

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

**WAC 357-16-155 Can an ~~((eligible's))~~ individual's name be removed from an applicant or candidate pool for a class or all classes in a class series?** An employer ~~((or the director's office))~~ may disqualify an individual by removing ~~((or directing the removal of))~~ the individual's name from an applicant and/or candidate pool for a class or all classes in a class series at ~~((anytime))~~ any time for good and sufficient reason.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

**WAC 357-16-160 Must an applicant or candidate who has been removed for good and sufficient reason per WAC 357-16-155 be notified of the removal?** When an applicant or candidate is removed from an applicant or candidate pool for good and sufficient reason per WAC 357-16-155, the employer ~~((or the director's office))~~ must notify the applicant or candidate at the time of the removal. The notice must be in writing and specify the reason for the removal. The notice must explain the right to request a review of the removal under the provisions of WAC 357-16-170, 357-16-175 and 357-16-180. For purposes of this rule, written notice may be provided using alternative methods such as e-mail, campus mail, the state mail service, or commercial parcel delivery in accordance with WAC 357-04-105.

AMENDATORY SECTION (Amending WSR 06-03-071, filed 1/12/06, effective 2/13/06)

**WAC 357-16-170 Can an applicant or candidate request a review of ~~((his/her))~~ their examination results or the removal of ~~((his/her))~~ their name from an applicant or candidate pool?** An applicant or candidate may request a review of ~~((his/her))~~ their examination results or the removal of ~~((his/her))~~ their name from an applicant or candidate pool when the removal is due to good and sufficient reason under the provisions of WAC 357-16-155.

AMENDATORY SECTION (Amending WSR 11-23-054, filed 11/10/11, effective 12/13/11)

**WAC 357-16-175 ~~((To whom and by))~~ When must an applicant or candidate request a review of the results of an examination or removal from an applicant or candidate pool?** ~~((1) If the employer is responsible for the assessment process, requests for reviews of examination results under the provisions of WAC 357-16-170 must be made to the employer. If the department of enterprise services is responsible for~~

~~the assessment process, requests for reviews of examination results under the provisions of WAC 357-16-170 must be made under the provisions of WAC 357-49-010.~~

~~(2) If the employer is responsible for the removal of an individual's name from an applicant or candidate pool for good and sufficient reason, the request for review under the provisions of WAC 357-16-170 must be made to the employer. If the director's office is responsible for the removal of an individual's name from an applicant or candidate pool for good and sufficient reason, the request for review will be under the provisions of WAC 357-49-010.~~

~~(3)) If an applicant or candidate requests a review of the results of an examination or removal from an applicant or candidate pool, the request ((for a review)) must be received at the employer's office ((or the director's office)) within twenty calendar days following notice of the action for which a review is requested.~~

AMENDATORY SECTION (Amending WSR 14-24-023, filed 11/21/14, effective 12/22/14)

**WAC 357-49-010 For what actions ((ean)) may an individual request a director's review?** An individual may request a director's review of:

~~(1) ((If the department of enterprise services is responsible for the assessment process, an applicant or candidate may request a director's review of his/her examination results. If the director's office is responsible for the removal of his/her name from an applicant or candidate pool as specified in WAC 357-16-175 the individual may request a director's review. Director review decisions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are final and not subject to further review or appeal.~~

~~(2) An individual may request a director's review of the removal of his/her name from a layoff list as specified in WAC 357-46-145.~~

~~(3) An employee may request a director's review of the following:~~

~~(a)) Allocation or reallocation per WAC 357-13-080; ((or~~

~~(b) Performance evaluation process or procedure per WAC 357-37-080.~~

~~(4) An individual may request the director review his/her request for))~~

~~(2) Remedial action per WAC 357-19-430 or 357-19-450. Requests for remedial action must be received within thirty calendar days of the date the individual could reasonably be expected to have knowledge of the action giving rise to violation of the nonpermanent appointment or temporary appointment rules((-~~

~~(5) An employee may not request a director's review of:~~

~~(a) An alleged violation of civil service laws or rules including those pertaining to layoff, except for));~~

~~(3) Removal of ((his/her)) an individual's name from a layoff list as ((provided in subsection (2) of this section)) specified in WAC 357-46-145; or~~

~~((b) The actions of reduction, dismissal, suspension, demotion or separation.))~~

~~(4) Performance evaluation process or procedure per WAC 357-37-080.~~

NEW SECTION

**WAC 357-49-013 What actions are not subject to a director's review?** The following actions are not subject to a director's review:

(1) Alleged violation of civil service rules including those pertaining to layoff, except for removal of an individual's name from a layoff list as provided in WAC 357-49-010(3); or

(2) Actions of reduction, dismissal, suspension, demotion or separation.

