

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-360 For what reasons may ((a-general-government)) an employer make nonpermanent appointments? ((A-general-government)) An employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

- (1) A permanent employee is absent from the position;
- (2) The ((agency)) employer is recruiting to fill a vacant position with a permanent appointment;
- (3) The ((agency)) employer needs to address a short-term immediate workload peak or other short-term needs;
- (4) The ((agency)) employer is not filling a position with a permanent appointment due to the impending or actual layoff of a permanent employee(s); or
- (5) The nature of the work is sporadic and does not fit a particular pattern.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-365 When is it inappropriate for ((a-general-government)) an employer to fill a position with a nonpermanent appointment to address a short-term immediate workload peak or other short-term needs? ((General-government)) Employers must not fill a position with a nonpermanent appointment under the provisions of WAC 357-19-360(3) when the work of the position is scheduled, ongoing and permanent in nature. If at any time during a nonpermanent appointment, a short-term workload peak or other short term need becomes ongoing and permanent in nature, the employer must take action to fill the position on a permanent basis.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-370 How long ((can-a-general-government)) may a non-permanent appointment last? (1) ((Agencies)) Employers are encouraged to limit the duration of a nonpermanent appointment to twelve months from the appointment date.

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

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-373 What notification must ((a-general-government)) an employer give a nonpermanent appointee? (1) Upon appointment, all nonpermanent appointees must be notified in writing of the conditions of their appointment and/or upon any subsequent change to the conditions of their appointment.

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

(a) The reason for the nonpermanent appointment in accordance with WAC 357-19-360;

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

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

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

(e) The right to request remedial action as provided in WAC 357-19-425.

NEW SECTION

WAC 357-19-376 May an employee receive consecutive higher education nonpermanent appointments? Individuals may receive consecutive nonpermanent appointments as long as any subsequent appointment is to a different position.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-377 What provisions apply to ((general-government)) nonpermanent appointments? ((General-government)) Nonpermanent appointments are subject to the following provisions:

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

(2) Nonpermanent appointments may be filled on a noncompetitive basis which means the employer is not required to comply with the rules on recruitment, assessment((τ)) and certification as provided in chapter 357-16 WAC.

(3) Nonpermanent appointments may be filled using the competitive process specified in chapter 357-16 WAC as long as the eligible applicant indicates a willingness to accept a nonpermanent appointment.

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

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-385 ((Can)) May a permanent employee accept a nonpermanent appointment? A permanent employee may accept a ((general government)) nonpermanent appointment.

AMENDATORY SECTION (Amending WSR 05-12-077, filed 5/27/05, effective 7/1/05)

WAC 357-19-388 What notices must employees and their employers provide each other when an employee accepts a nonpermanent appointment? Employees who accept a nonpermanent appointment must give their current employers at least fourteen calendar days' notice before moving to a nonpermanent appointment. The current ((agency)) employer and employee may agree to waive or shorten the notice period.

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

For purposes of this rule, written notice may be provided using alternative methods such as email, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

AMENDATORY SECTION (Amending WSR 06-15-066, filed 7/13/06, effective 8/14/06)

WAC 357-19-400 ((Can the agency)) May an employer convert a ((general government)) nonpermanent appointment to a probationary or trial service appointment? (1) When an ((agency)) employer uses a competitive process to make a nonpermanent appointment to fill a position in the absence of a permanent employee or fill a position nonpermanently due to the impending or actual layoff of a permanent employee(s), the ((agency)) employer may change the status of the appointment to probationary or if the employee held permanent status prior to the nonpermanent appointment to trial service if:

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

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

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

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-420 What are the appeal rights of ((general government)) nonpermanent employees? Employees without permanent status appointed to ((general government)) nonpermanent appointments have no appeal rights with the exception of remedial action as provided in WAC 357-19-430.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-425 How does a ((general government)) nonpermanent employee request remedial action? Requests for remedial action by nonpermanent employees must be received in writing within thirty days as provided in chapter 357-49 WAC. Following a director's review of the remedial action request, an employee may file exceptions to the director's decision in accordance with chapter 357-52 WAC.

AMENDATORY SECTION (Amending WSR 05-01-206, filed 12/21/04, effective 7/1/05)

WAC 357-19-430 When may the director take remedial action for ((general government)) nonpermanent employees and what does remedial action include? The director may take remedial action to confer permanent status, set base salary, and establish seniority when it is determined that the following conditions exist:

- (1) The employer has made an appointment that does not comply with rules on nonpermanent appointment; or
- (2) The duration of a nonpermanent appointment as defined in WAC 357-19-360 (1) through (4) has exceeded twenty-four months without director approval.

AMENDATORY SECTION (Amending WSR 05-01-192, filed 12/21/04, effective 7/1/05)

WAC 357-19-435 For what reasons may a higher education employer ((make)) appoint an individual to a temporary appointment? A higher education employer may ((make)) appoint an individual to 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)) a twelve consecutive month period from the original date of hire or ((October 1, 1989)) January 1, 2022, 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 for a period of less than six consecutive months. In accordance with WAC

357-19-441(2), temporary appointments under this subsection are not exempt from civil service rules.

AMENDATORY SECTION (Amending WSR 05-01-192, filed 12/21/04, effective 7/1/05)

WAC 357-19-440 What provisions govern higher education temporary appointments? (1) Temporary appointments may be made without regard to rules on recruitment, assessment(~~(7)~~) and certification as provided in chapter 357-16 WAC.

(2) Each higher education employer must develop for director approval a procedure which indicates the employer's system for controlling and monitoring (~~(exempt part-time and)~~) temporary positions as identified in WAC 357-04-045. The procedure must include a mechanism to access and report hours worked by an individual temporary employee.

(3) (~~(A higher education employer may petition the director in writing for approval of exceptions to the one thousand fifty hours threshold as specified in WAC 357-19-435(1).~~

~~(4))~~) No temporary appointment shall take the place of employees laid off under the provisions of WAC 357-46-010.

AMENDATORY SECTION (Amending WSR 05-01-192, filed 12/21/04, effective 7/1/05)

WAC 357-19-450 When may the director take remedial action for individuals in higher education temporary appointments and what does remedial action include? For individuals in higher education temporary appointments under the provisions of WAC 357-19-435(1), the director may take remedial action to confer permanent status, set base salary(~~(7)~~) and establish seniority when it is determined that the following conditions exist:

(1) The (~~(employee)~~) individual has worked in one or more temporary positions as identified in WAC 357-04-045 for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or (~~(October 1, 1989)~~) January 1, 2022, 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.)

(2) The position or positions are subject to civil service.

(3) The employee has not taken part in any willful failure to comply with these rules.