

# Rule Review Meeting – February 15, 2019

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## **ITEM #1 – Information Technology Professional Structure**

**Staff note:** Contingent on legislative finding, the state is implementing a new information technology professional/technical classification and compensation structure. This means that all state agency and higher education classified IT positions, and some Washington Management Service IT positions, will be evaluated for allocation into the new Information Technology Professional Structure (ITPS). We are proposing the following rules to address those employees who have been placed into the new ITPS.

- The proposed new rules in Section A address the new definitions for job family (WAC 357-01-187) and **job** level (WAC 357-01-197).
- The proposed amendments in Section B address where the terms class, classes and classification are used to be followed by “or family/ies and level/s”. These changes are indicated in **green text**. The other amendments in this section are housekeeping in nature.
- The proposed new rule in Section C addresses when an IT employee must receive supervisory pay differential.
- The proposed new rule in Section D address the requirement for employers to develop procedures which address evaluating positions for placement within the ITPS. The proposed amendment to WAC 357-13-035 addresses the requirement for ITPS position description forms.
- The proposed new rule in Section E addresses how layoff will be handled in the ITPS.

### **SECTION A**

#### **NEW SECTION**

**WAC 357-01-187 Job family.** A functional discipline involving similar types of work focused within a specific and specialized body of knowledge as established within a professional structure.

#### **NEW SECTION**

**WAC 357-01-188 Job level.** The measure of complexity of work performed.

### **SECTION B**

#### **AMENDATORY SECTION**

**WAC 357-01-020 Allocation.** The assignment of a position to a class **or job family and job level**.

#### **AMENDATORY SECTION**

**WAC 357-01-095 Demotion.** Movement of an employee from a position in one class, **job family, job level or job family and job level** to a position in another class, **job family, job level or job family and job level** that has a lower salary range maximum.

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### AMENDATORY SECTION

**WAC 357-01-135 Elevation.** An employer-initiated action that moves an employee to a position in ~~((either))~~ one of the following:

(1) A higher class, job family, job level or job family and job level in which the employee held permanent status prior to a demotion; ~~((or))~~

(2) A class in the same class series which is between the current class and the class from which the employee demoted; or

(3) A job level in the same job family which is between the current job level and job level from which the employee demoted.

### AMENDATORY SECTION

**WAC 357-01-200 List.** A list of eligible names established to be certified for vacancies in a class or job family and job level.

### AMENDATORY SECTION

**WAC 357-01-232 Periodic increment date ~~((PID))~~.** The date upon which an employee is scheduled to move to a higher salary step within the salary range for the current class or job family and job level.

### AMENDATORY SECTION

**WAC 357-01-260 Promotion.** The appointment to a class, job family, job level or job family and job level with a higher salary range maximum that results in a salary increase.

### AMENDATORY SECTION

**WAC 357-01-270 Reallocation.** The assignment of a position to a different class, job family, job level or job family and job level.

### AMENDATORY SECTION

**WAC 357-01-275 Reassignment.** An employer-initiated move of an employee within the employer from one position to another position in the same class or job family and job level.

### AMENDATORY SECTION

**WAC 357-01-280 Reemployment.** Appointment of a former permanent employee who had permanent status in a class or job family and job level with the same or similar job duties.

### AMENDATORY SECTION

**WAC 357-01-295 Salary range.** The minimum and maximum dollar amount assigned to a class or job family and job level.

### AMENDATORY SECTION

**WAC 357-01-315 Special pay salary ranges.** A unique salary range assigned to a position ~~((or))~~ in a class or job family and job level in accordance with WAC 357-28-025.

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### NEW SECTION

**WAC 357-01-317 Supervisor.** (1) An employee who is assigned responsibility by management to participate in the following functions with respect to their subordinate employee(s):

- (a) Selecting staff;
- (b) Training and development;
- (c) Planning and assignment of work;
- (d) Evaluating performance;
- (e) Resolving grievances; and
- (f) Taking corrective action.

(2) Participation in these functions is not routine and requires the exercise of individual judgment.

- (3) A supervisor must supervise a minimum of one full-time employee or equivalent.

### AMENDATORY SECTION

**WAC 357-01-335 Transfer.** An employee-initiated move of ~~((that))~~ an employee from a position to another position within or between employers in the same class or job family and job level or a different class or job family and job level with the same salary range maximum.

### AMENDATORY SECTION

**WAC 357-01-345 Trial service period.** The initial period of employment following:

(1) A promotional appointment to a position in a new class, new job family, new job level or new job family and job level;

(2) A transfer, voluntary demotion((;)) or elevation when required by the employer under the provisions of WAC 357-19-030; or

(3) An appointment within two years of separation due to layoff to a position with a higher salary range maximum than the position the employee was laid off from.

The trial service period will continue for six to twelve months as determined under the provisions of WAC 357-19-050.

### 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 or job family and job level 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

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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 or job family and job level of position in which ((he/she)) the employee previously held permanent status or to a position of similar nature and salary.

### AMENDATORY SECTION

**WAC 357-04-045 Which part-time or temporary employees ((of)) at higher education ((employers)) institutions are exempt from civil service rules? ((Persons)) Part-time or temporary employees at higher education institutions that are 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.**

Employees who are either exempt under this subsection or exceptions authorized under WAC 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 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)) position 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)) position that is in the collective bargaining unit. An employee who has not worked sufficient hours in a bargaining unit ((job classification)) in a position 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 position 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, 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 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 357-13-015 What must the classification plan be based upon?** The classification plan must be based on a review and analysis of duties and responsibilities, and must include a description of each class and job family and job level.

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### AMENDATORY SECTION

**WAC 357-13-035 Must a standard form be used for each position description?** A standard form developed by the director or one containing components similar to those found in the director's form must be used for each position description.

For positions in the information technology professional structure (ITPS), a standard form developed by the director, or an alternate form approved by the director must be used for requests to establish or reevaluate ITPS positions.

### AMENDATORY SECTION

**WAC 357-13-050 Who is responsible for allocating or reallocating each position?** The employer must allocate or reallocate each classified position to an established class or job family and job level in the classification plan.

### AMENDATORY SECTION

**WAC 357-13-070 Must an employer notify an employee when the employee's position is reallocated?** Employers must provide written notice to an employee when the employee's position is reallocated. If the reallocation is to a class, job family, job level or job family and job level with a lower salary range maximum, the employee must receive at least fifteen calendar days' written notice of the reallocation. The employee may request to waive or shorten the fifteen day notice period.

For purposes of this rule, written notice of reallocation, excluding reallocation to a class, job family, job level or job family and job level with a lower salary range maximum, 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.

### AMENDATORY SECTION

**WAC 357-13-083 What happens if an employee requests a director's review of ((his or her)) an allocation or files an exception to the director's decision and is laid off before a decision is issued?** When an employee's position has been reallocated as part of a board or director's decision on allocation and when the employee was laid off prior to the board or director's decision being issued, the following applies:

- (1) The employee's position is reallocated effective as of the date the request for a position review was filed with the employer;
- (2) If the employee was reallocated to a class, job family, job level or job family and job level with a higher salary range, the employee is due back pay from the effective date of the allocation to the effective date of the layoff;
- (3) The layoff action (including options afforded to the employee) is not impacted; and
- (4) The employee shall have layoff list rights to the class or job family and job level the employee's former position was reallocated to in accordance with WAC 357-46-070 and 357-46-080.

### AMENDATORY SECTION

**WAC 357-13-085 How is the effective date of a reallocation determined?** The effective date of a reallocation is determined as follows:

- (1) The effective date of a reallocation resulting from the director's revisions to the classification plan is the effective date of the director's action.

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(2) The effective date of an employer-initiated reallocation is determined by the employer. Notice of a reallocation to a class, [job family, job level or job family and job level](#) with a lower salary range maximum must be provided in accordance with WAC 357-13-070.

(3) The effective date of a reallocation resulting from an employee request for a position review is the date the request was filed with the employer unless the result of the position review is a reallocation to a class, [job family, job level or job family and job level](#) with a lower salary range maximum. Notice of reallocation to a class, [job family, job level or job family and job level](#) with a lower salary range maximum must be provided in accordance with WAC 357-13-070.

(4) The effective date of a reallocation to a class, [job family, job level or job family and job level](#) with a lower salary range maximum resulting from a director's review determination to reallocate to a lower ((classification)) [class, job family, job level or job family and job level](#) than the employer's determination is thirty calendar days from the date of the director's determination unless the review determination is appealed to the board. The effective date of a reallocation to a class, [job family, job level or job family and job level](#) with a lower salary range maximum resulting from a board order to reallocate to a lower ((classification)) [class, job family, job level or job family and job level](#) than the employer's determination is thirty calendar days from the date of the board's order.