AMENDATORY SECTION (Amending WSR 05-01-183, filed 12/21/04, effective 7/1/05)

**WAC 357-49-015 How does an individual or employee request a director's review?** ~~((1))~~ Director's review requests must be filed ~~((in writing at))~~ with the ~~((office of the director.~~

~~(2) Review requests must include:~~

~~(a))~~ director's office. Review requests must include:

~~(1) The requestor's name ((and)), address ((of the employee, applicant or candidate)) and telephone number;~~

~~((b))~~ (2) The name of the employer that took the action for which a review is requested;

~~((c) A)~~ (3) If applicable, the employee representative's name, address and telephone number ((at which the employee, applicant or candidate can be reached;

~~(d))~~;

(4) For allocations and reallocations, the job classification or position of the employee;

~~((e))~~ (5) A short statement of the grounds or reasons for the request((, and if applicable, the rule(s) the employee believes has been violated)); and

~~((f))~~ (6) A short statement of the relief or remedy sought by the ((employee, applicant or candidate.

~~(3) The employee, applicant or candidate is responsible for notifying the director of any change in address or telephone number. Employees, applicants or candidates who are represented shall include the name, address and telephone number of their representative)) requestor.~~

#### NEW SECTION

**WAC 357-49-0150 What happens if the individual requesting a director's review does not submit all the information required by WAC 357-49-015?** (1) When the director or designee receives a request for review, the director or designee reviews the document(s) to determine whether the information required by this section has been provided.

(2) If any of the required information is not provided with the request for review, the director or designee notifies the requestor and instructs the requestor to provide the missing information and sends a copy of the notice to all parties.

(3) The requestor must provide the missing information to the director or designee and the requestor's employer, if applicable, as requested within twenty-one calendar days of the date the notification is mailed.

(4) If the requestor fails to comply with the requirements of this section, the director or designee may dismiss the request for review.

NEW SECTION

**WAC 357-49-0152 Who is responsible to notify the director or designee when there is a change in address, telephone number or representation?** The requestor is responsible for notifying the director or designee of their change in address, telephone number or representation.

NEW SECTION

**WAC 357-49-0154 What actions will the director or designee perform once the request for a director's review is received?** Once the request for a director's review is received, the director or designee will send acknowledgment including:

- (1) Case number;
  - (2) Instructions on how to prepare and submit the exhibits;
  - (3) Information on how to expedite the allocation review process;
- and
- (4) Any additional information needed.

NEW SECTION

**WAC 357-49-0156 What documents must an employer provide when a request for director's review of an allocation or reallocation is filed?** (1) The employer must provide all documents considered during its review. For allocation or reallocation reviews, the documents must include:

- (a) Employee's position review request or equivalent;
  - (b) Supervisor's statement section of the position review request or equivalent;
  - (c) Employee's current position description form;
  - (d) Organizational chart containing the employee's position;
  - (e) Employer's decision letter; and
  - (f) All other documents considered during the review.
- (2) All documents must be provided to the requestor and the requestor's representative, if applicable.
- (3) The director or designee may request additional information at any time.

NEW SECTION

**WAC 357-49-0158 What additional documents may the requestor submit when a request for director's review of an allocation or reallocation is filed?** The requestor may submit additional documents that are not duplicates of documents already provided. The additional documents must be relevant to the time period under review.

NEW SECTION

**WAC 357-49-016 What process is used to conduct a director's review?** (1) The director's review is an informal process conducted by the director or designee.

(2) The review may be conducted by review of written documents, in person, by telephone or by other electronic means as determined by the director or designee.

(3) If the review is conducted by telephone, in person or by other electronic means, the director or designee shall prepare an official audio record of the review. A copy of the audio recording may be ordered from the director for a reasonable charge.

(4) The director or designee shall prepare a record of the documents reviewed and issue a written determination.

NEW SECTION

**WAC 357-49-0165 Which director's review determinations may be appealed?** The following director's review determinations may be appealed to the personnel resources board:

(1) Allocation or reallocation per WAC 357-13-080;

(2) Removal of an employee's name from a layoff list as specified in WAC 357-46-145; and

(3) Remedial action request per WAC 357-49-010(2).

