

Title 357 WAC PERSONNEL, DEPARTMENT OF— PERSONNEL RESOURCES BOARD

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Chapter 357-01 WAC DEFINITIONS

WAC

- 357-01-080 Class series.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 357-01-215 Occupational category/class series. [Statutory Authority: Chapter 41.06 RCW. 05-01-204, § 357-01-215, filed 12/21/04, effective 7/1/05.] Repealed by 09-11-063, filed 5/14/09, effective 6/16/09. Statutory Authority: Chapter 41.06 RCW.

WAC 357-01-080 Class series. A grouping of job functions having similar purpose and knowledge requirements, but different levels of difficulty and responsibility.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-01-080, filed 5/14/09, effective 6/16/09; 05-01-204, § 357-01-080, 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 which is between the current class and the class from which the employee demoted.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-01-135, filed 5/14/09, effective 6/16/09; 05-01-204, § 357-01-135, 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, registered domestic partner, grandparent, grandchild, minor/dependent child, and

child. For the purpose of domestic violence, sexual assault, or stalking provisions within Title 357 WAC 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. 09-17-057 and 09-18-112, § 357-01-172, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-01-172, filed 1/9/09, effective 2/13/09; 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 357-01-228 Parent-in-law. A biological parent of an employee's spouse or an employee's registered domestic partner or an individual who stood *in loco parentis* to an employee's spouse or to an employee's registered domestic partner when the employee's spouse or the employee's registered domestic partner was a child. A person who had day-to-day responsibilities to care for and financially support the employee's spouse or the employee's registered domestic partner when he or she was a child is considered to have stood *in loco parentis* to the employee's spouse or to the employee's registered domestic partner.

[Statutory Authority: Chapter 41.06 RCW. 09-17-057 and 09-18-112, § 357-01-228, filed 8/13/09 and 9/2/09, effective 12/3/09; 05-12-093, § 357-01-228, filed 5/27/05, 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.

[Statutory Authority: Chapter 41.06 RCW. 09-23-056, § 357-01-275, filed 11/12/09, effective 12/15/09; 05-01-204, § 357-01-275, filed 12/21/04, effective 7/1/05.]

WAC 357-01-282 Registered domestic partner. An individual considered to be a register domestic partner has met the requirements for a valid state registered domestic partnership as established by RCW 26.60.030 and who has been issued a certificate of state registered domestic partnership by the secretary of state's office.

[Statutory Authority: Chapter 41.06 RCW. 09-17-057 and 09-18-112, § 357-01-282, filed 8/13/09 and 9/2/09, effective 12/3/09.]

Chapter 357-04 WAC GENERAL PROVISIONS

WAC

- 357-04-027 What rights does an exclusive bargaining unit representative have when a vacant bargaining unit position is exempted from the civil service rules?

WAC 357-04-027 What rights does an exclusive bargaining unit representative have when a vacant bargaining unit position is exempted from the civil service rules? As provided in RCW 41.06.170(3), the exclusive bargaining unit representative for a vacant position that has been exempted from chapter 41.06 RCW may appeal the exemption of the position in accordance with chapter 357-52 WAC.

[Statutory Authority: Chapter 41.06 RCW. 09-17-065, § 357-04-027, filed 8/13/09, effective 9/16/09.]

Chapter 357-07 WAC PUBLIC RECORDS

WAC

357-07-065 How is the department of personnel organized?

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 public records. Provides director's review and appeal services (located at 600 S. Franklin Street, 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, Rowsix, 4224 6th Avenue, Lacey, Washington): Administers all central statewide technology systems supporting human resources activities.

[Statutory Authority: Chapter 41.06 RCW. 09-17-059, § 357-07-065, filed 8/13/09, effective 9/16/09; 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.]

Chapter 357-13 WAC CLASSIFICATION

WAC

357-13-083 What happens if an employee requests a director's review of his or her allocation or files an exception to the director's decision and is laid off before a decision is issued?

