357-46-057, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-058 Is an employee who is rehired following layoff considered to have had a break in state service?** (1) An employee laid off in accordance with the provisions of WAC 357-46-010 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position:

- (a) From a layoff list or the general government transition pool; or
- (b) As a promotional candidate in accordance with the employer's promotional policy.

(2) Upon appointment, the employee is reinstated with the seniority and unbroken service the employee had at the time of layoff. For a general government employee, the time spent off the payroll due to layoff is treated like leave without pay and seniority and unbroken service dates must be adjusted in accordance with WAC 357-31-345 and 357-46-055 respectively.

[Statutory Authority: Chapter 41.06 RCW. 05-12-073, § 357-46-058, filed 5/27/05, 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 the eligible veteran's total active military service, not to exceed five years, to his/her unbroken service date.

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

- (a) Has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government; and
- (b) Has received, upon termination of such service:
  - (i) An honorable discharge;

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-077, § 357-46-060, filed 5/27/05, effective 7/1/05; 04-18-114, § 357-46-060, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-063 May an employer temporarily layoff an employee?** For any of the reasons specified in WAC 357-46-010, an employer may temporarily layoff an employee by:

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

(2) Furloughing the employee.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-063, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-064 Are there any limits to temporary layoff?** Under the provisions of WAC 357-46-063, an employer may not:

(1) Furlough an employee for more than thirty calendar days in a calendar year; or

(2) Temporarily reduce an employee's regular work schedule to less than twenty hours a week for more than sixty calendar days in a calendar year.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-064, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-065 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for an employee to perform?** If an employer has less than twenty hours per week of work for an employee to perform during a period of temporary layoff, the employer must notify the employee that he/she is being furloughed. The employer may then offer the available work hours to the employee as a nonpermanent appointment under the provisions of WAC 357-19-360 or temporary appointment under the provisions of WAC 357-19-435.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-065, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-066 What is the notice requirement to temporarily layoff an employee?** An employer must provide the employee seven calendar days' notice of temporary layoff. The temporary layoff notice must inform the employee of his/her status during temporary layoff and the expected duration of the temporary layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-066, filed 5/27/05, effective 7/1/05.]

[Title 357 WAC—p. 82]

**WAC 357-46-067 What is an employee's status during temporary layoff?** (1) Hours not worked due to temporary layoff are not treated as leave without pay, therefore:

(a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff; and

(b) An employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC.

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

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

(b) Payment for his/her vacation leave balance; and

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-067, filed 5/27/05, effective 7/1/05.]

**WAC 357-46-068 At the conclusion of a temporary layoff, does an employee have the right to return to the position he/she held immediately prior to being temporarily laid off?** At the conclusion of the temporary layoff, the employee has the right to resume the position he/she held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment he/she held prior to the layoff.

[Statutory Authority: Chapter 41.06 RCW. 05-12-074, § 357-46-068, filed 5/27/05, 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. Perma-

ment 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.

(2009 Ed.)

[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 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) All general government permanent employees who are reverted and not returned to a permanent position in the class in which the employee last held permanent status;

(3) Employees who are eligible to participate in the return-to-work initiative program in accordance with chapter 357-19 WAC;

(4) 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;

(5) 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;

(6) General government employee business unit members whose contract has expired or been terminated; and

(7) Permanent Washington management service employees who accept acting appointments and who do not return on the agreed upon date in accordance with WAC 357-58-275.

[Statutory Authority: Chapter 41.06 RCW. 05-21-058, § 357-46-095, filed 10/13/05, effective 11/15/05; 05-12-077, § 357-46-095, filed 5/27/05, effective 7/1/05; 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:

[Title 357 WAC—p. 83]

(1) General government employers must provide for consideration of transition pool candidates when a certified pool contains eligible candidates other than candidates from the employer's internal or statewide layoff list or the employer's internal promotional eligibles.

(2) Transition pool candidates must satisfy the competency and other position requirements to be considered for a position.

[Statutory Authority: Chapter 41.06 RCW. 07-03-053, § 357-46-100, filed 1/12/07, effective 2/15/07; 06-03-073, § 357-46-100, filed 1/12/06, effective 2/13/06; 05-19-005, § 357-46-100, filed 9/8/05, effective 10/10/05; 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 six-month 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. 05-12-077, § 357-46-110, filed 5/27/05, effective 7/1/05; 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) When an employee who is serving a transition review period following appointment to a position as a layoff option is separated from the position during the transition review period, the following applies:

(a) The employee must be provided with a layoff option in accordance with WAC 357-46-035 if the employer involuntarily separates the employee; or

(b) The employee's name is placed on any layoff lists for which the employee is eligible if the employee voluntarily separates.

(3) When an employee who is serving a transition review period following appointment from a layoff list or the general government transition pool is separated from the position 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.

(4) Separation during the transition review period is not subject to appeal.

[Statutory Authority: Chapter 41.06 RCW. 05-12-078, § 357-46-125, filed 5/27/05, effective 7/1/05; 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 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 permanent position in the class. The individual may also be removed from the internal and/or statewide layoff list for any classes with a lower salary range maximum in that class series/occupational category.

(b) The individual is appointed to a permanent position in a class with a higher salary range maximum in a different class series/occupational category.

(c) The individual has been certified from the layoff list and waives consideration for a position in the class three times.

(d) The employer determines good and sufficient reason exists.

[Statutory Authority: Chapter 41.06 RCW. 06-15-064, § 357-46-135, filed 7/13/06, effective 8/14/06; 06-03-071, § 357-46-135, filed 1/12/06, effective 2/13/06; 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)(b), (c), and (d) 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)(b), (c), and (d) 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. 06-03-071, § 357-46-140, filed 1/12/06, effective 2/13/06; 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?** (1) Requests for review of removal from a layoff list must be made to the employer when:

(a) The removal is based on the employer's determination that good and sufficient reason exists under the provisions of WAC 357-46-135 (2)(d); or

(b) The employer is responsible for maintaining the layoff list and removed the individual for a reason listed in WAC 357-46-135 (2)(b) or (c).

If the individual is not in agreement with the results of the employer's review, he/she may request a director's review of the removal.

(2) Requests for review of removal from a layoff list must be made to the director when:

(a) The removal is based on the department's determination that good and sufficient reason exists under the provisions of WAC 357-46-135 (2)(d);

(b) The department is responsible for maintaining the layoff list and removed the individual for a reason listed in WAC 357-46-135 (2)(b) or (c); or

(c) The individual is not in agreement with the results of the employer's review of the removal.

(3) The request for a review must be received at the employer's office within twenty (20) calendar days or the director's office within thirty (30) calendar days following notice of the action for which a review is requested.

[Statutory Authority: Chapter 41.06 RCW. 06-03-071, § 357-46-145, filed 1/12/06, effective 2/13/06; 05-16-042, § 357-46-145, filed 7/27/05, effective 9/1/05; 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

(2009 Ed.)

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 is the notice requirement before separating an employee due to disability under the provisions of WAC 357-46-160?** Before separating an employee from employment under the provisions of WAC 357-46-160, the employer must provide at least seven calendar days' written notice to the employee. For permanent employees, the notice must include information on how to apply for reemployment as provided in WAC 357-19-475.

