

Director's Meeting Agenda
 State Human Resources
Office of Financial Management

Meeting Date: February 14, 2019
 Meeting Time: 8:30 a.m.
 Location: • Capitol Court Building
 1110 Capitol Way South, Suite 120
 Conference Room 110
 Olympia, Washington 98501-2251
 • Limited Parking Limited Parking

Important Note(s): The Exempt, Classification, Compensation, and Rules items on the following pages have been submitted to staff for study and presentation to the State Human Resources Director at the next quarterly scheduled meeting.

Section A: Previous Minutes Approval

Meeting Minutes – November 8, 2018

Section B: Exempt Compensation

Item 1	B1627 Office Chief, Adult Protective Services - DSHS	B1-B2
Item 2	B2329 Chief Medical Officer - DSHS	B3-B4
Item 3	B9533 Privacy and Open Data Manager – CTS	B5-B6

Abolishments

Item 4	Department of Social and Health Services	B7
	• B1635 Chief of Certif., Licensing, & Customer Relations, Div. of Behav. Health & Recovery	
	• B1799 Deputy Director, Behavioral Health & Recovery Division (BHRD) – DSHS	
	• B1914 Chief, Office of Svcs. Integration, Behavioral Health & Service Integration Admin.	
	• B1953 Behavioral Health and Managed Care Office Chief – DSHS	
	• B2170 Director, Division of Alcohol and Substance Abuse	
	• B2174 Alcohol and Substance Abuse Chief of Program Operations	
Item 5	B8000 Policy Research Manager.....	B8-B9
Item 6	B8001 Program Director, Sex Offender Policy Board	B10-B11

Section C: Classification - None

Section D: Compensation

Item 7	University of Washington Special Pay Request.....	D1
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Section E: Rule Amendments

Rules Item 1	Reasonable accommodation for pregnancy and safety	E1-E5
Rules Item 2	Definition of “employee’s relative” as applies to shared leave.....	E5

Website Information

This publication and other State Human Resources Director's meeting related information is available at <http://hr.ofm.wa.gov/meetings/directors-meetings>.

Proposal Package Submittals

All proposal packages should be routed to your assigned classification analyst. Classification and compensation email address classandcomp@ofm.wa.gov.

Meeting Coordinator

For question and concerns, contact the Meeting Coordinator at classandcomp@ofm.wa.gov.

Individuals with Disabilities

If you are a person with a disability and require accommodation for attendance, contact the Meeting Coordinator no later than the first Thursday of the month.

Alternate Publication Formats

This publication will be made available in alternate formats upon request.

What is a Revision

When changes occur to an exhibit after the original Director's meeting agenda has been posted to the State HR website, a *revised exhibit* is created which reflects the most up-to-date information proposed for adoption. The revised exhibit appears in a separate Revised Agenda that will be available on the day of the meeting.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 1	
Requester (Agency/Institution) Department of Social & Health Services	Analyst Mindy Portschy
Primary Action (check all that apply) <input type="checkbox"/> Abolishment <input checked="" type="checkbox"/> Establishment <input type="checkbox"/> Exemption Change <input type="checkbox"/> Substantial Scope Change	
Secondary Action - As a result of Primary Action (check all that apply) <input type="checkbox"/> Add Position <input type="checkbox"/> Band Change <input type="checkbox"/> Minor Scope Change <input type="checkbox"/> Pay Outside Band <input type="checkbox"/> Title Change <input type="checkbox"/> Remove Position	
Current Code/Title N/A	Current EMS Band/Rate N/A
Proposed Code/Title B1627 Office Chief, Adult Protective Services - DSHS	Proposed EMS Band/Rate EMS Band II (\$58,752 – \$107,820)
Current RCW Exemption (indicate number and description) N/A	Proposed RCW Exemption (indicate number and description) RCW 41.06.070 (3) "...Governor's Pool involving substantial responsibility for the formulation of basic agency or executive policy ... of an agency or a major administrative division thereof..."
Effective Date 2/15/2019	

