**ITEM #1 – Sick Leave for Bonding**

**Staff note:** We are proposing to amend WAC 357-31-130(1)(i) to allow an employee to use their accrued sick leave for the purpose of parental leave to bond with a newborn adoptive or foster child for a minimum of 18 weeks. Sick leave taken for this purpose must taken during the first year following the child’s birth or placement. We are also proposing to amend WAC 357-31-130(2) to say that an employer may approve longer than 18 weeks in accordance with their leave policy. In addition, we are proposing to amend WAC 357-31-100(4) to state that total amount of sick leave beyond 18 weeks must be addressed in the employer’s leave policy.

AMENDATORY SECTION

**WAC 357-31-130** **When can an employee use accrued sick leave?** The employer may require medical verification or certification of the reason for sick leave use in accordance with the employer's leave policy and in compliance with chapter 296-128 WAC.

(1) Employers **must** allow the use of accrued sick leave under the following conditions:

(a) An employee's mental or physical illness, disability, injury((~~,~~)) or health condition that has incapacitated the employee from performing required duties; to accommodate the employee's need for medical diagnosis, care((~~,~~)) or treatment of a mental or physical illness, injury((~~,~~)) or health condition; or an employee's need for preventive medical care.

(b) By reason of exposure of the employee to a contagious disease when the employee's presence at work would jeopardize the health of others.

(c) When the employee's place of business has been closed by order of a public official for any health-related reason, or when an employee's child's school or place of care has been closed for such reason.

(d) To allow an employee to provide care for a family member with a mental or physical illness, injury((~~,~~)) or health condition; care of a family member who needs medical diagnosis, care((~~,~~)) or treatment of a mental or physical illness, injury((~~,~~)) or health condition; or care for a family member who needs preventive medical care.

(e) For family care emergencies per WAC 357-31-290, 357-31-295, 357-31-300((~~,~~)) and 357-31-305.

(f) When an employee is required to be absent from work to care for members of the employee's household or relatives of the employee or relatives of the employee's spouse/registered domestic partner who experience an illness or injury, not including situations covered by subsection (1)(d) of this section.

(i) The employer must approve up to five days of accumulated sick leave each occurrence. Employers may approve more than five days.

(ii) For purposes of this subsection, "relatives" is limited to spouse, registered domestic partner, child, grandchild, grandparent or parent.

(g) If the employee or the employee's family member, as defined in chapter 357-01 WAC, is a victim of domestic violence, sexual assault, or stalking as defined in RCW 49.76.020. An employer may require the request for leave under this section be supported by verification in accordance with WAC 357-31-730.

(h) In accordance with WAC 357-31-373, for an employee to be with a spouse or registered domestic partner who is a member of the armed forces of the United States, National Guard, or reserves after the military spouse or registered domestic partner has been notified of an impending call or order to active duty, before deployment, or when the military spouse or registered domestic partner is on leave from deployment.

(i) ((~~For qualifying absences under the Family and Medical Leave Act for parental leave~~)) For the purpose of ((~~bonding with their~~)) parental leave to bond with a newborn, adoptive((~~,~~)) or foster child ((~~in accordance with WAC 357-31-495. The amount of sick leave allowed to be used must be addressed in the employer's leave policy in accordance with WAC 357-31-100~~)) for a minimum of eighteen weeks. Sick leave for this purpose must be taken during the first year following the child's birth or placement.

(2) Employers **may** allow the use of accrued sick leave under the following conditions:

(a) For condolence or bereavement((~~.~~));

(b) When an employee is unable to report to work due to inclement weather in accordance with the employer's policy on inclement weather as described in WAC 357-31-255; or

(c) To bond with a newborn, adoptive or foster child for a period beyond eighteen weeks as allowed in subsection (1)(i) of this section. Sick leave for this purpose must be taken during the first year following the child's birth or placement. The total amount of sick leave allowed to be used, beyond subsection (1)(i) of this section must be addressed in the employer's leave policy in accordance with WAC 357-31-100.

AMENDATORY SECTION

**WAC 357-31-100** **Must an employer have a policy for requesting and approving leave?** Each employer must develop a leave policy which specifies the procedure for requesting and approving all leave, as provided in the civil service rules. The employer's policy must:

(1) Allow an employee to use vacation leave without advance approval when the employee is requesting to use vacation leave to respond to family care emergencies((~~,~~)) or for an emergency health condition as provided in WAC 357-31-200 (1)(b);

(2) Allow an employee to use a reasonable amount of accrued leave or unpaid leave when the employee is a victim((~~,~~)) or has a family member, as defined in chapter 357-01 WAC, who is a victim of domestic violence, sexual assault((~~,~~)) or stalking as defined in RCW 49.76.020;

(3) Address advance notice from the employee when the employee is seeking leave under subsection (2) of this section. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault((~~,~~)) or stalking, the employee or the employee's designee must give notice to the employer no later than the end of the first day that the employee takes such leave;