[Statutory Authority: Chapter 41.06 RCW. 05-19-008, § 357-46-170, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-170, filed 9/1/04, effective 7/1/05.]

**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.

(3) This section does not apply to separations due to disability. WAC 357-46-170 specifies the notice requirement when separating an employee due to disability.

[Statutory Authority: Chapter 41.06 RCW. 05-19-008, § 357-46-200, filed 9/8/05, effective 10/10/05; 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. For a permanent employee, the separation notice must inform the employee of the ability to petition the employer for reinstatement and the right to appeal the separation to the board as provided in chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-19-007, § 357-46-215, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-215, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-220 How can a permanent 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. 05-19-007, § 357-46-220, filed 9/8/05, effective 10/10/05; 04-18-114, § 357-46-220, filed 9/1/04, effective 7/1/05.]

**WAC 357-46-222 Must the employer respond to an employee's petition for reinstatement within a specific time frame?** The employer must respond in writing to an employee's petition for reinstatement as provided in WAC 357-46-220 within seven calendar days of receipt of the employee's petition.

[Statutory Authority: Chapter 41.06 RCW. 05-19-007, § 357-46-222, filed 9/8/05, effective 10/10/05.]

**WAC 357-46-225 Can a permanent employee appeal if the employer does not reinstate the employee under WAC 357-46-220?** Within thirty calendar days of the effective date of the separation, a permanent employee may appeal the separation to the board. Petitioning the employer for reinstatement does not lengthen the thirty calendar days within which the employee may appeal to the board. 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. 05-19-007, § 357-46-225, filed 9/8/05, effective 10/10/05; 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	For what actions may an individual request a director's review?
357-49-015	How does an individual or employee request a director's review?
357-49-017	When is a director's review part of the appeal process?
357-49-018	Does an individual or an employer have the right to appeal the results of a director's review to the board?
357-49-019	What civil service rules govern the director's review process?
357-49-020	What process is used to conduct a director's review?
357-49-022	Who has the burden of proof in a director's review?
357-49-023	For purposes of this chapter, how must written documents be filed with the director?
357-49-025	How must exhibits for director's reviews be prepared and exchanged?
357-49-027	What happens if the person requesting a director's review does not submit all the information required by WAC 357-49-015?
357-49-035	When does a director's determination become final?

**WAC 357-49-010 For what actions may an individual request a director's review?** (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 decisions 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) An individual may request 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 subject listed in section (2) of this rule, an employee who has been adversely affected by a violation of the civil service laws or rules may request a director's review 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:

(a) Allegations arising from the development and adoption of the classification plan under the provisions of WAC 357-10-020;

(b) An alleged violation of civil service laws or rules pertaining to layoff, except for removal of his/her name from a layoff list as provided in subsection 2 of this section; or

(c) 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

(2009 Ed.)

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. 06-03-071, § 357-49-010, filed 1/12/06, effective 2/13/06; 05-19-011, § 357-49-010, filed 9/8/05, effective 10/10/05; 05-12-082, § 357-49-010, filed 5/27/05, effective 7/1/05; 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 357-49-017 When is a director's review part of the appeal process?** When an individual requests a director's review for any of the following types of actions, the director's review constitutes the initial step of the appeal process:

(1) Review of an employee's allocation or reallocation per WAC 357-13-080;

(2) Review of an alleged violation of civil service law or rules per WAC 357-49-010 (2) and (4); and

(3) Review of a remedial action request per WAC 357-49-010(5).

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-017, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-018 Does an individual or an employer have the right to appeal the results of a director's review to the board?** Except as provided in WAC 357-49-010(1), either party may appeal the results of the director's review to the board by filing written exceptions to the director's determination in accordance with chapter 357-52 WAC. In accordance with WAC 357-52-010, written exceptions for appeals of allocation or reallocation are filed:

(1) Through December 31, 2005, with personnel appeals board; and

(2) As of January 1, 2006, with personnel resources board.

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-018, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-019 What civil service rules govern the director's review process?** Chapter 357-49 WAC governs the process under which director's reviews are conducted.

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-019, filed 9/8/05, effective 10/10/05.]

**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.]

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

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-022, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-023 For purposes of this chapter, how must written documents be filed with the director? (1) Filing papers for director's review requests.** Papers that must be filed with the director for director's review requests are considered to be filed only when the papers are actually received in the director's review office in Olympia, Washington.

(2) **Filing papers for director's review requests by telephone facsimile.**

(a) Written documents filed with the director for review requests by telephone facsimile are considered received when a legible copy of the document is reproduced on the director's telephone facsimile equipment in the director's review 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 director 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 review 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 director within twenty-four hours of the time that the telephone facsimile was sent.

(3) The filing of papers for director's review requests by electronic mail ("e-mail") is not authorized without the express prior approval of the director, and only under such circumstances as the director allows.

[Title 357 WAC—p. 88]

[Statutory Authority: Chapter 41.06 RCW. 06-03-070, § 357-49-023, filed 1/12/06, effective 2/13/06.]

**WAC 357-49-025 How must exhibits for director's reviews be prepared and exchanged?** (1) When exhibits are submitted for any director's review, one copy must be provided for the director or designee and one copy must be provided to the opposing party.

(2) For allocation reviews, employees must submit all exhibits through the employer's human resource office. The employer's human resource representative is responsible for forwarding all exhibits to the director or designee within the time frames set by the director or designee.

(3) For all other director's reviews, the party submitting the exhibit is responsible for providing copies to the director or designee and opposing party within the time frames set by the director or designee.

(4) The parties must pre-mark their exhibits for identification before they are provided to the opposing party and submitted to the director or designee.

(5) The director or designee may limit the number, scope and timing of exhibits.

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-025, filed 9/8/05, effective 10/10/05.]

**WAC 357-49-027 What happens if the person requesting a director's review does not submit all the information required by WAC 357-49-015?** (1) When the director receives a request for review, the director reviews the document(s) to determine whether the information required by this section has been provided.

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

(3) The person requesting the review must provide the missing information as requested within twenty-one calendar days of the date the notification is mailed.

(4) When the director receives the requested information, a copy will be sent to the other affected parties.

(5) If the person requesting the review fails to comply with the requirements of this section the director may dismiss the request for review.

[Statutory Authority: Chapter 41.06 RCW. 06-03-070, § 357-49-027, filed 1/12/06, effective 2/13/06.]

**WAC 357-49-035 When does a director's determination become final?** (1) Director review decisions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are not subject to further review or appeal and become final when notice of the determination is served on the parties.

(2) For all other director's determinations, if no exceptions are filed, the determination becomes final thirty calendar days after notice of the determination is served on the parties.

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-49-035, filed 9/8/05, effective 10/10/05.]

(2009 Ed.)



**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 to a recommended decision?
- 357-52-193 What must be included in a party's written exceptions to a director's determination?
- 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?
- 357-52-207 How does the board decide an appeal on exceptions?
- 357-52-208 How does the board notify the parties whether the appeal on exceptions will be decided upon written or oral arguments?
- 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?
- 357-52-221 What is the timeline for a party to file a motion for reconsideration of a board's final order?
- 357-52-222 On what grounds may a party file a motion for reconsideration of a board's final order?

