

**WSR 22-12-075**  
**PERMANENT RULES**  
**OFFICE OF**  
**FINANCIAL MANAGEMENT**

[Filed May 27, 2022, 4:41 p.m., effective July 1, 2022]

Effective Date of Rule: July 1, 2022.

Purpose: To amend WAC 357-04-045, 357-19-435, and 357-19-450 to align with the July 1, 2022, part-time/temporary/nonpermanent implementation effective date. RCW 41.06.070 previously exempted both part-time and temporary employees, as defined by the office of financial management (OFM), from state civil service rules (Title 357 WAC). In 2018, the legislature amended RCW 41.06.070 by removing part-time employees from the exemption; only temporary employees, as defined by OFM, are now exempt from civil service rules. Title 357 WAC does not distinguish between part-time and temporary employees for higher education employers; therefore, OFM worked with both higher education employers and union organizations to amend Title 357 WAC to align with the new law. The rule amendments redefine temporary higher education appointments and expand the current general government nonpermanent rules to include higher education employers. These rules were proposed for permanent adoption at the June 10 special director's meeting. David Schumacher, OFM director, adopted these rules on a permanent basis effective on January 1, 2022. On December 15, 2021, an extension was filed with the code reviser's office to extend the implementation rule effective date for the part-time/temporary/nonpermanent rules from January 1 to July 1, 2022. The purpose of this extension was to allow an appropriate amount of time for: (1) The Washington state public employment relations commission to finalize rule making and to clarify bargaining unit descriptions; (2) higher education employers and unions to bargain changes for represented employees; and (3) higher education employers to configure their payroll systems. This rule making aligns certain timelines in the adopted rules with the current effective date of the rules.

Citation of Rules Affected by this Order: Amending WAC 357-04-045, 357-19-435, and 357-19-450.

Statutory Authority for Adoption: Chapter 41.06 RCW.

Adopted under notice filed as WSR 22-08-025 on March 25, 2022.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 3, Repealed 0.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 3, 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 3, Repealed 0.

Date Adopted: May 27, 2022.

Roselyn Marcus  
Assistant Director of Legal  
and Legislative Affairs

## OTS-3639.1

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

**WAC 357-04-045 Which temporary employees of higher education employers are exempt from civil service rules?** (1) Temporary higher education employees are exempt from civil service rules under the following circumstances:

- (a) The employee is employed (~~((twelve))~~) 12 consecutive months or less;
- (b) The employee is employed for (~~((one thousand fifty))~~) 1,050 hours or less in that same (~~((twelve))~~) 12 consecutive month period which begins from the original date of hire or (~~((January))~~) July 1, 2022, whichever is later; and
- (c) The employee is limited to one appointment only with the same higher education employer that meets the criteria in (a) and (b) of this subsection.

(2) Temporary appointments under the provisions of this section are subject to remedial action in accordance with WAC 357-19-450.

(3) Temporary employees who are exempt under subsection (1) of this section and who work more than (~~((three hundred fifty))~~) 350 hours in a (~~((twelve))~~) 12 consecutive month period from the original date of hire or January 1, 2004, whichever is later, may be included in an appropriate bargaining unit for purposes of collective bargaining, as determined by the public employment relations commission. Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the (~~((three hundred fifty))~~) 350 hours. For purposes of counting the (~~((three hundred fifty))~~) 350 hours, the (~~((twelve-month))~~) 12-month period will begin on the employee's original date of hire or January 1, 2004, whichever is later.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.070. WSR 21-14-042 and 22-01-153, § 357-04-045, filed 6/30/21 and 12/15/21, effective 7/1/22. Statutory Authority: RCW 41.06.150. WSR 10-11-021, § 357-04-045, filed 5/10/10, effective 6/10/10. Statutory Authority: Chapter 41.06 RCW. WSR 04-15-016, § 357-04-045, filed 7/8/04, effective 7/1/05.]

## OTS-3640.1

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

**WAC 357-19-435 For what reasons may a higher education employer appoint an individual to a temporary appointment?** A higher education employer may appoint an individual to a temporary appointment for the following reasons:

- (1) The number of hours to be worked by the individual will not exceed (~~((one thousand fifty))~~) 1,050 hours in a (~~((twelve))~~) 12 consecutive month period from the original date of hire or (~~((January))~~) July 1, 2022, whichever is later, in accordance with WAC 357-04-045; or

(2) The employing official formally assigns a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months. In accordance with WAC 357-19-441(2), temporary appointments under this subsection are not exempt from civil service rules.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.070. WSR 21-14-042 and 22-01-153, § 357-19-435, filed 6/30/21 and 12/15/21, effective 7/1/22. Statutory Authority: Chapter 41.06 RCW. WSR 05-01-192, § 357-19-435, filed 12/21/04, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

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

(1) The individual has worked in one or more temporary positions as identified in WAC 357-04-045 for more than (~~one thousand fifty~~) 1,050 hours in any (~~twelve~~) 12 consecutive month period since the original hire date or (~~January~~) July 1, 2022, whichever is later. (Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the (~~one thousand fifty~~) 1,050 hours.)

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

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

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.070. WSR 21-14-042 and 22-01-153, § 357-19-450, filed 6/30/21 and 12/15/21, effective 7/1/22. Statutory Authority: Chapter 41.06 RCW. WSR 05-01-192, § 357-19-450, filed 12/21/04, effective 7/1/05.]