(4) Allow an employee to use sick leave for ((~~qualifying absences under the Family and Medical Leave Act (FMLA) for parental leave for~~)) the purpose of ((~~baby bonding with his/her~~)) parental leave to bond with a newborn, adoptive((~~,~~)) or foster child ((~~in accordance with WAC 357-31-495~~)). The policy must state the ((~~maximum~~)) total amount of sick leave allowed to be used ((~~during the twelve-week FMLA period~~)) beyond eighteen weeks in accordance with WAC 357-31-130;

(5) Address overtime eligible employees that are required to provide medical certification or verification to their employer for the use of paid sick leave under chapter 296-128 WAC; and

(6) Address overtime eligible employees that are required to provide reasonable notice to their employer for an absence from work for the use of paid sick leave under chapter 296-128 WAC.

**ITEM #2 – Information Technology Professional Structure**

**Staff note:** Contingent on legislative finding,the state is implementing a new information technology (IT) professional/technical classification and compensation structure. This means that all state agency and higher education classified IT positions, and some Washington Management Service IT positions, will be evaluated for allocation into the new Information Technology Professional Structure. We are proposing the following rules to address those employees that have been placed into the new ITPS.

* The proposed new rules in Section A address the new definitions for job family (WAC 357-01-187) and level (WAC 357-01-197).
* The proposed amendments in Section B address where the terms class, classes and classification are used to be followed by “or family/ies and level/s”. These changes are indicated in green text. The other amendments in this section are housekeeping in nature.
* The proposed new rule in Section C addresses when an employee must receive supervisory pay differential.
* The proposed new rule in Section D address the requirement for employers to develop procedures which address evaluating positions for placement within the ITPS. The proposed amendment to WAC 357-13-035 addresses the requirement for ITPS position description forms.

**SECTION A**

NEW SECTION

**WAC 357-01-187 Job Family** A functional discipline involving similar types of work requiring similar training, skills, knowledge and expertise.

NEW SECTION

**WAC 357-01-197 Level** The measure of complexity of work performed.

**SECTION B**

AMENDATORY SECTION

**WAC 357-01-020** **Allocation.** The assignment of a position to a class or job family and level.

AMENDATORY SECTION

**WAC 357-01-095** **Demotion.** Movement of an employee from a position in one class or job family and level to a position in another class or job family and level that has a lower salary range maximum.

AMENDATORY SECTION

**WAC 357-01-135** **Elevation.** An employer-initiated action that moves an employee to a position in either:

(1) A higher class or job family and level in which the employee held permanent status prior to a demotion; or

(2) A class or job family and level in the same class series or job family which is between the current class or job family and level and the class or job family and level from which the employee demoted.  
  
AMENDATORY SECTION

**WAC 357-01-200** **List.** A list of eligible names established to be certified for vacancies in a class or job family and level.

AMENDATORY SECTION

**WAC 357-01-232** **Periodic increment date** ((**~~(PID)~~**))**.** The date upon which an employee is scheduled to move to a higher salary step within the salary range for the current class or job family and level.

AMENDATORY SECTION

**WAC 357-01-260** **Promotion.** The appointment to a class or job family and level with a higher salary range maximum that results in a salary increase.

AMENDATORY SECTION

**WAC 357-01-270** **Reallocation.** The assignment of a position to a different class or job family and level.

AMENDATORY SECTION

**WAC 357-01-275** **Reassignment.** An employer-initiated move of an employee within the employer from one position to another position in the same class or job family and level.

AMENDATORY SECTION

**WAC 357-01-280** **Reemployment.** Appointment of a former permanent employee who had permanent status in a class or job family and level with the same or similar job duties.

AMENDATORY SECTION

**WAC 357-01-295** **Salary range.** The minimum and maximum dollar amount assigned to a class or job family and level.

AMENDATORY SECTION

**WAC 357-01-315** **Special pay salary ranges.** A unique salary range assigned to a position or class or job family and level in accordance with WAC 357-28-025.

AMENDATORY SECTION

**WAC 357-01-335** **Transfer.** An employee-initiated move of that employee from a position to another position within or between employers in the same class or job family and level or a different class or job family and level with the same salary range maximum.

AMENDATORY SECTION

**WAC 357-01-345** **Trial service period.** The initial period of employment following:

(1) A promotional appointment to a position in a new class or job family and level;

(2) A transfer, voluntary demotion((~~,~~)) or elevation when required by the employer under the provisions of WAC 357-19-030; or

(3) An appointment within two years of separation due to layoff to a position with a higher salary range maximum than the position the employee was laid off from.

The trial service period will continue for six to twelve months as determined under the provisions of WAC 357-19-050.

AMENDATORY SECTION

**WAC 357-04-025** **What rights does a classified employee have when the position** ((**~~he/she holds~~**)) **is exempted from the civil service rules?** As required by RCW 41.06.070(3) and 41.06.170, an employee holding a classified position has the following rights if the position is exempted from the application of the civil service rules:

(1) If the employee previously held permanent status in another classified position, the employee has the right to return to the highest class or job family and level of position previously held((~~,~~)) or to a position of similar nature and salary in accordance with WAC 357-19-220.