WAC 357-13-083 What happens if an employee requests a director's review of his or her allocation or files an exception to the director's decision and is laid off before a decision is issued? When an employee's position

has been reallocated as part of a board or director's decision on allocation and when the employee was laid off prior to the board or director's decision being issued, the following applies:

(1) The employee's position is reallocated effective as of the date the request for a position review was filed with the employer;

(2) If the employee was reallocated to a class with a higher salary range, the employee is due back pay from the effective date of the allocation to the effective date of the lay-off;

(3) The layoff action (including options afforded to the employee) is not impacted; and

(4) The employee shall have layoff list rights to the class the employee's former position was reallocated to in accordance with WAC 357-46-070 and 357-46-080.

[Statutory Authority: Chapter 41.06 RCW. 09-17-061 and 09-19-026, § 357-13-083, filed 8/13/09 and 9/8/09, effective 9/16/09 and 10/9/09.]

Chapter 357-16 WAC RECRUITMENT, ASSESSMENT, AND CERTIFICATION

WAC

357-16-110 Do veterans receive any preference in the hiring process?

357-16-155 Can an eligible's name be removed from an applicant or candidate pool for a class or all classes in a 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?

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 or registered domestic partners of eligible veterans; or
- (c) Spouses or registered domestic partners of honorably discharged veterans who have a service connected permanent and total disability.

[Statutory Authority: Chapter 41.06 RCW. 09-17-057 and 09-18-112, § 357-16-110, filed 8/13/09 and 9/2/09, effective 12/3/09; 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 357-16-155 Can an eligible's name be removed from an applicant or candidate pool for a class or all classes in a 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 a class series at anytime for good and sufficient reason.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-16-155, filed 5/14/09, effective 6/16/09; 05-01-200, § 357-16-155, filed 12/21/04, effective 7/1/05.]

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.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-16-157, filed 5/14/09, effective 6/16/09; 06-03-071, § 357-16-157, filed 1/12/06, effective 2/13/06.]

Chapter 357-19 WAC

APPOINTMENT AND REEMPLOYMENT

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?
- 357-19-073 What happens if an employee who is serving a probationary period accepts a nonpermanent appointment?
- 357-19-160 Can an employee be elevated following a demotion?
- 357-19-165 What is the difference between reassignment and transfer?
- 357-19-240 What positions can be designated as in-training?
- 357-19-285 What happens to an employee who fails to progress satisfactorily through an in-training plan?
- 357-19-455 What is reemployment?

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) If the employer determines the positions or classes to which the positions are allocated are closely related the employer may count time served in the initial probationary or trial service toward the probationary or trial service period of the new position; or
- (2) If the employer determines the positions or classes to which the positions are allocated are not closely related the probationary or trial service period of the new position starts over.

[Statutory Authority: Chapter 41.06 RCW. 09-23-060, § 357-19-070, filed 11/12/09, effective 12/15/09; 05-01-206, § 357-19-070, filed 12/21/04, effective 7/1/05.]

WAC 357-19-073 What happens if an employee who is serving a probationary period accepts a nonpermanent appointment? If an employee who is serving a probationary period accepts a nonpermanent appointment, the probationary period will end and the employee will not be granted permanent status unless the employer agrees to return the employee to a position at the conclusion of the nonpermanent appointment. Any return rights granted by the employer must be to a vacant position in the class in which the employee was serving a probationary period. If the employer chooses to grant the employee a return right the employer must notify the employee in writing.

Upon return from a nonpermanent appointment the employee will resume their probationary period. If the employer determines the position the employee was serving a probationary period in and the position the employee was appointed to on a nonpermanent basis are allocated to classes which are closely related, the employer may count the time worked in the nonpermanent appointment towards the probationary period.

[Statutory Authority: Chapter 41.06 RCW. 09-11-064, § 357-19-073, filed 5/14/09, effective 6/16/09.]