### AMENDATORY SECTION

#### **WAC 357-13-090 How is an employee affected when his/her position is reallocated?**

This table is used to determine how an employee whose position is reallocated is affected.			
Employee's position reallocated to:			
	<a href="#">A class, job family, job level or job family and job level</a> with a higher salary range maximum	<a href="#">A class, job family, job level or job family and job level</a> with an equal salary range maximum	<a href="#">A class, job family, job level or job family and job level</a> with a lower salary range maximum
<b>Reallocation results from:</b>			
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>  → The employee remains in the position and is appointed with permanent status provided the probationary or trial service period for the class, <a href="#">job family, job level or job family and job level</a> to which the position	<i>If the employee meets the competencies and other position requirements:</i>  → The employee remains in the position and retains existing appointment status.	<i>If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position:</i>  → The employee retains appointment status; has the right to be placed on the employer's internal layoff list and in the general government

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This table is used to determine how an employee whose position is reallocated is affected.			
Employee's position reallocated to:			
	<u>A class, job family, job level or job family and job level</u> with a higher salary range maximum	<u>A class, job family, job level or job family and job level</u> with an equal salary range maximum	<u>A class, job family, job level or job family and job level</u> with a lower salary range maximum
	<p>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</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>transition pool; and has his/her 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>

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This table is used to determine how an employee whose position is reallocated is affected.			
	Employee's position reallocated to:		
	<u>A class, job family, job level or job family and job level</u> with a higher salary range maximum	<u>A class, job family, job level or job family and job level</u> with an equal salary range maximum	<u>A class, job family, job level or job family and job level</u> with a lower salary range maximum
	<p>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, <u>job families, job levels or job families and job levels</u> are in the same or a closely related field. If the classes, <u>job families, job levels or job families and job levels</u> are not in the same or closely related field, then the employee will start their probationary period over in the new class, <u>job family, job level or job family and job level</u>.</p> <p>Upon appointment to the higher class, <u>job family, job level or job family and job level</u>, the employee's base salary must be increased a minimum of a two step increase, not to exceed step M of the range as provided in WAC 357-28-115.</p>		
		→ The employer's layoff procedure applies.	
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.		



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### AMENDATORY SECTION

**WAC 357-16-070 What screening methodologies may employers use?** Employers may use the screening methods that they determine best evaluate a person's competencies to perform the duties and responsibilities of a class, job family and job level, and/or a position. Screening methods must be based upon job analysis and may include, but are not limited to, reviewing resumes, interviewing applicants, and developing supplemental questionnaires for applicants to provide additional information.

### AMENDATORY SECTION

**WAC 357-16-130 In what order are eligible candidates certified to the employing official for hiring consideration?** Only eligible candidates who satisfy the competencies and other requirements of the position to be filled will be certified. The order for certifying must follow these criteria:

(1) If there are names on the employer's internal layoff list for the class or job family and job level, all eligible candidates on the internal layoff list are certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified.

(2) If there are no names on the internal layoff list, the employer:

(a) Must certify all statewide layoff candidates who satisfy the competencies and other position requirements.

(b) May then certify other available eligible candidates. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

(3) General government employers must certify transition pool candidates, who satisfy the competencies and other position requirements, when a certified pool contains eligible candidates other than layoff or internal promotional candidates.

### AMENDATORY SECTION

**WAC 357-16-135 When may an employer certify candidates for affirmative action purposes?** An employer may use supplemental certification to add to the certified pool when:

(1) Per the employer's certification procedure, the number of eligible candidates being certified is fewer than the total number of candidates eligible for certification;

(2) The employer's approved affirmative action plan shows that a goal exists in the job category for the particular affected group; and

(3) There are no individuals on the internal layoff list for the class or job family and job level who satisfy the competencies and other position requirements for the position.

### AMENDATORY SECTION

**WAC 357-16-155 Can an individual's name be removed from an applicant or candidate pool for ~~((a class or all classes in a class series))~~ any classes or job families and job levels?** An employer may disqualify an individual by removing the individual's name from an applicant and/or candidate pool for ~~((a class or all classes in a class series))~~ any classes or job families and job levels at any time for good and sufficient reason.

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### AMENDATORY SECTION

**WAC 357-16-157 Is an eligible's name removed from applicant and/or candidate pools when ((he/she)) the employee is appointed to a position?** An eligible's name may be removed from the applicant and/or candidate pool for the class or job family and job level to which ((he/she)) the employee is appointed and all lower classes or job families and/or job levels in the same class series or lower job levels within the job family.

### AMENDATORY SECTION

**WAC 357-19-025 When must an employee serve a trial service period?** A permanent employee must serve a trial service period upon promotional appointment to a position in a class, job family, job level or job family and job level in which the employee has not held permanent status. A general government employee laid off in accordance with the provisions of WAC 357-46-010 or 357-58-445 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position. Upon appointment to a position with a higher salary range maximum than the position the employee was laid off from the employee must serve a trial service period.

### AMENDATORY SECTION

**WAC 357-19-040 How long is the probationary period?** The director must establish the duration of the probationary period on a class-wide basis. The probationary period for a class or job family and job level must be from six to twelve months long.

The probationary period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

### AMENDATORY SECTION

**WAC 357-19-045 Can the length of a probationary period be extended?** The probationary period for the class of campus police officer (or successor title) may not be extended. For all other classes or job families and job levels, employers may extend the probationary period for an employee or for all employees in a class or job family and job level as long as the extension does not cause the total period to exceed twelve months.

### AMENDATORY SECTION

**WAC 357-19-050 How long is a trial service period?** The director must establish the duration of the trial service period on a class-wide or job family and job level basis. The trial service period for a class, job family, job level or job family and job level must be from six to twelve months in duration.

The trial service period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

### AMENDATORY SECTION

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**WAC 357-19-060 Can the length of a trial service period be extended?** The trial service period for the class of campus police officer (or successor title) may not be extended. For all other classes, [job families, job levels or job families and job levels](#), employers may extend the trial service period for an employee or for all employees in a class, [job family, job level or job family and job level](#) as long as the extension does not cause the total period to exceed twelve months.

### AMENDATORY SECTION

**WAC 357-19-070 What happens if an employee who is serving a probationary or trial service period accepts an appointment to another permanent position with the same employer?** If an employee accepts an appointment to another permanent position with the same employer while serving a probationary or trial service period, the following applies:

(1) If the employer determines the positions, classes [or job families and job levels](#) to which the positions are allocated are closely related the employer may count time served in the initial probationary or trial service toward the probationary or trial service period of the new position; or

(2) If the employer determines the positions, classes [or job families and job levels](#) to which the positions are allocated are not closely related the probationary or trial service period of the new position starts over.

### AMENDATORY SECTION

**WAC 357-19-073 What happens if an employee who is serving a probationary period accepts a nonpermanent appointment?** If an employee who is serving a probationary period accepts a nonpermanent appointment, the probationary period will end and the employee will not be granted permanent status unless the employer agrees to return the employee to a position at the conclusion of the nonpermanent appointment. Any return rights granted by the employer must be to a vacant position in the class [or job family and job level](#) in which the employee was serving a probationary period. If the employer chooses to grant the employee a return right the employer must notify the employee in writing.

Upon return from a nonpermanent appointment the employee will resume their probationary period. If the employer determines the position the employee was serving a probationary period in and the position the employee was appointed to on a nonpermanent basis are allocated to classes [or job families and/or job levels](#) which are closely related, the employer may count the time worked in the nonpermanent appointment towards the probationary period.

### AMENDATORY SECTION

**WAC 357-19-115 To which employer and position would an employee revert?** (1) A permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period or has failed to progress to the next step of an in-training plan in accordance with WAC 357-19-285, has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(a) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

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(i) Allocated to the class [or job family and job level](#) the employee last held permanent status in; or

(ii) If no positions are available, allocated to a class [or job family and job level](#) which has the same or lower salary range maximum.

(b) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class [or job family and job level](#) which has the same or lower salary range maximum as the class [or job family and job level](#) from which the employee is reverting.

(2) If no vacant position or position filled by a nonpermanent appointee as defined in WAC 357-01-210 is available, the employee is eligible to be placed on the employer's internal layoff list upon request in accordance with WAC 357-19-117.

### AMENDATORY SECTION

**WAC 357-19-117 Can a reverted employee be placed on a layoff list and in the general government transition pool?** If the reverted employee is not returned to a permanent position in the class [or job family and job level](#) in which the employee last held permanent status, the employee is eligible to be placed on the employer's internal layoff list upon request. General government employees may also apply for placement in the transition pool.

### AMENDATORY SECTION

**WAC 357-19-160 Can an employee be elevated following a demotion?** Employers may elevate an employee with permanent status to the class [or job family and job level](#) held by the employee immediately prior to being demoted to a class in the same class series [or to a job level within the same job family](#) which is between the current class [or job family and job level](#) and the class [or job family and job level](#) from which the employee was demoted. Elevation must be to a position for which they meet the competencies and other position requirements. The employer may require the elevated employee to serve a trial service period.

### AMENDATORY SECTION

**WAC 357-19-165 What is the difference between reassignment and transfer?** A reassignment is an employer-initiated move of an employee from one position to a comparable position in the same class [or job family and job level](#). A transfer is an employee-initiated move from one position within or between employers in the same class [or job family and job level](#) or a different class [or job family and job level](#) with the same salary range maximum.

### AMENDATORY SECTION

**WAC 357-19-170 Can an appointing authority reassign an employee?** Within an agency or higher education institution/related board, an appointing authority may reassign an employee to a different position within the same class [or job family and job level](#) as long as the employee meets the competencies and other position requirements. (See WAC 357-19-175 for special provisions covering reassignments to different geographic areas.)

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**WAC 357-19-180 Can an employee transfer?** Permanent employees may request to transfer to another position in the same class [or job family and job level](#) or a different class [or job family and job level](#) with the same salary range maximum as long as the employee meets the competencies and other position requirements. The employer may require the employee to serve a trial service period following a transfer. If the employee was in trial service status at the time of the transfer, the provisions of WAC 357-19-070 apply.

### AMENDATORY SECTION

**WAC 357-19-181 When is an employee appointed to a position with permanent status?**

An appointing authority must make a permanent status appointment of an employee under the following conditions:

- (1) Upon successful completion of a probationary, trial service, or transition review period;
- (2) Upon reassignment of a permanent employee who is not in trial service status;
- (3) Upon transfer, demotion, reversion((;)) or elevation when the employee is not required to serve a trial service period;
- (4) Upon rehire from layoff or appointment to a position as a layoff option when a transition review period is not required;
- (5) Upon the director conferring permanent status to an employee under remedial action provisions; and
- (6) Upon conversion of an exempt position to the classified service, per WAC 357-19-225, if the incumbent has been employed for at least an amount of time equal to the probationary period or WMS review period for the class [or job family and job level](#). If the incumbent has not been employed that long, the employee must serve a probationary period or Washington management service (WMS) review period. The employer may count the time spent in the position prior to conversion towards the probationary period or WMS review period.

