**ITEM #1 – Shared Leave**

**Staff note:** Chapter 6, Laws of 2020 (house bill 2739) passed during the 2020 legislative session. This bill makes several changes to the state shared leave program by amending RCW 41.04.655 (effective June 11, 2020), 41.04.665 (effective March 17, 2020) and adding a new section to chapter 41.04 RCW (effective June 11, 2020).

This bill makes the following changes:

* “Shortly deplete” means an employee may maintain up to 40 hours of applicable leave types in reserve and is not required to deplete all of their leave to qualify for shared leave
* Agency heads may not prevent state employees from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned
* The requirement that an employee diligently pursue and be found ineligible for industrial insurance wage replacement benefits is removed. An employee receiving wage replacement benefits may not receive more than 25% of their base salary as a result of shared leave.
* Allows an agency head to grant shared leave to an employee without considering other shared leave requirements, such as meeting the reasons to qualify for shared leave; the absence will likely cause the employee to be on leave without pay status or terminate state employment; the employee’s absence and the use of shared leave are justified; the employee has depleted or will shortly deplete their accrued leave; and the employee has abided by agency/HE institution rules in accordance with RCW 41.04.665(1)(e), if the employee or relative or household member is isolated or quarantined due to COVID-19. Shared leave for this purpose may be granted until the Governor’s COVID-19 State of Emergency declaration, or any amendments thereto, expires. On April 10, 2020 House Bill 2739 was amended again by [**Proclamation 20-43**](https://www.governor.wa.gov/sites/default/files/proclamations/20-43%20-%20COVID-19%20OFM%20Leave-Pay.pdf)**.** Proclamation 20-43 deletes the yellow language below within RCW 41.04.665(1)(f).

We are proposing to amend the following WACs to align with the changes to the law.

The highlighted yellow text below are changes since the June 9, 2020 rules meeting.

Lead: Brandy Chinn

REFERENCE ONLY:

RCW 41.04.665(1)(f):

(i) “Until the expiration of proclamation 20-05, issued February 29, 2020, by the Governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an agency head may permit an employee to receive shared leave under this section ~~if the employee, or a relative or household member, is isolated or quarantined as recommended, requested, or ordered by a public health official or health care provider~~ as a result of ~~suspected or confirmed infection with or exposure to~~ the 2019 novel coronavirus (COVID-19). An agency head may permit use of shared leave under this subsection (1)(f) without considering the requirements of (a) through (e) of this subsection.”

REFERENCE ONLY (For holiday credit reference below in WAC 357-31-435)

### WAC 357-31-030 What happens when a holiday falls on an employee's scheduled day off?

When a holiday (as identified in WAC [**357-31-005**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-005)) falls on an employee's regularly scheduled day off, the employer must provide that employee an in-lieu of holiday as follows:

(1) For a full-time employee who is eligible for holiday compensation, the employer may:

(a) Designate the prior or the following work day as the holiday;

(b) Provide the employee with equivalent paid time off; or

(c) Allow the employee to request an alternate work day to observe as the holiday. The employer may require that the employee request an alternate day off within the same pay period as the holiday.

(2) For a part-time general government employee who is eligible for holiday compensation, the employer must compensate the employee on a pro rata basis in accordance with WAC [**357-31-020**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-020).

(3) For a part-time higher education employee who is eligible for holiday compensation, the employee is entitled to the equivalent paid time off for the holiday that their monthly schedule bears to a full-time schedule.

AMENDATORY SECTION Filed with the Office of the Code Reviser effective June 2, 2020, WSR 20-12-081, OTS 2288.3. (Emergency rule expires September 30, 2020).

**WAC 357-31-390** **What criteria does an employee have to meet to be eligible to receive shared leave?**

An employee may be eligible to receive shared leave if the agency head or higher education institution president has determined the employee meets the following criteria:

(1) The employee:

(a) Suffers from, or has a relative or household member suffering from, an illness, injury, impairment or physical or mental condition which is of an extraordinary or severe nature;

(b) Has been called to service in the uniformed services;

(c) A state of emergency has been declared anywhere within the United States by the federal or any state government and the employee has the needed skills to assist in responding to the emergency or its aftermath and volunteers their services to either a governmental agency or to a nonprofit organization engaged in humanitarian relief in the devastated area, and the governmental agency or nonprofit organization accepts the employee's offer of volunteer services;

(d) Is a victim of domestic violence, sexual assault or stalking as defined in RCW 41.04.655;

(e) Is a current member of the uniformed services or is a veteran as defined under RCW 41.04.005, and is attending medical appointments or treatments for a service connected injury or disability;

(f) Is a spouse of a current member of the uniformed services or a veteran as defined under RCW 41.04.005, who is attending medical appointments or treatments for a service connected injury or disability and requires assistance while attending appointments or treatments;

(g) Needs the time for parental leave as defined in WAC 357-31-395(3); or

(h) Is sick or temporarily disabled because of a pregnancy disability as defined in WAC 357-31-395(4).

