

WSR 21-09-057
EMERGENCY RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed April 16, 2021, 1:40 p.m., effective April 16, 2021, 1:40 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: To protect a general government and higher education employee's seniority date when leave without pay is taken due to the novel coronavirus 2019 (COVID-19) under the governor's high-risk proclamation, Proclamation 20-46.

Citation of Rules Affected by this Order: Amending WAC 357-46-053 and 357-46-055.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: To align Title 357 WAC with Governor Jay Inslee's Proclamation 20-46, which ensures that certain employees at high risk of suffering severe illness from COVID-19 can take all available leave without risk of any adverse employment action.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 2, Repealed 0.

Date Adopted: April 16, 2021.

Roselyn Marcus
Assistant Director of Legal
and Legislative Affairs

OTS-3008.1

AMENDATORY SECTION (Amending WSR 05-12-075, filed 5/27/05, effective 7/1/05)

WAC 357-46-053 How is a higher education employee's seniority date determined? For higher education employees, the seniority date is determined as follows:

(1) In accordance with the employer's layoff procedure. The employer's layoff procedure must specify a uniform method for determining the seniority date for employees of the higher education institution or related board who are covered by the civil service rules.

(2) Employees on military leave as provided in WAC 357-31-370 must not have their seniority date adjusted for the time spent on military leave without pay.

(3) The seniority date will not be adjusted for the period of leave without pay for employees on leave without pay taken due to the novel coronavirus disease 2019 (COVID-19) under the governor's high risk proclamation #20-46. This subsection is effective until the expiration of proclamation #20-46, issued April 13, 2020, by the governor or any amendment thereto, whichever is later.

[Statutory Authority: Chapter 41.06 RCW. WSR 05-12-075, § 357-46-053, filed 5/27/05, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 14-06-007, filed 2/20/14, effective 3/24/14)

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 (including exempt 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) Novel coronavirus disease 2019 (COVID-19) under the governor's high risk proclamation #20-46. This subsection is effective until the expiration of proclamation #20-46, issued April 13, 2020, by the governor or any amendment thereto, whichever is later.

(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 seniority date must be moved forward in an amount equal to the number of calendar days on leave without pay.

~~((2))~~ (3) 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.

(f) Novel coronavirus disease 2019 (COVID-19) under the governor's high risk proclamation #20-46. This subsection is effective un-

til the expiration of proclamation #20-46, issued April 13, 2020, by the governor or any amendment thereto, whichever is later.

[Statutory Authority: Chapter 41.06 RCW. WSR 14-06-007, § 357-46-055, filed 2/20/14, effective 3/24/14; WSR 09-11-063, § 357-46-055, filed 5/14/09, effective 6/16/09; WSR 05-08-135, § 357-46-055, filed 4/6/05, effective 7/1/05.]