### AMENDATORY SECTION

**WAC 357-19-195 If a permanent employee in a classified position accepts an appointment to an exempt position, what is the employee's right to return to a position in the classified service?** A permanent employee who accepts an appointment to an exempt position has the right to return to classified service at any time as long as the employee was not terminated from an exempt position for gross misconduct or malfeasance.

The employee's right is to a position in the highest class [or job family and job level](#) in which the employee previously held permanent status or to a position of similar nature and salary. The return right is to the most recent employer with which permanent status in the highest class [or job family and job level](#) was held. A position in the highest class [or job family and job level](#) does not necessarily mean return to the most recent employer.

If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

### AMENDATORY SECTION

**WAC 357-19-220 What happens to an employee whose classified service position is converted to an exempt position?** An employee who holds a classified service position that is exempted from civil service has the following rights:

- (1) If the employee has permanent status and is appointed to the exempt position or to another exempt position, the employee has the right to return to the classified service at the conclusion of the exempt appointment as specified in WAC 357-19-195.

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(2) If the employee has permanent status and is **not** appointed to the exempt position or another exempt position, the employee has the right to assume a position in the highest class or job family and job level previously held, or to a position of similar nature and salary. If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

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

### AMENDATORY SECTION

**WAC 357-19-235 What are in-training positions?** In-training positions are permanent positions for which the employer uses defined training steps to train employees to successfully perform the duties and responsibilities of the goal class or goal job family and job level. Each in-training position must have an in-training plan.

### AMENDATORY SECTION

**WAC 357-19-240 What positions can be designated as in-training?** Employers may designate specific positions, groups of positions, or all positions in a class or job family and job level or class series or job family, as in-training positions. Unless other staffing methods have been exhausted, positions with primary responsibility for supervision should not be designated as in-training positions.

### AMENDATORY SECTION

**WAC 357-19-245 What components must be included in an in-training plan?** The in-training plan must document:

- (1) The title of the goal class or goal job family and job level of the in-training plan.
- (2) The duties and responsibilities of the goal class or goal job family and job level.
- (3) The training steps and job classes or job families and job levels that will be used to reach the goal class or goal job family and job level.
- (4) The training content for each step of the in-training plan. The training must include at least one of the following components:
  - (a) On-the-job training (knowledge and skill developed through experience);
  - (b) Classroom or field instruction;
  - (c) Courses conducted by an educational institution, vocational school((;)) or professional training organization; or
  - (d) Written, oral((;)) and/or practical examination(s).
- (5) The length of the training steps that are being used to reach the goal class or goal job family and job level.
- (6) The competencies that must be acquired by the employee while in training to the goal class or goal job family and job level.
- (7) The method(s) that will be used to determine if the employee has successfully completed the requirements of the in-training plan.

### AMENDATORY SECTION

**WAC 357-19-250 During an in-training plan, when does an employee advance to the next training step?** The employee automatically advances to the next training step and class or job family and job level after satisfactory completion of the training requirements of the lower step.

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After successful completion of all training steps, the employee moves to the goal class [or goal job family and job level](#).

### AMENDATORY SECTION

**WAC 357-19-260** While an employee is in an in-training appointment, what class [or job family and job level](#) is used to determine the employee's salary, work period designation, performance evaluation? For each in-training step, the training plan must identify the job class to which the employee's work is being allocated. The employee's salary, work period designation, and performance evaluation must be based upon the allocated class [or job family and job level](#) of the in-training step.

### AMENDATORY SECTION

**WAC 357-19-435** For what reasons may a higher education employer make a temporary appointment? A higher education employer may 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 twelve consecutive month period from the original date of hire or October 1, 1989, 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, [job family, job level or job family and job level](#) for a period of less than six consecutive months.

### AMENDATORY SECTION

**WAC 357-19-443** Does a permanent employee who is temporarily appointed to a higher class [or job family, job level or job family and job level](#) under the provision of WAC 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 class, job family, job level [or job family and job level](#) under the provisions of WAC 357-19-435(2), a permanent employee has a right to resume a position in the class [or job family and job level](#) the employee was in prior to the temporary appointment. Upon return to a position in the prior class [or job family and job level](#), 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 [or job family and job level](#).

### AMENDATORY SECTION

**WAC 357-19-455** What is reemployment? Reemployment is the appointment of a former permanent employee who had permanent status in a class [or job family and job level](#) with the same or similar job duties.

### AMENDATORY SECTION

**WAC 357-19-460** Is certification required to reemploy a former permanent status employee? (1) Employers may directly reemploy without certification former permanent status employees who have submitted an application for employment as long as:

(a) The employer's internal layoff list or statewide layoff list for the class [or job family and job level](#) has no eligible candidates;

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(b) The former employee satisfies the competencies and other requirements of the position to which the employee is being reemployed; and

(c) The former employee has applied for reemployment in accordance with any employer-established time frames within which former employees must apply.

(2) Upon reemployment, the employee must serve a probationary period unless the employer determines otherwise.

### AMENDATORY SECTION

**WAC 357-19-470 What reemployment services does the employer provide to a former employee seeking reemployment under the provisions of WAC 357-19-465?** The employer will provide assistance, such as the following, to an eligible former employee seeking reemployment under the provisions of WAC 357-19-465:

(1) Determination of job classes, job families, job levels [or job families and job levels](#) and/or positions for which the former employee is qualified;

(2) Assistance regarding the employment/application process;

(3) Reemployment consideration in accordance with the employer's certification procedure for positions for which the individual meets the competency and other position requirements; and

(4) Access to training programs relevant to the job classes, [job families, job levels or job families and job levels](#) for which the former employee may become qualified.

### AMENDATORY SECTION

**WAC 357-19-475 To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?** To be eligible for reemployment the former employee must:

(1) Complete and submit an application(s) for reemployment to the employer;

(2) Meet the competencies and other requirements of either the class, [job family and job level](#) and/or position for which the former employee is applying; and

(3) Submit to the employer a statement from a licensed health care provider affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory(,) or mental disability of the individual.

(a) If the licensed health care provider's statement provides inadequate information, the former employee will obtain the necessary clarification from the licensed health care provider or provide a release to the personnel officer/appointing authority to communicate directly with the licensed health care provider regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense.

(b) The employer may require that the former employee be examined by a licensed health care provider of the employer's choice at the employer's expense.

### AMENDATORY SECTION

**WAC 357-19-535 Are an employee's return-to-work opportunities limited to the agency or institution/related board which was the employer at the time of the qualifying injury?**

Permanent state employees who are receiving compensation under RCW 51.32.090 for a temporary disability are eligible to participate in agency or institution/related board return-to-work programs statewide when appropriate (~~(job classifications)~~ [classes or job families and job levels](#) are not available with the employer that was the appointing authority at the time of qualifying injury. Employers must coordinate and cooperate with one another to provide return-to-work opportunities on a statewide basis.



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### AMENDATORY SECTION

**WAC 357-28-020 What must the compensation plan include?** The compensation plan must include:

- (1) A general salary schedule including minimum and maximum amounts for each salary range assigned to a class [or job family and job level](#);
- (2) Special salary schedules including the minimum and maximum amounts for each special pay range assigned to a class, [job family and job level](#) or position;
- (3) Assignment pay premiums, shift premiums, and standby pay rates as determined by the director;
- (4) Definitions and application of overtime eligibility designations.

### AMENDATORY SECTION

**WAC 357-28-025 Can the director adopt special pay salary ranges?** The director may adopt special pay salary ranges for positions based upon pay practices found in private industry or other governmental units. This includes special pay salary ranges and/or compensation practices for higher education institutions and related higher education boards as authorized in RCW 41.06.133. The classes, [job families and job levels](#) or positions assigned special pay ranges and the associated special salary schedule must be specified in the compensation plan.

### AMENDATORY SECTION

**WAC 357-28-027 How long will higher education special pay ranges remain in effect?** Except when the director specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class [or job family and job level](#) equals or exceeds the special pay range.

### AMENDATORY SECTION

**WAC 357-28-028 By whom and for what reasons may a higher education special pay request be submitted to the director?** A special pay request may be submitted by institutions of higher education and related boards:

- (1) When a unique configuration of work requires skills, duties(,) or working conditions beyond those typically required of comparable positions;
- (2) To alleviate employment problems such as recruitment and/or retention;
- (3) When failure to grant special pay could result in recruitment and/or retention problems which would seriously jeopardize the effective operation of the institution; or
- (4) To prevent salary inversion or compression problems with other classes in the same or related class series [or job families and job levels in the same or related job family](#) which have been granted special pay.