Scope

The Office Chief for the Adult Protective Services reports to the Chief of Field Operations within the Home and Community Services Division. This exempt class is responsible to ensure timely responses are made to allegations of abuse and neglect of vulnerable adults in Washington State and ensures investigations are thorough, documented properly, and completed within a timely manner. Responds to constituent and stakeholder concerns, ensuring Washington's APS program complies with federal and state requirements, and that services are cost effective to the State of Washington. Overall responsible for planning, training, policy development and program implementation related to Adult Protective Services. Develops, conducts and presents APS Academy training curriculum, managing APS quality assurance reviews, policies, procedures and coordinating with the field to develop and implement performance improvement plans. Provides input, policy guidance and support for system changes used within APS, completes After Event Reviews, management of statewide Central APS Intake unit and managing the addition/removal of individuals referred to the Aging & Disability Services registry.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Explanation

The Department of Social and Health Services is requesting the establishment of an exempt class to manage the Adult Protective Services Unit within the Home and Community Services Division of the Aging & Long-Term Support Administration. The need is based on the increasing workload associated with the APS program over the past five years. DSHS is requesting for this exempt class to be exempt under RCW 41.06.070 (3), Governor's Pool, as it will have substantial responsible for policy development and program implementation. State HR staff has reviewed the position description and evaluated the work with a score of B2X 570, which is within the EMS Band II level and has confirmed this class meets the requirements of the Governor's Pool. A Fiscal Impact Statement has been reviewed and approved by OFM Budget for this action.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.	
Director's Meeting Date 2/14/2019	
Management Type Policy	Date of Exempt Position Description on File 9/1/2017
EEOC Code 41 Officials & Administrators	Current Number of Approved Position(s) N/A
Workforce Indicator 80148587 At-Will Governor's Pool	Total Number of Approved Position(s) 1

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 2	
Requester (Agency/Institution) Department of Social & Health Services	Analyst Mindy Portschy
Primary Action (check all that apply) <input type="checkbox"/> Abolishment <input checked="" type="checkbox"/> Establishment <input type="checkbox"/> Exemption Change <input type="checkbox"/> Substantial Scope Change	
Secondary Action - As a result of Primary Action (check all that apply) <input type="checkbox"/> Add Position <input type="checkbox"/> Band Change <input type="checkbox"/> Minor Scope Change <input type="checkbox"/> Pay Outside Band <input type="checkbox"/> Title Change <input type="checkbox"/> Remove Position	
Current Code/Title N/A	Current EMS Band/Rate N/A
Proposed Code/Title B2329 Chief Medical Officer-DSHS	Proposed EMS Band/Rate EMS Medical Band (\$148,116 - \$298,164)
Current RCW Exemption (indicate number and description) N/A	Proposed RCW Exemption (indicate number and description) 41.07.070 (3) Governor's pool "...involving substantial responsibility for the formulation of basic agency or executive policy ... the director shall grant the request..."
Effective Date 2/15/2019	

Scope

The Chief Medical Officer reports directly to the DSHS Secretary and provides oversight and technical assistance to DSHS Administrators on the most effective and efficient delivery of behavioral health treatment services for both civil and forensic behavioral health patients, and provides guidance to agency management in establishing, monitoring, and evaluating standards of clinical care and practice within behavioral health services.

Advises the Secretary on items such as agency direction with regard to Behavioral Health vision and mission; establishing and advancing a model of excellence for forensic behavioral health centers within state hospitals; clinical consultation to medical directors at DSHS facilities and advising policy makers and administrators on concerns with and provisions of behavioral health services

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Explanation

The Department of Social and Health Services is requesting the establishment of a new exempt class to provide consistency and efficiency in the delivery of behavioral health throughout DSHS. The agency requests classification establishment under RCW 41.06.070 (3), Governor's Pool, as it will have substantial responsibility for the formulation of agency and executive policy regarding the delivery of behavioral health services statewide. The agency requests the exempt class be placed within the EMS Medical Band.

