

WSR 22-24-025
PERMANENT RULES
OFFICE OF
FINANCIAL MANAGEMENT

[Filed November 30, 2022, 1:32 p.m., effective January 1, 2023]

Effective Date of Rule: January 1, 2023.

Purpose: Housekeeping in nature. The amendment to WAC 357-13-090 stems from the new IT professional structure implementation that went into effect on July 1, 2019, to clarify that when an employee is reallocated to a higher class, the employee must advance to a step of the range for the new class that is nearest to five percent above their previous salary, not to exceed step M of the range as provided in WAC 357-28-115. The amendment to WAC 357-28-190 is to align with the compensation plan by adding the word "regularly" to subsection (1)(a) and add subsection (1)(c) to clarify that the compensation plan allows for day shift employees who are temporarily assigned to work the majority of their hours between 6:00 p.m. and 6:00 a.m. to receive a shift premium. The amendment to WAC 357-28-203 is to clarify when an employee must receive location-based premium pay by changing the word "and" to "or." This will clarify that location-based premium must be paid when an employee is assigned to work on McNeil Island or when an employee is assigned to a permanent duty station in King County. The amendment to WAC 357-28-215 is to correct the reference from base pay to base salary. The amendment to WAC 357-31-133 is to fix an oversight from renumeration of the section stemming from rule changes in 2019. Repeal of WAC 357-31-345 is to remove redundant language as reflected in WAC 357-31-350. WAC 357-31-350 addresses how leave without pay affects a general government employee's seniority date; therefore, WAC 357-31-345 is no longer needed. The retention of WAC 357-31-345 was an oversight when rules were amended effective July 1, 2022, as reflected on WSR 22-06-006.

Citation of Rules Affected by this Order: Repealing WAC 357-31-345; and amending WAC 357-13-090, 357-28-190, 357-28-203, 357-28-215, and 357-31-133.

Statutory Authority for Adoption: RCW 41.06.133 and 41.06.150.

Adopted under notice filed as WSR 22-20-095 on October 4, 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Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 5, Repealed 1.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.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 5, Repealed 1.

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 5, Repealed 1.

Date Adopted: November 30, 2022.

Nathan Sherrard
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OTS-4039.3

AMENDATORY SECTION (Amending WSR 16-17-089, filed 8/18/16, effective 9/20/16)

WAC 357-13-090 How is an employee affected when ((his/her)) their position is reallocated?

This table is used to determine how an employee whose position is reallocated is affected.			
	Employee's position reallocated to:		
	Class with a higher salary range maximum	Class with an equal salary range maximum	Class with a lower salary range maximum
Reallocation results from:			
A position review requested by the employee or initiated by the employer	<p><i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i></p> <p>→ The employee remains in the position and is appointed with permanent status provided the probationary or trial service period for the class to which the position is reallocated is six months in duration. If the probationary period or trial service period is longer than six months and the employee has not performed higher level duties for the length of the probationary period or trial service period, the employer may require the employee serve the remainder of the probationary or trial service period before gaining permanent status in the reallocated position.</p> <p><i>If the reallocation is the result of a change in the duties of the position and the employee has not performed the higher level duties for six months or more:</i></p> <p>→ The employer must give the employee the opportunity to compete for the position. The employer may choose to promote the employee without competition as long as the employee meets the competencies and any other position requirements.</p> <p>If the employee is not selected for the position, the employer's layoff procedure applies. If the employee is appointed and ((he/she)) has already gained permanent status, the employee must serve a trial service period. If the employee has not completed the probationary period, then the new trial service period will overlap provided the higher and lower classes are in the same or a closely related field. If the classes are not in the same or closely related field, then the employee will start their probationary period over in the new class.</p>	<p><i>If the employee meets the competencies and other position requirements:</i></p> <p>→ The employee remains in the position and retains existing appointment status.</p> <p>→ The employee retains the previous base salary in accordance with WAC 357-28-120.</p> <p><i>If the employee does not meet the competencies and other position requirements:</i></p>	<p><i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i></p> <p>→ The employee retains appointment status; has the right to be placed on the employer's internal layoff list and in the general government transition pool; and has ((his/her)) <u>their</u> salary set in accordance with WAC 357-28-120.</p> <p><i>If the employee chooses to vacate the position or does not meet the competencies and other position requirements:</i></p> <p>→ The employer's layoff procedure applies.</p>

This table is used to determine how an employee whose position is reallocated is affected.			
	Employee's position reallocated to:		
	Class with a higher salary range maximum	Class with an equal salary range maximum	Class with a lower salary range maximum
Reallocation results from:			
A position review requested by the employee or initiated by the employer	<i>If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements:</i> Upon appointment to the higher class, the ((employee's base salary must be increased a minimum of a two step increase)) <u>employee must advance to a step of the range for the new class that is nearest to five percent above their previous salary, not to exceed step M of the range as provided in WAC 357-28-115.</u>	<i>If the employee meets the competencies and other position requirements:</i> → The employer's layoff procedure applies.	<i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i>
The director revising the classification plan.	The employee remains in the position and keeps existing appointment status. See WAC 357-28-130 for determining the employee's salary.		