### AMENDATORY SECTION

**WAC 357-28-035 What must be addressed in the employer's salary determination policy?** The employer's salary determination policy must minimally address the following:

- (1) Setting base salary for new employees;
- (2) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a position in a new class, [job family, job level or job family and job level](#);
- (3) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a permanent position while in a nonpermanent appointment;

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- (4) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;
- (5) Setting base salary when an employee is appointed from an internal or statewide layoff list;
- (6) Setting base salary when an employee is reallocated to a position with a lower salary range and the employee's previous base salary is above step M of the new salary range as permitted in WAC 357-28-120. Under no circumstance should an employee's salary exceed their previous base salary;
- (7) Setting base salary when an employee demotes for reasons other than accepting a demotion in lieu of layoff or accepting a demotion when a position is reallocated;
- (8) Setting base salary when an employee is reverted following a voluntary demotion;
- (9) Authorizing premiums for recruitment and retention as provided in WAC 357-28-095 and 357-28-100;
- (10) Setting base salary and progression based on recruitment and retention rather than years of experience for the nurse special pay salary schedules, if allowed by the employer;
- (11) Setting base salary in accordance with WAC 357-19-340 when an employee returns to a permanent position from a project position;
- (12) Setting base salary in accordance with WAC 357-19-353 when an employee returns to a permanent position from an acting WMS appointment; and
- (13) Setting base salary in accordance with WAC 357-19-395 when an employee returns to a permanent position from a nonpermanent appointment.

### AMENDATORY SECTION

**WAC 357-28-040 Can an employee's base salary be set above the maximum of the salary range?** An employee's base salary may be set above the maximum of the salary range assigned to the position's class [or job family and job level](#) when allowed under any provisions of Title 357 WAC or when approved by the director.

### AMENDATORY SECTION

**WAC 357-28-050 What is the periodic increment date ((PID))?** The periodic increment date is the date upon which an employee is scheduled to receive an increment increase by moving to a higher salary step within the salary range for ((his/her)) either the employee's current class [or job family and job level](#).

### AMENDATORY SECTION

**WAC 357-28-070 Can an employer adjust the timing and amount of increment increases?** Employers may adjust the timing and/or amount of regularly scheduled increment increases stated in WAC 357-28-060 by resetting the periodic increment date based on the nature of the work or training requirements. This may apply to all employees, employees in specific positions, all employees allocated to a class((;)) [or job family and job level](#) or all employees in an organizational unit. This may happen as long as employees receive minimally an increase of two steps annually until their salary reaches step L of the salary range.

### AMENDATORY SECTION

**WAC 357-28-080 How does an employee allocated to a class [or job family and job level](#) with a special pay salary range progress through the range?** Unless adjusted under WAC

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357-28-070, employees allocated to a class [or job family and job level](#) with a special pay salary range must progress through the special pay salary range as defined in the compensation plan.

### AMENDATORY SECTION

**WAC 357-28-084 Can an employee be appointed to step M upon demotion?** An employee cannot be appointed to step M upon demotion (voluntary or involuntary) unless the employee was at step M of the salary range from which the employee is demoting or the employee was previously at step M in the salary range of the class [or job family and job level](#) the employee is demoting to.

### AMENDATORY SECTION

**WAC 357-28-115 Must an employee occupying a position that is reallocated to a class, [job family, job level or job family and job level](#) with a higher salary range receive a salary increase?** An employee occupying a position that is reallocated to a class, [job family, job level or job family and job level](#) with a higher salary range must receive a minimum increase of at least two steps not to exceed step M of the salary range in accordance with WAC 357-28-110.

### AMENDATORY SECTION

**WAC 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class, [job family, job level or job family and job level](#) with the same or lower salary range?** An employee occupying a position that is reallocated to a class, [job family, job level or job family and job level](#) with the same or lower salary range must be placed within the new salary range at an amount equal to ((his/her)) the employee's previous base salary. If the previous base salary exceeds the new salary range, the employee's base salary must be set equal to step M of the salary range for the reallocated position. The employee's base salary may be set higher than step M but not exceeding the previous base salary, if allowed by the employer's salary determination policy.

### AMENDATORY SECTION

**WAC 357-28-130 How is an employee's base salary determined if the director creates, abolishes, or revises a class, [job family, job level or job family and job level](#)?** When reallocation is necessary because the director creates, abolishes((;)) or revises a class, [job family, job level or job family and job level](#), an employee's base salary is determined as follows:

(1) An employee occupying a position reallocated to a class, [job family, job level or job family and job level](#) with the same or lower salary range must be paid an amount equal to ((his/her)) the employee's previous base salary.

(2) An employee occupying a position reallocated to a class, [job family, job level or job family and job level](#) with a higher salary range must have ((his/her)) the employee's base salary adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

### AMENDATORY SECTION

**WAC 357-28-155 How is an employee's salary determined upon demotion?** (1) The base salary of an employee who accepts a demotion in lieu of layoff must be set in accordance with WAC 357-28-135.

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(2) An employee demoted for any other reason must be paid within the salary range of the class, job family, job level or job family and job level to which the position is allocated. The employee's base salary must be determined in accordance with the employer's salary determination policy.

### AMENDATORY SECTION

**WAC 357-31-340 When an employee returns from authorized leave without pay, what position will ((he/she)) the employee be returned to?** Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class or job family and job level and in the same geographical area, provided that such return to employment is not in conflict with rules relating to layoff.

### AMENDATORY SECTION

**WAC 357-34-050 Can an employee be given an assignment for career development purposes?** (1) Employers may make the following planned training assignments for employee career development without incurring reallocation or compensation obligations:

(a) Performance of responsibilities outside the current job class, job family, job level or job family and job level on a time-limited basis.

(b) Intra-agency or interagency rotational or special project assignments.

(2) The employee and the employer(s) shall mutually agree in writing, including time limits, to assignments identified in subsection (1)(a) and (b) of this section.

### AMENDATORY SECTION

**WAC 357-46-005 What is the impact of a layoff?** Layoff is an employer-initiated action taken in accordance with WAC 357-46-010 that results in:

(1) Separation from service with an employer;

(2) Employment in a class, job family, job level or job family and job level with a lower salary range maximum;

(3) Reduction in the work year; or

(4) Reduction in the number of work hours.

### AMENDATORY SECTION

**WAC 357-46-010 What are the reasons for layoff?** (1) Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules. The reasons for layoff include, but are not limited to, the following:

(a) Lack of funds;

(b) Lack of work; or

(c) Organizational change.

(2) Examples of layoff actions due to lack of work may include, but are not limited to:

(a) Termination of a project or special employment;

(b) Availability of fewer positions than there are employees entitled to such positions;

(c) Employee's ineligibility to continue in a position following its reallocation to a class, job family, job level or job family and job level with a higher salary range maximum; ((~~or~~))

(d) Employee's ineligibility to continue, or choice not to continue, in a position following its reallocation to a class, job family, job level or job family and job level with a lower salary range maximum((~~-~~)); or

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(e) Elimination of a position due to the work of the position being competitively contracted.

### AMENDATORY SECTION

**WAC 357-46-020 What must be included in the employer's layoff procedure?** The employer's layoff procedure must:

(1) Identify clearly defined layoff unit(s) that minimize disruption of the employer's total operation and provide options to employees scheduled for layoff;

Employers may establish separate and exclusive layoff units for project employment, employee business units, or special employment programs.

(2) Provide opportunities to avoid or minimize layoff, such as transfers, voluntary demotion, voluntary reduced work schedule, or voluntary leave without pay;

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-46-025;

(4) Provide layoff options for permanent employees being laid off as provided in WAC 357-46-035;

(5) Address the time frame in which employees must select a layoff option;

(6) Define what the employer considers when determining the comparability of a position;

(7) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-46-035;

- Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress.

(8) Describe how employment retention ratings will be calculated, including options for factoring performance into ratings; and

(9) Specify how the employer will break ties when more than one employee has the same employment retention rating.

(10) Higher education employers address in their layoff procedure whether or not employees have layoff list rights to classes, job families, job levels or job families and job levels they held permanent status in prior to any breaks in state service.

### AMENDATORY SECTION

**WAC 357-46-035 Layoff option. (1) What option does a permanent employee have to take a position when the employee is scheduled for layoff?**

Within the layoff unit, a permanent employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The position is allocated to the class or job family and/or job level in which the employee holds permanent status at the time of the layoff. If no option to a position in the current class or job family and job level is available, the employee's option is to a position in a class or job family and job level in which the employee has held permanent status that is at the same salary range. If the employee has no option to take a position at the same salary range, the employee must be given an opportunity to take a position in a lower class or job family and job level in a class series or job family in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the

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lower class or job family and job level in order to be offered the option to take a position in the class or job family and job level.

(b) The position is comparable to the employee's current position as defined by the employer's layoff procedure.

(c) The employee satisfies the competencies and other position requirements.

(d) The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating.

**(2) What if the employee has no option under subsection (1) of this section?**

(a) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an available position in the layoff unit to offer the employee in lieu of separation that meets the following criteria:

(i) The position is at the same or lower salary range maximum as the position from which the employee is being laid off;

(ii) The position is vacant or held by a probationary employee or an employee in a nonpermanent appointment;

(iii) The position is comparable or less than comparable; and

(iv) The position is one for which the employee meets the competencies and other position requirements.

(b) If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

**(3) What happens when a class or job family and job level in which the employee previously held permanent status has been revised or abolished?**

If a class or job family and job level in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching class or job family and job level to offer as a layoff option. The closest matching class or job family and job level must be at the same or lower salary range maximum as the class or job family and job level from which the employee is being laid off.

**(4) Does an employee have layoff option rights as provided in subsection (1) of this section to ((classifications)) classes or job families and job levels the employee held permanent status in prior to any breaks in state service?**

General government employees have layoff option rights as provided in subsection (1) of this section to ((classifications)) classes or job families and job levels the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff options to classes or job families and job levels they held permanent status in prior to any breaks in state service.

### AMENDATORY SECTION

**WAC 357-46-045 How do employers establish competency and other position requirements?** In establishing competency and other position requirements, employers may use any of the following documented criteria:

(1) Licensing/certification requirements;

(2) Position description;

(3) Class specification;

(4) Information technology professional structure evaluator handbook;

(5) Skills/competencies listed on the position's most recent recruitment announcement or the last announcement used to fill the position;

((5)) (6) Bona fide occupational requirement(s) approved by the Washington human rights commission; or

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~~((6))~~ (7) Additional documented competencies or requirements not reflected in the position description.