(2) The employee may appeal the exemption of the position in accordance with chapter 357-52 WAC.

AMENDATORY SECTION

**WAC 357-04-030** **What right does an employee have to return to the classified service from exempt service?** As required by RCW 41.06.070(3), any employee having permanent status in a classified position who accepts an appointment in an exempt position has the right to return to classified service in accordance with WAC 357-19-195, 357-19-200, and 357-19-205. As long as the employee was not terminated from the exempt position for gross misconduct or malfeasance, the employee has the right to return to the highest class or job family and level of position in which ((~~he/she~~)) the employee previously held permanent status or to a position of similar nature and salary.

AMENDATORY SECTION

**WAC 357-04-045** **Which part-time or temporary employees ~~of~~ at higher education ~~employers~~ are exempt from civil service rules?** Part-time or temporary employees at higher education institutions that are ~~Persons~~ employed to work one thousand fifty hours or less in a twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, are exempt from civil service rules.

Employees who are either exempt under this subsection or exceptions authorized under WAC 357-19-440, and who work more than three hundred fifty hours in a twelve consecutive month period from the original date of hire or January 1, 2004, whichever is later, may be included in an appropriate bargaining unit for purposes of collective bargaining, as determined by the public employment relations commission. Overtime and time worked as a student employee under the provisions of WAC 357-04-040 are not counted in the three hundred fifty hours. For purposes of counting the three hundred fifty hours, the twelve-month period will begin on the employee's original date of hire or January 1, 2004, whichever is later. The next twelve-month period will repeat accordingly. For example:

The employee's original date of hire is June 1, 2009. The twelve-month period would be June 1, 2009, through May 31, 2010. The next twelve-month period would be June 1, 2010, through May 31, 2011. This pattern will continue.

Once the employee works at least three hundred fifty hours in a ((~~job classification~~)) class or job family and level in the collective bargaining unit the employee remains in that collective bargaining unit until the end of the first twelve-month period (as described in this section) in which the employee does not work at least three hundred fifty hours in a ((~~job classification~~)) class or job family and level that is in the collective bargaining unit. An employee who has not worked sufficient hours in a bargaining unit ((~~job classification~~)) class or job family and level to remain in the bargaining unit, is excluded from the bargaining unit until the employee again works at least three hundred fifty hours in a bargaining unit ((~~job classification~~)) class or job family and level in a twelve-month period (as described in this section).

Temporary appointment under the provisions of this section may be subject to remedial action in accordance with WAC 357-19-450, if the number of hours worked exceeds one thousand fifty hours in a twelve consecutive month period from the original date of hire or October 1, 1989, 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. For purposes of counting the one thousand fifty hours, the twelve-month period will begin on the employee's original date of hire or October 1, 1989, whichever is later. The next twelve-month period will repeat accordingly. For example:

The employee's original date of hire is June 1, 2009. The twelve-month period would be June 1, 2009, through May 31, 2010. The next twelve-month period would be June 1, 2010, through May 31, 2011. This pattern will continue.

AMENDATORY SECTION

**WAC 357-13-015** **What must the classification plan be based upon?** The classification plan must be based on a review and analysis of duties and responsibilities, and must include a description of each class or job family and level.

AMENDATORY SECTION

**WAC 357-13-050** **Who is responsible for allocating or reallocating each position?** The employer must allocate or reallocate each classified position to an established class or job family and level in the classification plan.

AMENDATORY SECTION

**WAC 357-13-070** **Must an employer notify an employee when the employee's position is reallocated?** Employers must provide written notice to an employee when the employee's position is reallocated. If the reallocation is to a class or job family and level with a lower salary range maximum, the employee must receive at least fifteen calendar days' written notice of the reallocation. The employee may request to waive or shorten the fifteen day notice period.

For purposes of this rule, written notice of reallocation, excluding reallocation to a class or job family and level with a lower salary range maximum, 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

**WAC 357-13-083** **What happens if an employee requests a director's review of** ((**~~his or her~~**)) **an allocation or files an exception to the director's decision and is laid off before a decision is issued?** When an employee's position has been reallocated as part of a board or director's decision on allocation and when the employee was laid off prior to the board or director's decision being issued, the following applies:

(1) The employee's position is reallocated effective as of the date the request for a position review was filed with the employer;

(2) If the employee was reallocated to a class or job family and level with a higher salary range, the employee is due back pay from the effective date of the allocation to the effective date of the layoff;

(3) The layoff action (including options afforded to the employee) is not impacted; and

(4) The employee shall have layoff list rights to the class or job family and level the employee's former position was reallocated to in accordance with WAC 357-46-070 and 357-46-080.

AMENDATORY SECTION

**WAC 357-13-085** **How is the effective date of a reallocation determined?** The effective date of a reallocation is determined as follows:

(1) The effective date of a reallocation resulting from the director's revisions to the classification plan is the effective date of the director's action.