(2) The condition(s) listed in subsection (1)(a) through (d) of this section is likely to cause, the employee to go on leave without pay status or terminate state employment.

(3) The employee's absence and the use of shared leave are justified.

(4) The employee has depleted or will shortly deplete leave in accordance with WAC 357-31-435. ((~~If the employee qualifies under subsection (1)(g) or (h) of this section the employee is not required to deplete all of their vacation leave or sick leave in accordance with WAC 357-31-435.~~))

(5) The employee has abided by employer rules regarding:

(a) Sick leave use if the employee qualifies under subsection (1)(a), (d), (g), or (h) of this section; or

(b) Military leave if the employee qualifies under subsection (1)(b) of this section.

(6) ((~~If the illness or injury is work-related and the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW if the employee qualifies under subsection (1)(a)~~)) (a) Until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring a state of emergency in the state of Washington, or any amendment thereto, whichever is later, an employer may permit an employee to receive shared leave as a result of the 2019 novel coronavirus (COVID-19). An employer should consider whether one of the following circumstances exists in determining whether to grant shared leave under this subsection:

(i) The employee tests positive for COVID-19 or has symptoms of COVID-19 and is seeking a medical diagnosis;

(ii) The employee, or a relative or household member, is isolated or quarantined as recommended, requested or ordered by a public health official or health care provider as a result of suspected or confirmed infection with or exposure to COVID-19;

(iii) The employee is considered under the criteria set by the Centers for Disease Control and Prevention (CDC) to be at increased risk of severe illness and death due to COVID-19;

(iv) The employee cannot work due to the closure of their child's school and/or the unavailability of a child care provider due to COVID-19; or

(v) The employee is not sick but has been advised by a health care provider not to be in the workplace due to risk of COVID-19 but does not fall into the CDC high risk categories.

(b) An employer may permit use of shared leave under this subsection without considering the other requirements of this section.

AMENDATORY SECTION

**WAC 357-31-395** **What definitions apply to shared leave?**

The following definitions apply to shared leave as defined in RCW 41.04.655:

(1) ((~~As defined in RCW 41.04.655,~~)) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(2) "Employee's relative" normally must be limited to the employee's spouse, registered domestic partner, child, grandchild, sibling, grandparent, or parent.

(3) "Parental leave" means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or foster care((~~, for a period of up to sixteen weeks after the birth or placement~~)).

(4) "Pregnancy disability" means a pregnancy-related medical condition or miscarriage.

(5) ((~~"Severe" or "extraordinary" condition is defined as serious, extreme or life threatening.~~

~~(6)~~)) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(6) "Severe" or "extraordinary" condition is defined as serious, extreme or life threatening.

(7) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard and any other category of persons designated by the President of the United States in time of war or national emergency.

AMENDATORY SECTION

**WAC 357-31-400** **How much shared leave may an employee receive?**

(1) The employer determines the amount of leave, if any, which an employee may receive under these rules. However, an employee must not receive more than five hundred twenty-two days of shared leave during total state employment. An employer may authorize leave in excess of five hundred twenty-two days in extraordinary circumstances for an employee qualifying for shared leave because they are suffering from an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature. A nonpermanent employee who is eligible to use accrued leave or personal holiday may not use shared leave beyond the expected end date of the appointment. Leave used under the sick leave pool program, as described in WAC 357-31-570, is included in the five hundred twenty-two day limit.

(2) An employee receiving shared leave for parental leave in accordance with WAC 357-31-395 may receive up to sixteen weeks immediately after the birth or placement unless the birth parent suffers from a pregnancy disability. When a birth parent suffers from a pregnancy disability the period of sixteen weeks for parental leave begins immediately after the pregnancy disability has ended provided the parental leave is used within the first year of the child’s life.

(3) An employee receiving industrial insurance wage replacement benefits may receive up to twenty-five percent of their base salary from the receipt of shared leave.

(4) Employers are encouraged to consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time, or special assignments in place of shared leave.

NEW SECTION

**WAC 357-31-403** **May an employer prevent an employee from using shared leave intermittently or on nonconsecutive days?**

An employer may not prevent an employee from using shared leave intermittently or on nonconsecutive days so long as the leave has not been returned under WAC 357-31-445.

AMENDATORY SECTION Filed with the Office of the Code Reviser effective June 2, 2020, WSR 20-12-081, OTS 2288.3. (Emergency rule expires September 30, 2020).

**WAC 357-31-405** **What documentation may an employee seeking shared leave be required to submit?**

An employee may be required to submit the following documentation before the employer approves or disapproves the employee's request for shared leave:

(1) For employees seeking shared leave under WAC 357-31-390 (1)(a), the employer may require the employee to submit a medical certificate from a licensed physician or health care practitioner verifying the severe or extraordinary nature and expected duration of the condition.

(2) For employees seeking shared leave under WAC 357-31-390 (1)(b), the employer may require the employee to submit a copy of the military orders verifying the employee's required.

(3) For employees seeking shared leave under WAC 357-31-390 (1)(c), proof of acceptance of an employee's offer to volunteer for either a governmental agency or a nonprofit organization during a declared state of emergency.

