**ITEM #1 – Agency’s Sexual Harassment Policy – Records of Harassment or Stalking**

**Staff note:** Engrossed Substitute House Bill 1692 passed during the 2019 legislative session with an effective date of July 1, 2020. This bill adds new sections to Chapter 42.56 RCW, Public Records Act. Three of these sections were codified as RCW 42.56.660, 42.56.665 and 42.56.675. This bill prevents an employer from disclosing records of harassment or stalking. If the requestor is a different party (not the person alleged to have been involved) requesting records of an employee, who has notified the employer of harassment or stalking, the employer must immediately notify the employee. If the employee seeks an injunction the employee must in turn notify the employer.

We are proposing to amend WAC 357-25-027 what must be included in the agency’s sexual harassment policy, to add subsection 13 to state responses to public records requests will be in accordance with the new laws.

Lead: Caroline Kirk

AMENDATORY SECTION

**WAC 357-25-027 What must be included in the agency's sexual harassment policy?**

Agencies as defined in RCW [41.06.020](http://app.leg.wa.gov/RCW/default.aspx?cite=41.06.020) must at a minimum include the following in their policy on sexual harassment:

(1) Indicate who is covered by the policy;

(2) Provide that the employer is committed to providing a working environment free from sexual harassment of any kind;

(3) State that sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60;

(4) The definition of sexual harassment as defined by the Equal Employment Opportunity Commission;

(5) Notify the employee or individual of their right to file a complaint with the Washington State Human Rights Commission under RCW [49.60.230](http://app.leg.wa.gov/RCW/default.aspx?cite=49.60.230) or the Federal Equal Employment Opportunity Commission under Title VII of the Civil Rights Act of 1964;

(6) Identify how and to whom employees or individuals may raise concerns or file complaints. The policy should allow multiple avenues for an employee or individual to raise complaints or concerns and should clearly identify the positions or entities charged with receiving these complaints;

(7) Advise all individuals covered by the policy that the employer is under a legal obligation to respond to allegations concerning a violation of the policy;

(8) Identify the manner by which the employer will respond to alleged violations of the policy, including a formal investigation if necessary;

(9) State that the complainant shall be informed of the status and the outcome of an investigation;

(10) Identify the agency's investigation or response procedure;

(11) Define the roles and responsibilities of employees, managers, supervisors, and others covered by the policy with respect to the following:

(a) Preventing or not engaging in sexual harassment;

(b) Responding to concerns or allegations of violations of the policy;

(c) Participation in an investigation under the policy; and

(d) The prohibition against retaliation.

(12) State that confidentiality cannot be guaranteed;

(13) State that responses to public records requests will be in accordance with RCW 42.56.660, 42.56.665 and 42.56.675,

(14) Advise that retaliation against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation is prohibited;

~~(14)~~(15) Advise that any employee found to have violated the policy will be subject to corrective and/or disciplinary action, up to and including dismissal;

~~(15)~~(16) Advise that any employee found to have retaliated against individuals covered by the policy who report allegations of sexual harassment or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal; and

~~(16)~~(17) State an employer may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events coordinated by or through the employer, or between employees, or between an employer and an employee, off the employment premises in accordance with RCW [49.44.210](http://app.leg.wa.gov/RCW/default.aspx?cite=49.44.210).

For the purposes of this subsection, "employee" has the same meaning as defined in RCW [49.44.210](http://app.leg.wa.gov/RCW/default.aspx?cite=49.44.210).

**ITEM #2 – Part-time and Temporary Rules**

**Staff note:** [RCW 41.06.070](https://apps.leg.wa.gov/RCW/default.aspx?cite=41.06.070) formerly exempted both part-time and temporary employees, as defined by the Office of Financial Management, from state civil service laws. 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 laws ([Laws of 2018, chapter 246, section 1](http://lawfilesext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2669.SL.pdf)). The current civil service rules (Title 357 WAC) do not distinguish between part-time and temporary employees of higher education institutions. We are proposing the following rule amendments in order to bring the civil service rules into alignment with the new law.

The preproposal statement of inquiry ([CR-101](https://www.ofm.wa.gov/sites/default/files/public/rulemaking/rules_dev/WSR_19-16-028_CR101.pdf)) was filed with the Office of the Code Reviser on July 26, 2019, WSR 19-16-028.

The text in red text below under WACs 357-04-035 and 357-04-045 are revised language.