(2) The effective date of an employer-initiated reallocation is determined by the employer. Notice of a reallocation to a class or job family and level with a lower salary range maximum must be provided in accordance with WAC 357-13-070.

(3) The effective date of a reallocation resulting from an employee request for a position review is the date the request was filed with the employer unless the result of the position review is a reallocation to a class or job family and level with a lower salary range maximum. Notice of reallocation to a class or job family and level with a lower salary range maximum must be provided in accordance with WAC 357-13-070.

(4) The effective date of a reallocation to a class or job family and level with a lower salary range maximum resulting from a director's review determination to reallocate to a lower ((~~classification~~)) class or job family and level than the employer's determination is thirty calendar days from the date of the director's determination unless the review determination is appealed to the board. The effective date of a reallocation to a class or job family and level with a lower salary range maximum resulting from a board order to reallocate to a lower ((~~classification~~)) class or job family and level than the employer's determination is thirty calendar days from the date of the board's order.

AMENDATORY SECTION

**WAC 357-13-090** **How is an employee affected when his/her position is reallocated?**

| This table is used to determine how an employee whose position is reallocated is affected. | | | |
| --- | --- | --- | --- |
|  | Employee's position reallocated to: | | |
| Class or job family and level with a higher salary range maximum | Class or job family and level with an equal salary range maximum | Class or job family and level with a lower salary range maximum |
| Reallocation results from: | | | |
| A position review requested by the employee or initiated by the employer | *If the employee has performed the higher level duties for at least six months and meets the competencies and other position requirements*: | *If the employee meets the competencies and other position requirements:* | *If the employee meets the competencies and other position requirements and chooses to remain in the reallocated position*: |
|  | → The employee remains in the position and is appointed with permanent status provided the probationary or trial service period for the class or job family and level to which the position is reallocated is six months in duration. If the probationary period or trial service period is longer than six months and the employee has not performed higher level duties for the length of the probationary period or trial service period, the employer may require the employee serve the remainder of the probationary or trial service period before gaining permanent status in the reallocated position.  *If the reallocation is the result of a change in the duties of the position and the employee has not performed the higher level duties for six months or more*: | → The employee remains in the position and retains existing appointment status. | → The employee retains appointment status; has the right to be placed on the employer's internal layoff list and in the general government transition pool; and has his/her salary set in accordance with WAC 357-28-120. |
|  | → The employer must give the employee the opportunity to compete for the position. The employer may choose to promote the employee without competition as long as the employee meets the competencies and any other position requirements. | → The employee retains the previous base salary in accordance with WAC 357-28-120. | *If the employee chooses to vacate the position or does not meet the competencies and other position requirements*: |
|  | If the employee is not selected for the position, the employer's layoff procedure applies. If the employee is appointed and he/she has already gained permanent status, the employee must serve a trial service period. If the employee has not completed the probationary period, then the new trial service period will overlap provided the higher and lower classes or job families and levels are in the same or a closely related field. If the classes or job families and levels are not in the same or closely related field, then the employee will start their probationary period over in the new class or job family and level. | *If the employee does not meet the competencies and other position requirements*: | → The employer's layoff procedure applies. |
|  | Upon appointment to the higher class or job family and level, the employee's base salary must be increased a minimum of a two step increase, not to exceed step M of the range as provided in WAC 357-28-115. | → The employer's layoff procedure applies. |  |
| The director revising the classification plan. | The employee remains in the position and keeps existing appointment status. See WAC 357-28-130 for determining the employee's salary. | | |

AMENDATORY SECTION

**WAC 357-16-070** **What screening methodologies may employers use?** Employers may use the screening methods that they determine best evaluate a person's competencies to perform the duties and responsibilities of a class or job family and level and/or a position. Screening methods must be based upon job analysis and may include, but are not limited to, reviewing resumes, interviewing applicants, and developing supplemental questionnaires for applicants to provide additional information.

AMENDATORY SECTION

**WAC 357-16-130** **In what order are eligible candidates certified to the employing official for hiring consideration?** Only eligible candidates who satisfy the competencies and other requirements of the position to be filled will be certified. The order for certifying must follow these criteria:

(1) If there are names on the employer's internal layoff list for the class or job family and level, all eligible candidates on the internal layoff list are certified to the employing official. Internal promotional candidates, as defined by the employer's promotional policy, may also be certified.

(2) If there are no names on the internal layoff list, the employer:

(a) Must certify all statewide layoff candidates who satisfy the competencies and other position requirements.

(b) May then certify other available eligible candidates. Any preference granted to promotional candidates must be in accordance with the employer's promotional policies as required by WAC 357-16-150.

(3) General government employers must certify transition pool candidates, who satisfy the competencies and other position requirements, when a certified pool contains eligible candidates other than layoff or internal promotional candidates.

