

WSR 21-11-101

PROPOSED RULES

EMPLOYMENT SECURITY DEPARTMENT

[Filed May 19, 2021, 9:36 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-19-020.

Title of Rule and Other Identifying Information: WAC 192-180-010

Job search requirements—Directives—RCW 50.20.010 (1)(c) and 50.20.240.

Hearing Location(s): On June 22, 2021, at 9:00 a.m., Zoom, Meeting ID 883 4231 8970, Passcode 938418, Call in 253-215-8782. Join Zoom meeting <https://us02web.zoom.us/j/88342318970?pwd=SXR2eGFRMkh1WlVVbmI2Rk02a1BiQT09>.

Date of Intended Adoption: June 25, 2021.

Submit Written Comments to: Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, fax 844-652-7096, by June 21, 2021.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, phone 360-507-9890, fax 360-586-4600, TTY relay 711, email teckstein@es.wa.gov [teckstein@esd.wa.gov] by June 14, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In order to be eligible to receive unemployment benefits, an unemployed individual must, among other requirements, be actively seeking work. RCW 50.20.010 (1)(c). RCW 50.20.240 (1)(b) requires individuals to make contacts with at least three employers per week or at least three documented in-person job search activities at the local reemployment center per week, or as otherwise directed by the department to meet the intent of rigorous reemployment efforts. The proposed amendments to WAC 192-180-010 provide additional options for claimants to meet the job search requirement by expanding the list of actions that constitute job search contacts and activities. The proposed amended rule also clarifies that an in-person job search activity can take place virtually or remotely.

Reasons Supporting Proposal: Washington's economy has profoundly changed due to the continued COVID-19 pandemic and the emergency measures taken to prevent its spread. And even before the pandemic started, new technologies and business practices had significantly changed the way that people look for and find new work. Washington's unemployed workers need more options and flexibility in how they search for work in order to adapt to this dynamic situation. Furthermore, as the state considers long-term pandemic response plans, requiring physical proximity between claimants and WorkSource staff unnecessarily increases safety risks for both claimants and staff, especially when claimants can receive support for their job search activities remotely or virtually.

Statutory Authority for Adoption: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.240.

Statute Being Implemented: RCW 50.20.010 (1)(c) and 50.20.240.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Employment security department, governmental.

Name of Agency Personnel Responsible for Drafting: Scott Michael, Olympia, 360-890-3448; Implementation and Enforcement: Julie Lord, Olympia, 360-890-9579.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Joshua Dye, P.O. Box 9046, Olympia, WA 98507-9046, phone 360-890-3472, email Rules@esd.wa.gov, <https://esd.wa.gov/newsroom/ui-rule-making/>.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed job search requirement changes do not expand a claimant's eligibility for benefits. As such, the proposed rule change will not create an additional tax liability for employers.

May 19, 2021
Dan Zeitlin
Employment Security
Policy Director

OTS-2412.1

AMENDATORY SECTION (Amending WSR 20-10-056, filed 4/30/20, effective 7/5/20)

WAC 192-180-010 Job search requirements—Directives—RCW

50.20.010 (1) (c) and 50.20.240. (1) **Do I have to look for work?** You must be actively seeking work unless you are:

- (a) Attached to an employer as defined in WAC 192-180-005(1);
- (b) Participating in a training program approved by the commissioner; or
- (c) An active registered electrical apprentice in an approved electrical apprenticeship program under chapter 49.04 RCW and chapter 296-05 WAC.

(2) **When should I start my job search?** You must look for work every week that you file a claim for benefits, unless you are exempt under subsection (1) of this section.

(3) **What are my weekly job search requirements?**

- (a) At a minimum, you must:
 - (i) Make job search contacts with at least three employers each week; (~~(e)~~)
 - (ii) Participate in three approved in-person job search activities through the WorkSource office or the equivalent public employment agency in the state in which you reside (~~(r)~~); i or
 - (iii) Do any combination of employer contacts or in-person job search activities for a total of three.

(b) Based on your individual circumstances, such as your occupation, experience, or labor market area, the department may issue you a directive requiring more than three employer contacts or job search activities each week.