Lead: Brandy Chinn

### REFERENCE ONLY (NO CHANGE)

**WAC 357-19-441 What provisions of civil service rules apply to individuals in temporary appointments?**

(1) Individuals appointed to temporary appointments under the provisions of WAC [357-19-435](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-435)(1) are exempt from the civil service rules except for the provisions of remedial action as provided in WAC [357-04-045](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-045) and [357-19-450](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-450).

(2) Employees temporarily assigned higher level duties under the provisions of WAC [357-19-435](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-435)(2) are classified employees and as such are covered by the civil service rules.

REFERENCE ONLY (NO CHANGE)

**WAC 357-19-443 Does a permanent employee who is temporarily appointed to a higher level class under the provision of WAC** [**357-19-435**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-435)**(2) have the right to resume a position at the conclusion of the temporary appointment?**

At the conclusion of a temporary appointment to a higher level class under the provisions of WAC [357-19-435](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-435)(2), a permanent employee has a right to resume a position in the class the employee was in prior to the temporary appointment. Upon return to a position in the prior class, the employee's base salary is reinstated and the employee is credited with any increment increases that would have occurred had the employee not been temporarily appointed to a higher class.

### AMENDATORY SECTION

### WAC 357-04-015 Who is not covered by civil service rules?

The civil service rules do not apply to positions specifically exempted in individual agency statutes, chapter [41.06](http://app.leg.wa.gov/RCW/default.aspx?cite=41.06) RCW, and to the following:

(1) Washington state patrol trooper cadets in training for commissioning as troopers in the Washington state patrol;

(2) The executive director, ~~his/her~~ executive director’s confidential secretary, assistant directors, and professional education employees of the state board for community and technical colleges; and

(3) Inmate, student, ~~part-time,~~ or temporary employees, and part-time professional consultants, as defined by the ~~Washington personnel resources board~~ director in WAC [357-04-040](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-040), [357-04-045](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-045), [357-04-050](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-050), and [357-04-055](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-055).

### AMENDATORY SECTION

**WAC 357-04-035 Who defines exempt status for student, ~~part-time,~~ or temporary employees and part-time professional consultants for higher education employers?**

In accordance with RCW [41.06.070](http://app.leg.wa.gov/RCW/default.aspx?cite=41.06.070), the ~~board~~ director defines exemptions for student, ~~part-time~~ or temporary employees and part-time professional consultants. Higher education employers must use the definitions in WAC [357-04-040](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-040), [357-04-045](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-045), and [357-04-050](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-050) as the criteria for identifying positions in these categories of employment that are exempt from civil service rules.

### AMENDATORY SECTION

**WAC 357-04-045 Which ~~part-time or~~ temporary employees of higher education employers are exempt from civil service rules?**

~~Persons employed to work one thousand fifty hours or less in a twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.~~ (1) ~~The following t~~Temporary higher education employees are exempt from civil service rules under the following circumstances:

1. ~~An~~ The employee who is employed to work twelve consecutive months or less; and
2. ~~An~~ The employee who is employed to work for one thousand fifty hours or less in ~~the~~ that twelve consecutive month period ~~beginning~~ which begins from the original date of hire or July 1, 2020, whichever is later.

(2) Temporary employees are limited to one appointment for one thousand fifty hours or less in a twelve month consecutive month period with the same higher education employer.

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

(4) Temporary e~~E~~mployees who are ~~either~~ exempt under ~~this~~ subsection (1) of this section ~~or exceptions authorized under WAC~~ [~~357-19-440~~](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-440)~~,~~ and who work more than three hundred fifty hours in a twelve 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](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-040) are not counted in the three hundred fifty hours. For purposes of counting the three hundred fifty hours, the twelve-month period will begin on the employee's original date of hire or January 1, 2004, whichever is later. ~~The next twelve-month period will repeat accordingly. For example:~~

~~The employee's original date of hire is June 1, 2009. The twelve-month period would be June 1, 2009, through May 31, 2010. The next twelve-month period would be June 1, 2010, through May 31, 2011. This pattern will continue.~~

~~Once the employee works at least three hundred fifty hours in a job classification in the collective bargaining unit the employee remains in that collective bargaining unit until the end of the first twelve-month period (as described in this section) in which the employee does not work at least three hundred fifty hours in a job classification that is in the collective bargaining unit. An employee who has not worked sufficient hours in a bargaining unit job classification to remain in the bargaining unit, is excluded from the bargaining unit until the employee again works at least three hundred fifty hours in a bargaining unit job classification in a twelve-month period (as described in this section).~~