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 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. 09-11-067, § 357-19-160, filed 5/14/09, effective 6/16/09; 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. 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. 09-23-056, § 357-19-165, filed 11/12/09, effective 12/15/09; 05-01-206, § 357-19-165, 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 class series, 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. 09-11-067, § 357-19-240, filed 5/14/09, effective 6/16/09; 05-01-206, § 357-19-240, filed 12/21/04, effective 7/1/05.]

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

This table is used to determine what happens when an employee appointed to an in-training position fails to satisfactorily progress through the in-training plan.		
	Type of In-Training Position:	
	Class Series: All positions in the class series are designated as in-training positions by the employer	Individual position: The individual position is designated as an in-training position
Employee Status:		
Employee in Probationary Period	→ The employee must be separated in accordance with WAC 357-46-185.	→ The employee must be separated in accordance with WAC 357-46-185.

<p>Employee in Trial Service Period</p>	<p><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.</p>	<p>→ 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.</p>
<p>Employee achieved permanent status in job class of the current in-training step but is failing to progress to the next step</p>	<p><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.</p>	<p>→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.</p>

[Statutory Authority: Chapter 41.06 RCW. 09-11-067, § 357-19-285, filed 5/14/09, effective 6/16/09; 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 357-19-455 What is reemployment? Reemployment is the 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. 09-23-055, § 357-19-455, filed 11/12/09, effective 12/15/09; 05-01-206, § 357-19-455, filed 12/21/04, effective 7/1/05.]

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

WAC

357-31-010	Which employees qualify for holiday compensation?
357-31-070	When is an employer required to approve an employee's request to use a personal holiday?
357-31-100	Must an employer have a policy for requesting and approving leave?
357-31-130	When can an employee use accrued sick leave?
357-31-150	Can an employee be paid for accrued sick leave?
357-31-165	At what rate do employees accrue vacation leave?
357-31-200	When must an employer grant the use of vacation leave?
357-31-215	When may vacation leave be accumulated above the maximum two hundred forty hours?
357-31-230	When can an employee use accrued compensatory time?
357-31-245	What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, or receives holiday pay during a period when he/she is receiving time loss compensation?

357-31-285	Is an employer required to authorize the absence of an employee for family care emergencies?
357-31-325	Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination?
357-31-326	When may an employer grant leave with pay?
357-31-327	When must an employer grant leave without pay?
357-31-330	For what reasons may an employer grant leave without pay?
357-31-345	How does leave without pay affect a general government employee's anniversary date, unbroken service date, periodic increment date, and seniority date?
357-31-355	How does leave without pay affect the duration of an employee's probationary period, trial service period or transition review period?
357-31-373	Is an employee whose spouse or registered domestic partner is a member of the armed forces of the United States entitled to take leave from work when the military spouse or registered domestic partner has been called to active duty or when the military spouse or registered domestic partner is on leave from deployment?
357-31-395	What definitions apply to shared leave?
357-31-520	How does the Family and Medical Leave Act of 1993 and the family leave law interact with the civil service rules?
357-31-525	What is an employee entitled to under the Family and Medical Leave Act of 1993?
357-31-535	Who designates absences which meet the criteria of the Family and Medical Leave Act?
357-31-567	When must an employer grant the use of recognition leave?
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?

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

357-31-240	What happens if an employee uses accrued sick leave during a period when he/she is receiving time loss compensation? [Statutory Authority: Chapter 41.06 RCW. 05-08-137, § 357-31-240, filed 4/6/05, effective 7/1/05.] Repealed by 09-17-062, filed 8/13/09, effective 9/16/09. Statutory Authority: Chapter 41.06 RCW.
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WAC 357-31-010 Which employees qualify for holiday compensation? (1) Full-time general government 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 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. 09-03-013, § 357-31-010, filed 1/9/09, effective 2/13/09; 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 357-31-070 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, registered domestic partner, 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 RCW 49.76.020. 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 or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. 09-17-057 and 09-18-112, § 357-31-070, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-31-070, filed 1/9/09, effective 2/13/09; 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 357-31-100 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 RCW 49.76.020; 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

