

AMENDATORY SECTION (Amending WSR 05-01-203, filed 12/21/04, effective 7/1/05)

**WAC 357-04-015 Who is not covered by civil service rules?** The civil service rules do not apply to positions specifically exempted in individual agency statutes, chapter 41.06 RCW, and to the following:

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

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

(3) Inmate, student, ~~((part-time,))~~ or temporary employees, and part-time professional consultants, as defined by the ~~((Washington personnel resources board))~~ director in WAC 357-04-040, 357-04-045, 357-04-050, and 357-04-055.

AMENDATORY SECTION (Amending WSR 05-01-203, filed 12/21/04, effective 7/1/05)

**WAC 357-04-020 May the director exempt other positions from civil service?** The director may provide for further exemptions for general government positions involving substantial responsibility for formulating basic agency or executive policy or involving directing and controlling program operations of an agency or a major administrative division of an agency in accordance with the provisions and procedures of RCW 41.06.070 ~~((+3))~~.

AMENDATORY SECTION (Amending WSR 05-01-203, filed 12/21/04, effective 7/1/05)

**WAC 357-04-025 What rights does a classified employee have when the position ~~((he/she))~~ the employee holds is exempted from the civil service rules?** As required by RCW 41.06.070 ~~((+3))~~ and 41.06.170, an employee holding a classified position has the following rights if the position is exempted from the application of the civil service rules:

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

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

AMENDATORY SECTION (Amending WSR 06-15-067, filed 7/13/06, effective 8/14/06)

**WAC 357-04-030 What right does an employee have to return to the classified service from exempt service?** As required by RCW 41.06.070(~~((3))~~), any employee having permanent status in a classified position who accepts an appointment in an exempt position has the right to return to classified service in accordance with WAC 357-19-195, 357-19-200, and 357-19-205. As long as the employee was not terminated from the exempt position for gross misconduct or malfeasance, the employee has the right to return to the highest class of position in which (~~(he/she)~~) the employee previously held permanent status or to a position of similar nature and salary.

AMENDATORY SECTION (Amending WSR 04-15-016, filed 7/8/04, effective 7/1/05)

**WAC 357-04-035 Who defines exempt status for student(~~(, part-time, or)~~) employees, temporary employees, and part-time professional consultants for higher education employers?** In accordance with RCW 41.06.070, the (~~(board)~~) director defines exemptions for student(~~(, part-time or)~~) employees, temporary employees, and part-time professional consultants. Higher education employers must use the definitions in WAC 357-04-040, 357-04-045, and 357-04-050 as the criteria for identifying positions in these categories of employment that are exempt from civil service rules.

AMENDATORY SECTION (Amending WSR 10-11-021, filed 5/10/10, effective 6/10/10)

**WAC 357-04-045 Which (~~(part-time or)~~) temporary employees of higher education employers are exempt from civil service rules?** (~~(Persons employed to work one thousand fifty hours or less in a twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.)~~) (1) Temporary higher education employees are exempt from civil service rules under the following circumstances:

- (a) The employee is employed twelve consecutive months or less;
- (b) The employee is employed for one thousand fifty hours or less in that same twelve consecutive month period which begins from the original date of hire or January 1, 2022, whichever is later; and
- (c) The employee is limited to one appointment only with the same higher education employer that meets the criteria in (a) and (b) of this subsection.

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

(3) Temporary employees who are (~~(either)~~) exempt under (~~(this)~~) subsection (~~(or exceptions authorized under WAC 357-19-440,)~~) (1) of this section and who work more than three hundred fifty hours in a twelve consecutive month period from the original date of hire or Jan-

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

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

## NEW SECTION

**WAC 357-04-046 May a higher education employer make subsequent appointments for temporary employees who have exhausted their temporary appointment as identified in WAC 357-04-045?** Higher education employers may hire employees who have exhausted their temporary appointment as identified in WAC 357-04-045 if the employee is appointed as a nonpermanent or permanent employee in accordance with chapter 357-19 WAC.

**WAC 357-04-055 Who defines exempt status for student(~~(, part-time,)~~) or temporary employees; part-time professional consultants; and inmates for general government employers and what types of positions are exempt?** In accordance with RCW 41.06.070, the ~~((board))~~ director defines exemptions for student(~~(, part-time)~~) or temporary employees; part-time professional consultants; and inmates. The following types of general government employees are exempt from civil service rules:

- (1) Part-time local health officers;
- (2) ~~((Persons employed on a part-time, or temporary basis for medical, nursing or other professional service and who are not engaged in the performance of administrative duties;~~
- ~~(3) Part-time or))~~ Temporary employees who are enrolled as full-time students in recognized educational institutions and whose employment is largely to provide a training opportunity, and all temporary employees not in federal grant-in-aid programs;
- ~~((4))~~ (3) Patient and resident help in general government residential facilities;
- ~~((5))~~ (4) Inmate help in general government correctional facilities; and
- ~~((6))~~ (5) Skilled and unskilled labor employed temporarily on force account; construction and maintenance projects; or employed on temporary seasonal single phases of agricultural production or harvesting; or as determined by the director to be equivalent.