### AMENDATORY SECTION

**WAC 357-46-070 Which employees are eligible to have their name placed on an employer's internal layoff list?** (1) Permanent employees of the employer who satisfy the following criteria must have their name placed on the employer's internal layoff list if the employee exercises this option within the two-year eligibility period:

(a) **Employees who are laid off or have been notified in writing by the employer that they are scheduled to be laid off** are eligible to be on the internal layoff list for classes or job families and job levels in which they held permanent status at the same or lower salary range and lower classes or job families and job levels in the same class series or job family. Permanent status is not required for the lower classes or job families and job levels in the class series or job family. For purposes of this subsection "employees" includes Washington management service (WMS) employees who are laid off or have been notified by the employer that they are scheduled to be laid off and who have held permanent status in Washington general service. WMS employees only have layoff list rights to classes or job families and job levels which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff.

(b) **Employees who accept a voluntary demotion in lieu of layoff** are eligible to be on the internal layoff list for the class or job family and job level from which they demoted and classes or job families and job levels at that salary range and lower salary ranges in which the employee held permanent status and lower classes or job families and job levels in the same class series or job family. Permanent status is not required for the lower classes or job families and job levels in the class series or job family. Washington management service (WMS) employees who accept a voluntary demotion in lieu of layoff are eligible to be on the internal layoff list for classes or job families and job levels in which they held permanent status. WMS employees only have layoff list rights to classes or job families and job levels which the highest step of the salary range is equal to or below the WMS salary at the time of the demotion.

(c) **Employees who accepted less than comparable positions** as defined by the employer's layoff procedure are eligible to be on the internal layoff list for classes or job families and job levels in which they held permanent status at the same or lower salary range and lower classes or job families and job levels in the same class series or job family. Permanent status is not required for the lower classes or job families and job levels in the class series or job family.

(d) **Employees who have not successfully completed a trial service period and are placed in a nonpermanent position following reversion** are eligible to be on the internal layoff list for classes or job families and job levels in which the employee previously held permanent status.

(e) **Employees who remain in a position reallocated to a lower salary range** are eligible to be on the internal layoff list for the class or job family and job level the employee held permanent status in prior to the reallocation.

(2) Employees who have been demoted for cause from a class or job family and job level are **not** eligible to be on the internal layoff list for that class or job family and job level.

(3) General government employees have layoff list rights to all ~~((classifications))~~ classes or job families and job levels the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff rights to classes or job families and job levels they held permanent status in prior to any breaks in state service.

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### AMENDATORY SECTION

**WAC 357-46-075 Can an employee be on an internal layoff list for classes, job families, job levels or job families and job levels with a higher salary range than the class, job family, job level or job family and job level from which the employee is being laid off?** An employee may be on the internal layoff list for classes, job families, job levels or job families and job levels with a higher salary range than the class, job family, job level or job family and job level from which the employee is being laid off as long as the employee has held permanent status in the higher class or job family and job level and the employer's layoff procedure allows access to higher level classes or job families and job levels.

### AMENDATORY SECTION

**WAC 357-46-080 Which employees are eligible to have their name placed on an employer's statewide layoff list?** (1) Permanent employees who satisfy the following criteria must have their name placed on the statewide layoff list for other employers if the employee exercises this option within the two-year eligibility period:

- (a) Laid off or notified in writing by the employer they are scheduled to be laid off;
- (b) Accepted a voluntary demotion in lieu of layoff; or
- (c) Accepted less-than-comparable positions at the time of layoff.

For purposes of this subsection "employees" includes Washington management service (WMS) employees who have held permanent status in Washington general service.

(2) All employees who meet the criteria in subsection (1) of this section are eligible to be on the statewide layoff list for classes or job families and job levels in which they held permanent status at the same or lower salary range and lower classes or job families and job levels in the same class series or job family. Permanent status is not required in the lower classes or job families and job levels in the same class series or job family. General government employees have statewide layoff list rights to classes or job families and job levels in which they held permanent status which are at a higher salary range and lower classes or job families and job levels in the same class series or job family. Higher education employees do not have access to the statewide layoff list for higher level classes or job families and job levels unless the employer's layoff procedure allows.

(3) WMS employees only have layoff list rights to classes or job families and job levels in which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff, or at the time of demotion.

(4) General government employees have layoff list rights to all ((classifications)) classes or job families and job levels the employee has held permanent status in regardless of any breaks in state service.

(5) Higher education employers must address in their layoff procedure whether or not employees will be given layoff list rights to classes or job families and job levels they held permanent status in prior to any breaks in state service.

(6) Employees who have been demoted for cause from a class or job family and job level are **not** eligible to be on the statewide layoff list for that class or job family and job level.

### AMENDATORY SECTION

**WAC 357-46-095 Who is eligible for the general government transition pool program?**

The following individuals are eligible to participate in the general government transition pool program:

(1) All general government permanent employees separated by layoff or notified by their employer that they are at risk of layoff. This includes Washington management service



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permanent employees who are separated by layoff or notified by their employer that they are at risk of layoff;

(2) All general government permanent employees who are reverted and not returned to a permanent position in the ((classification)) class or job family and job level in which the employee last held permanent status;

(3) All general government permanent employees who are reallocated to a ((classification)) class, job family, job level or job family and job level with a lower salary range maximum;

(4) Permanent Washington management service employees who accept a position in Washington general service and are being voluntarily or involuntarily reverted during the trial service period;

(5) Former permanent classified general government employees who have submitted a written request for reemployment within two ((2)) years of disability separation and who have met the reemployment requirements of WAC 357-19-475;

(6) General government employee business unit members whose contract has expired or been terminated; and

(7) Permanent Washington management service employees who accept acting appointments and who do not return on the agreed upon date in accordance with WAC 357-58-275.

### AMENDATORY SECTION

#### **WAC 357-46-135 What causes an individual's name to be removed from a layoff list?** (1)

An individual's name **must** be removed from an internal layoff list or statewide layoff list at the request of the individual or upon an employee's retirement, resignation, expiration of eligibility or dismissal from the employer.

(2) An individual's name **may** be removed from the internal and/or statewide layoff list for a class or job family and job level when:

(a) The individual is appointed to a permanent position in the class or job family and job level. The individual may also be removed from the internal and/or statewide layoff list for any classes or job families and job levels with a lower salary range maximum in that class series or job family.

(b) The individual is appointed to a permanent position in a class or job family and job level with a higher salary range maximum in a different class series or job family.

(c) The individual has been certified from the layoff list and waives consideration for a position in the class or job family and job level three times.

(d) The employer or the director's office determines good and sufficient reason exists.

### AMENDATORY SECTION

**WAC 357-46-160 What is a disability separation?** A disability separation is an action taken to separate an employee from service when the employer determines that the employee is unable to perform the essential functions of the employee's position ((e#)), class or job family and job level with or without reasonable accommodation due to mental, sensory, or physical incapacity. Disability separation is not a disciplinary action.

### 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 in accordance with WAC 357-46-160 due to disability when any of the following circumstances exist:

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- (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 or job family and job level.

### AMENDATORY SECTION

#### **WAC 357-49-015 How does an individual or employee request a director's review?**

Director's review requests must be filed with the director's office. Review requests must include:

- (1) The requestor's name, address and telephone number;
- (2) The name of the employer that took the action for which a review is requested;
- (3) If applicable, the employee representative's name, address and telephone number;
- (4) For allocations and reallocations, the ((job classification)) class, job family, job level, job family and job level or position of the employee;
- (5) A short statement of the grounds or reasons for the request; and
- (6) A short statement of the relief or remedy sought by the requestor.

### AMENDATORY SECTION

**WAC 357-52-020 What information must be submitted with the appeal?** (1) The appeal must include:

- (a) The name and address of the appellant and if represented the name, address and telephone number of the representative((;));
  - (b) The name of the employer and the department that took the action which is being appealed((;));
  - (c) A telephone number at which the appellant can be reached((;));
  - (d) ((The job classification)) The class, job family and job level or position of the employee at the time of the action which is being appealed((;));
  - (e) A short statement of the grounds or reasons for the appeal, and if applicable, the rule(s) the appellant believes has been violated((;));
  - (f) A short statement of the relief or remedy sought by the appellant((;)); and
  - (g) A short statement of whether the appellant believes the case would or would not be appropriate for mediation.
- (2) An appeal of a disciplinary action, separation, layoff, or exemption must also include the effective date of the action and the employee's appointment status at the time of the action. The appeal must include a short statement of the nature of the action being appealed or a copy of the action letter from the employer.
- (3) An appeal on exception to a director's determination must also detail the specific items of the director's determination to which exception is taken and should include a copy of the director's determination.

### AMENDATORY SECTION

**WAC 357-58-325 What happens when a Washington general service (WGS) employee serving a probationary or trial service period is appointed to a Washington management service (WMS) position within the same agency? ((A)) A Washington general service (WGS) employee serving a probationary or trial service period who is appointed to a Washington management service (WMS) position ((from a WGS position)) in the same agency ((while serving a probationary or trial service period)) in the same or similar occupational field**

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may serve the trial service or probationary period concurrently with the review period. At the discretion of the employer, the employee may attain permanent status in the previous ((job classification)) class or job family and job level once the original probationary or trial service period concludes.

If the positions are in the same or similar occupational field, the employer may allow for some or all of the time served in the probationary or trial service period to count towards the review period.