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. 09-03-013, § 357-31-100, filed 1/9/09, effective 2/13/09; 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 357-31-130 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, registered domestic partner, 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 or relatives of the employee's spouse/registered domestic partner 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, registered domestic partner, 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 RCW 49.76-020. 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 or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner 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, 09-17-057 and 09-18-112, § 357-31-130, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-31-130, filed 1/9/09, effective 2/13/09; 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 357-31-150 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, 09-11-068, § 357-31-150, filed 5/14/09, effective 6/16/09; 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 357-31-165 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. This does not apply to individual positions.

(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 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, 09-03-012, § 357-31-165, filed 1/9/09, effective 2/13/09; 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 357-31-200 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, registered domestic partner, 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 vio-

lence, sexual assault, or stalking as defined in RCW 49.76.-020. 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 or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner 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. 09-17-057 and 09-18-112, § 357-31-200, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-31-200, filed 1/9/09, effective 2/13/09; 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 357-31-215 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 (two hundred forty 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 (two hundred forty 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) of this section, employees may also accumulate vacation leave in excess of two hundred forty 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) A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of two hundred forty hours as of the date of the statement of necessity cannot be deferred regardless of circumstances. For example:

On June 15th, 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 15th, the employee's vacation leave balance is two hundred sixty hours.
- The employee accrues ten hours monthly.
- The employee's anniversary date is October 16th.

Because the employee will not be able to use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The twenty hours of excess vacation leave the employee had on June 15th are not covered by the statement of necessity.

[Statutory Authority: Chapter 41.06 RCW. 09-23-057, § 357-31-215, filed 11/12/09, effective 12/15/09; 09-11-065, § 357-31-215, filed 5/14/09, effective 6/16/09; 05-08-137, § 357-31-215, 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, registered domestic partner, 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 may be 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 RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(4) In accordance with WAC 357-31-373, an employee must be granted the use of accrued compensatory time to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner 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. 09-17-056 and 09-18-113, § 357-31-230, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-31-230, filed 1/9/09, effective 2/13/09; 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 357-31-245 What happens if an employee uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition leave, or receives holiday pay during a period when he/she is receiving time loss compensation? An employee who uses accrued vacation leave, accrued sick leave, accrued compensatory time, recognition

leave, 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, sick leave, compensatory time, recognition leave, and holiday pay.

[Statutory Authority: Chapter 41.06 RCW. 09-17-062, § 357-31-245, filed 8/13/09, effective 9/16/09; 05-08-137, § 357-31-245, 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, registered domestic partner, household member or the employee's/spouse's/registered domestic partner'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. 09-17-057 and 09-18-112, § 357-31-285, filed 8/13/09 and 9/2/09, effective 12/3/09; 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 357-31-325 Must an employer grant leave with pay for other miscellaneous reasons such as to take a state examination? Leave with pay **must** be granted to an employee:

(1) To allow an employee to receive assessment from the employee assistance program; or

(2) 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.

(a) 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.

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

[Statutory Authority: Chapter 41.06 RCW. 09-03-014, § 357-31-325, filed 1/9/09, effective 2/13/09; 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 357-31-326 When may an employer grant leave with pay? (1) An employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including but not limited to firefighting, search and rescue efforts, or donating blood.

(2) 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. 09-03-014, § 357-31-326, filed 1/9/09, effective 2/13/09.]

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WAC 357-31-327 When must an employer grant leave without pay? An employer must grant leave without pay under the following conditions:

(1) When an employee who is a volunteer firefighter 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 RCW 49.76.-020. 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 or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

[Statutory Authority: Chapter 41.06 RCW. 09-17-057 and 09-18-112, § 357-31-327, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-014, § 357-31-327, filed 1/9/09, effective 2/13/09; 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 grant 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, registered domestic partner, 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. 09-17-056 and 09-18-113, § 357-31-330, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-014, § 357-31-330, filed 1/9/09, effective 2/13/09; 05-08-138, § 357-31-330, 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, periodic increment date, and

seniority 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.