~~Temporary appointment under the provisions of this section may be subject to remedial action in accordance with WAC~~ [~~357-19-450~~](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-450)~~, if the number of hours worked exceeds one thousand fifty hours in a twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Overtime and time worked as a student employee under the provisions of WAC~~ [~~357-04-040~~](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-040) ~~are not counted in the one thousand fifty hours. For purposes of counting the one thousand fifty hours, the twelve-month period will begin on the employee's original date of hire or October 1, 1989, whichever is later. The next twelve-month period will repeat accordingly. For example:~~

~~The employee's original date of hire is June 1, 2009. The twelve-month period would be June 1, 2009, through May 31, 2010. The next twelve-month period would be June 1, 2010, through May 31, 2011. This pattern will continue.~~

### AMENDATORY SECTION

### WAC 357-04-055 Who defines exempt status for student, ~~part-time,~~ or temporary employees; part-time professional consultants; and inmates for general government employers and what types of positions are exempt?

In accordance with RCW [41.06.070](http://app.leg.wa.gov/RCW/default.aspx?cite=41.06.070), the ~~board~~ director defines exemptions for student, ~~part-time~~ or temporary employees; part-time professional consultants~~;~~ and inmates. The following types of general government employees are exempt from civil service rules:

(1) Part-time local health officers;

~~(2) Persons employed on a part-time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties;~~

(~~3~~2) ~~Part-time or t~~Temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide a training opportunity, and all temporary employees not in federal grant-in-aid programs;

(4) Patient and resident help in general government residential facilities;

(5) Inmate help in general government correctional facilities; and

(6) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director to be equivalent.

### AMENDATORY SECTION

### WAC 357-19-435 For what reasons may a higher education employer ~~make~~ appoint an individual to a temporary appointment?

A higher education employer may appoint an individual to ~~make~~ a temporary appointment for the following reasons:

(1) The number of hours to be worked by the individual will not exceed one thousand fifty hours in ~~any~~ atwelve consecutive month period from the original date of hire or ~~October 1, 1989~~ July 1, 2020, whichever is later, in accordance with WAC [357-04-045](https://apps.leg.wa.gov/WAC/default.aspx?cite=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.

### AMENDATORY SECTION

**WAC 357-19-440 What provisions govern higher education temporary appointments?**

(1) Temporary appointments may be made without regard to rules on recruitment, assessment, and certification as provided in chapter [357-16](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-16) WAC.

(2) Each higher education employer must develop for director approval a procedure which indicates the employer's system for controlling and monitoring ~~exempt part-time and~~ temporary positions as identified in WAC [357-04-045](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-045). The procedure must include a mechanism to access and report hours worked by an individual temporary employee.

(3) ~~A higher education employer may petition the director in writing for approval of exceptions to the one thousand fifty hours threshold as specified in WAC~~ [~~357-19-435~~](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-435)~~(1).~~

~~(4)~~ No temporary appointment shall take the place of employees laid off under the provisions of WAC [357-46-010](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-46-010).

### AMENDATORY SECTION

**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](https://apps.leg.wa.gov/WAC/default.aspx?cite=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 ~~employee~~individual has worked in one or more temporary positions as identified in WAC 357-04-045 for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or ~~October 1, 1989~~July 1, 2020, whichever is later. (Overtime and time worked as a student employee under the provisions of WAC [357-04-040](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-040) are not counted in the one thousand fifty 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.

**ITEM #3 – Non-permanent Rules**

**Staff note:** We are proposing to expand the current General Government non-permanent rules so that Institutions of Higher Education may use to fill non-permanent appointments.

Lead: Brandy Chinn

### REFERENCE ONLY (NO CHANGE)

### WAC 357-19-380 What provisions of the civil service rules apply to nonpermanent employees?

The leave and holiday provisions of chapter [357-31](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31) WAC and compensation provisions of chapter [357-28](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-28) WAC apply to employees in nonpermanent appointments.

### REFERENCE ONLY (NO CHANGE)

### WAC 357-31-225 When employees separate from state service, are they entitled to a lump sum payment of unused vacation leave?

(1) When an employee who has completed six continuous months of employment separates from service by reason of resignation with adequate notice, layoff, trial service reversion, separation, dismissal, retirement, or death, the employee is entitled to a lump sum payment of unused vacation leave. The payment is computed by using the formula published by the office of financial management. No contributions are to be made to the department of retirement systems (DRS) for lump sum payment of excess vacation leave accumulated under the provisions of WAC [357-31-215](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-215)(2), nor shall such payment be reported to the DRS as compensation.