### AMENDATORY SECTION

**WAC 357-58-330** What happens when a Washington general service (WGS) employee serving a probationary or trial service period is appointed to a Washington management service (WMS) position in a different agency? If agreed to in writing by the employers in both agencies, a Washington general service (WGS) employee who is appointed to a Washington management service (WMS) position in a different agency in the same or similar occupational field while serving in a probationary or trial service period may serve the probationary or trial service period concurrently with the WMS review period. The employee will not attain permanent status in the previous ((job classification)) class or job family and job level unless agreed to in writing by the employers in both agencies.

If the positions are in the same or similar occupational field, the new employer may allow for some or all of the time served in the probationary or trial service period for the WGS position to count towards the review period.

### AMENDATORY SECTION

**WAC 357-58-465** What option does a permanent employee in a Washington management service (WMS) position have to take a position when the employee is scheduled for layoff? (1) Within the layoff unit, a permanent employee scheduled for layoff from a Washington management service (WMS) position must be offered the option to take a position, if available, that meets the following criteria:

(a) The employee has the required competencies for the position.

(b) The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or Washington general service (WGS) positions in accordance with WAC 357-46-035(1) in descending salary order if the employee has held permanent status in a WGS ((classification)) class or job family and job level. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.

(c) The position being offered as the option is funded and vacant. If no vacant position is available, the position being offered as the option must be occupied by the employee with the lowest retention rating.

(2) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

## SECTION C

### NEW SECTION

#### **WAC 357-28-215 When must an employee receive supervisory pay differential?**

Employees within the information technology professional structure that are in the entry, journey and senior/specialist levels designated as and performing all the duties of a supervisor must receive a five percent supervisory pay differential in addition to their base pay as long as they meet the definition of supervisor in accordance with chapter 357-01 WAC.

## SECTION D

### NEW SECTION

#### **WAC 357-13-058 What is the requirement for employers to develop procedures which address evaluating positions for placement in the information technology professional structure (ITPS)?**

(1) Each employer must develop and document an information technology professional structure (ITPS) evaluation procedure consistent with this chapter and guidelines established by the director's office.

(2) The procedure must include the process for requesting and evaluating positions for placement within the ITPS. The procedure must require, at a minimum the establishment of a committee of three or more employees to include the following:

(a) A human resource (HR) professional who is designated as the employers ITPS coordinator and who also serves as the single point of contact for the director's office regarding ITPS issues.

(b) An information technology (IT) manager from the employer who has comprehensive knowledge of the employer's business; and

(c) At least one other HR professional or IT manager.

(3) Only those who have successfully completed training may participate on an ITPS committee. The training must satisfy the core curriculum as defined by the director's office.

(4) All evaluation results and a copy of the signed IT position description form must be uploaded in the tool identified by the director.

## SECTION E

### NEW SECTION

#### **WAC 357-46-03 Layoff options for employees transitioned into the Information Technology Professional Structure (ITPS) as of July 1, 2019.**

##### **(1) What option does a permanent employee in the Information Technology Professional Structure (ITPS) have to take a position when the employee is scheduled for layoff?**

(a) Within the layoff unit, a funded vacant position within their current permanent job family and level for which the employee has the skills and abilities.

(b) A funded vacant position within another job family and level at the same salary range for which the employee has the skills and abilities.

##### **(2) What if the employee has no option under subsection (1) of this section?**

(a) A funded filled position held by the least senior employee, within their current permanent job family and job level for which the employee has the skills and abilities.

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(b) A funded filled position held by the least senior employee, within another job family and job level with the same salary range as their current permanent job family and job level for which the employee has the skills and abilities.

**(3) What if the employee has no option under subsections (1) and (2) of this section?**

(a) A funded vacant or filled position held by the least senior employee for which the employee has the skills and abilities, at the same or lower salary range as their current permanent position, within a job classification in which the employee has held permanent status or, at the employee's written request, to a lower classification within their current job classification series even if the employee has not held permanent status in the lower job classification.

**(4) What happens when a job family or job level in which the employee previously held permanent status has been revised or abolished on July 1, 2019?** If a job family or job level in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching job family or job level to offer as a layoff option. The closest matching job family or job level must be at the same or lower salary range maximum as the job family or job level from which the employee is being laid off.

Options will be provided in descending order of salary range and one (1) progressively lower job level at a time. Vacant positions will be offered prior to filled positions. Part-time employees only have formal options to part-time positions. Full-time employees only have formal options to full-time positions. For employees in the ITPS hired on or before June 30, 2019, the IT Assessment form will be one of the tools used to identify available layoff options within the ITPS.

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### ITEM #2 – Washington Management Service

**Staff note:** A review of chapter 357-58 WAC was completed as a result of a request from the WMS Coordinator's group. A sub-group of five agencies met to review the chapter to determine what updates were needed. The rules team identified additional amendments per documentation in the rule clean-up files and by reviewing WMS questions that were received by stakeholders. The bullets below are a summary of the proposed rule changes.

- The changes indicated in **blue** text below are housekeeping in nature specifically related to changing "incumbent" to "employee."
- The changes in **orange** text are housekeeping in nature. Per rule clean-up file- changing the term "purposes" to "reasons" when it is used in reference to discipline.
- The changes indicated in **purple** text below are housekeeping in nature.
- **WAC 357-58-065-** Adding definition for subsection (1) break in service for consistency with WGS.

For reference only:

**WAC 357-46-057 When is an employee considered to have a break in state service?** An employee has a break in his/her continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-46-063 is not considered a break in continuous state service.

- **WAC 357-58-085-** To clarify that the only time a WMS employee can be set outside the maximum of an assigned band is under WAC 357-58-125 or when approved by the director.

For reference only:

**WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary?** An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A WMS employee occupying a position that is effected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to his/her previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary administration policy.

- **WAC 357-58-095-** To clarify that agencies may provide salary increases in recognition for an employee's demonstrated growth and development for a maximum of 25%.

For reference only:

**WAC 357-58-100 Is there a limit for salary increases?** Salary increases initiated by the agency normally will not exceed a total of **twenty-five percent** during the tenure of an employee's appointment to a position as long as the position's duties are unchanged or would not evaluate higher if new duties were assigned.

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- **WAC 357-58-115-** Request from WMS Coordinators group to keep consistent with WAC 357-58-110 which addresses promotion.

For reference only:

**WAC 357-58-110 What is a promotion? A promotion is one of the following:**

- (1) The assignment of additional responsibilities, which results in higher evaluation points and/or a higher salary standard for the same position, or
- (2) Movement to a different position that has a higher salary standard and/or higher evaluation points.

- **WAC 357-58-130-** Clarify that a group of employees means five or more employees with the same job working title for consistent rule application
- **WAC 357-58-145-** Housekeeping to keep consistent with language in other WACs.
- **WAC 357-58-170-** Clarify when an agency may have the discretion to offer additional compensation to Washington Management Service employees.
- **WAC 357-58-175(1)-** Clarify for consistent rule application.
- **WAC 357-58-205-** Housekeeping in nature per rule clean-up file. To align with WAC 357-19-175.

For reference only:

**WAC 357-19-175 What are the provisions for reassigning a permanent employee to a different geographic area?** When reassigning a permanent employee to a position in a different geographic area, the following applies: (1) If the reassignment is within a reasonable commute of the employee's domicile, the appointing authority may reassign the employee without the employee's agreement.

(2) If the reassignment is outside of a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employer's layoff procedure applies

(3) The employer defines what is within a reasonable commute.

- **WAC 357-58-207-** Per rule clean-up file. New rule to address the notice period.
- **WAC 357-58-275-** Per rule clean-up file.
- **WAC 357-58-290-** Per rule clean-up file. If an employee in a WMS review period accepts a non perm position in WGS, we need to clarify that if the agency wants to suspend the review period and allow the employee to resume where they left off when they return to the WMS position they should be able to do that or if the agency wants the employee to start the review period over they have that option too. The only thing they can't do is count the time in the WGS position towards the WMS review period.
- **WAC 357-58-375(2)-** Per rule clean-up file to address a question we received, if you are putting an employee in a vacant position, how could you end up with too many people in the position. Amending subsection (2) needs to read like subsection (1).
- **WAC 357-58-438-** Clarification there are no WMS seasonal employees. Remove "reduction in the work year"
- **WAC 357-58-540-** Request to repeal WAC. This WAC was pre-civil service reform and pre-HRMS when agencies were required to submit a form to DOP when they had a WMS appointment. The info that was on the forms can now be found within HRMS and OFM has the capability to run the data versus having agencies submit reports.

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- **WAC 357-58-552-** Request to repeal because agencies no longer need to submit reports because OFM has the capability to obtain these reports.

### AMENDATORY SECTION

**WAC 357-58-035 What is the definition of a manager or managerial employee?** In accordance with RCW 41.06.022, a manager or managerial employee is defined as the ~~((incumbent))~~ employee of a position that:

- (1) Formulates statewide policy or directs the work of an agency or agency subdivision;
- (2) Administers one or more statewide policies or programs of an agency or agency subdivision;
- (3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;
- (4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; and/or
- (5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

### AMENDATORY SECTION

**WAC 357-58-042 What happens when it has been determined that a position no longer meets the definition of manager found in WAC 357-58-035?** When an agency has determined that the duties of a position no longer meet the definition of manager, found in WAC 357-58-035, and is no longer appropriate in Washington management service (WMS), then provisions of chapter 357-58 WAC ((357-58)) no longer apply. The Washington general service (WGS) rules on reallocation ~~((WAC 357-13))~~ (chapter 357-13 WAC) will apply. The employee will retain existing status.