(4) For employees seeking shared leave under WAC 357-31-390 (1)(d), the employer may require that the request be supported by documentation. An employee may satisfy the verification requirement by providing the employer with one or more of the following:

(a) A police report indicating that the employee was a victim of domestic violence, sexual assault or stalking;

(b) A court order protecting or separating the employee from the perpetrator of the act of domestic violence, sexual assault or stalking;

(c) Evidence from the court or prosecuting attorney that the employee appeared or is scheduled to appear in court in connection with an incident of domestic violence, sexual assault or stalking;

(d) An employee's written statement that the employee is a victim of domestic violence, sexual assault or stalking; or

(e) Documentation that the employee is a victim of domestic violence, sexual assault or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault or stalking: An advocate for victims of domestic violence, sexual assault or stalking; an attorney; a member of the clergy; or a medical or other professional.

(5) Employees seeking shared leave under WAC 357-31-390 (1)(e) or (f), the employee must provide documentation in accordance with WAC 357-31-805.

(6) Employees seeking shared leave under WAC 357-31-390 (1)(g), the employer may require verification of the birth or adoption of the child or proof of a current foster parent license or a court document for foster care or placement.

(7) Employees seeking shared leave under WAC 357-31-390 (1)(h), the employer may require a medical certification from a licensed physician or health care practitioner verifying that the employee has a pregnancy disability.

(8) For employees seeking shared leave under WAC 357-31-390(6), the employer may require written verification submitted electronically, confirming the circumstances of isolation or quarantine, that the employee is high risk, that no other suitable person is available to provide child care, or other circumstances listed in WAC 357-31-390 (6)(a)(i) through (v). This may include a signed affidavit from the employee, or any other information requested by the employer.

AMENDATORY SECTION

**WAC 357-31-435** **Must employees use their own leave before using shared leave?**

1) Employees who qualify for shared leave under WAC 357-31-390 (1)(a) must first use all compensatory time, recognition leave as described in WAC 357-31-565((~~,~~)), ~~and~~ personal holiday((~~, sick leave and vacation leave~~)) and holiday credit that they have accrued before using shared leave. The employee is not required to deplete all of their accrued vacation and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

(2) Employees who qualify for shared leave under WAC 357-31-390 (1)(b) must first use all of their compensatory time, recognition leave as described in WAC 357-31-565((~~,~~)), ~~and~~ personal holiday((~~, accrued vacation leave and paid military leave allowed under RCW 38.40.060~~)) and holiday credit before using shared leave. The employee is not required to deplete all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 and can maintain up to forty hours of vacation leave and forty hours of paid military leave.

(3) Employees who qualify for shared leave under WAC 357-31-390 (1)(c) and (d) must first use all compensatory time, recognition leave as described in WAC 357-31-565((~~,~~)) , ~~and~~ personal holiday and holiday credit ((~~and vacation leave~~)) that they have accrued before using shared leave. The employee is not required to deplete all of their accrued vacation leave and can maintain up to forty hours of vacation leave.

(4) Employees who qualify for shared leave under WAC 357-31-390 (1)(e) or (f) must first use all leave as described in WAC 357-31-797.

(5) Employees who qualify for shared leave under WAC 357-31-390 (1)(g) and/or (h) must first use all accrued compensatory time, recognition leave as described in WAC 357-31-565, ~~and~~ personal holiday and holiday credit before using shared leave. The employee is not required to deplete all of their accrued vacation leave and sick leave and can maintain up to forty hours of vacation leave and forty hours of sick leave.

**AMENDATORY SECTION**

**WAC 357-31-687 Must employees use their own leave before receiving shared leave from the uniformed service shared leave pool?**

Employees who are eligible to receive shared leave from the uniformed service shared leave pool must first use all accrued compensatory time, recognition leave as described in WAC 357-31-565, personal holiday, vacation leave, and paid military leave allowed under RCW 38.40.060 before receiving shared leave from the uniformed service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and paid military leave allowed under RCW 38.40.060 and can maintain up to forty hours of vacation leave and forty hours of paid military leave.

**AMENDATORY SECTION**

### WAC 357-31-797 Must employees use their own leave before receiving shared leave from the veterans' in-state service shared leave pool?

Employees who are eligible to receive shared leave from the veterans' in-state service shared leave pool must first use all accrued compensatory time, recognition leave as described in WAC [357-31-565](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-31-565), personal holiday, sick leave, and vacation leave before receiving shared leave from the veterans' in-state service shared leave pool. The employee is not required to deplete all of their accrued vacation leave and can maintain up to forty hours of vacation leave.

**ITEM #2 – Organ Donation and Emergency Amendments to Leave With Pay**

**Staff note:** Chapter 305, Laws of 2020 (Senate Bill 6123) adds language to chapter 41.06 RCW and requires all executive agencies to allow employees to take paid leave, not to exceed 30 days, in a 2-year period, as needed to participate in life-giving procedures effective June 11, 2020. For the purpose of this bill "life-giving procedures" includes organ donation but does not include donation of blood or plasma. The proposed amendment to amend WAC 357-31-326(1) and subsection (2) to distinguish the term life-giving procedures and donation of blood and plasma between general government and higher education.