(c) If you are a member of a referral union you must be registered with your union, eligible for and actively seeking dispatch, and comply with your union's dispatch or referral requirements (see WAC 192-210-120). Your benefits may be denied for any weeks in which you fail to meet these requirements and you may be directed to seek work outside of your union.

(4) **What is a "job search contact"?** A job search contact is ((a contact with an employer to inquire about or apply for a job. You must use job search methods that are customary for your occupation and labor market area including, but not limited to, in-person, telephone, internet, or telefax contacts. The work applied for must be suitable (see RCW 50.20.100 and 50.20.110) unless you choose to look for work in a lower skill area. A contact does not count if it is made with an employer whom you know is not hiring, or if the department decides the contact is designed in whole or in part to avoid meeting the job search requirements. Simply posting your resume online (for example, Simplyhired.com or Craigslist) does not constitute a job search contact for purposes of this section; in addition to posting your resume, an application or contact with an employer for a job must be submitted to count as one of the required weekly job search contacts)) one of the following activities:

(a) Contacting an employer to inquire about a job, unless you know the employer is not hiring;

(b) Submitting an application for a job with an employer, unless you know the employer is not hiring;

(c) Taking an exam required as part of the application process for a new job;

(d) Interviewing for a job;

(e) Taking a civil service exam;

(f) Adding a resume to an online job board;

(g) Creating a user profile on a professional networking site;

(h) Participating in work-related networking events, such as a job fair;

(i) Participating in a public speaking class;

(j) Registering for work with a temporary work agency, placement firm, or educational institution with job placement offices; and

(k) Other approved activities listed on the department's website at the time the weekly claim was filed.

(5) **What is an "in-person job search activity"?** ((This))

(a) An in-person job search activity is an activity provided or monitored through the WorkSource office or the equivalent public employment agency in the state in which you reside that will assist you in your reemployment efforts. It includes ((, but is not limited to,)):

(i) Job search workshops((,));

(ii) Training classes((,));

(iii) Creating a reemployment plan;

(iv) Creating an application cover letter or resume;

(v) Obtaining and using labor market and career information;

(vi) Participating in reemployment services and eligibility assessment (RESEA) activities;

(vii) Participating in skills assessment for occupational matching;

(viii) Establishing an online account with your local WorkSource office; or

(ix) Other facilitated services provided or monitored by WorkSource staff or other affiliated agencies and approved by the local WorkSource office.

(b) For claimants residing in Washington state, an in-person job search activity must be documented in the department's computer system to qualify. For interstate claimants, the activity must be documented by the equivalent public employment agency in the state in which you reside.

(c) You do not need to physically visit a WorkSource office or the equivalent public employment agency in the state in which you reside in order for the activity to count as an in-person job search activity. Job search activities that are provided or monitored remotely or virtually also count as a valid in-person job search activity.

(6) **What is a directive?** A directive is a written notice from the department telling you that specific methods of job search are required in order to meet the job search requirements. A written directive need not have been issued to deny benefits for failure to meet the job search requirements in subsection (3) of this section, unless the directive is required under WAC 192-180-012.

(7) **When is a directive issued?** The department can issue a directive to clarify or to increase the job search requirements you must meet. Examples include, but are not limited to, cases in which you need to:

- (a) Increase the number of employer contacts each week;
- (b) Change your method of looking for work;
- (c) Expand the geographic area in which you look for work;
- (d) Look for work in a secondary occupation; or
- (e) Accurately record your job search activities as required by WAC 192-180-015.

(8) **When is the directive effective?** The directive is effective when it is given in writing by the department. It stays in effect until a new written directive is given; the directive is rescinded in writing; your benefit year ends; or you receive final payment on any extension of benefits related to that benefit year, whichever is later.

[Statutory Authority: RCW 50.12.010, 50.20.010, 50.20.230, 50.20.240, and 50.12.040. WSR 20-10-056, § 192-180-010, filed 4/30/20, effective 7/5/20. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 17-01-051, § 192-180-010, filed 12/13/16, effective 1/13/17. Statutory Authority: RCW 50.12.010, 50.12.040, and 50.20.010. WSR 10-11-046, § 192-180-010, filed 5/12/10, effective 6/12/10. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 07-22-055, § 192-180-010, filed 11/1/07, effective 12/2/07. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-180-010, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 99-13-002, § 192-180-010, filed 6/3/99, effective 7/4/99.]