State HR staff has reviewed the position description and evaluated the work with a score of C4X (800), which is within the EMS Band III level and this exempt class is appropriate for EMS Medical Band placement. A Fiscal Impact Statement has been reviewed and approved by OFM Budget for this action.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.	
Director's Meeting Date 2/14/2019	
Management Type Policy	Date of Exempt Position Description on File 8/24/2018
EEOC Code 41 Officials & Administrators	Current Number of Approved Position(s) 0
Workforce Indicator 80148587 At-Will Governor's Pool	Total Number of Approved Position(s) 1

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 3	
Requester (Agency/Institution) Consolidated Technology Services	Analyst Marty Graf
Primary Action (check all that apply) <input type="checkbox"/> Abolishment <input checked="" type="checkbox"/> Establishment <input type="checkbox"/> Exemption Change <input type="checkbox"/> Substantial Scope Change	
Secondary Action - As a result of Primary Action (check all that apply) <input type="checkbox"/> Add Position <input type="checkbox"/> Band Change <input type="checkbox"/> Minor Scope Change <input type="checkbox"/> Pay Outside Band <input type="checkbox"/> Title Change <input type="checkbox"/> Remove Position	
Current Code/Title N/A	Current EMS Band/Rate N/A
Proposed Code/Title B9533 Privacy and Open Data Manager – CTS	Proposed EMS Band/Rate EMS Band III (\$68,136 - \$121,452)
Current RCW Exemption (indicate number and description) N/A	Proposed RCW Exemption (indicate number and description) RCW 41.06.094 "...shall not apply in the consolidated technology services agency to up to twelve positions in the planning component involved in policy development..."
Effective Date 2/15/2019	

Scope

Reporting to the Chief Information Privacy Officer, the Privacy and Open Data Manager serves as the state’s principal expert on open data. This exempt class develops and executes the statewide open data strategy, initiatives, standards and external relations. The Privacy and Open Data Manager leads the implementation and improvement of open data and information access efforts under RCW 43.105.351 through 43.105.365. This exempt class develops policies and standards that affect government data access programs and services for all Washingtonians, their companies and communities.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Explanation

Consolidated Technology Services is requesting the establishment of an exempt Privacy and Open Data Manager class. This is due to the legislature passing Engrossed Second Substitute Senate Bill 5315, relating to the alignment of the Consolidated Technology Services. This bill transferred the Office of the Chief Information Officer from the Office of Financial Management to Consolidated Technology Services on July 1, 2015.

Staff reviewed the position description and evaluated it with a JVAC score of C5X-828, which meets the EMS Band III level. OFM Budget has reviewed their fiscal impact statement and verified there is no impact associated with this request; the agency can absorb all costs associated.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.	
Director's Meeting Date 2/14/2019	
Management Type Policy	Date of Exempt Position Description on File 8/15/2018
EEOC Code 41 Officials & Administrators	Current Number of Approved Position(s) N/A
Workforce Indicator 80148586 At-Will	Total Number of Approved Position(s) 1

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 4 (A-F)					
Action	Agency/HE Institution	Effective Date	Analyst		
Abolishment	Department of Social and Health Services	2/15/2019	Mindy Portschy		
	Exempt "B" Code	Current Title	Current Salary Band	RCW Exemption	Number of Approved Positions
A)	B1635	CHF OF CERT, LICENSING, & CUST RELATIONS, DIV OF BEHAVIORAL HEALTH & RECOVERY	EMS III	41.06.070 (3)	1
B)	B1799	DEPUTY DIRECTOR, BEHAVIROL HEALTH AND RECOVERY DIVISION (BHRD) - DSHS	EMS III	41.06.070 (3)	1
C)	B1914	CHF, OFFICE OF SVCS INTEGRATION, BEHAVIORAL HEALTH & SERVICES INTEGRATION ADMIN	EMS III	41.06.070 (3)	1
D)	B1953	BEHAVIORAL HEALTH AND MANAGED CARE OFFICE CHIEF – DSHS	EMS III	41.06.070 (3)	1
E)	B2170	DIRECTOR, DIV OF ALCOHOL AND SUBSTANCE ABUSE	EMS III	41.06.070 (1)(v)	1
F)	B2174	ALCOHOL AND SUBSTANCE ABUSE CHIEF OF PROGRAM OPERATIONS	EMS II	41.06.070 (3)	1