The emergency amendments to WACs 357-31-325(5) and 357-31-326(4) were filed with the Office of the Code Reviser (OCR) effective Mach 11, 2020. WAC 357-31-325(5) requires a general government employer to grant leave with pay (LWP) when an employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to COVID-19, but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. The amendment to WAC 357-31-326 gives higher education employers the option to approve LWP for these circumstances. This amendment remains in effect until the Governor’s COVID-19 State of Emergency declaration, or any amendments thereto expires.

The highlighted yellow text below are changes since the June 9, 2020 rules meeting.

Lead: Brandy Chinn

REFERENCE ONLY

### WAC 357-31-320 If an employee has received a subpoena, must the employee be granted a leave of absence with pay?

The employer **must** grant a leave of absence with pay for the employee to respond to a subpoena when:

(1) The employee has been subpoenaed on the employer's behalf; or

(2) The subpoena is for a legal proceeding which is unrelated to the personal or financial matters of the employee.

AMENDATORY SECTION

**WAC 357-31-325** **When must an employer grant leave with pay for other miscellaneous reasons** ((**~~such as to take a state examination~~**))**?**

Leave with pay **must** be granted to an employee in accordance with WAC 357-31-320 and for the following reasons:

(1) To allow an employee to receive assessment from the employee assistance program.

(2) When an employee is scheduled to take an examination or participate in an interview for a position with a state employer during scheduled work hours.

(a) Employers may limit the number of occurrences or the total amount of paid leave that will be granted to an employee to participate in an interview or take an examination during scheduled work hours.

(b) Employers may deny an employee's request to participate in an interview or take an examination during scheduled work hours based upon operational necessity.

(3) When an employee is required to appear during working hours for a physical examination to determine physical fitness for military service.

(4) To allow a general government employee to take paid leave, not to exceed thirty days in a two-year period to participate in life-giving procedures, such as medical procedures, including testing, sampling, or donation of organs, tissues, and other body components for the purpose of donation, without compensation. For this subsection blood or plasma donations are not considered life-giving procedures.

(a) General government employers may take operational necessity into account and require the employee to provide reasonable advance notice.

(b) Employees must provide written proof from an accredited medical institution, physician, or other medical professional that the employee participated in a life-giving procedure.

(5) When a general government employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.

AMENDATORY SECTION

**WAC 357-31-326** **When may an employer grant leave with pay?**

(1) A~~n~~ general government employer **may** grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, or donating blood. Leave granted to participate in ((~~life-giving procedures~~)) blood and plasma donations must not exceed five days in a two-year period.

(2) A higher education employer may grant leave with pay for an employee to perform civil duties as a volunteer including, but not limited to, firefighting, search and rescue efforts, or donating blood. Leave granted to participate in life-giving procedures must not exceed five days in a two-year period.

(3) ~~(2)~~ In the department of natural resources, leave with pay equivalent to one regular workshift **may** be allowed for the purpose of rest and recuperation after ten consecutive calendar days performing emergency work under an incident command system, defined in RCW 38.52.010. The employer may grant one additional day of leave with pay for rest and recuperation after twenty-one consecutive calendar days performing emergency work under an incident command system.

~~(4) (3) In accordance with the general government employer's leave policy, an agency may grant leave with pay to allow an employee to take any additional leave beyond thirty days in a two-year period to participate in life-giving procedures.~~

(4) When a higher education employee is required by Centers for Disease Control and Prevention guidelines to self-quarantine due to novel coronavirus disease 2019 (COVID-19), but is otherwise healthy and has not tested positive for COVID-19, and the employer has determined the employee does not have the option to telework. An employer may subsequently determine that a telework option exists for the employee and direct the employee to telework. If the employee is directed to telework under this subsection and declines to do so, the employee must use other available leave options. The employee may receive up to fourteen days of leave with pay under this subsection. This subsection is effective until the expiration of proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later. An employer may require written verification, including verification submitted electronically, confirming the circumstances warranting the self-quarantine or inability to telework, which may include a signed affidavit from the employee or any other information requested by the employer.

AMENDATORY SECTION

**WAC 357-31-100** **Must an employer have a policy for requesting and approving leave?**

Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

(1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies or for an emergency health condition as provided in WAC 357-31-200 (1)(b);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020;

(3) Allow an employee to use accrued leave as a supplemental benefit as provided in WAC 357-31-248;

(4) Address advance notice from the employee when the employee is seeking leave under subsections (2) and (3) of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave;

(5) Allow an employee to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child. The policy must state the total amount of sick leave allowed to be used beyond eighteen weeks in accordance with WAC 357-31-130;

(6) Address overtime eligible employees that are required to provide medical certification or verification to their employer for the use of paid sick leave under chapter 296-128 WAC; ((~~and~~))

(7) Address overtime eligible employees that are required to provide reasonable notice to their employer for an absence from work for the use of paid sick leave under chapter 296-128 WAC; and

(8) Address if a general government employee may take additional ~~paid~~ accrued leave beyond thirty days in a two-year period to participate in life-giving procedures in accordance with Chapter 305, Laws of 2020.~~WAC 357-31-326~~.