- 357-52-223 How is a motion for reconsideration responded to by the board?
- 357-52-224 Is a board order on a motion for reconsideration subject to further review?
- 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) Within WGS, the following actions may be appealed:

(a) Any permanent WGS 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.

(b) Any employee, subject to the statutory jurisdiction of the board who adversely 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 as follows:

(i) For a violation of state civil service law or rules relating to a layoff action, excluding removal from a layoff list, the employee may appeal directly to the board.

(ii) For a violation of state civil service law or rules relating to any other subject, including removal from a layoff list, the employee or 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).

(c) 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.

(d) An employee whose position has been exempted from chapter 41.06 RCW may appeal the exemption to the board.

(e) An individual or the employer may appeal remedial action to the board by filing written exceptions to the director's review determination.

(2) Within WMS, the following actions may be appealed:

(a) Any permanent Washington management service employee who is dismissed, suspended, demoted, laid off, 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 layoff action is not subject to appeal.

(b) An employee whose position has been exempted from chapter 41.06 RCW may appeal the exemption to the board.

[Statutory Authority: Chapter 41.06 RCW. 06-03-072, § 357-52-010, filed 1/12/06, effective 2/13/06; 05-19-011, § 357-52-010, filed 9/8/05, effective 10/10/05; 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, layoff, 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. 06-03-074, § 357-52-015, filed 1/12/06, effective 2/13/06; 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, layoff, 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. 06-03-074, § 357-52-020, filed 1/12/06, effective 2/13/06; 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.

[Title 357 WAC—p. 90]

[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.]

**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.]

**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;

- (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, stipulations, admissions, 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.

(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?** (1) At any hearing on appeal of a:

(a) Dismissal, suspension, demotion, or reduction in base salary, the employer has the burden of supporting the charges upon which the action was initiated; or

(b) Layoff or separation, the employer has the burden of supporting both the basis for the action taken and compliance with the civil service law(s) or rule(s) governing the action.

(2) At any other hearing, the party filing the appeal has the burden of proof.

[Statutory Authority: Chapter 41.06 RCW. 06-03-069, § 357-52-110, filed 1/12/06, effective 2/13/06; 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.

(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.

(2009 Ed.)

(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.]

**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 to a recommended decision?** 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. 05-19-011, § 357-52-190, filed 9/8/05, effective 10/10/05; 05-01-191, § 357-52-190, filed 12/21/04, effective 7/1/05.]

**WAC 357-52-193 What must be included in a party's written exceptions to a director's determination?** The written exceptions must set forth specific exceptions to the director's determination and any additional errors a party contends were made by the director's designee. The party must identify the specific portion(s) of the record that support each exception or claimed error.

[Statutory Authority: Chapter 41.06 RCW. 05-19-011, § 357-52-193, filed 9/8/05, effective 10/10/05.]

**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

[Title 357 WAC—p. 93]

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 357-52-207 How does the board decide an appeal on exceptions?** The board reviews the record created by the director's designee or hearing officer. At the board's discretion, the appeal is decided based upon:

- (1) The record and the written arguments on the exceptions, or
- (2) The record and oral arguments on the exceptions.

[Statutory Authority: Chapter 41.06 RCW. 05-12-087, § 357-52-207, filed 5/27/05, effective 7/1/05.]

**WAC 357-52-208 How does the board notify the parties whether the appeal on exceptions will be decided upon written or oral arguments?** (1) The board provides thirty calendar days' written notice to the parties of:

- (a) The timeline for submitting written arguments; or
  - (b) The date of the hearing.
- (2) The parties may agree to less than thirty calendar days' notice.

[Statutory Authority: Chapter 41.06 RCW. 05-12-087, § 357-52-208, filed 5/27/05, 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

[Title 357 WAC—p. 94]

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 357-52-221 What is the timeline for a party to file a motion for reconsideration of a board's final order?**

After issuance of a final board order, any party may file a motion for reconsideration. Such motions must be filed with the board and the opposing party within fourteen calendar days of service of the board's order. Within seven calendar days of the date on which the motion was filed, a party may file an answer to the motion with the board and the opposing party.

[Statutory Authority: Chapter 41.06 RCW. 06-07-049, § 357-52-221, filed 3/9/06, effective 4/10/06.]

**WAC 357-52-222 On what grounds may a party file a motion for reconsideration of a board's final order?** A motion for reconsideration must be based on at least one of the following grounds:

- (1) Errors of procedure material to the party seeking reconsideration;
- (2) Misinterpretation of fact or law material to the party seeking reconsideration;
- (3) Irregularity in the hearing before the board by which the party seeking reconsideration was prevented from having a fair hearing; or
- (4) Clerical mistakes in the final decision and order.

[Statutory Authority: Chapter 41.06 RCW. 06-07-049, § 357-52-222, filed 3/9/06, effective 4/10/06.]

**WAC 357-52-223 How is a motion for reconsideration responded to by the board?** In response to a motion for reconsideration, the board may deny the motion, modify its decision or reopen the hearing. The motion is deemed denied unless the board takes action within thirty calendar days of the date on which the motion was filed.

[Statutory Authority: Chapter 41.06 RCW. 06-07-049, § 357-52-223, filed 3/9/06, effective 4/10/06.]

**WAC 357-52-224 Is a board order on a motion for reconsideration subject to further review?** A board order on a motion for reconsideration is not subject to further review.

[Statutory Authority: Chapter 41.06 RCW. 06-07-049, § 357-52-224, filed 3/9/06, effective 4/10/06.]

**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

(2009 Ed.)

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 personal 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

(2009 Ed.)

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.]

### Chapter 357-55 WAC COMBINED FUND DRIVE

#### WAC

- 357-55-010 What is the purpose of the combined fund drive rules?  
357-55-020 What is the intent of the combined fund drive rules?  
357-55-030 Is the combined fund drive campaign authorized to collect contributions in state workplaces?  
357-55-040 Do the combined fund drive rules apply to collection of gifts in kind?  
357-55-110 What definitions apply to this chapter of the civil service rules?  
357-55-210 What is the committee's name that is authorized in accordance with RCW 41.04.033 through 41.04.039 and RCW 41.04.230 and Executive Order EO 01-01?  
357-55-215 What does the CFD committee do?  
357-55-220 How are members of the CFD committee appointed?  
357-55-225 When will the CFD committee meet?  
357-55-230 What is a quorum for the CFD committee?  
357-55-235 What are the CFD committee's responsibilities for a charity drive?  
357-55-240 What are the CFD committee's responsibilities for standards and criteria to participate in the fund drive?  
357-55-245 Who completes, evaluates and approves the application printed and distributed by the CFD committee?  
357-55-250 Who develops the official CFD campaign and publicity materials?  
357-55-255 Who determines the CFD committee's administrative expenses and how are they recovered?  
357-55-260 Who establishes the process for handling and depositing employee contributions?  
357-55-265 Who establishes staff and volunteer positions and other groups?  
357-55-270 Who engages the CFD program manager and what are the responsibilities of the program manager?  
357-55-275 How may contributions intended for an organization or federation that is decertified be handled?  
357-55-280 Do members of the CFD committee receive a salary and expense reimbursement?  
357-55-285 When may the CFD committee enter into contracts?  
357-55-310 May state employees volunteer to serve as CFD campaign executives?  
357-55-320 May state agencies and higher education institutions use state resources to support the CFD campaign?  
357-55-330 What is the role of the department of personnel with the CFD committee?  
357-55-410 How may state employers establish a local CFD campaign?  
357-55-415 When does the annual CFD campaign occur?  
357-55-420 May state employers grant permission for participating organizations to share information during work hours?  
357-55-425 What campaign events may occur during work hours within the campaign calendar?  
357-55-430 Who may be solicited?  
357-55-510 How are campaign expenses recovered?  
357-55-515 May fund-raising expenses be deducted from donations?  
357-55-520 How are campaign expenses divided?  
357-55-610 How does the CFD committee determine eligibility?