Explanation

As a result of the passage of the Second Engrossed Second Substitute House Bill 1388, effective July 1, 2018, the responsibility for substance use disorder programs is shifted from Department of Social and Health Services to the Health Care Authority. These exempt classes, which currently reside in DSHS as part of the Behavioral Health & Recovery Administration, are no longer needed as this body of work has transitioned to HCA and new exempt classes will be established, as necessary. As a result, five of the six positions will be removed from the Governor's Pool.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.
Director's Meeting Date 2/14/2019

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 5	
Requester (Agency/Institution) Office of Financial Management	Analyst Nichole Gottbreht
Primary Action (check all that apply) <input checked="" type="checkbox"/> Abolishment <input type="checkbox"/> Establishment <input type="checkbox"/> Exemption Change <input type="checkbox"/> Substantial Scope Change	
Secondary Action - As a result of Primary Action (check all that apply) <input type="checkbox"/> Add Position <input type="checkbox"/> Band Change <input type="checkbox"/> Minor Scope Change <input type="checkbox"/> Pay Outside Band <input type="checkbox"/> Title Change <input type="checkbox"/> Remove Position	
Current Code/Title B8000 Policy Research Manager	Current EMS Band/Rate EMS Band III (\$68,136 - \$121,452)
Proposed Code/Title N/A	Proposed EMS Band/Rate N/A
Current RCW Exemption (indicate number and description) RCW 41.06.070(3) Governor’s Pool... “involving directing and controlling program operations of an agency or a major administrative division”...	Proposed RCW Exemption (indicate number and description) N/A
Effective Date 2/15/2019	

Explanation

The Office of Financial Management is requesting the abolishment of exempt class B8000, Policy Research Manager based on Engrossed Substitute Senate Bill 5891, which abolished the Sentencing Guidelines Commission effective July 1, 2011. This exempt class was established September 1997 to manage all projects and studies regarding adult felony and juvenile sentencing policies and long range planning. The Caseload Forecast Council assumed many responsibilities of the abolished agency, which included components of this exempt class.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.	
Director's Meeting Date 2/14/2019	
Management Type N/A	Date of Exempt Position Description on File 9/12/1997
EEOC Code 41 Officials & Administrators	Current Number of Approved Position(s) 1
Workforce Indicator 80148587 At-Will Governor's Pool	Total Number of Approved Position(s) N/A

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

Item 6	
Requester (Agency/Institution) Office of Financial Management	Analyst Nichole Gottbreht
Primary Action (check all that apply) <input checked="" type="checkbox"/> Abolishment <input type="checkbox"/> Establishment <input type="checkbox"/> Exemption Change <input type="checkbox"/> Substantial Scope Change	
Secondary Action - As a result of Primary Action (check all that apply) <input type="checkbox"/> Add Position <input type="checkbox"/> Band Change <input type="checkbox"/> Minor Scope Change <input type="checkbox"/> Pay Outside Band <input type="checkbox"/> Title Change <input type="checkbox"/> Remove Position	
Current Code/Title B8001 Program Director, Sex Offender Policy Board	Current EMS Band/Rate EMS Band II (\$58,752 - \$107,820)
Proposed Code/Title N/A	Proposed EMS Band/Rate N/A
Current RCW Exemption (indicate number and description) RCW 41.06.070(3) Governor's Pool... "involving directing and controlling program operations of an agency or a major administrative division"...	Proposed RCW Exemption (indicate number and description) N/A
Effective Date 2/15/2019	

Explanation

The Office of Financial Management is requesting abolishment of exempt class B8001, Program Director of the Sex Offender Policy Board based on Engrossed Substitute Senate Bill 5891, which abolished the Sentencing Guidelines Commission effective July 1, 2011. This exempt class was established September 2008 to oversee all program operations for ongoing policy review and development relating to sex offense. The Caseload Forecast Council assumed many responsibilities of the abolished agency, which included components of this exempt class.

