

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

- (1) Setting base salary for new employees;
- (2) Adjusting timing and/or amount of regularly scheduled increment increases in accordance with WAC 357-28-070;
- (3) Adjusting base salary to address issues related to recruitment, retention, or other business-related reasons in accordance with WAC 357-28-090;
- (4) Increasing base salary in accordance with WAC 357-28-110 when an employee ((promotes)) is promoted to a position in a new class;
- ((3)) (5) Increasing base salary in accordance with WAC 357-28-110 when an employee ((promotes)) is promoted to a permanent position while in a nonpermanent appointment;
- ((4)) (6) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;
- ((5)) (7) Setting base salary in accordance with WAC 357-28-135 when an employee is appointed from an internal or statewide layoff list to a position with a lower range maximum than the position from which the employee was laid off;
- ((6)) (8) Setting base salary ((when)) higher than step M in accordance with WAC 357-28-120 for an employee occupying a position that is reallocated to a (position with a) class with the same or lower salary range ((and the employee's previous base salary is above step M of the new salary range as permitted in WAC 357-28-120. Under no circumstance should an employee's salary exceed their previous base salary));
- ((7)) (9) Setting base salary in accordance with WAC 357-28-155 when an employee ((demotes for reasons other)) is demoted for any other reason than accepting a demotion in lieu of layoff or ((accepting a demotion when a position is reallocated)) the demotion is a result of reasonable accommodation;
- ((8)) (10) Setting base salary in accordance with WAC 357-28-150 when an employee is reverted following a voluntary demotion;
- ((9)) (11) Authorizing ((premiums for)) additional pay to support recruitment and/or retention ((as provided)) for a specific position in accordance with WAC 357-28-095 ((and 357-28-100));
- ((10)) (12) Setting base salary and progression based on recruitment and retention rather than years of experience for the nurse special pay salary schedules, if ((allowed by the employer)) applicable;
- ((11)) (13) Compensation for employees being called back to work in accordance with WAC 357-28-185;
- (14) When an employee must receive shift premium in accordance with WAC 357-28-190;
- (15) When an employee must receive holiday premium in accordance with WAC 357-28-200;
- (16) When an employee must receive standby pay in accordance with WAC 357-28-205;
- (17) When an employee must receive overtime compensation in accordance with WAC 357-28-255;

(18) Setting base salary in accordance with WAC 357-19-340 when an employee returns to a permanent position from a project position;

~~((12))~~ (19) Setting base salary in accordance with WAC 357-19-353 when ~~((an))~~ a WGS employee returns to a permanent position from an acting WMS appointment; and

~~((13))~~ (20) Setting base salary in accordance with WAC 357-19-395 when an employee returns to a permanent position from a nonpermanent appointment.

AMENDATORY SECTION (Amending WSR 13-19-043, filed 9/13/13, effective 10/18/13)

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

AMENDATORY SECTION (Amending WSR 23-24-022, filed 11/28/23, effective 1/1/24)

WAC 357-28-084 May an employee be appointed to step M upon demotion (voluntary or involuntary)? An employee cannot be appointed to step M upon demotion (voluntary or involuntary) unless:

(1) The employee was at step M of the salary range ~~((from which))~~ the employee is ~~((demoting))~~ demoted from;

(2) The employee was previously at step M in the salary range of the class the employee is ~~((demoting))~~ demoted to;

(3) The demotion is a result of a reasonable accommodation;

(4) The employee was appointed to a position due to layoff action in accordance with WAC 357-28-135; or

(5) It is for recruitment and retention or other business-related reasons in accordance with WAC 357-28-090.

AMENDATORY SECTION (Amending WSR 17-18-025, filed 8/28/17, effective 10/2/17)

WAC 357-28-090 ((Can)) May an employer adjust an employee's base salary within the employee's current salary range for recruitment, retention, or other business-related reasons? ~~((The))~~ An employer may adjust an employee's base salary up to step M within the salary range to address issues ~~((that are))~~ related to recruitment, retention, or other business-related reason, such as equity, alignment, or competi-

tive market conditions in accordance with the employer's salary determination policy.

AMENDATORY SECTION (Amending WSR 19-11-136, filed 5/22/19, effective 7/1/19)

WAC 357-28-095 ((Can)) May an employer authorize additional pay to support recruitment and/or retention of a position? (1) Employers may authorize additional pay to support ((the)) recruitment and/or retention of the incumbent or candidate for a specific position in accordance with the employer's salary determination policy. At the employer's discretion, up to a ((fifteen)) 15 percent premium may be added to the employee's base salary or paid on a lump sum basis as described in subsection (2) of this section. An employee may not receive more than ((fifteen)) 15 percent of ((his/her)) their annual base salary over a ((twelve)) 12-month period under the provisions of this section.