AMENDATORY SECTION

**WAC 357-16-135** **When may an employer certify candidates for affirmative action purposes?** An employer may use supplemental certification to add to the certified pool when:

(1) Per the employer's certification procedure, the number of eligible candidates being certified is fewer than the total number of candidates eligible for certification;

(2) The employer's approved affirmative action plan shows that a goal exists in the job category for the particular affected group; and

(3) There are no individuals on the internal layoff list for the class or job family and level who satisfy the competencies and other position requirements for the position.

AMENDATORY SECTION

**WAC 357-16-155** **Can an individual's name be removed from an applicant or candidate pool for a class or job family and level or all classes or job families and levels in a class series or job family?** An employer may disqualify an individual by removing the individual's name from an applicant and/or candidate pool for a class or job family and level or all classes or job families and levels in a class series or job family at any time for good and sufficient reason.

AMENDATORY SECTION

**WAC 357-16-157** **Is an eligible's name removed from applicant and/or candidate pools when** ((**~~he/she~~**)) **the employee is appointed to a position?** An eligible's name may be removed from the applicant and/or candidate pool for the class or job family and level to which ((~~he/she~~)) the employee is appointed and all lower classes or job families and levels in the same class series or lower levels within the job family.

AMENDATORY SECTION

**WAC 357-19-025** **When must an employee serve a trial service period?** A permanent employee must serve a trial service period upon promotional appointment to a position in a class or job family and level in which the employee has not held permanent status. A general government employee laid off in accordance with the provisions of WAC 357-46-010 or 357-58-445 is not considered to have had a break in continuous state service if within two years of separation the employee is appointed to a position. Upon appointment to a position with a higher salary range maximum than the position the employee was laid off from the employee must serve a trial service period.

AMENDATORY SECTION

**WAC 357-19-040** **How long is the probationary period?** The director must establish the duration of the probationary period on a class-wide basis. The probationary period for a class or job family and level must be from six to twelve months long.

The probationary period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

AMENDATORY SECTION

**WAC 357-19-045** **Can the length of a probationary period be extended?** The probationary period for the class of campus police officer (or successor title) may not be extended. For all other classes or job families and levels, employers may extend the probationary period for an individual employee or for all employees in a class or job family and level as long as the extension does not cause the total period to exceed twelve months.

AMENDATORY SECTION

**WAC 357-19-050** **How long is a trial service period?** The director must establish the duration of the trial service period on a class-wide basis. The trial service period for a class or job family and level must be from six to twelve months in duration.

The trial service period for the campus police officer class (or successor title) must extend from the date of appointment until twelve months following the successful completion of the Washington state criminal justice training commission basic law enforcement academy or twelve months from the date of appointment if academy training is not required.

AMENDATORY SECTION

**WAC 357-19-060** **Can the length of a trial service period be extended?** The trial service period for the class of campus police officer (or successor title) may not be extended. For all other classes or job families and levels, employers may extend the trial service period for an individual employee or for all employees in a class or job family and level as long as the extension does not cause the total period to exceed twelve months.

AMENDATORY SECTION

**WAC 357-19-070** **What happens if an employee who is serving a probationary or trial service period accepts an appointment to another permanent position with the same employer?** If an employee accepts an appointment to another permanent position with the same employer while serving a probationary or trial service period, the following applies:

(1) If the employer determines the positions or classes or job families and levels to which the positions are allocated are closely related the employer may count time served in the initial probationary or trial service toward the probationary or trial service period of the new position; or

(2) If the employer determines the positions or classes **or job families and levels** to which the positions are allocated are not closely related the probationary or trial service period of the new position starts over.

AMENDATORY SECTION

**WAC 357-19-073** **What happens if an employee who is serving a probationary period accepts a nonpermanent appointment?** If an employee who is serving a probationary period accepts a nonpermanent appointment, 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 or job family and level 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.

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 or job families and levels which are closely related, the employer may count the time worked in the nonpermanent appointment towards the probationary period.

AMENDATORY SECTION

**WAC 357-19-115** **To which employer and position would an employee revert?** (1) A permanent employee who does not satisfactorily complete the trial service period or a Washington management service (WMS) review period or has failed to progress to the next step of an in-training plan in accordance with WAC 357-19-285, has reversion rights with the current employer at the time of reversion. An employee has the right to revert to a position, if available, in accordance with the following:

(a) For employees reverting from trial service following a promotion, transfer or elevation, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies competencies and other position requirements and which is:

(i) Allocated to the class or job family and level the employee last held permanent status in; or

(ii) If no positions are available, allocated to a class or job family and level which has the same or lower salary range maximum.

(b) For employees reverting from trial service following a voluntary demotion, the employer must revert the employee to a vacant position, or a position filled by a nonpermanent appointee as defined in WAC 357-01-210, for which the employee satisfies the competencies and other position requirements and which is allocated to a class or job family and level which has the same or lower salary range maximum as the class or job family and level from which the employee is reverting.