Section B: Exempt Compensation

Positions in this listing are under the State Human Resources Director for the setting of salaries and fringe benefits, but are otherwise exempt from civil service.

This information is entered into the Human Resources Management System (HRMS) and CC Jobs.	
Director's Meeting Date 2/14/2019	
Management Type N/A	Date of Exempt Position Description on File 6/1/2008
EEOC Code 41 Officials & Administrators	Current Number of Approved Position(s) 1
Workforce Indicator 80148587 At-Will Governor's Pool	Total Number of Approved Position(s) N/A

Section C: Classification

No items this period.

Section D: Compensation

**Higher Education
Special Pay Request**

Item 7				
Requester (Higher Education Institution) University of Washington		Analyst Brett Alongi		
Actions <input type="checkbox"/> Abolishment <input type="checkbox"/> Establishment <input checked="" type="checkbox"/> Revision		Effective Date 2/16/2019		
WAC 357-28-025 The director may adopt special pay salary ranges for positions based upon pay practices found in private industry or other governmental units. This includes special pay salary ranges and/or compensation practices for higher education institutions and related higher education boards as authorized in RCW 41.06.133. The classes or positions assigned special pay ranges and the associated special salary schedule must be specified in the compensation plan.				
		Current Salary Range or Special Pay Range	Proposed Special Pay Range	Proposed Special Pay Increase
Class Title(s)	Class Code(s)			
Rehabilitation Counselor 1	353E	57	61	10.3%
Rehabilitation Counselor 2	353F	61	65	10.4%

Category (select all that apply):

- Unique Skills/Duties Recruitment/Retention Effective Operations
 Salary Compression/Inversion

Explanation

The University of Washington is requesting special pay increases for the job classes identified above. The basis for this request is effective operations, substantiated by data provided by UW from the online Salary.com survey as of December 3, 2018.

State HR staff supports this special pay request, which would increase the median monthly pay for these job classes by approximately ten (10) percent, but would not exceed the market average. This increase will aide in UW's efforts to recruit and retain highly skilled individuals. UW has certified the funding does not include tuition dollars and they have identified local funds to support these health care special pay salary increases. UW is requesting an effective date of February 16, 2019.

Internal Use Only	
Director's Meeting Date 2/14/2019	

Section E: Rule Amendments

ITEM #1

Staff Note: Chapter 294, Laws of 2017 (Substitute Senate Bill 5835) was passed during the 2017 Legislative session with an effective date of July 23, 2017. This bill states that it is an unfair practice for any employer to fail or refuse to make reasonable accommodation for an employee for pregnancy or a pregnancy related health condition unless the employer can demonstrate that doing so would impose an undue hardship. We are proposing the following rule amendments to reflect these changes. Additionally, Chapter 47, Laws of 2018 (House Bill 2661) was passed during the 2018 Legislative session with an effective date of June 7, 2018. This bill states that victims of domestic violence, sexual assault, or stalking are able to have reasonable safety accommodations in the workplace. We are proposing the follow rule amendments to reflect these changes.

AMENDATORY SECTION

WAC 357-26-005 What is the purpose of this chapter? The purpose of chapter 357-26 WAC is to provide guidance to employers regarding reasonable accommodation ~~((as it specifically relates to employment and separation due to disability within the provisions of the civil service rules))~~ for the following reasons:

- (1) Disability;
- (2) Pregnancy; and
- (3) Safety.

AMENDATORY SECTION

WAC 357-26-010 When must an employer ~~((provide reasonable accommodation))~~ reasonably accommodate a disability? An employer must reasonably accommodate a known disability of a qualified candidate or employee as required by chapter 49.60 RCW and the federal Americans with Disabilities Act.

AMENDATORY SECTION

WAC 357-26-015 What actions may an employer take to ~~((provide reasonable accommodation))~~ reasonably accommodate a disability? For persons with disabilities, as defined by state or federal law, reasonable accommodation may include, but is not limited to:

- (1) Accommodation in application procedures, testing, and the interview process; or
- (2) Modifications or adjustments to a job, work method, or work environment that make it possible for a qualified person with a disability to perform the essential functions of a position, or enjoy the benefits and privileges of employment equal to employees without disabilities.