- 357-55-615 What notice does the CFD committee provide if an organization is not eligible?  
357-55-620 What is the process to request reconsideration of noneligibility?  
357-55-625 May a participating organization be decertified or disqualified from participating in the combined fund drive?  
357-55-630 What notice does the CFD committee provide when a decertification decision is made?  
357-55-635 When is decertification of an organization effective?  
357-55-640 When will payments of contributions cease for a decertified organization?  
357-55-645 May requests be made for reconsideration of a decertification decision?

**WAC 357-55-010 What is the purpose of the combined fund drive rules?** The combined fund drive rules are adopted to implement a charitable CFD campaign for the efficient, long term collection of voluntary state employee and public retiree contributions to qualifying, not-for-profit organizations. The state hopes that a uniform policy for fund raising will encourage generosity in voluntary contributions for the qualified participating organizations and federations.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-010, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-020 What is the intent of the combined fund drive rules?** The intent of the CFD rules is to:

- (1) Lessen the burdens of government and of local communities in meeting the needs of human health and welfare;
- (2) Provide a convenient channel through which state employees and public agency retirees may contribute to the efforts of the participating organizations and federations providing services in Washington state and around the world;
- (3) Minimize both the disruption of the state workplace and the costs to taxpayers caused by multiple charitable fund drives; and
- (4) Ensure that participating organizations and federations are fiscally responsible in the uses of the moneys so raised.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-020, filed 3/17/08, effective 4/18/08; 05-08-132, § 357-55-020, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-030 Is the combined fund drive campaign authorized to collect contributions in state workplaces?** The CFD campaign is the only authorized formal solicitation of Washington state employees in the workplace on behalf of participating not-for-profit organizations and federations.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-030, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-040 Do the combined fund drive rules apply to collection of gifts in kind?** The rules in chapter 357-55 WAC do not apply to the collection of gifts-in-kind, such as food, clothing and toys.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-040, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-110 What definitions apply to this chapter of the civil service rules?** The following definitions apply to chapter 357-43 WAC:

- (1) **CFD:** Washington state combined fund drive.



(2) **CFD campaign:** The period of organized solicitation of state employees and public agency retirees. This solicitation is conducted to obtain voluntary contributions, donations and charitable commitments to be allocated to approved, not-for-profit participating organizations and federations. State agencies or institutions of higher education have the flexibility to conduct a CFD campaign once a year at any time during the year.

(3) **CFD committee:** The Washington state combined fund drive (CFD) committee described in WAC 357-55-215.

(4) **Federation:** A public or private not-for-profit umbrella organization made up of five or more individual member organizations approved by the CFD committee to participate in the CFD campaign.

(5) **Participating organization:** A public 170 (c)(1) or private 501 (c)(3) not-for-profit organization whose application is approved by the CFD committee to participate in the CFD campaign.

(6) **State employer:** Washington state agencies and higher education institutions and related boards.

(7) **Year of contributions:** The annual calendar year for collection of the voluntary payroll deductions for charitable contributions authorized by state employees and public agency retirees pursuant to these rules. The normal, full annual calendar year of contributions will begin with January and end with the ensuing December.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-110, filed 3/17/08, effective 4/18/08; 05-08-132, § 357-55-110, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-210 What is the committee's name that is authorized in accordance with RCW 41.04.033 through 41.04.039 and RCW 41.04.230 and Executive Order EO 01-01?** The committee will be known as the Washington state combined fund drive committee and referred to in these rules as the CFD committee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-210, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-215 What does the CFD committee do?** A CFD committee is established to conduct a flexible, annual, consolidated effort to secure funds for distribution to not-for-profit organizations engaged in charitable, public health, public welfare and social services, environmental or arts purposes.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-215, filed 3/17/08, effective 4/18/08; 05-08-132, § 357-55-215, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-220 How are members of the CFD committee appointed?** The CFD committee must be composed of not more than twelve members appointed by the governor for three year terms. Appointments must be consistent with Executive Order 01-01. Compensation and reimbursement for CFD committee members will be as provided in WAC 357-55-280.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-220, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-225 When will the CFD committee meet?** The CFD committee will meet to conduct necessary

(2009 Ed.)

business, elect a chairperson, and other officers as needed, annually or as vacancies occur.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-225, filed 3/17/08, effective 4/18/08; 05-08-132, § 357-55-225, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-230 What is a quorum for the CFD committee?** Fifty percent of the appointed members will constitute a quorum for the conduct of business for the CFD committee. A majority vote of the quorum will be needed to carry a motion.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-230, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-235 What are the CFD committee's responsibilities for a charity drive?** The CFD committee will organize and effect a flexible solicitation effort for charitable donations each year.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-235, filed 3/17/08, effective 4/18/08; 05-08-132, § 357-55-235, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-240 What are the CFD committee's responsibilities for standards and criteria to participate in the fund drive?** The CFD committee will establish standards and criteria for participation in the fund drive. The standards and criteria will be incorporated into the application printed and distributed by the CFD committee. Changes in the standards and criteria will be made only after sixty days notice is given by the CFD committee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-240, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-245 Who completes, evaluates and approves the application printed and distributed by the CFD committee?** The application which is distributed by the CFD committee will be completed and submitted by those not-for-profit organizations and federations seeking approval to participate in the CFD campaign.

The CFD committee will evaluate each completed application, based on the established standards and criteria, and will determine which not-for-profit organizations or federations are approved to participate in the annual CFD campaign.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-245, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-250 Who develops the official CFD campaign and publicity materials?** The CFD committee will develop the official CFD campaign and publicity materials. The CFD committee may contract for marketing services to develop the CFD campaign material in a manner that is consistent with RCW 41.04.0332.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-250, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-255 Who determines the CFD committee's administrative expenses and how are they recovered?** The CFD committee will determine its reasonable administrative expenses to conduct the CFD campaign and recover those expenses.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-255, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-260 Who establishes the process for handling and depositing employee contributions?** The CFD committee will establish a procedure for CFD staff to collect, process and deposit individual employee contributions during the annual fundraising. Contributions from fundraising efforts will be deposited into the CFD account in the custody of the state treasurer according to state laws.