[Statutory Authority: Chapter 41.06 RCW. WSR 16-17-089, § 357-13-090, filed 8/18/16, effective 9/20/16; WSR 14-24-026, § 357-13-090, filed 11/21/14, effective 12/22/14; WSR 13-19-043, § 357-13-090, filed 9/13/13, effective 10/18/13; WSR 11-23-054, § 357-13-090, filed 11/10/11, effective 12/13/11; WSR 06-23-090, § 357-13-090, filed 11/14/06, effective 12/18/06; WSR 05-12-088, § 357-13-090, filed 5/27/05, effective 7/1/05; WSR 05-01-201, § 357-13-090, filed 12/21/04, effective 7/1/05.]

OTS-4040.1

AMENDATORY SECTION (Amending WSR 20-24-025, filed 11/20/20, effective 12/28/20)

WAC 357-28-190 When must an employee receive shift premium? (1)

Shift premium at the rate specified in the compensation plan must be paid when:

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

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

(c) An employee is regularly scheduled to work a day shift but is assigned to work a night or evening shift in which the majority of hours worked are between 6:00 p.m. and 6:00 a.m.

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

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

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

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

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

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

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

(7) For higher education employers, shift premium must not apply to police and fire officers where special pay salaries are correlated with a rotating shift in accordance with local practice.

(8) Employees may waive shift premium.

(9) Employees who voluntarily request to work a shift as described in subsection (1) (a) (~~and~~), (b), and (c) of this section will not be eligible for shift premium.

[Statutory Authority: Chapter 41.06 RCW. WSR 20-24-025, § 357-28-190, filed 11/20/20, effective 12/28/20; WSR 05-01-205, § 357-28-190, filed 12/21/04, effective 7/1/05.]

AMENDATORY SECTION (Amending WSR 19-17-040, filed 8/15/19, effective 9/23/19)

WAC 357-28-203 When must an employee receive location based premium pay? Location based premium pay at the rate specified in the compensation plan must be paid when an employee is:

(1) Assigned to work on McNeil Island at the special commitment center and for each day the employee is physically working on the island. Days in paid status not working on the island will not qualify for premium pay; (~~and~~) or

(2) Assigned to a permanent duty station in King County.

(a) This subsection does not apply to employees who are employed by the University of Washington.

(b) When an employee is no longer permanently assigned to a King County duty station they will not be eligible for location based premium pay.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.133. WSR 19-17-040, § 357-28-203, filed 8/15/19, effective 9/23/19.]

AMENDATORY SECTION (Amending WSR 19-11-134, filed 5/22/19, effective 7/1/19)

WAC 357-28-215 When must an employee receive supervisory pay differential? Employees within the information technology professional structure who are in the entry, journey and senior/specialist levels designated as and performing all the duties of a supervisor, in accordance with WAC 357-01-317, must receive a five percent supervisory pay differential in addition to their base (~~(pay)~~) salary as long as they meet the definition of supervisor.

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150. WSR 19-11-134, § 357-28-215, filed 5/22/19, effective 7/1/19.]

OTS-4085.2

AMENDATORY SECTION (Amending WSR 22-12-076, filed 5/27/22, effective 7/1/22)

WAC 357-31-133 When may an employer allow an employee to use their accrued sick leave? The employer may require verification or certification of the reason for sick leave use in accordance with the employer's leave policy.

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

- (1) For condolence or bereavement;
- (2) 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;
- (3) To bond with a newborn, adoptive or foster child for a period beyond 18 weeks as allowed in WAC 357-31-130 (~~((1)-(j))~~) (12). Sick leave for this purpose must be taken during the first year following the child's birth or placement. The total amount of sick leave allowed to be used, beyond WAC 357-31-130 (~~((1)-(i))~~) (12) must be addressed in the employer's leave policy in accordance with WAC 357-31-100; or
- (4) When a child is a family member of an employee or member of an employee's household and:
 - (a) The child's school or place of care has been closed by order or recommendation of a public official for any health-related reason; or
 - (b) The child has been exposed to a contagious disease and is required to quarantine.

[Statutory Authority: Chapter 41.06 RCW. WSR 22-12-076, § 357-31-133, filed 5/27/22, effective 7/1/22.]

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-31-345

How does leave without pay affect a
general government employee's seniority
date?