**ITEM #3 – Agency’s Sexual Harassment Policy – Records of Harassment or Stalking**

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

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

Lead: Caroline Kirk

AMENDATORY SECTION

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

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

(1) Indicate who is covered by the policy;

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

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

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

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

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

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

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

(9) A ~~S~~statement that the complainant shall be informed of the status and the outcome of an investigation;

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

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

(a) Preventing or not engaging in sexual harassment;

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

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

(d) The prohibition against retaliation.

(12) A ~~S~~statement that confidentiality cannot be guaranteed;

(13) A ~~S~~statement that responses to public records requests will be provided in accordance with RCW 42.56.660~~, 42.56.665~~ and 42.56.675,

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

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

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

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

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

**ITEM #4 – Written Certifications for Reasonable Accommodations for the Expression of Breast Milk**

**Staff Note:** HB 2266 passed during the 2020 legislative session effective June 11, 2020. This bill amends RCW 43.10.005 by adding language to state an employer may not require an employee to provide written certification from a health care professional when the employee requests a reasonable accommodation for the expression of breast milk. We are proposing the following amendments to reflect this change. In addition, we are proposing to add the reasons in which an employer must provide a reasonable pregnancy accommodation back into WAC 357-26-035.

**Background:** WAC 357-26-035 was amended in 2019 as a result of SHB 1930 which passed during the 2019 legislative session with an effective date of July 28, 2019. Subsections (1)(a) through (h) were removed and RCW 43.10.005 was referenced instead. This bill amended RCW 43.10.005 to expand the definition of pregnancy to include the employee’s need to express breast milk and expands the definition of reasonable accommodation to state an employer must provide “reasonable break time for an employee to express breast milk for two years after the child’s birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs.

After further review, a decision was made to amend WAC 357-26-035 to add the specific accommodations back into the WAC that were removed in 2019. We believe adding the reasons will add clarity surrounding when an employer must provide a reasonable pregnancy accommodations thus resulting in less confusion.

The highlighted yellow text below are changes since the June 9, 2020 rules meeting.

The highlighted green text below are changes since the June 9, 2020 meeting. This was an oversight and the text with a strike through should not have been in WAC 357-26-045 and we were missing the green text underlined.

Lead: Caroline Kirk

AMENDATORY SECTION

### WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodations?

(1) An employer must provide employees who are pregnant or have a pregnancy-related health condition a reasonable pregnancy accommodation, which includes the following:(( ~~for reasons as required in RCW~~ [~~43.10.005~~](http://app.leg.wa.gov/RCW/default.aspx?cite=43.10.005)~~.~~))

(a) Providing more frequent, longer, or flexible restroom breaks;

(b) Modifying a no food or drink policy;

(c) Providing seating or allowing an employee to sit more frequently if the job requires standing;

(d) Providing reasonable break time for an employee to express breast milk for two years after the child’s birth each time the employee has need to express the milk and providing a private location, other than a bathroom, if such a location exists at the place of business or worksite, which may be used by the employee to express breast milk. If the business location does not have a space for the employee to express breast milk, the employer shall work with the employee to identify a convenient location and work schedule to accommodate their needs;

(e) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee’s work station;

(f) Providing a temporary transfer to a less strenuous or less hazardous position;

(g) Providing assistance with manual labor and limits on lifting;

(h) Scheduling flexibility for prenatal visits; and

(i) Any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the employee’s attending health care provider.

(2) An employer cannot require an employee who is pregnant or has a pregnancy-related health condition to take leave if another reasonable pregnancy accommodation can be provided.

(3) The employer is not required to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

AMENDATORY SECTION

**WAC 357-26-040 When may an employer deny a reasonable pregnancy-related accommodation?**

The employer may deny a reasonable pregnancy-related accommodation based on undue hardship, which means an action requiring significant difficulty or expense, to the employer's program, enterprise or business for pregnancy accommodations listed in WAC [**357-26-035**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-26-035) (1)(d)((~~(e)~~)) through (i)((~~(h)~~)). The employer may not claim undue hardship for the pregnancy accommodations listed in WAC [**357-26-035**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-26-035) (1)(a) through ((~~(d)~~))(c) or for limits on lifting over seventeen pounds.

AMENDATORY SECTION

**WAC 357-26-045 When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation what documentation may the employee be required to submit?**

When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation, the employee may be required to submit written certification from their licensed physician or health care professional for those pregnancy accommodations listed in WAC [**357-26-035**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-26-035) (1)((~~(d)~~))(e) through (i)((~~(h)~~)). ~~The employer may not claim undue hardship for the~~ An employee is not required to submit written certification for pregnancy accommodations listed in WAC [**357-26-035**](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-26-035) (1)(a) through (d)((~~(c)~~)) or for limits on lifting over seventeen pounds.

