

# Special Director's Meeting Agenda

## State Human Resources

### Office of Financial Management

Meeting Date: Tuesday, September 27, 2022  
Meeting Time: 8:30 a.m.  
Hosted By: State Human Resources  
Office of Financial Management

Special Note: This meeting is available via ZOOM (web) with a call-in option. This event is open to the public and may be photographed, videotaped, webcasted, or otherwise recorded. By participating in this event, you are agreeing your image--and anything you say or submit--may be posted indefinitely on one of OFM's publicly available sites.

Audio Conferencing Only: To join this public meeting, please click on the following link or use the call-in option below. We will have closed captioning available.

- Zoom [Meeting Launch](#) link.
- Meeting ID: 868 5754 9869
- Passcode: 862380

Call-In Option: Call-In Option:  
+12532158782,,86857549869#,,,,\*862380# US (Tacoma)  
+17193594580,,86857549869#,,,,\*862380# US

Dial by your location

- +1 253 215 8782 US (Tacoma)
- +1 719 359 4580 US
- +1 346 248 7799 US (Houston)
- +1 669 444 9171 US
- +1 669 900 9128 US (San Jose)
- +1 309 205 3325 US
- +1 312 626 6799 US (Chicago)
- +1 386 347 5053 US
- +1 564 217 2000 US
- +1 646 558 8656 US (New York)
- +1 646 931 3860 US
- +1 301 715 8592 US (Washington DC)

Find your local number: <https://ofm-wa-gov.zoom.us/j/kcyzttS52L>

Exhibits: The Rules items on the following pages have been submitted for study and presentation to the State Human Resources Director at this special public meeting

**Section A: Previous Minutes Approval** - None

**Section B: Exempt Compensation** - None

**Section C: Classification** - None

**Section D: Compensation** - None

**Section E: Rule Amendments**

Rule Item 1 COVID-19 Vaccination Requirements ..... E1-E4

### **Website Information**

This publication and other State Human Resources Director's meeting related information is available at <https://ofm.wa.gov/state-human-resources/hr-meetings/directors-meetings>.

### **Proposal Package Submittals**

All proposal packages should be routed to your assigned classification analyst. Classification and compensation email address <mailto:classandcomp@ofm.wa.gov>.

### **Meeting Coordinator**

For question and concerns, contact the Meeting Coordinator at [classandcomp@ofm.wa.gov](mailto:classandcomp@ofm.wa.gov).

### **Individuals with Disabilities**

If you are a person with a disability and require accommodation for attendance, contact the Meeting Coordinator no later than the first Thursday of the month.

### **Alternate Publication Formats**

This publication will be made available in alternate formats upon request.

### **What is a Revision**

When changes occur to an exhibit after the original Director's meeting agenda has been posted to the State HR website, a revised exhibit is created which reflects the most up-to-date information proposed for adoption. The revised exhibit appears in a separate Revised Agenda that will be available on the day of the meeting.

## **Sections A - D**

---

There are no minutes, exempt compensation, classification, or compensation items for this meeting.

## Section E: Rule Amendments

---

### **Item #1 – COVID-19 Vaccination Requirements**

**Staff note:** On August 5, 2022, Governor Jay Inslee issued a revised [Directive, #22-13.1](#), COVID-19 Vaccination Standards for State Employees, directing a permanent COVID-19 vaccination requirement as a condition of employment for state executive and small cabinet agencies. This continues the existing vaccine requirement under the Governors [Proclamation 21-14](#), COVID-19 Vaccination Requirement, which is still in effect. Directive #22-13.1 requires the Office of Financial Management State Human Resources Division to pursue rulemaking.

Staff is proposing to place new provisions in Title 357 WAC for non-represented state employees who are employed by general government executive and small cabinet agencies, or an eligible candidate for such a position, to continue the requirement to be fully vaccinated; or be granted an exemption and approved for an accommodation due to a disability and/or medical condition or sincerely held religious belief that prevents them from receiving the COVID-19 vaccine; and to require general government executive and small cabinet agency employers to separate an employee for failure to comply with the COVID-19 vaccination requirements.

To implement this directive, staff is proposing to:

- Create WAC 357-01-1745 to define “fully vaccinated”.
- Create WAC 357-04-125 to require an employee be fully vaccinated or request an exemption as a condition of employment.
- Create WAC 357-16-197 to require an eligible candidate to provide proof of being fully vaccinated or request an exemption after a conditional offer of employment is made.
- Create WAC 357-19-413 to require 1) a nonpermanent employee to be fully vaccinated or request an exemption as a condition of employment; and 2) an eligible candidate to provide proof of being fully vaccinated or request an exemption after a conditional offer of employment is made.
- Amend [WAC 357-46-165](#) to add subsection 4 to require an employer to separate an employee from employment for failure to comply with the COVID\_19 vaccination requirements.
- Amend [WAC 357-46-195](#) to replace “can” with “may” in the WAC title and add language to require an employer to separate an employee from employment for nondisciplinary reasons for failure to comply with the COVID-19 vaccination requirements.
- Amend [WAC 357-58-190](#) to add subsection 9 to state an agency’s WMS recruitment and selection policy and/or procedure must ensure compliance with the vaccination requirements in accordance with WAC 357-04-125 and WAC 357-16-197.