(2) If no vacant position or position filled by a nonpermanent appointee as defined in WAC 357-01-210 is available, the employee is eligible to be placed on the employer's internal layoff list upon request in accordance with WAC 357-19-117.

AMENDATORY SECTION

**WAC 357-19-117** **Can a reverted employee be placed on a layoff list and in the general government transition pool?** If the reverted employee is not returned to a permanent position in the class or job family and level in which the employee last held permanent status, the employee is eligible to be placed on the employer's internal layoff list upon request. General government employees may also apply for placement in the transition pool.

AMENDATORY SECTION

**WAC 357-19-160** **Can an employee be elevated following a demotion?** Employers may elevate an employee with permanent status to the class or job family and level held by the employee immediately prior to being demoted or to a class or job family and level in the same class series or job family which is between the current class or job family and level and the class or job family and level from which the employee was demoted. Elevation must be to a position for which they meet the competencies and other position requirements. The employer may require the elevated employee to serve a trial service period.

AMENDATORY SECTION

**WAC 357-19-165** **What is the difference between reassignment and transfer?** A reassignment is an employer-initiated move of an employee from one position to a comparable position in the same class or job family and level. A transfer is an employee-initiated move from one position within or between employers in the same class or job family and level or a different class or job family and level with the same salary range maximum.

AMENDATORY SECTION

**WAC 357-19-170** **Can an appointing authority reassign an employee?** Within an agency or higher education institution/related board, an appointing authority may reassign an employee to a different position within the same class or job family and level as long as the employee meets the competencies and other position requirements. (See WAC 357-19-175 for special provisions covering reassignments to different geographic areas.)

AMENDATORY SECTION

**WAC 357-19-180** **Can an employee transfer?** Permanent employees may request to transfer to another position in the same class or job family and level or a different class or job family and level with the same salary range maximum as long as the employee meets the competencies and other position requirements. The employer may require the employee to serve a trial service period following a transfer. If the employee was in trial service status at the time of the transfer, the provisions of WAC 357-19-070 apply.

AMENDATORY SECTION

**WAC 357-19-181** **When is an employee appointed to a position with permanent status?** An appointing authority must make a permanent status appointment of an employee under the following conditions:

(1) Upon successful completion of a probationary, trial service, or transition review period;

(2) Upon reassignment of a permanent employee who is not in trial service status;

(3) Upon transfer, demotion, reversion((~~,~~)) or elevation when the employee is not required to serve a trial service period;

(4) Upon rehire from layoff or appointment to a position as a layoff option when a transition review period is not required;

(5) Upon the director conferring permanent status to an employee under remedial action provisions; and

(6) Upon conversion of an exempt position to the classified service, per WAC 357-19-225, if the incumbent has been employed for at least an amount of time equal to the probationary period or WMS review period for the class or job family and level. If the incumbent has not been employed that long, the employee must serve a probationary period or Washington Management Service (WMS) review period. The employer may count the time spent in the position prior to conversion towards the probationary period or WMS review period.

AMENDATORY SECTION

**WAC 357-19-195** **If a permanent employee in a classified position accepts an appointment to an exempt position, what is the employee's right to return to a position in the classified service?** A permanent employee who accepts an appointment to an exempt position has the right to return to classified service at any time as long as the employee was not terminated from an exempt position for gross misconduct or malfeasance.

The employee's right is to a position in the highest class or job family and level in which the employee previously held permanent status or to a position of similar nature and salary. The return right is to the most recent employer with which permanent status in the highest class or job family and level was held. A position in the highest class or job family and level does not necessarily mean return to the most recent employer.

If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

AMENDATORY SECTION

**WAC 357-19-220** **What happens to an employee whose classified service position is converted to an exempt position?** An employee who holds a classified service position that is exempted from civil service has the following rights:

(1) If the employee has permanent status and is appointed to the exempt position or to another exempt position, the employee has the right to return to the classified service at the conclusion of the exempt appointment as specified in WAC 357-19-195.

(2) If the employee has permanent status and is **not** appointed to the exempt position or another exempt position, the employee has the right to assume a position in the highest class or job family and level previously held, or to a position of similar nature and salary. If upon an employee being returned to a classified position there are fewer positions than there are employees entitled to such positions, the employer's layoff procedure applies.

The employee may appeal the exemption of the position in accordance with chapter 357-52 WAC.

AMENDATORY SECTION

**WAC 357-19-235** **What are in-training positions?** In-training positions are permanent positions for which the employer uses defined training steps to train employees to successfully perform the duties and responsibilities of the goal class or job family and level. Each in-training position must have an in-training plan.

AMENDATORY SECTION

**WAC 357-19-240** **What positions can be designated as in-training?** Employers may designate specific positions, groups of positions, or all positions in a class or job family and level or class series or job family, as in-training positions. Unless other staffing methods have been exhausted, positions with primary responsibility for supervision should not be designated as in-training positions.

AMENDATORY SECTION

**WAC 357-19-245** **What components must be included in an in-training plan?** The in-training plan must document:

(1) The title of the goal class or job family and level of the in-training plan.