[Statutory Authority: Chapter 41.06 RCW. 05-08-132, § 357-55-260, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-265 Who establishes staff and volunteer positions and other groups?** The CFD committee will establish staff and volunteer positions and committees as necessary to assist in the annual CFD campaign. An organizational chart is available from the CFD committee through the Department of Personnel, P.O. Box 47500, Olympia WA 98504-7500.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-265, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-270 Who engages the CFD program manager and what are the responsibilities of the program manager?** The CFD committee will engage a CFD program manager to exercise general supervision over all operations of the CFD and strive to take necessary steps for the achievement of CFD campaign objectives. The CFD program manager establishes and maintains the official list of agency, higher education institutions and local CFD campaign committee volunteers and the geographical area each covers. The CFD program manager will forward all disputes to the CFD committee for resolution.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-270, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-275 How may contributions intended for an organization or federation that is decertified be handled?** The CFD committee will direct that payments originally pledged to an organization or federation that has been decertified, is in receivership, has filed for or been placed in bankruptcy, or has been or is in the process of being dissolved, will be returned to donors. If the CFD committee determines it is not feasible to return such funds to donors, it will determine the appropriate disposition of the funds.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-275, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-280 Do members of the CFD committee receive a salary and expense reimbursement?** Members of the CFD committee, who are state employees, will serve without additional salary, but will be reimbursed by their state employers for travel, lodging and meals in accordance with state law and regulations. Public retirees, who qualify, will receive normal travel, lodging and meal expenses reimbursed or paid by the CFD committee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-280, filed 4/6/05, effective 7/1/05.]

[Title 357 WAC—p. 98]

**WAC 357-55-285 When may the CFD committee enter into contracts?** The CFD committee may enter into contracts and partnerships with a private institution, persons, firms or corporations for the benefit of the beneficiaries of the CFD. The CFD committee may also engage in advertising activities for the support of the administrative duties of the CFD. However, CFD activities will not result in the direct commercial solicitation of state employees or in a benefit or advantage that would violate one or more provisions of chapter 42.52 RCW, the state ethics law.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-285, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-310 May state employees volunteer to serve as CFD campaign executives?** Agency directors, elected officials, and higher education presidents may allow employees the opportunity to serve as CFD campaign executives to assist in the conduct of the CFD campaign. The CFD campaign executive opportunity is a rotational assignment that develops leadership, communication, and teamwork skills that will benefit the employing organization upon the employee's return. Those appointed as CFD campaign executives remain on the payroll of their employing organization during this assignment.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-310, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-320 May state agencies and higher education institutions use state resources to support the CFD campaign?** State agencies and higher education institutions, at their discretion, are authorized to use reasonable state resources to support, promote, and conduct the annual combined fund drive campaign within their organization. Reasonable uses are not excessive in volume or frequency as determined by the agency director or institution president.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-320, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-330 What is the role of the department of personnel with the CFD committee?** The department of personnel will provide the administrative support for the operation of the CFD committee.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-330, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-410 How may state employers establish a local CFD campaign?** Each state employer may establish local CFD campaigns within the geographical area it covers.

Each state employer and local county committee may develop promotional and fundraising events, provide training and recognition to CFD local coordinators, develop marketing plans, supervise CFD campaign executives, and expend state or CFD funds to conduct the local CFD campaign.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-410, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-415 When does the annual CFD campaign occur?** Each year the director of each state agency and president of each higher education institution may determine the time period of the agency's or institution's CFD campaign.

Each annual CFD campaign normally is conducted for a seven-week period. However, in unusual circumstances, the individual state employers may extend the seven-week period as local conditions require.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-415, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-415, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-420 May state employers grant permission for participating organizations to share information during work hours?** The local state employer may grant sharing of information during the CFD campaign, by participating organizations if the agency or institution determines such communication is not disruptive to the local state office or institution. All CFD participating organizations must be given an equal opportunity for communication in a state employer's local CFD campaign.

This section will not be construed to require a state employer to distribute or arrange for oral or written information other than the official CFD campaign and publicity material.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-420, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-420, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-425 What campaign events may occur during work hours within the campaign calendar?** Solicitations of employees will be conducted during work hours using methods that permit true voluntary giving. Solicitations will reserve to the individual the option of disclosing any gift or keeping it confidential to the extent confidentiality is permitted by law. Campaign kick-offs, recognition events, awards and other nonsolicitation events to build support for the CFD are encouraged.

CFD fundraising events, such as raffles (as permitted by RCW 9.46.0209 and RCW 42.52.805), drawings, auctions, bake sales, carnivals, athletic events, or other activities not specifically provided for in these rules are permitted when approved, in advance, by the state employer.

At the discretion of each state employer, state employees may be authorized to attend CFD promotional and fundraising events on state work time.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-425, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-425, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-430 Who may be solicited?** Employees and public agency retirees may be solicited for contributions using payroll deduction, checks, money orders, credit cards, cash or electronic methods.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-430, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-510 How are campaign expenses recovered?** The CFD committee will recover from the gross receipts of the CFD campaign, or state appropriations, its reasonable administrative expenses to conduct the CFD campaign. The CFD committee will approve an annual budget to determine the administrative fee to be charged to the beneficiaries of the CFD.

(2009 Ed.)

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-510, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-515 May fund-raising expenses be deducted from donations?** Fund-raising expenses will not be taken or deducted from donations collected during a fund-raising event. These fund-raising expenses may be paid by the state agency or higher education institution and, then, upon request and submission of proper documentation, reimbursed by the CFD.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-515, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-520 How are campaign expenses divided?** The CFD campaign expenses will be shared proportionately by all the participating not-for-profit organizations and federations reflecting their individual percentage share of gross CFD campaign receipts.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-520, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-610 How does the CFD committee determine eligibility?** The CFD committee will use the information supplied under this chapter and the standards and criteria set forth in the application form, to determine which not-for-profit organizations and federations are eligible to participate in annual CFD campaigns.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-610, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-615 What notice does the CFD committee provide if an organization is not eligible?** If a not-for-profit organization or federation is determined not to be eligible, the CFD committee will provide written notice of its determination, including a description of the determination made, the date and by whom it was made, the basis for the determination, and the procedure for requesting reconsideration.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-615, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-620 What is the process to request reconsideration of noneligibility?** The following process will be used for requests for reconsideration of noneligibility:

- (1) Within fifteen calendar days after receiving notice of noneligibility, an affected organization or federation may submit a written request for reconsideration to the CFD committee. Requests for reconsideration and any supporting materials must be based solely on new or additional information that was not available to the CFD committee at the time the initial determination was made.
- (2) Within thirty calendar days of receiving the request for reconsideration, the CFD committee will issue a written decision. The CFD committee's reconsideration decision is final.
- (3) The CFD committee may extend the time periods established in this section if it determines there is good cause to do so.
- (4) Any written requests or notices made under this section will be deemed received three business days after depos-

ited in the United States mail, properly stamped and addressed.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-620, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-625 May a participating organization be decertified or disqualified from participating in the combined fund drive?** Once approved for participation, any participating organization or federation may be decertified and disqualified from participation in the combined fund drive campaign by majority vote of the CFD committee for one or more of the following reasons:

(1) Failing to comply with the rules contained in this chapter;

(2) Filing an application to participate in the state combined fund drive campaign which contains false or intentionally misleading information; or

(3) Receiving less than two hundred dollars in total CFD contributions in a calendar year.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-625, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-625, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-630 What notice does the CFD committee provide when a decertification decision is made?** The CFD committee will provide written notice of the decertification decision, including a description of the determination made, the date and by whom it was made, the basis for the determination, and the procedure for requesting reconsideration.