**Item # 5 Leave without pay**

**Staff Note:** The emergency amendment to WAC 357-31-330 was filed with the Office of the Code Reviser effective March 25, 2020. This emergency amendment allows an employer to approve LWOP for an employee to protect themselves, or a relative or household member, from risks related to COVID-19. This amendment remains in effect until the Governor’s COVID-19 State of Emergency declaration, or any amendments thereto expires.

AMENDATORY SECTION Filed with the Office of the Code Reviser effective March 25, 2020, WSR 20-08-052 OTS 2167.1. (Emergency rule expired July 23, 2020).

**WAC 357-31-330** **For what reasons may an employer grant leave without pay?**

Leave without pay may be allowed for any of the following reasons in accordance with the employer's leave policy:

(1) For any reason leave with pay may be granted, as long as the conditions for leave with pay are met;

(2) Educational leave;

(3) Leave for government service in the public interest;

(4) Military leave of absence as required by WAC 357-31-370;

(5) Parental leave as required by WAC 357-31-460;

(6) Family care emergencies as required by WAC 357-31-295;

(7) Bereavement or condolence;

(8) Absence due to inclement weather as provided in WAC 357-31-255;

(9) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 357-19-295;

(10) Serious health condition of an eligible employee's child, spouse, registered domestic partner, or parent as required by WAC 357-31-525;

(11) Leave taken voluntarily to reduce the effect of an employer's layoff;

(12) Leave that is authorized in advance by the appointing authority as part of a plan to reasonably accommodate a person of disability; ((~~or~~))

(13) Employees receiving time loss compensation; or

(14) For an employee to protect themselves, or a relative or household member, from risks related to coronavirus disease 2019 (COVID-19). In determining whether to grant leave, an employer may consider whether the employee is needed to provide essential services because the employee is a health care provider, an emergency responder or otherwise necessary to maintain public safety.

**ITEM #6 – Statement of Necessity**

**Staff note:** On April 10, 2020 Governor Jay Inslee issued proclamation 20-43 which amended proclamation 20-05. [Proclamation 20-43](https://www.governor.wa.gov/sites/default/files/proclamations/20-43%20-%20COVID-19%20OFM%20Leave-Pay.pdf) waives RCW 43.01.044(5) and a portion of RCW 43.01.043 to allow an employee to use a statement of necessity to preserve leave accrued over 240 hours prior to the date of the statement of necessity. This applies to essential employees who must continue working and/or report to the worksites during this emergency and is retroactive to February 29, 2020. This amendment may not be used in circumstances where an employee is unable to take a planned vacation due to travel restrictions or other circumstances not related to the employer’s needs. This amendment remains in effect until the Governor’s COVID-19 State of Emergency declaration, or any amendments thereto expires.

REFERENCE ONLY

### RCW [43.01.043](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.043) Vacations—Rules and regulations.

The several offices, departments and institutions of the state government may prescribe supplemental rules and regulations ~~that are not inconsistent with the provisions of RCW~~ [~~43.01.040~~](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.040) ~~through~~ [~~43.01.043~~](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.043) with respect to vacation leave of subordinate officers and employees thereof.

REFERENCE ONLY

### RCW [43.01.044](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.044) Vacations—Accumulation of leavce in excess of two hundred forty hours authorized without statement of necessity—Requirements of statement of necessity.

As an alternative, in addition to the provisions of RCW [43.01.040](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.040) authorizing the accumulation of vacation leave in excess of two hundred forty hours with the filing of a statement of necessity, vacation leave in excess of two hundred forty hours may also be accumulated as provided in this section but without the filing of a statement of necessity. The accumulation of leave under this alternative method shall be governed by the following provisions:

(1) Each subordinate officer and employee of the several offices, departments, and institutions of state government may accumulate the vacation leave hours between the time two hundred forty hours is accrued and his or her anniversary date of state employment.

(2) All vacation hours accumulated under this section shall be used by the anniversary date and at a time convenient to the employing office, department, or institution. If an officer or employee does not use the excess leave by the anniversary date, then such leave shall be automatically extinguished and considered to have never existed.

(3) This section shall not result in any increase in a retirement allowance under any public retirement system in this state.

(4) Should the legislature revoke any benefits or rights provided under this section, no affected officer or employee shall be entitled thereafter to receive such benefits or exercise such rights as a matter of contractual right.

~~(5) Vacation leave credit acquired and accumulated under this section shall never, regardless of circumstances, be deferred by the employing office, department, or institution by filing a statement of necessity under the provisions of RCW~~ [~~43.01.040~~](http://app.leg.wa.gov/RCW/default.aspx?cite=43.01.040)~~.~~

(6) Notwithstanding any other provision of this chapter, on or after July 24, 1983, a statement of necessity for excess leave shall, as [at] a minimum, include the following: (a) The specific number of hours of excess leave; and (b) the date on which it was authorized. A copy of any such authorization shall be sent to the department of retirement systems.

AMENDATORY SECTION Filed with the Office of the Code Reviser effective June 2, 2020, WSR 20-12-081. OTS 2288.3. (Emergency rule expires September 30, 2020).