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

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

AMENDATORY SECTION (Amending WSR 20-06-011, filed 2/20/20, effective 5/1/20)

WAC 357-28-110 Must an employee who is promoted receive a salary increase? An employee who is promoted must advance to a step of the range for the new class that is nearest to five percent above their prepromotional salary, not to exceed step M of the salary range. If the employee's prepromotional salary is set above the maximum of the salary range in accordance with WAC 357-28-040, the promotional increase will be based off of the maximum of the salary range of the class the employee is promoting from. In accordance with the employer's salary determination policy, the employer may grant a higher salary increase if:

(1) Significant increases in duties and responsibilities, as documented by the employer, warrant greater compensation;

(2) The increase is necessary for internal salary alignment, retention of the employee, or other documented business needs in accordance with WAC 357-28-090; or

(3) The increase is necessary to bring the employee to the minimum of the salary range for the position.

AMENDATORY SECTION (Amending WSR 23-24-022, filed 11/28/23, effective 1/1/24)

WAC 357-28-120 What is the base salary of an employee occupying a position that is reallocated to a class with the same or lower salary range? An employee occupying a position that is reallocated to a class with the same or lower salary range must be placed within the new salary range at an amount equal to their previous base salary. If the previous base salary exceeds the new salary range, the employee's base salary must be set equal to step M of the salary range for the reallocated position. The employee's base salary may be set higher than step M if allowed by the employer's salary determination policy, but not exceeding the previous base salary, until such time as the employee vacates the position or their salary falls within the new salary range. Under no circumstances should an employee's salary exceed their previous base salary.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-185 What is the requirement for employers to compensate employees for being called back to work? (1) If an overtime-eligible employee has finished the work shift and has left the worksite or is in paid leave status and is called to return to work outside of regularly scheduled hours to handle emergency situations which could not be anticipated, a minimum of two hours' pay must be guaranteed. The minimum of two hours of pay and any hours worked in excess of two hours must be compensated in accordance with WAC 357-28-255 if applicable.

(2) An employee on standby status called to return to work does not qualify for ((call back)) callback pay.

(3) The appointing authority may cancel a ((call back)) callback notification to work extra hours at any time, but cancellation must not waive the guarantee of two hours of ((call back)) callback pay.

(4) Overtime-exempt employees and employees assigned to the law enforcement overtime eligibility designation are not paid for being called back to work unless the employer authorizes payment.

(5) Compensation under the provisions of this section must be in accordance with the employer's salary determination 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; 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.

AMENDATORY SECTION (Amending WSR 22-24-025, filed 11/30/22, effective 1/1/23)

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 regularly 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.;

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

(c) An employee is regularly scheduled to work a day shift but is assigned to work a night or evening shift in which the majority of hours worked are between 6:00 p.m. and 6:00 a.m.

(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 and must be addressed in the employer's salary determination policy.

(5) Compensation under the provisions of this section must be in accordance with the employer's salary determination 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; 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), (b), and (c) of this section will not be eligible for shift premium.

AMENDATORY SECTION (Amending WSR 05-12-084, filed 5/27/05, effective 7/1/05)

WAC 357-28-200 When must an employee receive holiday premium ((pay))? (1) Overtime-eligible employees who are directed to work on a designated holiday as listed in chapter 357-31 WAC must receive their regular rate of pay for the holiday. In addition, employees must

receive premium ((pay)) at the overtime rate for all hours worked on the holiday. The employer may offer compensatory time off in lieu of monetary payment.

(2) Overtime-exempt employees do not qualify for holiday premium pay unless the employer determines otherwise.

(3) Compensation under the provisions of this section must be in accordance with the employer's salary determination 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; 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.

AMENDATORY SECTION (Amending WSR 05-01-205, filed 12/21/04, effective 7/1/05)

WAC 357-28-205 When must an employee receive standby pay? (1)

Overtime-eligible employees required to restrict off-duty activities to be immediately available for duty must be compensated for time spent in standby status. Overtime-exempt employees are not eligible for standby pay unless the employer determines otherwise.

(2) Compensation under the provisions of this section must be in accordance with the employer's salary determination 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; 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.

AMENDATORY SECTION (Amending WSR 25-12-067, filed 5/30/25, effective 7/1/25)

WAC 357-28-255 What constitutes overtime for an overtime-eligible employee? (1) The following conditions constitute overtime for overtime-eligible employees:

(a) Work in excess of 40 hours in one workweek, except for law enforcement positions or hospital personnel assigned to a 14-day schedule.

(i) For hospital personnel assigned to a 14-day schedule, work in excess of eight hours in any workday or 80 hours in a 14-day period constitutes overtime.

(ii) For law enforcement positions, work in excess of the 160-hour, 28-day work period constitutes overtime.

(b) Work on a holiday per WAC 357-28-200.

(c) For full-time employees, work on a scheduled day off when assigned by the employer.

(2) All paid holidays, including the use of holiday credit during the employee's regular work schedule, **are** considered time worked. Leave with pay during the employee's regular work schedule is **not** con-

sidered time worked for purposes of determining overtime eligibility, except as provided in WAC 357-28-265.

(3) When an overtime-eligible employee experiences a schedule change which causes an overlap in workweeks and requires work in excess of 40 hours in either the previous or current workweek, the employee must receive overtime compensation.

(4) Compensation under the provisions of this section must be in accordance with the employer's salary determination 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; and

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