### AMENDATORY SECTION

**WAC 357-58-055 What civil service rules do not apply to Washington management service (WMS)?** Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the Washington management service (WMS):

- Chapter 357-01 WAC, Definitions;
- Chapter 357-13 WAC, Classification;
- Chapter 357-16 WAC, Recruitment, assessment, and certification;
- Chapter 357-19 WAC, Appointments and reemployment;
- Chapter 357-28 WAC, Compensation;
- Chapter 357-46 WAC, Layoff and separation; and
- Chapter 357-49 WAC, Director's reviews.

### AMENDATORY SECTION

**WAC 357-58-065 Definitions for Washington management service (WMS).** The following definitions apply to chapter 357-58 WAC:

- (1) **Break in service.** An employee has a break in continuous state service if the employee is separated, dismissed or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-58-550 is not considered a break in continuous state service.



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~~(2)~~ **Competencies.** Those measurable or observable knowledge, skills, abilities and behaviors critical to success in a key job role or function.

~~((2))~~ ~~(3)~~ **Director.** State human resources director within the office of financial management.

~~((3))~~ ~~(4)~~ **Dismissal.** The termination of an individual's employment for disciplinary ~~((purposes))~~ reasons.

~~((4))~~ ~~(5)~~ **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

~~((5))~~ ~~(6)~~ **Evaluation points.** ~~((Evaluation points are))~~ The points resulting from an evaluation of a position using the managerial job value assessment chart.

~~((6))~~ ~~(7)~~ **Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

~~((7))~~ ~~(8)~~ **Management bands.** ~~((Management bands are))~~ A series of management levels included in the Washington management service ~~(WMS)~~. Placement in a band reflects the nature of management, decision-making environment and policy impact and scope of management accountability and control assigned to the position.

~~((8))~~ ~~(9)~~ **Performance management confirmation.** Approval granted by the director to an employer allowing the employer to factor in individual employee performance when granting recognition leave and when making layoff decisions.

~~((9))~~ ~~(10)~~ **Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions or circumstances associated with the job.

~~((10))~~ ~~(11)~~ **Reassignment.** ~~((A reassignment is))~~ An employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and its ~~((incumbent))~~ employee in that position from one section, department or geographical location to another section, department or geographical location.

~~((11))~~ ~~(12)~~ **Review period.** ~~((The review period is))~~ A period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

~~((12))~~ ~~(13)~~ **Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

~~((13))~~ ~~(14)~~ **Separation.** Separation from state employment for nondisciplinary ~~((purposes))~~ reasons.

~~((14))~~ ~~(15)~~ **Suspension.** An absence without pay for disciplinary ~~((purposes))~~ reasons.

~~((15))~~ ~~(16)~~ **Transfer.** ~~((A WMS transfer is))~~ An employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

~~((16))~~ ~~(17)~~ **Washington general service (WGS).** ~~((Washington general service is))~~ The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

~~((17))~~ ~~(18)~~ **Washington management service (WMS).** ~~((Washington management service is))~~ The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

### AMENDATORY SECTION

**WAC 357-58-085 Can Washington management service (WMS) salaries be set outside the maximum of an assigned management band?** Compensation for a Washington management service (WMS) position may be set outside the maximum of the assigned

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management band when allowed under ~~((any provision of this chapter))~~ WAC 357-58-125 or when approved by the director.

### AMENDATORY SECTION

**WAC 357-58-095 May agencies provide salary increases for Washington management service (WMS) employees?** Employers may provide salary increases to Washington management service (WMS) employees in recognition of the employee's demonstrated growth and development in accordance with WAC 357-58-100.

### AMENDATORY SECTION

**WAC 357-58-115 What is a voluntary demotion and what changes may occur in salary?** A voluntary demotion is a voluntary movement by an employee to a position ~~((with))~~ that has a lower salary standard and/or lower evaluation points. Such movement may result in a salary decrease.

### AMENDATORY SECTION

**WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary?** An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A Washington management service (WMS) employee occupying a position that is ~~((effected))~~ affected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to ~~((his/her))~~ the employee's previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary administration policy.

### AMENDATORY SECTION

**WAC 357-58-126 How is the employee affected when ~~((his/her))~~ the employee's position is involuntarily moved downward as described in WAC 357-58-125?** When an employee's position is moved involuntary downward as described in WAC 357-58-125, the following applies:

(1) If the employee meets the position requirements and chooses to remain in the position the employee retains appointment status and ~~((his/her))~~ the employee's salary is set in accordance with WAC 357-58-125.

(2) If the employee chooses to vacate the position or does not meet the position requirements, the employer's Washington management service (WMS) layoff procedure applies.

### AMENDATORY SECTION

**WAC 357-58-130 Do salary increases greater than five percent for a group of employees need approval?** Salary ~~((changes))~~ increases greater than five percent proposed for any group of five or more employees must be reviewed and approved by the director. A group of employees means five or more employees with the same working title.

### AMENDATORY SECTION

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**WAC 357-58-136 Can an employer authorize a lump sum payment to support recruitment and/or retention of a WMS position?** (1) With director approval, employers may authorize up to a fifteen percent lump sum payment in addition to the employee's base salary to support the recruitment and/or retention of the ~~((incumbent))~~ [employee](#) or candidate for a specific WMS position.

(2) An employee may not receive more than fifteen percent of their annual base salary over a twelve-month period.

(3) In advance of authorizing a lump sum payment for recruitment and/or retention, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer.

### AMENDATORY SECTION

**WAC 357-58-145 When may an agency authorize lump sum relocation compensation?**

An agency director may authorize lump sum relocation compensation, within existing resources, whenever:

(1) It is reasonably necessary that a ~~((person move his or her home to accept a transfer or))~~ new or existing employee move their primary domicile to accept an appointment; or

(2) It is necessary to successfully recruit or retain a qualified candidate or employee who will have to move ~~((his or her home))~~ in order to accept the position.

### AMENDATORY SECTION

**WAC 357-58-170 What about other pay issues?** Each agency may establish policies and practices for additional compensation ~~((such as))~~ for shift differential, call back pay, and standby pay in accordance with the provisions of chapter 357-28 WAC. Additional compensation may be allowed when approved by the director.

### AMENDATORY SECTION

**WAC 357-58-175 Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an**

~~((incumbent))~~ [employee](#) or candidate for a [Washington management service \(WMS\) position](#)? In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an ~~((incumbent))~~ [employee](#) or candidate for a specific [Washington management service \(WMS\)](#) position:

(1) Employers may authorize an accelerated accrual rate for an ~~((incumbent))~~ [employee](#) or candidate. The WMS employee would remain at the accelerated accrual rate until the WMS employee's anniversary date caught up to the accrual rate amount in accordance with WAC 357-31-165; and/or

(2) Employers may authorize a lump sum accrual of up to eighty hours of vacation leave for the ~~((incumbent))~~ [employee](#) or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC.

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### AMENDATORY SECTION

**WAC 357-58-180 Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an ~~((incumbent))~~ employee for a WMS position?** In order to authorize additional leave for the recruitment and/or retention of a candidate or ~~((incumbent))~~ employee for a WMS position, an agency must have a written policy that:

- (1) Identifies the reasons for which the employer may authorize additional leave; and
- (2) Requires that lump sum accruals only be granted after services have been rendered in accordance with express conditions established by the employer.

### AMENDATORY SECTION

**WAC 357-58-205 Under what conditions may an employer reassign a Washington management service (WMS) employee?** At any time, an agency may reassign an employee or a position and its ~~((incumbent))~~ employee to meet client or organizational needs. If the new location is within a reasonable commute of the employee's domicile, as defined by the agency, the employee must accept the reassignment.

If the reassignment is beyond a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employee has layoff rights in accordance with this chapter.

### NEW SECTION

**WAC 357-58-207 How much notice must an employer give when reassigning a Washington management service (WMS) employee?** An employer must give fifteen calendar days' written notice to a Washington management service (WMS) employee who is being reassigned unless the employer and employee agree to waive the fifteen days' notice period.

### AMENDATORY SECTION

**WAC 357-58-210 When may a Washington management service (WMS) employee transfer to a Washington general service (WGS) position and vice versa?** A permanent employee may transfer from a Washington management service (WMS) position to a Washington general service (WGS) position if ~~((his/her))~~ the employee's salary is within the salary range of the WGS position.

A permanent employee may transfer from a WGS position to a WMS position if ~~((his/her))~~ the employee's salary is within the management band assigned to the WMS position.

### AMENDATORY SECTION

**WAC 357-58-215 May a permanent employee voluntarily demote to a Washington general service (WGS) position?** A permanent employee may voluntarily demote from a Washington management service (WMS) position to a Washington general service (WGS) position at a lower pay level than ~~((his/her))~~ the employee's current position.

### AMENDATORY SECTION

**WAC 357-58-225 What return rights must an employer provide to a permanent Washington management service (WMS) employee who accepts a nonpermanent**

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**appointment to a Washington general service (WGS) position?** (1) When a permanent Washington management service (WMS) employee has accepted a nonpermanent appointment to a Washington general service (WGS) position within the **same** agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of ~~((his/her))~~ the employee's permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within ~~((the))~~ **a different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) or (2) of this section, the agency and the employee may agree to other terms.

### AMENDATORY SECTION

**WAC 357-58-230 May a permanent Washington management service (WMS) employee accept an appointment to a project position in the general service and does the employee have any return right to ~~((his/her))~~ the employee's permanent WMS position?** A permanent Washington management service (WMS) employee may accept an appointment to a project Washington general service (WGS) position as provided in chapter 357-19 WAC. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

### AMENDATORY SECTION

**WAC 357-58-255 May a permanent Washington management service (WMS) employee accept a project appointment within WMS and does the employee have any return rights to ~~((his/her))~~ the employee's permanent WMS position?** A permanent Washington management service (WMS) employee may accept an appointment to a project WMS position. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the project position. If no return right is agreed to, the permanent employee has the rights provided by WAC 357-58-465 upon layoff from the project.