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-630, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-635 When is decertification of an organization effective?** Decertification is effective on the first day of the quarter following notice of decertification under WAC 357-55-630. Quarters begin on the first day of January, April, July, or October of each year. A decertified organization or federation is disqualified from participating in the CFD campaign as of that effective date.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-635, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-635, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-640 When will payments of contributions cease for a decertified organization?** Payments of contributions to a decertified organization or federation will cease on the last day of a quarterly distribution. Contributions received after that date, originally pledged to an organization or federation that is decertified, will be disbursed as directed by the CFD committee consistent with WAC 357-55-275.

[Statutory Authority: Chapter 41.06 RCW. 08-07-064, § 357-55-640, filed 3/17/08, effective 4/18/08; 05-08-133, § 357-55-640, filed 4/6/05, effective 7/1/05.]

**WAC 357-55-645 May requests be made for reconsideration of a decertification decision?** Requests for reconsideration of a decertification decision will be governed by the procedures set forth for reconsideration of eligibility in WAC 357-55-620.

[Title 357 WAC—p. 100]

[Statutory Authority: Chapter 41.06 RCW. 05-08-133, § 357-55-645, filed 4/6/05, effective 7/1/05.]

## Chapter 357-58 WAC

### WASHINGTON MANAGEMENT SERVICE

#### WAC

357-58-005	What is the key role and accountability for Washington management service employees in state government?
357-58-010	What is the purpose of the Washington management service (WMS) rules?
357-58-015	Who is authorized to adopt rules for the WMS?
357-58-020	What are the goals of the WMS rules?
357-58-025	Are WMS employees included in the classified service and what rules apply to WMS employees and positions?
357-58-030	Who determines if a position is included in the WMS?
357-58-035	What is the definition of a manager or managerial employee?
357-58-040	Are there any manager positions or managerial employees that are not included in the WMS?
357-58-042	What happens when it has been determined that a position no longer meets the definition of manager found in WAC 357-58-035?
357-58-045	Who is covered by the WMS rules?
357-58-050	What chapters of civil service rules apply to WMS positions?
357-58-055	What civil service rules do not apply to WMS?
357-58-060	Do the WMS rules apply to all general government employers?
357-58-065	Definitions for WMS.
357-58-070	What are the responsibilities of each agency for effectively managing and budgeting salaries for WMS positions?
357-58-075	What is the requirement for agencies to develop compensation policies?
357-58-080	How are positions assigned to the management bands?
357-58-085	Can WMS salaries be set outside the maximum of an assigned management band?
357-58-090	For what reasons can an agency adjust a WMS salary?
357-58-095	May agencies provide progression increases for WMS employees?
357-58-100	Is there a limit for annual progression increases?
357-58-105	When can exceptions to the progression increase limits be made?
357-58-110	What is a promotion?
357-58-115	What is a voluntary demotion and what changes may occur in salary?
357-58-120	What is a disciplinary demotion and what changes may occur in salary?
357-58-125	What is an involuntary downward movement and how does that affect the salary?
357-58-130	Do salary increases greater than five percent for a group of employees need approval?
357-58-135	Who can provide lump sum performance recognition payment to employees?
357-58-140	Is there a limit to the amount an employee can receive for performance recognition pay?
357-58-145	When may an agency authorize lump sum relocation compensation?
357-58-150	For what reasons may an employee be required to pay back the relocation payment?
357-58-155	Must the agency develop written criteria for relocation compensation?
357-58-160	How are hours of work established for WMS employees?
357-58-165	Do WMS employees receive leave benefits?
357-58-170	What about other pay issues?
357-58-175	Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an incumbent or candidate for a WMS position?
357-58-180	Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an incumbent for a WMS position?
357-58-185	Must an agency develop a recruitment and selection policy and/or procedure for WMS positions?
357-58-190	What must be addressed in agency's WMS recruitment and selection policy and/or procedure?

(2009 Ed.)

357-58-195	Are employers required to grant promotional preference when filling WMS positions?	357-58-375	When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees have?
357-58-200	How may transfers occur?		
357-58-205	Under what conditions may an employer reassign a WMS employee?	357-58-385	What is the responsibility of general government employers to provide training and development to WMS employees?
357-58-210	When may a WMS employee transfer to a WGS position and vice versa?		
357-58-215	May a permanent employee voluntarily demote to a WGS position?	357-58-390	What is the responsibility of WMS managers?
357-58-220	May a permanent WMS employee accept a nonpermanent appointment in the WGS?	357-58-395	What will be the role of the department of personnel?
357-58-225	What return rights must an employer provide to a permanent WMS employee who accepts a nonpermanent appointment to a WGS position?	357-58-400	How does each agency deal with developmental needs of managers?
357-58-230	May a permanent WMS employee accept an appointment to a project position in the general service and does the employee have any return right to his/her permanent WMS position?	357-58-405	In addition to the requirements of chapter 357-37 WAC, what must the performance management process focus on for WMS employees?
357-58-235	May employers create WMS positions in projects?	357-58-410	When and how often must performance feedback be provided to a WMS employee through the formal evaluation process?
357-58-240	What are the notification requirements for appointing an employee to a project WMS position?	357-58-415	What forms and procedures must employers use to plan for and evaluate the performance of managers?
357-58-245	Must an employee appointed to a project position serve a review period?	357-58-420	May employers supplement the standardized performance evaluation procedures and forms?
357-58-250	Must an employee who transfers or voluntarily demotes to a project WMS position serve a review period?	357-58-425	Can an employer factor performance into compensation and layoff decisions for WMS employees?
357-58-255	May a permanent WMS employee accept a project appointment within WMS and does the employee have any return rights to his/her permanent WMS position?	357-58-430	How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions for WMS employees?
357-58-260	What happens to employees in project WMS positions at the conclusion of the project?	357-58-435	What elements will the director of the department of personnel evaluate to determine if an employer should be granted performance management confirmation?
357-58-265	When may an agency make an acting WMS appointment and what actions are required?	357-58-438	What is the impact of a layoff?
357-58-270	Does time in an acting appointment count as time in the review period?	357-58-440	How may an employer lay off WMS employees and what notice is required?
357-58-275	May a permanent WMS employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment?	357-58-445	What are the reasons for layoff?
357-58-280	How much notice must an employer give for ending an acting appointment?	357-58-450	How does a WMS employee return from an exempt appointments?
357-58-285	When must a WMS employee serve a review period?	357-58-455	How does an employer implement a layoff action?
357-58-290	How long does the review period last?	357-58-460	What must be included in the employer's layoff procedure?
357-58-295	May a review period be extended beyond the initial time period?	357-58-465	What option does a permanent employee in a WMS position have to take a position when the employee is scheduled for layoff?
357-58-300	Does time spent on leave without pay or shared leave count towards completion of an employee's review period?	357-58-470	How does an employer determine an employee's employment retention rating?
357-58-305	When does a WMS employee attain permanent status?	357-58-475	Does a veteran receive any preference in layoff?
357-58-310	When may a WMS employee who transfers or voluntarily demotes be required to serve a WMS review period?	357-58-480	What provisions governs separation due to disability for WMS employees?
357-58-315	When may an employee, who is promoted to another WMS position, in a different agency, while serving a review period, be required to serve a WMS review period?	357-58-485	What provisions governs nondisciplinary separation for WMS employees?
357-58-320	What happens when a WMS employee promotes to a new WMS position within the same agency while serving in a review period?	357-58-490	What provisions governs separation for unauthorized absence for WMS employees?
357-58-325	What happens when a WGS employee serving a probationary or trial service period is appointed to a WMS position within the same agency?	357-58-500	May an employee request withdrawal of his/her resignation?
357-58-330	What happens when a WGS employee serving a probationary or trial service period is appointed to a WMS position in a different agency?	357-58-505	Does a WMS employee have appeal rights?
357-58-335	When a WMS employee is promoted in the same position as a result of additional new duties, is a review period required?	357-58-510	Can the agency's decision regarding which WMS position to eliminate in a layoff action be appealed?
357-58-340	When does reversion take place during a review period?	357-58-515	When a WMS employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken?
357-58-345	When a permanent WMS employee does not complete the review period, what reversion rights does the employee have?	357-58-520	What requirements must be included in the agency's WMS reconsideration procedures?
357-58-350	When a permanent WGS employee does not complete the review period for a WMS position, what reversion rights does the employee have?	357-58-525	How does the employee request reconsideration of an agency action?
357-58-355	Can a permanent employee voluntarily revert during a review period?	357-58-530	What is the responsibility of agencies to track and analyze requests for reconsideration of agency actions?
357-58-360	May a reverted employee and an agency come to mutual agreement on reversion placement?	357-58-540	What type of records are agencies required to keep and report for WMS employees?
357-58-365	Does a WMS employee who does not have permanent status in the classified service have reversion rights?	357-58-545	Does the director of the department of personnel have the rights to review an agency's administration of WMS?
357-58-370	Are there any appeal rights for reversion or separation during the review period?	357-58-550	May an employer temporarily layoff a WMS employee?
		357-58-551	Are there any limits to temporary layoff?
		357-58-552	Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a WMS employee to perform?
		357-58-553	What is the notice requirement to temporarily layoff a WMS employee?
		357-58-554	What is a WMS employee's status during temporary layoff?
		357-58-555	At the conclusion of a temporary layoff, does a WMS employee have the right to return to the position he/she held immediately prior to being temporarily laid off?