(2) General government permanent employees may defer the payment of accumulated vacation leave to which they are entitled for a period of thirty calendar days in any of these circumstances:

(a) If the separation resulted from a layoff, trial service reversion, or conclusion of a project or nonpermanent appointment and there is a reasonable probability of reemployment; or

(b) If the separation resulted from an employee returning to a classified position from an exempt position under the provision of RCW [41.06.070](http://app.leg.wa.gov/RCW/default.aspx?cite=41.06.070).

AMENDATORY SECTION

**WAC 357-01-210 Nonpermanent appointment.**

An appointment made by an ~~general government~~ employer under the provisions of WAC [357-19-360](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-360).

### AMENDATORY SECTION

### WAC 357-19-360 For what reasons may an ~~general government~~ employer make nonpermanent appointments?

An ~~general government~~ employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

(1) A permanent employee is absent from the position;

(2) The ~~agency~~ employer is recruiting to fill a vacant position with a permanent appointment;

(3) The ~~agency~~ employer needs to address a short-term immediate workload peak or other short-term needs;

(4) The ~~agency~~ employer is not filling a position with a permanent appointment due to the impending or actual layoff of a permanent employee(s); or

(5) The nature of the work is sporadic and does not fit a particular pattern.

### AMENDATORY SECTION

### WAC 357-19-365 When is it inappropriate for an ~~general government~~ employer to fill a position with a nonpermanent appointment to address a short-term immediate workload peak or other short term needs?

~~General government~~ eEmployers **must not** fill a position with a nonpermanent appointment under the provisions of WAC [357-19-360](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-360)(3) when the work of the position is scheduled, ongoing and permanent in nature. If at any time during a nonpermanent appointment, a short-term workload peak or other short term need becomes ongoing and permanent in nature, the employer must take action to fill the position on a permanent basis.

### AMENDATORY SECTION

### WAC 357-19-370 How long can a ~~general government~~ nonpermanent appointment last?

(1) ~~Agencies~~ Employers are encouraged to limit the duration of a nonpermanent appointment to twelve months from the appointment date.

(2) A nonpermanent appointment for a reason specified in WAC [357-19-360](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-360) (1) through (4) **must not** exceed twenty-four months unless the director has approved an extension of the appointment due to the continued absence of a permanent employee. An employer may choose to not count time spent in formal training programs towards the twenty-four month limit. On-the-job training is not considered a formal training program for purposes of this rule.

### AMENDATORY SECTION

### WAC 357-19-373 What notification must an ~~general government~~ employer give a nonpermanent appointee?

(1) Upon appointment, all nonpermanent appointees must be notified in writing of the conditions of their appointment and/or upon any subsequent change to the conditions of their appointment.

(2) The written notification must at a minimum contain the following information:

(a) The reason for the nonpermanent appointment in accordance with WAC [357-19-360](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-360);

(b) The hours of work and the base salary;

(c) The anticipated short-term duration or sporadic nature of the appointment;

(d) A statement regarding the receipt or nonreceipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received; and

(e) The right to request remedial action as provided in WAC [357-19-425](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-425).

AMENDATORY SECTION

### WAC 357-19-375 Can an employee receive consecutive ~~general government~~ nonpermanent appointments?

Individuals may receive consecutive nonpermanent appointments as long as:

(1) Any subsequent appointment is to a different position; or

(2) The multiple appointments are of a seasonal nature but don't meet the definition of seasonal appointment because each appointment last less than five months in duration during any consecutive twelve-month period.

### AMENDATORY SECTION

### WAC 357-19-377 What provisions apply to ~~general government~~ nonpermanent appointments?

~~general government n~~Nonpermanent appointments are subject to the following provisions:

(1) Nonpermanent appointees must meet the competencies and other requirements of the position to which they are appointed.

(2) Nonpermanent appointments may be filled on a noncompetitive basis which means the employer is not required to comply with the rules on recruitment, assessment, and certification as provided in chapter [357-16](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-16) WAC.

(3) Nonpermanent appointments may be filled using the competitive process specified in chapter [357-16](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-16) WAC as long as the eligible applicant indicates a willingness to accept a nonpermanent appointment.

(4) ~~Agencies~~ Employers may underfill a position with a nonpermanent appointment.