(3) For a general government employee the seniority date is adjusted for leave without pay in accordance with WAC 357-46-055.

[Statutory Authority: Chapter 41.06 RCW. 09-11-068, § 357-31-345, filed 5/14/09, effective 6/16/09; 05-08-138, § 357-31-345, 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, trial service period or transition review period? If an employee uses leave without pay for an entire workshift while serving a probationary period, trial service period or transition review period, the probationary period, trial service period or transition review period is extended by one work day for each workshift of leave without pay.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-31-355, filed 5/14/09, effective 6/16/09; 05-08-138, § 357-31-355, filed 4/6/05, effective 7/1/05.]

WAC 357-31-373 Is an employee whose spouse or registered domestic partner is a member of the armed forces of the United States entitled to take leave from work when the military spouse or registered domestic partner has been called to active duty or when the military spouse or registered domestic partner is on leave from deployment? (1) During a period of military conflict,

an employee who is a spouse or registered domestic partner 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 or registered domestic partner has been notified of an impending call or order to active duty and before deployment or when the military spouse or registered domestic partner 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:

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

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

[Statutory Authority: Chapter 41.06 RCW. 09-17-056 and 09-18-113, § 357-31-373, filed 8/13/09 and 9/2/09, effective 12/3/09; 08-15-043, § 357-31-373, filed 7/11/08, effective 10/1/08.]

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, registered domestic partner, 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. 09-17-056 and 09-18-113, § 357-31-395, filed 8/13/09 and 9/2/09, effective 12/3/09; 05-08-139, § 357-31-395, 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 leave 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 (FMLA).

Washington's family leave law (chapter 49.78 RCW) generally is similar to and runs concurrently with the federal FMLA for those provisions outlined in WAC 357-31-525 (1)(a) through (c) but also allows leave to be taken for the care of an employee's registered domestic partner with a serious health condition. However, Washington's family leave law does not address exigency leave, described in WAC 357-31-525 (1)(d), or leave for a covered service member, described in WAC 357-31-525(2). Therefore, an employer is not required to provide exigency leave or leave for a covered service member for a registered domestic partner.

Because the FMLA does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve

weeks of the FMLA entitlement described in WAC 357-31-525. For example:

If an employee uses twelve weeks of leave to care for their registered domestic partner during a twelve-month period, and no other FMLA leave was used, the employee is still entitled to his or her full twelve-week FMLA entitlement during the same twelve-month period, as the leave used was provided for a purpose not covered by FMLA; however, if an employee uses twelve weeks of leave to care for their parent or for another FMLA qualifying reason, then during that same twelve-month period the employer would not be required to provide additional leave under Washington's family leave law to care for the employee's registered domestic partner because the twelve-week entitlement under FMLA and Washington's family leave law has been exhausted.

[Statutory Authority: Chapter 41.06 RCW. 09-17-056 and 09-18-113, § 357-31-520, filed 8/13/09 and 9/2/09, effective 12/3/09; 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, and additional amendments and subsequent regulations 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;
- (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; and/or
- (d) Due to a qualifying exigency (as described in the Family and Medical Leave Act of 1993 and its amendments (29 USC 2601 et seq) and its implementing rules, 29 CFR Part 825) arising from the fact that the employee's spouse, child of any age, or parent is on active duty or has been notified of pending call to active duty in the armed forces in support of a contingency operation.

(i) This subsection only applies if the spouse, child, or parent of the employee is a member of the National Guard or Reserves, and certain retired members of the regular armed forces and retired reserves. This section does not apply if the spouse, child, or parent of the employee is a member of the regular armed forces on active duty.

(ii) This section only applies to federal calls to active duty.

(2) An eligible employee who is the spouse, son, daughter, parent of a child of any age, 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. This twelve-month period begins on the first day leave is taken pursuant to this subsection.