**WAC 357-31-215** **When may vacation leave be accumulated above the maximum two hundred forty hours?**

There are two circumstances in which vacation leave may be accumulated above the maximum of two hundred forty hours.

(1) If an employee's request for vacation leave is denied by the employer, and the employee is close to the maximum vacation leave (two hundred forty hours), the employer must grant an extension for each month that the employer defers the employee's request for vacation leave. The employer must maintain a statement of necessity justifying the extension.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of two hundred forty hours as follows:

(a) An employee may accumulate the vacation leave hours between the time the two hundred forty hours is accrued and his/her next anniversary date of state employment.

(b) Leave accumulated above two hundred forty hours must be used by the next anniversary date and in accordance with the employer's leave policy. If such leave is not used before the employee's anniversary date, the excess leave is automatically lost and considered to have never existed.

(c) A statement of necessity, as described in subsection (1) of this section, can only defer leave that the employee has not accrued as of the date of the statement of necessity. Any accrued leave in excess of two hundred forty hours as of the date of the statement of necessity cannot be deferred regardless of circumstances except in accordance with subsection (3) of this section. For example:

On June 15th, an employee is assigned to work on a special project. It is expected that the assignment will last six months. Due to an ambitious timeline and strict deadlines, the employee will not be able to take any vacation leave during that time.

• On June 15th, the employee's vacation leave balance is two hundred sixty hours.

• The employee accrues ten hours monthly.

• The employee's anniversary date is October 16th.

Because the employee will not be able to use leave from June 15th through December 15th the employee files a statement of necessity asking to defer the leave accrued during this time. This deferred leave will not be lost as long as the employee uses the deferred hours by their next anniversary date (October 16th of the following year).

The twenty hours of excess vacation leave the employee had on June 15th are not covered by the statement of necessity.

(3) Beginning February 29, 2020, a statement of necessity, as described in subsection (1) of this section, may be used to preserve leave acquired over two hundred forty hours between February 29, 2020, and the filing of the statement of necessity. This is effective until the expiration of proclamation 20-43, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, whichever is later.

**ITEM #7 – Sick leave**

**Staff note:** An emergency amendment to WAC 357-31-130 was filed on an emergency basis with the OCR on June 2, 2020 to allow an employer to approve an employee to use their accrued sick leave to care for a family member’s or a household member’s child when a child’s school or place of care has been closed. This amendment remains in effect until the Governor’s COVID-19 State of Emergency declaration, or any amendments thereto expires.

AMENDATORY SECTION Filed with the Office of the Code Reviser effective June 2, 2020, WSR 20-12-081. OTS 2288.3. (Emergency rule expires September 30, 2020).

**WAC 357-31-130** **When may an employee use accrued sick leave?**

The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy and in compliance with chapter 296-128 WAC.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) An employee's mental or physical illness, disability, injury or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or an employee's need for preventive medical care.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such reason.

(d) To allow an employee to provide care for a family member with a mental or physical illness, injury or health condition; care of a family member who needs medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or care for a family member who needs preventive medical care.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300 and 357-31-305.

(f) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(g) When requested as a supplemental benefit while receiving a partial wage replacement for paid family and/or medical leave under Title 50A RCW as provided in WAC 357-31-248. Leave taken under this subsection may be subject to verification that the employee has been approved to receive benefits for paid family and/or medical leave under Title 50A RCW.

(h) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(i) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(j) When an employee requests to use sick leave for the purpose of parental leave to bond with a newborn, adoptive or foster child for a period up to eighteen weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

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

(a) For condolence or bereavement;

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255; ((~~or~~))

(c) To bond with a newborn, adoptive or foster child for a period beyond eighteen weeks as allowed in subsection (1)(i) of this section. Sick leave for this purpose must be taken during the first year following the child's birth or placement. The total amount of sick leave allowed to be used, beyond subsection (1)(i) of this section must be addressed in the employer's leave policy in accordance with WAC 357-31-100; or

(d) When a child is a family member of an employee or member of an employee's household and the child's school or place of care has been closed while proclamation 20-05, issued February 29, 2020, by the governor and declaring an emergency in the state of Washington, or any amendment thereto, is in effect.

**ITEM #8 – Temporary Layoffs**

**Staff note:** On June 17, 2020 Governor Jay Inslee announced the cancellation of some state employee raises and the need for furloughs. In this announcement, the Governor directed state agencies under his authority to proceed furloughing over 40,000 state employees one day per week through July 25, 2020 and one furlough day per month from August through at least through the fall. In addition he added that employees will also be allowed to take additional voluntary unpaid furloughs. Employees may spread out the furloughs to accommodate operational needs and the interest of affected employees as long as the employee takes eight hours of furlough during the week in which they are furloughed. Due to this flexibility and the economic downturn, we are proposing to amend WAC 357-46-064 to allow employers to furlough employees up to sixty days in a calendar year to help prevent permanent layoffs.

