

AMENDATORY SECTION (Amending WSR 09-11-064, filed 5/14/09, effective 6/16/09)

WAC 357-19-073 What happens if an employee who is serving a probationary period accepts a nonpermanent appointment? (1) If an employee who is serving a probationary period accepts a nonpermanent appointment for reasons specified in WAC 357-19-360(1), 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 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.

(2) If a general government employee who is serving a probationary period is redeployed into a nonpermanent appointment for reasons specified in WAC 357-19-360(2), the employer must return the employee to the same position held prior to the redeployment at the conclusion of the redeployment. Upon return to their previous position, the employee's base salary must be set at the step the employee would be at if they had not left the position.

(3) 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 which are closely related, the employer may count the time worked in the nonpermanent appointment towards the probationary period.

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

WAC 357-19-080 What happens if a permanent employee accepts a nonpermanent appointment during a trial service period? (1) If a permanent employee accepts a nonpermanent appointment for reasons specified in WAC 357-19-360(1) during a trial service period and the employer has agreed to return the employee to a position at the conclusion of the nonpermanent appointment, the employer may:

~~((1))~~ (a) Suspend the trial service period and allow the employee to resume the trial service period when the employee returns from the nonpermanent appointment;

~~((2))~~ (b) Require the trial service period to start over when the employee returns from the nonpermanent appointment; or

~~((3))~~ (c) Count the time worked in the nonpermanent appointment towards the trial service period.

(2) If a permanent general government employee is redeployed into a nonpermanent appointment for reasons specified in WAC 357-19-360(2) during a trial service period, the employer must return the employee to the same position held prior to the redeployment at the conclusion of the redeployment and the employer must count time worked in the nonpermanent appointment towards the trial service period for the permanent position. Upon return to their previous position, the employ-

ee's base salary must be set at the step the employee would be at if they had not left the position.

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

WAC 357-19-085 Does time worked in a nonpermanent appointment count towards the probationary or trial service period for a permanent position? (1) If an employee in a nonpermanent appointment for reasons specified in WAC 357-19-360(1) is subsequently appointed permanently to the same or a similar position, the employer may count time worked in the nonpermanent appointment towards the probationary or trial service period for the permanent position.

(2) If a general government employee in a nonpermanent appointment for reasons specified in WAC 357-19-360(2) is subsequently appointed permanently to the same or similar position, the employer may count time worked in the nonpermanent appointment towards the probationary period and must count time worked in the nonpermanent appointment towards the trial service period for the permanent position.

NEW SECTION

WAC 357-19-179 What provisions apply when a general government employee in classified service is redeployed to a different geographic area? When a general government employee in classified service is redeployed to a position in a different geographic area, the following applies:

(1) If the redeployment is within a reasonable commute of the employee's domicile, they may be redeployed without the employee's agreement.

(2) If the redeployment is outside of a reasonable commute of the employee's domicile, they may only be redeployed with the employee's consent.

For purposes of this section, the general government employer initiating the redeployment defines what is within a reasonable commute.

AMENDATORY SECTION (Amending WSR 05-12-094, filed 5/27/05, effective 7/1/05)

WAC 357-19-353 What return rights must an employer provide to a ((permanent)) WGS employee who accepts an acting WMS appointment? (1) At a minimum, the employer must provide the permanent employee who is leaving a WGS position with the employer to accept a WMS acting appointment for reasons specified in WAC 357-58-265 (1)(a) access to the employer's internal layoff list at the conclusion of the acting appointment. If the employer agrees to return the employee to a position, the employee must notify the employer of ((his/her)) their intent to return to a permanent position at least ((fourteen-(14))) 14

calendar days in advance of return unless the employee and employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

(2) A general government employer must return an employee who was redeployed for reasons specified in WAC 357-58-265 (1)(b) to the same WGS position held prior to the redeployment at the conclusion of the redeployment. Upon return to their previous position, the employee's base salary is set at the step the employee would be at if they had not left the position.

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

WAC 357-19-360 For what reasons may an employer make nonpermanent appointments? (1) An employer may fill a position with a nonpermanent appointment when any of the following conditions exist:

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

(2) A general government employer may fill a position with a nonpermanent appointment when the director has given approval to redeploy an employee in accordance with WAC 357-04-124.

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

WAC 357-19-365 When is it inappropriate for an employer to fill a position with a nonpermanent appointment to address a short-term immediate workload peak or other short-term needs? Employers must not fill a position with a nonpermanent appointment under the provisions of WAC 357-19-360~~((3))~~ (1)(c) 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 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

WAC 357-19-370 How long may a nonpermanent appointment last?

(1) Employers are encouraged to limit the duration of ~~((a))~~ nonpermanent appointments for reasons specified in WAC 357-19-360(1) to ~~((twelve))~~ 12 months from the appointment date.

(2) A nonpermanent appointment for a reason specified in WAC 357-19-360 (1) ~~((through (4)))~~ (a) through (d) **must not** exceed ~~((twenty-four))~~ 24 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))~~ 24-month limit. On-the-job training is not considered a formal training program for purposes of this rule.

(3) A nonpermanent appointment specified in WAC 357-19-360(2) must not exceed three months unless a longer duration is mutually agreed upon between the employee and general government employer(s) and conditions continue to exist in accordance with WAC 357-04-124. Appointments must not exceed 24 months unless the director has approved an extension of the appointment.

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

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 for reasons specified in WAC 357-19-360(1) must give their current employers at least ~~((fourteen))~~ 14 calendar days' notice before moving to a nonpermanent appointment. The current 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 employer must notify the employee in writing of 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 05-12-095, filed 5/27/05, effective 7/1/05)

WAC 357-19-395 What return rights must an employer provide to ~~((a permanent))~~ an employee who accepts a nonpermanent appointment?

(1) For nonpermanent appointments made for reasons specified in WAC 357-19-360(1) at a minimum, the employer must provide the permanent employee who is leaving ~~((his/her))~~ their position with the employer to accept a nonpermanent appointment access to the employer's internal layoff list at the conclusion of the nonpermanent appointment. If the employer agrees to return the employee to a position, the employee

must notify the employer of ((his/her)) their intent to return to a permanent position at least ((fourteen)) 14 calendar days in advance of return unless the employee and employer agree otherwise. Failure of the employee to provide proper written notice to the employer may result in forfeiture of any return rights. Upon return to a permanent position, the employee's salary must be determined by the employer's salary determination policy.

(2) For nonpermanent appointments made for reasons specified in WAC 357-19-360(2), the general government employee must be returned to the same position held prior to the redeployment at the conclusion of the redeployment. Upon return to their previous position, the employee's base salary must be set at the step the employee would be at if they had not left the position.

AMENDATORY SECTION (Amending WSR 21-14-042 and 22-01-153, filed 6/30/21 and 12/15/21, effective 7/1/22)

WAC 357-19-430 When may the director take remedial action for 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)(a) through ((+4)) (d) and 357-19-360(2) has exceeded ((twenty-four)) 24 months without director approval.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 357-19-165 What is the difference between reassignment and transfer?