AMENDATORY SECTION (Amending WSR 05-19-011, filed 9/8/05, effective 10/10/05)

**WAC 357-49-018** (~~((Does an individual or an employer have))~~) Who has the right to appeal the results of a director's review ((to the board)) determination? (~~((Except as provided in WAC 357-49-010(1),))~~) Either party may appeal ((the results of the director's review to the board by filing written exceptions to)) the director's determination ((in accordance with chapter 357-52 WAC. In accordance with WAC 357-52-010, written exceptions for appeals of allocation or reallocation are filed:

~~(1) Through December 31, 2005, with personnel appeals board; and~~

~~(2) As of January 1, 2006, with personnel resources board))~~ to the personnel resources board for the actions listed in WAC 357-49-0165 by filing written exceptions in accordance with chapter 357-52 WAC.

AMENDATORY SECTION (Amending WSR 05-19-011, filed 9/8/05, effective 10/10/05)

**WAC 357-49-022 Who has the burden of proof in a director's review?** ~~The ((individual or employee requesting the director's review)) requestor~~ has the burden of proof in a director's review.

AMENDATORY SECTION (Amending WSR 06-03-070, filed 1/12/06, effective 2/13/06)

**WAC 357-49-023 For purposes of this chapter, how must ((written)) documents be filed with the director?** (1) ~~Filing ((papers for director's review requests. Papers that must be filed with the director for))~~ by mail: Director's review requests are considered ((to be)) filed ((only)) when ((the papers are actually)) received in the director's review office in Olympia, Washington.

(2) ~~Filing ((papers for director's review requests by telephone facsimile.))~~ by fax:

(a) ((Written)) ~~Documents ((filed with the director for review requests by telephone facsimile))~~ by fax are considered ((received)) filed when a legible copy of the documents is ((reproduced on the director's telephone facsimile equipment in the director's review office)) received. If transmission begins after ((customary)) office hours, ((which are)) 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, the document will be deemed filed on the next business day.

(b) ((Any)) ~~Documents ((filed with the director by telephone facsimile should be preceded))~~ by fax must have a cover page identifying the addressee; the ((party)) person making the transmission, including the address, telephone and ((telephone facsimile number of such party)) fax number; the review to which the document relates; the date of transmission; and the total number of pages included in the transmission.

(c) The ((party)) person attempting to file ((papers by telephone facsimile)) by fax bears the risk that the papers ((will)) may not be timely received or legibly printed, regardless of the cause. If the ((telephone facsimile)) fax is not legible, it will not be considered ((as if it had never been)) sent.

~~((d) The original of any document filed by telephone facsimile should be mailed to the director within twenty four hours of the time that the telephone facsimile was sent.~~

(3) ~~The filing of papers for director's review requests)~~ (3) Filing by electronic mail ((("))e-mail((")) ((is not authorized without the express prior approval of the director, and only under such circumstances as the director allows)): If the document is sent after office hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays, the document will be deemed filed on the next business day.

AMENDATORY SECTION (Amending WSR 05-19-011, filed 9/8/05, effective 10/10/05)

**WAC 357-49-035** **When does a director's review determination become final?** (~~((1) Director review decisions regarding the removal of an individual's name from an applicant or candidate pool or an individual's examination results are not subject to further review or appeal and become final when notice of the determination is served on the parties.~~

~~(2) For all other director's determinations,))~~ If no exceptions are filed, the determination becomes final thirty calendar days after notice of the determination is served on the parties.

NEW SECTION

**WAC 357-49-040** **How are director's review determinations served?** Service of director's review determinations is accomplished as provided in WAC 357-04-105.

REPEALER

The following sections of the Washington Administrative Code are repealed:

- |                |                                                                                                                           |
|----------------|---------------------------------------------------------------------------------------------------------------------------|
| WAC 357-49-017 | When is a director's review part of the appeal process?                                                                   |
| WAC 357-49-019 | What civil service rules govern the director's review process?                                                            |
| WAC 357-49-020 | What process is used to conduct a director's review?                                                                      |
| WAC 357-49-025 | How must exhibits for director's reviews be prepared and exchanged?                                                       |
| WAC 357-49-027 | What happens if the person requesting a director's review does not submit all the information required by WAC 357-49-015? |