(a) For purposes of this section, "next of kin" with respect to an individual means the nearest blood relative of that individual other than the individual's spouse, parent, or child in the following order of priority:

- (i) Blood relatives who have been granted legal custody of the service member;
- (ii) Siblings;
- (iii) Grandparents;
- (iv) Aunts and uncles;
- (v) Cousins;
- (vi) The service member can designate another blood relative as the "nearest blood relative" and that designation takes precedent over the above list.

(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. 09-17-056 and 09-18-113, § 357-31-525, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-11-066, § 357-31-525, filed 5/14/09, effective 6/16/09; 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 357-31-535 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 used for that designated absence must be counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

Because the Family and Medical Leave Act of 1993 (29 USC 2601 et seq) does not recognize registered domestic partners, an absence to care for an employee's registered domestic partner is not counted towards the twelve weeks of the Family and Medical Leave Act entitlement.

[Statutory Authority: Chapter 41.06 RCW. 09-17-056 and 09-18-113, § 357-31-535, filed 8/13/09 and 9/2/09, effective 12/3/09; 05-08-140, § 357-31-535, 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 RCW 49.76-020. 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 or registered domestic partner who is a member of the Armed Forces of the United States, National Guard, or Reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner 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. 09-17-056 and 09-18-113, § 357-31-567, filed 8/13/09 and 9/2/09, effective 12/3/09; 09-03-013, § 357-31-567, filed 1/9/09, effective 2/13/09; 08-15-043, § 357-31-567, filed 7/11/08, effective 10/1/08.]

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 RCW 49.76.020, 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. 09-03-013, § 357-31-730, filed 1/9/09, effective 2/13/09; 08-15-043, § 357-31-730, filed 7/11/08, effective 10/1/08.]

Chapter 357-34 WAC

EMPLOYEE TRAINING AND DEVELOPMENT

WAC

357-34-045

Are employers required to provide release time for non-required training?

WAC 357-34-045 Are employers required to provide release time for nonrequired training? (1) Employers **may** allow an employee with a sensory disability (as defined in HB 2328, chapter 294, Laws of 2009) to attend training, without a loss in pay, necessary to attain a new service animal. The employee shall not be eligible for reimbursement under RCW 43.03.050 and 43.03.060.

(a) If the training for a new service animal is foreseeable the employee shall provide the employer with at least thirty days advanced notice. If the date of the training requires the absence to begin in less than thirty days, the employee shall provide notice as is practicable.

(b) Employers may require that a request to attend a service animal training be supported by a certification issued by the training organization. Certification is sufficient if it states the date the training is scheduled to begin and the training session's duration.

(2) Employers **may** release employees from work without a loss in pay to participate in other nonrequired training.

[Statutory Authority: Chapter 41.06 RCW. 09-17-058, § 357-34-045, filed 8/13/09, effective 9/16/09; 05-01-195, § 357-34-045, filed 12/21/04, effective 7/1/05.]

Chapter 357-46 WAC

LAYOFF AND SEPARATION

WAC

357-46-035

Layoff option.

357-46-055

How is a general government employee's seniority date determined?

357-46-058

Is a general government employee who is rehired following layoff considered to have had a break in state service?

357-46-059

Is a higher education 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?

357-46-067

What is an employee's status during temporary layoff?

357-46-070

Which employees are eligible to have their name placed on an employer's internal layoff list?

357-46-080

Which employees are eligible to have their name placed on an employer's statewide layoff list?

357-46-095

Who is eligible for the general government transition pool program?

357-46-110

Must employees who are appointed to a position through the layoff process serve any type of review period?

357-46-120

What are the employer's obligations when the employer requires a transition review period?

357-46-135

What causes an individual's name to be removed from a layoff list?

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 a 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 from which the employee is being laid off;

(ii) The position is vacant or held by a probationary employee or an employee in a nonpermanent appointment;

(iii) The position is comparable or less than comparable; and

(iv) 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.

(4) Does an employee have layoff option rights to classifications the employee held permanent status in prior to any breaks in state service?