Section E: Rule Amendments

AMENDATORY SECTION

WAC 357-26-020 What is the requirement for employers to have a policy and procedure covering ((reasonable)) disability accommodation? (1) In accordance with the policy statement requirements of WAC 357-25-025, employers must develop and maintain a policy statement on reasonable accommodation.

(2) In accordance with state and federal laws, employers must develop and make readily available a procedure regarding reasonable accommodation of employees with disabilities.

(a) Each employee who requests reasonable accommodation must be provided access to the employer's reasonable accommodation procedure in an accessible format.

(b) Employees who request reasonable accommodation must be notified in writing that in the event ((he or she)) they cannot be accommodated in ((his or her)) their current position, and placement in an alternative vacant position is not possible, the appointing authority may initiate a disability separation in accordance with WAC 357-46-160.

AMENDATORY SECTION

WAC 357-26-025 May an employee who is unable to perform the essential functions of a position due to a disability request to be separated from employment? An employee who is unable to perform the essential functions of the employee's position due to mental, sensory, or physical incapacity may notify the employer that ((he or she does)) they do not wish to pursue accommodation and would like to be separated from employment. In this case, the appointing authority is not required to consider a reasonable accommodation and may initiate a disability separation in accordance with WAC 357-46-160.

NEW SECTION

WAC 357-26-030 When must an employer provide reasonable pregnancy accommodations? An employer must provide reasonable pregnancy accommodations to employees who are pregnant or have a pregnancy-related health condition as required in RCW 43.10.005.

NEW SECTION

WAC 357-26-035 What actions must an employer take to provide reasonable pregnancy accommodations? (1) An employer must provide employees who are pregnant or have a pregnancy-related health condition a reasonable pregnancy accommodation, which includes the following:

- (a) Providing more frequent, longer, or flexible restroom breaks;
- (b) Modifying a no food or drink policy;
- (c) Providing seating or allowing an employee to sit more frequently if the job requires standing;
- (d) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, or acquiring or modifying equipment, devices, or an employee's work station;
- (e) Providing a temporary transfer to a less strenuous or less hazardous position;
- (f) Providing assistance with manual labor and limits on lifting;
- (g) Scheduling flexibility for prenatal visits; and

Section E: Rule Amendments

(h) Any further pregnancy accommodation an employee may request and to which an employer must give reasonable consideration in consultation with information provided on pregnancy accommodation by the department of labor and industries or the employee's attending health care provider.

(2) An employer cannot require an employee who is pregnant or has a pregnancy-related health condition to take leave if another reasonable pregnancy accommodation can be provided.

(3) The employer is not required to create additional employment that the employer would not otherwise have created, unless the employer does so or would do so for other classes of employees who need accommodation.

NEW SECTION

WAC 357-26-040 When may an employer deny a reasonable pregnancy-related accommodation? The employer may deny a reasonable pregnancy-related accommodation based on undue hardship, which means an action requiring significant difficulty or expense, to the employer's program, enterprise or business for pregnancy accommodations listed in WAC 357-26-035 (1)(d) through (h). The employer may not claim undue hardship for the pregnancy accommodations listed in WAC 357-26-035 (1)(a) through (c) or for limits on lifting over seventeen pounds.

NEW SECTION

WAC 357-26-045 When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation what documentation may the employee be required to submit? When an employee is pregnant or has a pregnancy-related health condition and requests a reasonable pregnancy accommodation, the employee may be required to submit written certification from their licensed physician or health care professional for those pregnancy accommodations listed in WAC 357-26-035 (1)(d) through (h). An employee is not required to submit written certification for pregnancy accommodations listed in WAC 357-26-035 (1)(a) through (c) or for limits lifting over seventeen pounds.

NEW SECTION

WAC 357-26-050 When must an employer provide reasonable safety accommodations? An employer must provide reasonable safety accommodations to an applicant or employee who is a victim of domestic violence or an employee whose family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault or stalking as required in chapter 49.76 RCW.