### AMENDATORY SECTION

### WAC 357-19-385 Can a permanent employee accept a nonpermanent appointment?

A permanent employee may accept a ~~general government~~ nonpermanent appointment.

### AMENDATORY SECTION

### WAC 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment?

Employees who accept a nonpermanent appointment must give their current employers at least fourteen calendar days' notice before moving to a nonpermanent appointment. The current ~~agency~~ employer and employee may agree to waive or shorten the notice period.

When the current employer receives the employee's notice, the employee's permanent ~~agency~~ employer must notify the employee in writing of his/her return right at the conclusion of the nonpermanent appointment.

For purposes of this rule, written notice may be provided using alternative methods such as email, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC [357-04-105](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-105).

### AMENDATORY SECTION

### WAC 357-19-400 Can ~~agency~~ an employer convert a ~~general government~~ nonpermanent appointment to a probationary or trial service appointment?

(1) When an ~~agency~~ employer uses a competitive process to make a nonpermanent appointment to fill a position in the absence of a permanent employee or fill a position nonpermanently due to the impending or actual layoff of a permanent employee(s), the ~~agency~~ employer may change the status of the appointment to probationary or if the employee held permanent status prior to the nonpermanent appointment to trial service if:

(a) The permanent employee does not return to the position or the layoff action has been implemented; and

(b) The ~~agency~~ employer needs to fill the position permanently.

(2) At the discretion of the appointing authority, time spent in the nonpermanent appointment may count towards the probationary or trial service period for the permanent position.

### AMENDATORY SECTION

**WAC 357-19-420 What are the appeal rights of** ~~general government~~ **nonpermanent employees?**

Employees without permanent status appointed to ~~general government~~ nonpermanent appointments have no appeal rights with the exception of remedial action as provided in WAC [357-19-430](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-430).

### AMENDATORY SECTION

### WAC 357-19-425 How does a ~~general government~~ nonpermanent employee request remedial action?

Requests for remedial action by nonpermanent employees must be received in writing within thirty days as provided in chapter [357-49](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-49) WAC. Following a director's review of the remedial action request, an employee may file exceptions to the director's decision in accordance with chapter [357-52](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-52) WAC.

### AMENDATORY SECTION

### WAC 357-19-430 When may the director take remedial action for ~~general government~~ nonpermanent employees and what does remedial action include?

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 employer has made an appointment that does not comply with rules on nonpermanent appointment; or

(2) The duration of a nonpermanent appointment as defined in WAC [357-19-360](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-19-360) (1) through (4) has exceeded twenty-four months without director approval.

**ITEM #4 – RCW 41.06.070 Cleanup**

**Staff note:** Chapter 246, Laws of 2018 (House Bill 2669) became effective on June 7, 2018. HB 2669 amended RCW 41.06.070 to remove the part-time employee exemption from civil service law (as described in item #2 above). This amendment also resulted in changes to existing subsections. As a result, the references to RCW 41.06.070(3) in WACs 357-04-020, 357-04-025 and 357-04-030 require amendment to reflect the correct references in RCW 41.06.070.

Lead: Brandy Chinn

AMENDATORY SECTION

**WAC 357-04-020** **May the director exempt other positions from civil service?**

The director may provide for further exemptions for general government positions involving substantial responsibility for formulating basic agency or executive policy or involving directing and controlling program operations of an agency or a major administrative division of an agency in accordance with the provisions and procedures of RCW 41.06.070((~~(3)~~)).

AMENDATORY SECTION

**WAC 357-04-025** **What rights does a classified employee have when the position he/she holds is exempted from the civil service rules?**

As required by RCW 41.06.070((~~(3)~~)) and 41.06.170, an employee holding a classified position has the following rights if the position is exempted from the application of the civil service rules:

(1) If the employee previously held permanent status in another classified position, the employee has the right to return to the highest class of position previously held, or to a position of similar nature and salary in accordance with WAC 357-19-220.

(2) The employee may appeal the exemption of the position in accordance with chapter 357-52 WAC.

AMENDATORY SECTION

**WAC 357-04-030** **What right does an employee have to return to the classified service from exempt service?**

As required by RCW 41.06.070((~~(3)~~)), any employee having permanent status in a classified position who accepts an appointment in an exempt position has the right to return to classified service in accordance with WAC 357-19-195, 357-19-200, and 357-19-205. As long as the employee was not terminated from the exempt position for gross misconduct or malfeasance, the employee has the right to return to the highest class of position in which he/she previously held permanent status or to a position of similar nature and salary.