General government employees have layoff option rights to all classifications the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff

options to classes they held permanent status in prior to any breaks in state service.

[Statutory Authority: Chapter 41.06 RCW. 09-17-064, § 357-46-035, filed 8/13/09, effective 9/16/09; 09-11-063, § 357-46-035, filed 5/14/09, effective 6/16/09; 04-18-114, § 357-46-035, filed 9/1/04, 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, excluding compensatory time off. Actual hours worked includes overtime hours regardless of whether or not the employee receives monetary payment or compensatory time for the hours worked. 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;

(d) Educational leave, contingent upon successful completion of the coursework; and/or

(e) Reducing the effects of layoff.

[Statutory Authority: Chapter 41.06 RCW. 09-11-063, § 357-46-055, filed 5/14/09, effective 6/16/09; 05-08-135, § 357-46-055, filed 4/6/05, effective 7/1/05.]

WAC 357-46-058 Is a general government employee who is rehired following layoff considered to have had a break in state service? (1) A general government employee laid off in accordance with the provisions of WAC 357-46-010 or 357-58-445 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position.

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

[Statutory Authority: Chapter 41.06 RCW. 09-23-059, § 357-46-058, filed 11/12/09, effective 12/15/09; 09-11-063, § 357-46-058, filed 5/14/09, effective 6/16/09; 05-12-073, § 357-46-058, filed 5/27/05, effective 7/1/05.]

WAC 357-46-059 Is a higher education employee who is rehired following layoff considered to have had a break in state service? (1) A higher education employee laid off in accordance with the provisions of WAC 357-46-010 or 357-58-445 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position:

(a) From a layoff list; or

(b) As a promotional candidate in accordance with the employer's promotional policy.

(2) Upon appointment, the higher education employee is reinstated with the seniority and unbroken service the employee had at the time of layoff. Time spent off the payroll due to layoff is treated as leave without pay. Each higher education employer's layoff procedure will define how seniority and unbroken service dates are adjusted for periods of leave without pay.

[Statutory Authority: Chapter 41.06 RCW. 09-23-059, § 357-46-059, filed 11/12/09, effective 12/15/09.]

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

[Statutory Authority: Chapter 41.06 RCW. 09-17-056 and 09-18-113, § 357-46-060, filed 8/13/09 and 9/2/09, effective 12/3/09; 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 357-46-067 What is an employee's status during temporary layoff? (1) The following applies during a temporary layoff:

(a) An employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff;

(b) An employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC; and

(c) The duration of an employee's probationary period or trial service period shall not be extended for periods of time spent on temporary layoff.

(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. 09-11-063, § 357-46-067, filed 5/14/09, effective 6/16/09; 05-12-074, § 357-46-067, 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 in writing 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 at the same or lower salary range and lower classes in the same class series. Permanent status is not required for the lower classes in the class series. For purposes of this subsection "employees" includes Washington management service (WMS) employees who are laid off or have been notified by the employer that they are scheduled to be laid off and who have held permanent status in Washington general service. WMS employees only have layoff list rights to classes which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff.

(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 and lower classes in the same class series. Permanent status is not required for the lower classes in the class series. Washington management service (WMS) employees who accept a voluntary demotion in lieu of layoff are eligible to be on the internal layoff list for classes in which they held permanent status. WMS employees only have layoff list rights to classes which the highest step of the salary range is equal to or below the WMS salary at the time of the demotion.

(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 class series. Permanent status is not required for the lower classes in the class series.

(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.

(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.

(3) General government employees have layoff list rights to all classifications the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff rights to classes they held permanent status in prior to any breaks in state service.