## Section E: Rule Amendments

---

### NEW SECTION

#### **WAC 357-01-1745 Fully vaccinated.**

A person is "fully vaccinated" against COVID-19 two weeks after they have received the second dose in a two-dose series of a COVID-19 vaccine or a single-dose COVID-19 vaccine authorized for emergency use, licensed or otherwise authorized or approved by the U.S. Food and Drug Administration or listed for emergency use or otherwise approved by the World Health Organization.

### NEW SECTION

#### **WAC 357-04-125 Must an employee provide proof of being fully vaccinated as a condition of employment?**

As a condition of employment, an employee must be fully vaccinated or request an exemption due to a disability and/or medical condition or if the requirement conflicts with an employee's sincerely held religious belief, practice, or observance. If a requested exemption is granted, an employer must determine whether or not the employee can be reasonably accommodated. If the employer determines an employee can be accommodated in accordance with state and federal laws, the employee may continue their employment. An employee who fails to meet this condition of employment will be subject to a separation in accordance with WAC 357-19-410, or a disability separation in accordance with WAC 357-46-160, or a nondisciplinary separation in accordance with WAC 357-46-195.

This section applies to executive and small cabinet agencies as defined in Directive 22-13, issued June 30, 2022, by the governor or any amendment thereto. Higher education employers, independent agencies, boards, councils, commissions, and separately elected officials may require an employee to meet the requirements of this section.

### NEW SECTION

**WAC 357-16-197 Must an eligible candidate provide proof of being fully vaccinated?** After a conditional offer of employment is made, an eligible candidate must provide proof of being fully vaccinated or request an exemption due to a disability and/or medical condition or if the requirement conflicts with an eligible candidate's sincerely held religious belief, practice, or observance. If a requested exemption is granted, an employer must determine whether or not the eligible candidate can be reasonably accommodated. If the employer determines an eligible candidate can be accommodated in accordance with state and federal laws, the eligible candidate may be considered for employment.

This section applies to executive and small cabinet agencies as defined in Directive 22-13, issued June 30, 2022, by the governor or any amendment thereto. Higher education employers, independent agencies, boards, councils, commissions, and separately elected officials may require an eligible candidate to meet the requirements of this section.

## Section E: Rule Amendments

---

### NEW SECTION

#### **WAC 357-19-413 What are the requirements for a nonpermanent employee to be fully vaccinated or an eligible candidate to provide proof of being fully vaccinated?**

(1) A nonpermanent employee must comply with the COVID-19 vaccination requirements set forth in WAC 357-04-125. A nonpermanent employee who fails to comply must be separated in accordance with WAC 357-19-410.

(2) After a conditional offer of employment for a nonpermanent appointment is made, an eligible candidate must provide proof of being fully vaccinated in accordance with WAC 357-16-197.

### AMENDATORY SECTION

#### **WAC 357-46-165 When may an employer separate an employee in accordance with WAC 357-46-160?**

An employer may separate an employee due to disability when any of the following circumstances exist:

(1) The employer is unable to reasonably accommodate the employee.

(2) The employer has medical documentation of the employee's inability to work in any capacity.

(3) The employee requests separation due to disability and the employer has medical information which documents that the employee cannot perform the essential functions of the employee's position or class.

(4) The employer must separate an employee from employment for failure to comply with the COVID-19 vaccination requirements set forth in WAC 357-04-125 where an exemption was approved due to a disability and/or medical condition and the employer is unable to reasonably accommodate the employee.

### AMENDATORY SECTION

#### **WAC 357-46-195 ((Can)) May an employer separate an employee for nondisciplinary reasons?**

An employer **may** separate a permanent employee from a position or from employment for nondisciplinary reasons such as failure to comply with the conditions of employment which may or may not have existed at the time of initial appointment or failure to authorize or to pass a background check required by the position.

The employer may consider other employment options such as transfer or voluntary demotion in lieu of separation.

The employer must separate an employee from employment for nondisciplinary reasons for failure to comply with the COVID-19 vaccination requirements set forth in WAC 357-04-125.

## Section E: Rule Amendments

---

### AMENDATORY SECTION

#### **WAC 357-58-190 What must be addressed in agency's WMS recruitment and selection policy and/or procedure?**

An agency's WMS recruitment and selection policy and/or procedure must:

- (1) Provide for the ability to consider any or all qualified candidates for hire, promotion, or internal movement;
- (2) Ensure that hiring decisions are fair, objective, and based on the evaluation of leadership and other job related competencies and characteristics required for successful job performance and performance management;
- (3) Support workforce diversity and affirmative action goals;
- (4) Consider the career development of the agency's employees and other state employees;
- (5) Consider making appointments from a veterans placement program;
- (6) Ensure that hiring decisions are not based on patronage or political affiliation;
- (7) Ensure compliance with state and federal laws relating to employee selection and nondiscrimination;
- (8) Encourage decentralized and regional administration of the recruitment and selection processes when it is appropriate for the agency;
- (9) Ensure compliance with requirements governing wage and salary information in accordance with RCW 49.58.100, 49.58.110, WAC 357-16-017, 357-16-215, and 357-16-220; and
- (10) Ensure compliance with the vaccination requirements in accordance with WAC 357-04-125 and 357-16-197.