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

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

The efficiency and effectiveness with which government services are delivered to the citizens of Washington state depends largely on the quality and productivity of state employees. Each manager has the unique and critical responsibility to foster the building of a performance-based culture that will enable workforce success.

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

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

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

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

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

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

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

- (1) Simplified classification system that facilitates movement of managers between agencies and promotes upward mobility;
- (2) Flexibility in setting and changing salaries and a compensation system that is consistent with RCW 41.06.500;

[Title 357 WAC—p. 102]

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

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

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

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

- (7) Facilitation of decentralized and regional administration; and

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

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

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

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

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

**WAC 357-58-030 Who determines if a position is included in the WMS?** Each agency identifies all positions that fit the definition of manager. Those identified positions are WMS positions.

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-030, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-035 What is the definition of a manager or managerial employee?** In accordance with RCW 41.06.-022, a manager or managerial employee is defined as the incumbent of a position that:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Administers one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;

(2009 Ed.)

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; and/or

(5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

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

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-045, filed 5/27/05, effective 7/1/05.]

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

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

- WAC 357-04 General provisions
- WAC 357-07 Public records
- WAC 357-22 Personnel files
- WAC 357-25 Affirmative action program
- WAC 357-26 Reasonable accommodation
- WAC 357-31 Leave
- WAC 357-34 Employee training and development
- WAC 357-37 Performance management
- WAC 357-40 Discipline
- WAC 357-43 Employee business units
- WAC 357-52 Appeals

(2009 Ed.)

WAC 357-55 Combined fund drive

[Statutory Authority: Chapter 41.06 RCW. 05-12-068, § 357-58-050, filed 5/27/05, effective 7/1/05.]

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

- WAC 357-01 Definitions
- WAC 357-10 Personnel resources board classification
- WAC 357-13 Classification
- WAC 357-16 Recruitment, assessment, and certification
- WAC 357-19 Appointments and reemployment
- WAC 357-28 Compensation
- WAC 357-46 Layoff and separation
- WAC 357-49 Director's reviews

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

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

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

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

(1) **Competencies.** Those measurable or observable knowledge, skills, abilities, and behaviors critical to success in a key job role or function.

(2) **Dismissal.** The termination of an individual's employment for disciplinary purposes.

(3) **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

(4) **Evaluation points.** Evaluation points are the points resulting from an evaluation of a position using the managerial job value assessment chart.

(5) **Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

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

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

(8) **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.

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

[Title 357 WAC—p. 103]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 104]

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

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

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

(1) Legislatively directed general and/or special increase;

(2) Documented recruitment and/or retention problems as approved by the agency director or designee; and/or

(3) Documented agency and/or state internal salary relationship problems, as approved by the agency director or designee.

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

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

(1) In recognition of the employee's demonstrated growth and development; and/or

(2) If the employer has received performance management confirmation, in recognition of the employee's sustained excellence.

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

**WAC 357-58-130 Do salary increases greater than five percent for a group of employees need approval?** Salary changes greater than five percent proposed for any group of employees must be reviewed and approved by the director of the department of personnel.

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

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

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

(2009 Ed.)

**WAC 357-58-140 Is there a limit to the amount an employee can receive for performance recognition pay?** Over an annual period, performance recognition pay may not exceed fifteen percent of an employee's annual base salary unless approved by the director of the department of personnel.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-140, filed 5/27/05, effective 7/1/05.]

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

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

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

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

**WAC 357-58-150 For what reasons may an employee be required to pay back the relocation payment?** If the employee receiving the relocation payment terminates or causes termination with the state within one year of the date of the appointment or transfer, that employee may be required to pay back the lump sum payment. Termination as a result of layoff, disability separation, or other good cause as determined by the agency director will not require the employee to repay the relocation compensation.

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

**WAC 357-58-155 Must the agency develop written criteria for relocation compensation?** An agency must develop written criteria prior to authorizing lump sum relocation compensation. The criteria must include:

(1) A description of the circumstances for which relocation compensation will be granted; and

(2) The method that will be used to determine the amount of relocation compensation.

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-155, filed 5/27/05, effective 7/1/05.]

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

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

WAC 357-28-245

WAC 357-28-250

WAC 357-28-255

WAC 357-28-260

WAC 357-28-265

WAC 357-28-275

WAC 357-28-280

WAC 357-28-285

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 106]

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

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

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

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

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

(3) Support workforce diversity and affirmative action goals;

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

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

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

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

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

**WAC 357-58-195 Are employers required to grant promotional preference when filling WMS positions?**

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

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-069, § 357-58-205, filed 5/27/05, effective 7/1/05.]

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

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

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

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

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

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

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

**WAC 357-58-225 What return rights must an employer provide to a permanent WMS employee who accepts a nonpermanent appointment to a WGS position?** (1) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within the **same** agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

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

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

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

**WAC 357-58-230 May a permanent WMS employee accept an appointment to a project position in the general service and does the employee have any return right to his/her permanent WMS position?** A permanent WMS employee may accept an appointment to a project WGS position as provided in chapter 357-19 WAC. Any right to return

(2009 Ed.)

to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

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

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

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

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

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

**WAC 357-58-245 Must an employee appointed to a project position serve a review period?** An employee who does not have permanent status in classified service must serve a review period when appointed to a project WMS position. The employee gains permanent status upon completion of the review period.