(2) The duties and responsibilities of the goal class or job family and level.

(3) The training steps and job classes or job families and levels that will be used to reach the goal class or job family and level.

(4) The training content for each step of the in-training plan. The training must include at least one of the following components:

(a) On-the-job training (knowledge and skill developed through experience);

(b) Classroom or field instruction;

(c) Courses conducted by an educational institution, vocational school~~,~~ or professional training organization; or

(d) Written, oral~~,~~ and/or practical examination(s).

(5) The length of the training steps that are being used to reach the goal class or job family and level.

(6) The competencies that must be acquired by the employee while in training to the goal class or job family and level.

(7) The method(s) that will be used to determine if the employee has successfully completed the requirements of the in-training plan.

AMENDATORY SECTION

**WAC 357-19-250** **During an in-training plan, when does an employee advance to the next training step?** The employee automatically advances to the next training step and job class or job family and level after satisfactory completion of the training requirements of the lower step. After successful completion of all training steps, the employee moves to the goal class or job family and level.

AMENDATORY SECTION

**WAC 357-19-260** **While an employee is in an in-training appointment, what class or job family and level is used to determine the employee's salary, work period designation, performance evaluation?** For each in-training step, the training plan must identify the job class to which the employee's work is being allocated. The employee's salary, work period designation, and performance evaluation must be based upon the allocated class or job family and level of the in-training step.

AMENDATORY SECTION

**WAC 357-19-435** **For what reasons may a higher education employer make a temporary appointment?** A higher education employer may make 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 twelve consecutive month period from the original date of hire or October 1, 1989, 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 or job family and level for a period of less than six consecutive months.

AMENDATORY SECTION

**WAC 357-19-443** **Does a permanent employee who is temporarily appointed to a higher level class or job family and level under the provision of WAC 357-19-435(2) have the right to resume a position at the conclusion of the temporary appointment?** At the conclusion of a temporary appointment to a higher level class or job family and level under the provisions of WAC 357-19-435(2), a permanent employee has a right to resume a position in the class or job family and level the employee was in prior to the temporary appointment. Upon return to a position in the prior class or job family and level, the employee's base salary is reinstated and the employee is credited with any increment increases that would have occurred had the employee not been temporarily appointed to a higher class or job family and level.

AMENDATORY SECTION

**WAC 357-19-455** **What is reemployment?** Reemployment is the appointment of a former permanent employee who had permanent status in a class or job family and level with the same or similar job duties.

AMENDATORY SECTION

**WAC 357-19-460** **Is certification required to reemploy a former permanent status employee?** (1) Employers may directly reemploy without certification former permanent status employees who have submitted an application for employment as long as:

(a) The employer's internal layoff list or statewide layoff list for the class or job family and level has no eligible candidates;

(b) The former employee satisfies the competencies and other requirements of the position to which the employee is being reemployed; and

(c) The former employee has applied for reemployment in accordance with any employer-established time frames within which former employees must apply.

(2) Upon reemployment, the employee must serve a probationary period unless the employer determines otherwise.

AMENDATORY SECTION

**WAC 357-19-470** **What reemployment services does the employer provide to a former employee seeking reemployment under the provisions of WAC 357-19-465?** The employer will provide assistance, such as the following, to an eligible former employee seeking reemployment under the provisions of WAC 357-19-465:

(1) Determination of job classes or job families and levels and/or positions for which the former employee is qualified;

(2) Assistance regarding the employment/application process;

(3) Reemployment consideration in accordance with the employer's certification procedure for positions for which the individual meets the competency and other position requirements; and

(4) Access to training programs relevant to the job classes or job families and levels for which the former employee may become qualified.

AMENDATORY SECTION

**WAC 357-19-475** **To be eligible for reemployment following disability separation under WAC 357-19-465 what must the employee do?** To be eligible for reemployment the former employee must:

(1) Complete and submit an application(s) for reemployment to the employer;

(2) Meet the competencies and other requirements of the class or job family and level and/or position for which the former employee is applying; and

(3) Submit to the employer a statement from a licensed health care provider affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory~~,~~ or mental disability of the individual.

(a) If the licensed health care provider's statement provides inadequate information, the former employee will obtain the necessary clarification from the licensed health care provider or provide a release to the personnel officer/appointing authority to communicate directly with the licensed health care provider regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense.

(b) The employer may require that the former employee be examined by a licensed health care provider of the employer's choice at the employer's expense.

AMENDATORY SECTION

**WAC 357-19-535** **Are an employee's return-to-work opportunities limited to the agency or institution/related board which was the employer at the time of the qualifying injury?** Permanent state employees who are receiving compensation under RCW 51.32.090 for a temporary disability are eligible to participate in agency or institution/related board return-to-work programs statewide when appropriate ((~~job classifications~~)) classes or job families and levels are not available with the employer that was the appointing authority at the time of qualifying injury. Employers must coordinate and cooperate with one another to provide return-to-work opportunities on a statewide basis.