[Statutory Authority: Chapter 41.06 RCW. 09-17-063, § 357-46-070, filed 8/13/09, effective 9/16/09; 09-11-063, § 357-46-070, filed 5/14/09, effective 6/16/09; 04-18-114, § 357-46-070, 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 list for other employers if the employee exercises this option within the two-year eligibility period:

(a) Employees who are laid off or notified in writing 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 at the same or lower salary range and lower classes in the same class series. Permanent status is not required in the lower classes in the class series. For purposes of this subsection "employees" includes Washington management service (WMS) employees who are laid off or have been notified by the employer that they are scheduled to be laid off and who have held permanent status in Washington general service. WMS employees only have layoff list rights to classes which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff.

(b) Employees who accept a voluntary demotion in-lieu of layoff are eligible to be on the statewide layoff 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 class series. Permanent status is not required for the lower classes in the class series. Washington management service (WMS) employees who accept a voluntary demotion in lieu of layoff are eligible to be on the statewide layoff list for classes in which they held permanent status. WMS employees only have layoff list rights to classes which the highest step of the salary range is equal to or below the WMS salary at the time of the demotion.

(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 class series. Permanent status is not required for the lower classes in the 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.

(3) General government employees have layoff list rights to all classifications the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff rights to classes they held permanent status in prior to any breaks in state service.

[Statutory Authority: Chapter 41.06 RCW. 09-17-063, § 357-46-080, filed 8/13/09, effective 9/16/09; 09-11-063, § 357-46-080, filed 5/14/09, effective 6/16/09; 04-18-114, § 357-46-080, 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. This includes Washington management service permanent employees who are 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. 09-11-063, § 357-46-095, filed 5/14/09, effective 6/16/09; 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 357-46-110 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.) The transition review period may be extended for leave without pay in accordance with WAC 357-31-355.

[Statutory Authority: Chapter 41.06 RCW, 09-11-063, § 357-46-110, filed 5/14/09, effective 6/16/09; 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 357-46-120 What are the employer's obligations when the employer requires a transition review period? (1) When an employer requires a transition review period, 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, 09-11-063, § 357-46-120, filed 5/14/09, effective 6/16/09; 04-18-114, § 357-46-120, 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.

(b) The individual is appointed to a permanent position in a class with a higher salary range maximum in a different class series.

(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, 09-11-063, § 357-46-135, filed 5/14/09, effective 6/16/09; 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.]

**Chapter 357-52 WAC
APPEALS**

WAC

357-52-010 What actions may be appealed?

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 or the exclusive bargaining unit representative for a vacant position that 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, 09-17-065, § 357-52-010, filed 8/13/09, effective 9/16/09; 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.]

Chapter 357-58 WAC

WASHINGTON MANAGEMENT SERVICE

WAC

357-58-045	Who is covered by the WMS rules?
357-58-205	Under what conditions may an employer reassign a WMS employee?
357-58-245	Must an employee appointed to a project position serve a review period?
357-58-285	When must a WMS employee serve a review period?
357-58-305	When does a WMS employee attain permanent status?
357-58-310	When may a WMS employee be required to serve a WMS review period?
357-58-475	Does a veteran receive any preference in layoff?
357-58-477	Is a WMS employee who is rehired following layoff considered to have had a break in state service?
357-58-554	What is a WMS employee's status during temporary layoff?

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

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

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

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

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

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

- (a) The employee does not have permanent status in classified service; or
- (b) The employee is a permanent employee who has promoted to a project WMS position.

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

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

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

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

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

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

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

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

WAC 357-58-310 When may a WMS employee be required to serve a WMS review period? An appointing authority may require an employee who transfers, voluntarily

demotes, or accepts a layoff option to another WMS position to serve a review period.

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

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

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

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

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

(i) An honorable discharge;

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

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

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

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

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

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

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

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

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

(a) A WMS employee's anniversary date, seniority, or unbroken service date is not adjusted for periods of time spent on temporary layoff;

(b) A WMS employee continues to accrue vacation and sick leave in accordance with chapter 357-31 WAC; and

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

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

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

(b) Payment for 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. 09-17-060, § 357-58-554, filed 8/13/09, effective 9/16/09; 06-07-048, § 357-58-554, filed 3/9/06, effective 4/10/06.]