We are also proposing to amend WAC 357-46-066 to state that an employer will normally provide an employee with seven calendar days’ notice of a temporary layoff and an employer may provide less than 7 calendars’ days’ notice if urgent budget or operational issues are present. Employers must make a reasonable effort to provide as much time as possible for temporary layoff notification. This change will allow employers to have some flexibility with the notice requirements for temporary layoffs. The intent of this amendment is not to take away the 7 days requirement entirely, employers are still required during “normal” circumstances to provide employees with a 7 day notice. However, during unprecedented times, such as the current COVID-19 pandemic we have become aware that there are some employers with specific business needs, such as employees working in hospital environments, where flexibility with the notification requirements is needed.

Lead: Caroline Kirk

**WAC 357-46-064 Are there any limits to temporary layoff?**

Under the provisions of WAC [357-46-063](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-46-063), an employer may not:

(1) Furlough an employee for more than ~~thirty~~ sixty calendar days in a calendar year; or

(2) Temporarily reduce an employee's regular work schedule to less than twenty hours a week for more than sixty calendar days in a calendar year.

The only exception to these limits is if the temporary layoff is due to the failure of congress to pass a continuing resolution or a federal budget.

### WAC 357-46-066 What is the notice requirement to temporarily layoff an employee?

An employer ~~must~~ will normally provide an ~~the~~ employee seven calendar days' notice of temporary layoff. Employers may provide less than seven calendar days’ notice if urgent budget or operational issues are present. Employers must make a reasonable effort to provide as much time as possible for temporary layoff notification. The temporary layoff notice must inform the employee of their status during temporary layoff and the expected duration of the temporary layoff. Notice of temporary layoff may be provided by using alternative methods as described in WAC [357-04-105](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-105).

In the event that a temporary layoff is implemented due to the failure of congress to pass a continuing resolution or a federal budget, an employer must provide the employee at least one calendar day's notice of temporary layoff. The temporary layoff notice must inform the employee of their status during temporary layoff. Notice of temporary layoff may be provided by using alternative methods as described in WAC [357-04-105](https://apps.leg.wa.gov/WAC/default.aspx?cite=357-04-105).

**ITEM #9– Shift Premium**

**Staff note:** As a result of the COVID-19 response, state organizations have seen a rise in the need for flexibility with employee’s schedules due to childcare needs, elder care needs and other circumstances created by the pandemic. On August 20, 2020 OFM SHR sent communication that during this time in the pandemic OFM SHR recommends non-represented employees who request a flexible work shift between the hours of 6:00 p.m. and 6:00 a.m. or to work a shift which is split with a minimum of four intervening hours not worked are required to sign a waiver to waive shift premium in accordance with WAC 357-28-190(8). A decision has been made to make this clear in WAC 357-28-190 by adding subsection (9) that employees requesting these flexible schedules are not eligible for shift premium.

Lead: Caroline Kirk

### WAC 357-28-190 When must an employee receive shift premium?

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

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

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

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

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

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

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

(a) Employees dispatched to emergency response duty under an incident command system as defined in RCW [38.52.010](http://app.leg.wa.gov/RCW/default.aspx?cite=38.52.010); and

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

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

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

(8) Employees may waive shift premium.

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

**ITEM #10 – Part-time, Temporary Rules, Non-permanent rules and RCW Cleanup**

* [RCW 41.06.070](https://apps.leg.wa.gov/RCW/default.aspx?cite=41.06.070) formerly exempted both part-time and temporary employees, as defined by the Office of Financial Management, from state civil service laws. In 2018, the legislature amended RCW 41.06.070 by removing part-time employees from the exemption; only temporary employees, as defined by OFM, are now exempt from civil service laws ([Laws of 2018, chapter 246, section 1](http://lawfilesext.leg.wa.gov/biennium/2017-18/Pdf/Bills/Session%20Laws/House/2669.SL.pdf)). The current civil service rules (Title 357 WAC) do not distinguish between part-time and temporary employees of higher education institutions.
* We are proposing the following rule amendments in order to bring the civil service rules into alignment with the new law. We are proposing to expand the current General Government non-permanent rules so that Institutions of Higher Education may use to fill non-permanent appointments.
* We are proposing to amend WACs 357-04-020, 357-04-025 and 357-04-030 need to be amended to reflect the correct references in RCW 41.06.070. Rather than citing a specific subsection, a decision was made to just cite the RCW in case the ordering of the RCW changes in the future to avoid needing to clean up the rules.

The preproposal statement of inquiry ([CR-101](https://www.ofm.wa.gov/sites/default/files/public/rulemaking/rules_dev/WSR_19-16-028_CR101.pdf)) was filed with the Office of the Code Reviser on July 26, 2019, WSR 19-16-028. We brought these rules forward at the February, March, May and June rule review meetings after finalized with impacted stakeholders at institutions of higher education.

A decision was made to delay implementation due to COVID-19 and we plan to take to a future Director’s meeting with an effective date of January 1, 2021 (an email was sent out to stakeholders on March 30, 2020).

To request a copy of these rules, please email Brandy Chinn at [rules@ofm.wa.gov](mailto:rules@ofm.wa.gov).