Section E: Rule Amendments

NEW SECTION

WAC 357-26-055 What actions must an employer take to provide safety accommodations? (1)

An employer must provide an applicant, or employee who is a victim of domestic violence or an employee whose family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault or stalking, a reasonable safety accommodation, which includes, but is not limited to the following:

- (a) A transfer or reassignment;
- (b) Modified schedule;
- (c) Changed work telephone number, work email address and/or workstation;
- (d) Installed lock;
- (e) Implemented safety procedure; or
- (f) Any other adjustment to a job structure, workplace facility, or work requirement in response to actual or threatened domestic violence, sexual assault or stalking.

(2) Leave taken in accordance with chapter 357-31 WAC may be considered a reasonable safety accommodation.

(3) The employer may deny a reasonable safety accommodation based on an undue hardship, which means an action requiring significant difficulty or expense.

NEW SECTION

WAC 357-26-060 When an applicant or employee who is a victim of domestic violence, sexual assault or stalking or when an employee has a family member who is a victim of domestic violence, sexual assault or stalking and seeks a reasonable safety accommodation, what documentation may the applicant or employee be required to submit? (1)

When an applicant or employee who is a victim of domestic violence, sexual assault or stalking or when an employee has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault or stalking and seeks a reasonable safety accommodation, the employer may require that the request be supported by verification. An applicant or employee may satisfy the verification requirement by providing the employer with one or more of the following:

- (a) A police report indicating that the applicant, employee or employee's family member was a victim of domestic violence, sexual assault or stalking;
- (b) A court order protecting or separating the applicant, employee or the employee's family member from the perpetrator of the act of domestic violence, sexual assault or stalking;
- (c) Evidence from the court or prosecuting attorney that the applicant, employee or the employee's family member appeared, or is scheduled to appear, in court in connection with an incident of domestic violence, sexual assault or stalking;
- (d) An applicant or employee's written statement that the employee or the employee's family member is a victim of domestic violence, sexual assault or stalking and the safety accommodation requested is to protect the employee from domestic violence, sexual assault or stalking; or
- (e) Documentation that the applicant, employee or the employee's family member is a victim of domestic violence, sexual assault or stalking, from any of the following persons from whom the employee or employee's family member sought assistance in addressing the domestic violence, sexual assault or stalking: An advocate for victims of domestic violence, sexual assault or stalking; an attorney; a member of the clergy; or a medical or other professional.

Section E: Rule Amendments

(2) If the victim of domestic violence, sexual assault or stalking is the employee's family member, as defined in chapter 357-01 WAC, verification of the familial relationship between the employee and the victim may include, but is not limited to: A statement from the employee; a birth certificate; a court document; or other similar documentation.

ITEM #2

Staff note: WAC 357-31-395 defines specific terms as they apply to shared leave. We are proposing to expand the definition of "employee's relative" to include sibling.

AMENDATORY SECTION

WAC 357-31-395 What definitions apply to shared leave? (1) As defined in RCW 41.04.655, "employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or vacation leave and for whom accurate leave records are maintained.

(2) "Employee's relative" normally must be limited to the employee's spouse, registered domestic partner, child, grandchild, sibling, grandparent or parent.

(3) "Parental leave" means leave to bond and care for a newborn child after birth or to bond and care for a child after placement for adoption or foster care, for a period of up to sixteen weeks after the birth or placement.

(4) "Pregnancy disability" means a pregnancy-related medical condition or miscarriage.

(5) "Severe" or "extraordinary" condition is defined as serious, extreme or life threatening.

(6) "Service in the uniformed services" means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time national guard duty including state-ordered active duty and a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty.

(7) "Uniformed services" means the armed forces, the army national guard, and the air national guard of any state, territory, commonwealth, possession, or district when engaged in active duty for training, inactive duty training, full-time national guard duty, or state active duty, the commissioned corps of the public health service, the coast guard and any other category of persons designated by the President of the United States in time of war or national emergency.