Permanent employees who promote to a project WMS position must serve a review period.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-245, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-250 Must an employee who transfers or voluntarily demotes to a project WMS position serve a review period?** An appointing authority may require an employee who transfers or voluntarily demotes to a project WMS position to serve a review period.

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

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

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

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

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

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

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

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

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

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

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

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

**WAC 357-58-270 Does time in an acting appointment count as time in the review period?** When an individual who is in an acting WMS appointment is subsequently appointed to a permanent WMS position, time spent in the acting appointment may count towards the review period for the permanent WMS position at the discretion of the appointing authority.

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

**WAC 357-58-275 May a permanent WMS employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment?** Permanent WMS employees may accept acting appointments to WMS positions.

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

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

[Title 357 WAC—p. 108]

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-285, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-290 How long does the review period last?**

Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period.

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

**WAC 357-58-295 May a review period be extended beyond the initial time period?**

Employers may extend the review period for an individual employee as long as the extension does not cause the total period to exceed eighteen months. The employer must notify the employee in writing of the extension.

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

**WAC 357-58-300 Does time spent on leave without pay or shared leave count towards completion of an employee's review period?** Time spent on leave without pay or shared leave counts towards completion of the employee's

(2009 Ed.)

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

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

**WAC 357-58-305 When does a WMS employee attain permanent status?** Upon successful completion of the review period, the employee will attain permanent status in the position.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-305, filed 5/27/05, effective 7/1/05.]

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

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-310, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-315 When may an employee, who is promoted to another WMS position, in a different agency, while serving a review period, be required to serve a WMS review period?** An employee who is promoted to a different WMS position in a different agency during the review period will begin a new review period for the new position. The new employer may allow for some or all of the time served in the review period for the prior position to count towards the review period. The employee will not attain permanent status in the original position in the former agency unless agreed to in writing by the employers in both agencies.

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

**WAC 357-58-320 What happens when a WMS employee promotes to a new WMS position within the same agency while serving in a review period?** If a WMS employee is promoted to a different WMS position in the same agency during the review period, the following applies:

(1) Time served in the initial review period counts towards the review period of the new position if the employer determines the positions are closely related.

(2) The review period starts over if the employer determines the positions are not closely related.

[Statutory Authority: Chapter 41.06 RCW. 05-12-070, § 357-58-320, filed 5/27/05, effective 7/1/05.]

**WAC 357-58-325 What happens when a WGS employee serving a probationary or trial service period is appointed to a WMS position within the same agency?** An employee who is appointed to a WMS position from a WGS position in the same agency while serving a probationary or trial service period in the same or similar occupational field may serve the trial service or probationary period concur-

(2009 Ed.)

rently with the review period. At the discretion of the employer, the employee may attain permanent status in the previous job classification once the original probationary or trial service period concludes.

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 109]

number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 110]

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

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

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

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

**WAC 357-58-385 What is the responsibility of general government employers to provide training and development to WMS employees?** General government employers must provide all WMS employees development and training opportunities designed to broaden managerial and leadership competencies. Diversity and performance management must be part of this training. WMS employees who supervise staff must meet the requirements in chapter 357-34 WAC.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Assessment of those leadership competencies that are critical to an effective managerial in a performance-based environment;
- (2) Planning for development and training in leadership competencies;

(2009 Ed.)

(3) Collaboration and communication between the supervisor and managerial employee during the performance planning and evaluation process;

(4) Planning for and assessment of results; and

(5) Preparation of a performance management and development plan.

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

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

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

**WAC 357-58-430 How does an employer receive performance management confirmation which enables them to factor performance into compensation and layoff decisions for WMS employees?** Employers may request performance management confirmation from the director of the department of personnel for WMS employees. The director of the department of personnel will use the elements listed in WAC 357-58-435 to assess and evaluate an employer's readiness to fairly and objectively factor performance into compensation, recognition leave and layoff decisions. If the director of the department of personnel 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. 05-12-071, § 357-58-430, filed 5/27/05, effective 7/1/05.]

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

[Title 357 WAC—p. 111]

(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. 05-12-071, § 357-58-435, filed 5/27/05, effective 7/1/05.]

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

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

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

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

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

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

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

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

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

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

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

- (a) Lack of funds;
- (b) Lack of work; or
- (c) Organizational change.

(2) Examples of layoff actions due to lack of work may include, but are not limited to:

- (a) Termination of a project or special employment;
- (b) Availability of fewer positions than there are employees entitled to such positions;
- (c) Elimination of a position when the work of the position has been competitively contracted; or
- (d) Employee's ineligibility to continue in a position which has been reallocated to the WGS.

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

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

[Title 357 WAC—p. 112]

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

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

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

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

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

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

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

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

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

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

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

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress.

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

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

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

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

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

(2009 Ed.)



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

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

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

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

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

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

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

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

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

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

(i) An honorable discharge;

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

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

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

(4) The surviving spouse of an eligible veteran is entitled to veteran's seniority preference for up to five years as outlined in subsection (1) and (2) of this section regardless of

(2009 Ed.)

whether the veteran had at least one year of active military service.

[Statutory Authority: Chapter 41.06 RCW. 07-23-011, § 357-58-475, filed 11/8/07, effective 12/11/07; 05-12-071, § 357-58-475, filed 5/27/05, effective 7/1/05.]

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

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

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

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

**WAC 357-58-490 What provisions governs separation for unauthorized absence for WMS employees?** Employers may separate WMS employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

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

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

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

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

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

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

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

**WAC 357-58-515 When a WMS employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken?** Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must

[Title 357 WAC—p. 113]

identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

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

(2) Placement following reversion of a permanent employee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Title 357 WAC—p. 114]

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

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

**WAC 357-58-545 Does the director of the department of personnel have the rights to review an agency's administration of WMS?** Under the authority of RCW 41.06.130 and 41.06.500, the director of the department of personnel retains the right to review:

- An agency's administration of the WMS program; and
- Any action taken by an agency under chapter 357-58 WAC.

[Statutory Authority: Chapter 41.06 RCW. 05-12-072, § 357-58-545, filed 5/27/05, effective 7/1/05.]

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

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

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

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

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

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

**WAC 357-58-552 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a WMS employee to perform?**

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

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

**WAC 357-58-553 What is the notice requirement to temporarily layoff a WMS employee?** An employer must provide the WMS employee seven calendar days' notice of

(2009 Ed.)

temporary layoff. The temporary layoff notice must inform the WMS employee of his/her status during temporary layoff and the expected duration of the temporary layoff.

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

**WAC 357-58-554 What is a WMS employee's status during temporary layoff?** (1) Hours not worked due to temporary layoff are not treated as leave without pay, therefore:

(a) A WMS employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff; and

(b) A WMS employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC.

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

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

(b) Payment for his/her vacation leave balance; and

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

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

[Statutory Authority: Chapter 41.06 RCW. 06-07-048, § 357-58-554, filed 3/9/06, effective 4/10/06.]

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

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