### AMENDATORY SECTION

**WAC 357-58-275 May a permanent Washington management service (WMS) employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment?** Permanent Washington management service (WMS) employees may accept acting appointments to WMS positions.

(1) When a permanent WMS employee has accepted an acting appointment within the **same** agency and the acting appointment ends ~~((, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position))~~ the following applies:

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(a) The agency may agree to return the employee to a permanent WMS position. If returning to a permanent WMS position, the employee's salary must not be less than the salary of the previously held permanent WMS position.

(b) The agency at a minimum provide the employee the layoff rights of the employee's permanent WMS position in accordance with WAC 357-58-465.

(2) When a permanent WMS employee has accepted an acting appointment within a **different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) and (2) of this section, the agency and the employee may agree to other terms.

### AMENDATORY SECTION

**WAC 357-58-290 How long does the review period last?** Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period. If an employee in a Washington management service (WMS) review period accepts a nonpermanent position in a Washington general service (WGS) position, upon return to the WMS position the employer may suspend the review period and allow the employee to resume where the employee left off or start the review period over.

### AMENDATORY SECTION

**WAC 357-58-355 Can a permanent employee voluntarily revert during a review period?** Within the first thirty calendar days of any review period, a permanent employee may request to voluntarily revert to ~~((his/her))~~ the employee's former employer. If the former employer authorizes the reversion, the following applies:

(1) If the employee holds permanent status in Washington management service (WMS), the employer must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment.

(2) If the employee holds permanent status in Washington general service (WGS) and has not yet gained permanent status in WMS, the employee has reversion rights in accordance with WAC 357-19-115, 357-19-117, and 357-19-120.

### AMENDATORY SECTION

**WAC 357-58-375 When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees have?** (1) When a permanent WMS employee **promotes** to a WGS position within the **same** agency and is reverted during the trial service period, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the WGS appointment. **If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous**

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**position and salary.** If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(2) When a permanent WMS employee **demotes** to a WGS position in the **same** agency and is reverted during the trial service period the agency must place the employee in a vacant funded WMS position for which the employee is qualified and with a salary that is equal to or less than the salary range maximum of the class from which the employee is reverting. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(3) When a permanent WMS employee **promotes or demotes** to a WGS position in a **different** agency and is reverted during the trial service period, the employer may separate the employee by providing fifteen calendar days' written notice. The employee may apply for the general government transition pool.

### AMENDATORY SECTION

**WAC 357-58-395 What ((will be)) is the role of the department of enterprise services?**

The department of enterprise services shall assist state agencies by providing a quality developmental and leadership training program and consultative and technical assistance to help agencies address the development needs of their managers.

### AMENDATORY SECTION

**WAC 357-58-438 What is the impact of a layoff?** Layoff is an employer-initiated action taken in accordance with WAC 357-58-445 that results in:

- (1) Separation from service with an employer;
- (2) Employment in a Washington management service (WMS) position with a lower salary standard or evaluation points or a Washington general service (WGS) position with a lower salary range maximum(~~;~~  
~~(3) Reduction in the work year~~); or  
~~((4))~~ (3) Reduction in the number of work hours.

### AMENDATORY SECTION

**WAC 357-58-480 What provisions govern((s)) separation due to disability for Washington management service (WMS) employees?** Washington management service (WMS)

employees may be separated due to disability in accordance with WAC 357-46-160, 357-46-165, 357-46-170, and 357-46-175.

### AMENDATORY SECTION

**WAC 357-58-485 What provisions govern((s)) nondisciplinary separation for Washington management service (WMS) employees?** Employers may separate Washington management service (WMS)

employees for nondisciplinary reasons in accordance with WAC 357-46-195, 357-46-200, and 357-46-205.

### AMENDATORY SECTION

**WAC 357-58-490 What provisions govern((s)) separation for unauthorized absence for Washington management service (WMS) employees?** Employers may separate Washington

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management service (WMS) employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

### AMENDATORY SECTION

**WAC 357-58-500 May an employee request withdrawal of ((his/her)) the employee's resignation?** An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

### AMENDATORY SECTION

**WAC 357-58-515 When a Washington management service (WMS) employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken?** Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

- (1) Salary adjustment (or lack thereof) when the responsibilities of the permanent employee's position have been changed.
- (2) Placement following reversion of a permanent employee.
- (3) Decisions about whether or not a position is included in the Washington management service (WMS). When reconsidering decisions concerning inclusion in WMS the following apply:
  - (a) The final agency internal decision must be made by the agency director or designee.
  - (b) If the ((incumbent)) employee disagrees with the agency director/designee's decision, ((he/she)) the employee may request a review by the director, as long as such request is made within fifteen calendar days of notification of the decision. Such review will be limited to relevant documents and information and will be final.

### AMENDATORY SECTION

**WAC 357-58-552 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a Washington management service (WMS) employee to perform?** If an employer has less than twenty hours per week of work for a Washington management service (WMS) employee to perform during a period of temporary layoff, the employer must ((notify)) provide notification to the WMS employee that ((he/she)) is being furloughed. The employer may then offer the available work hours to the WMS employee as an acting appointment under the provisions of WAC 357-58-265.

### AMENDATORY SECTION

**WAC 357-58-555 At the conclusion of a temporary layoff, does a Washington management service (WMS) employee have the right to return to the position ((he/she)) that was held immediately prior to being temporarily laid off?** At the conclusion of the temporary layoff, the Washington management service (WMS) employee has the right to resume the position ((he/she)) that was held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment ((he/she)) that was held prior to the layoff.



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### REPEALER

~~**WAC 357-58-540 What type of records are agencies required to keep and report for WMS employees?** Each agency will maintain records of employees in the WMS. The records will identify employees as members of the WMS, including position numbers and position titles and will track all personnel actions related to them. Agencies will be responsible for collecting statistical information on WMS personnel regarding diversity, applicant flow, and appointments following each selection.~~

### REPEALER

~~**WAC 357-58-565 What mechanism must be used to report WMS inclusion and evaluation activities?**~~

- ~~(1) Agencies must submit their WMS activity reports to the director's office and make them available as prescribed by the director's office.~~
- ~~(2) A roll-up of all agencies' WMS activities will be made available to agencies.~~

### ITEM #3 – Incumbent/Employee Cleanup

**Staff Note:** The proposed amendments are housekeeping in nature specifically related to changing “incumbent” to “employee.”

### AMENDATORY SECTION

**WAC 357-13-045 Who is responsible for completing the position description form?** The manager of the position is responsible for completing the position description form. If the position is filled, input from the ~~((incumbent))~~ employee is recommended.

### AMENDATORY SECTION

**WAC 357-19-297 What are the notification requirements for appointing an employee to a cyclic year position?** Upon appointment and before the start of each annual cycle, ~~((incumbents))~~ employees of cyclic year positions must be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Scheduled, cyclic leave without pay does not constitute a break in service and is not deducted from the employees' seniority and does not affect the employees' vacation leave accrual rate.

### AMENDATORY SECTION

**WAC 357-28-095 Can an employer authorize additional pay to support recruitment and/or retention of a position?** (1) Employers may authorize additional pay to support the recruitment or retention of the ~~((incumbent))~~ employee or candidate for a **specific position**. At the employer's discretion, up to a fifteen percent premium may be added to the employee's base salary or paid on a lump sum basis as described in subsection (2). An employee may not receive more than fifteen percent of his/her annual base salary over a twelve month period under the provisions of this section.

(2) In advance of authorizing a lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this

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section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the ((~~incumbent's~~)) employee's annual compensation for work performed prior to receipt of any funds.

(3) Any additional pay granted under this section is a premium that is not part of base salary. The premium is to be used only as long as the circumstances it is based on are in effect.

### AMENDATORY SECTION

**WAC 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an ((~~incumbent~~)) employee or candidate for a position?** (1) Director approval is required for employers to authorize:

(a) Premiums exceeding fifteen percent under the provisions of WAC 357-28-095; and  
(b) Additional pay to support the recruitment and/or retention of **like positions** at a specific work location.

(2) In advance of authorizing a director approved lump sum recruitment or retention payment, employers must establish express conditions in writing for the payment. The conditions must include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer and become part of the ((~~incumbent's~~)) employee's annual compensation for work performed prior to receipt of any funds.

(3) Additional pay granted under this section is a premium that is not part of base salary. The premium is to be used only as long as the circumstances it is based on are in effect.

### AMENDATORY SECTION

**WAC 357-31-165 At what rate do general government employees accrue vacation leave?**

(1) Full-time general government employees accrue vacation leave at the following rates:

(a) During the first and second years of current continuous state employment - Nine hours, twenty minutes per month;

(b) During the third year of current continuous state employment - Ten hours per month;

(c) During the fourth year of current continuous state employment - Ten hours, forty minutes per month;

(d) During the fifth and sixth years of total state employment - Eleven hours, twenty minutes per month;

(e) During the seventh, eighth and ninth years of total state employment - Twelve hours per month;

(f) During the tenth, eleventh, twelfth, thirteenth and fourteenth years of total state employment - Thirteen hours, twenty minutes per month;

(g) During the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years of total state employment - Fourteen hours, forty minutes per month;

(h) During the twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth years of total state employment - Sixteen hours per month; and

(i) During the twenty-fifth and succeeding years of total state employment - Sixteen hours, forty minutes per month.

(2) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or ((~~incumbent~~)) employee for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(i) of this section.

(3) The following applies for purposes of computing the rate of vacation leave accrual:

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(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.