AMENDATORY SECTION

**WAC 357-28-020** **What must the compensation plan include?** The compensation plan must include:

(1) A general salary schedule including minimum and maximum amounts for each salary range assigned to a class or job family and level;

(2) Special salary schedules including the minimum and maximum amounts for each special pay range assigned to a class or job family and level or position;

(3) Assignment pay premiums, shift premiums, and standby pay rates as determined by the director;

(4) Definitions and application of overtime eligibility designations.

AMENDATORY SECTION

**WAC 357-28-025** **Can the director adopt special pay salary ranges?** 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 job families and levels or positions assigned special pay ranges and the associated special salary schedule must be specified in the compensation plan.

AMENDATORY SECTION

**WAC 357-28-027** **How long will higher education special pay ranges remain in effect?** Except when the director specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class or job family and level equals or exceeds the special pay range.

AMENDATORY SECTION

**WAC 357-28-028** **By whom and for what reasons may a higher education special pay request be submitted to the director?** A special pay request may be submitted by institutions of higher education and related boards:

(1) When a unique configuration of work requires skills, duties((~~,~~)) or working conditions beyond those typically required of comparable positions;

(2) To alleviate employment problems such as recruitment and/or retention;

(3) When failure to grant special pay could result in recruitment and/or retention problems which would seriously jeopardize the effective operation of the institution; or

(4) To prevent salary inversion or compression problems with other classes or job families and levels in the same or related class series or family which have been granted special pay.

AMENDATORY SECTION

**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) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a position in a new class or job family and level;

(3) Increasing base salary in accordance with WAC 357-28-110 when an employee promotes to a permanent position while in a nonpermanent appointment;

(4) Setting base salary in accordance with WAC 357-28-140 when an employee transfers to a new position;

(5) Setting base salary when an employee is appointed from an internal or statewide layoff list;

(6) Setting base salary when an employee is reallocated to a position with a 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) Setting base salary when an employee demotes for reasons other than accepting a demotion in lieu of layoff or accepting a demotion when a position is reallocated;

(8) Setting base salary when an employee is reverted following a voluntary demotion;

(9) Authorizing premiums for recruitment and retention as provided in WAC 357-28-095 and 357-28-100;

(10) 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;

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

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

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

AMENDATORY SECTION

**WAC 357-28-040** **Can an employee's base salary be set above the maximum of the salary range?** An employee's base salary may be set above the maximum of the salary range assigned to the position's class or job family and level when allowed under any provisions of Title 357 WAC or when approved by the director.

AMENDATORY SECTION

**WAC 357-28-050** **What is the periodic increment date** ((**~~(PID)~~**))**?** The periodic increment date is the date upon which an employee is scheduled to receive an increment increase by moving to a higher salary step within the salary range for ((~~his/her~~)) the employee's current class or job family and level.

AMENDATORY SECTION

**WAC 357-28-070** **Can an employer adjust the timing and 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. This may apply to all employees, employees in specific positions, all employees allocated to a class or job family and level~~,~~ 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

**WAC 357-28-080** **How does an employee allocated to a class or job family and level with a special pay salary range progress through the range?** Unless adjusted under WAC 357-28-070, employees allocated to a class or job family and level with a special pay salary range must progress through the special pay salary range as defined in the compensation plan.

AMENDATORY SECTION

**WAC 357-28-084** **Can an employee be appointed to step M upon demotion?** An employee cannot be appointed to step M upon demotion (voluntary or involuntary) unless the employee was at step M of the salary range from which the employee is demoting or the employee was previously at step M in the salary range of the class or job family and level the employee is demoting to.

AMENDATORY SECTION

**WAC 357-28-115** **Must an employee occupying a position that is reallocated to a class or job family and level with a higher salary range receive a salary increase?** An employee occupying a position that is reallocated to a class or job family and level with a higher salary range must receive a minimum increase of at least two steps not to exceed step M of the salary range in accordance with WAC 357-28-110.

AMENDATORY SECTION

**WAC 357-28-120** **What is the base salary of an employee occupying a position that is reallocated to a class or job family and level with the same or lower salary range?** An employee occupying a position that is reallocated to a class or job family and level with the same or lower salary range must be placed within the new salary range at an amount equal to ((~~his/her~~)) the employee's 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 but not exceeding the previous base salary, if allowed by the employer's salary determination policy.

AMENDATORY SECTION

**WAC 357-28-130** **How is an employee's base salary determined if the director creates, abolishes, or revises a class or job family and level?** When reallocation is necessary because the director creates, abolishes~~,~~ or revises a class or job family and level, an employee's base salary is determined as follows:

(1) An employee occupying a position reallocated to a class or job family and level with the same or lower salary range must be paid an amount equal to ((~~his/her~~)) the employee's previous base salary.

(2) An employee occupying a position reallocated to a class or job family and level with a higher salary range must have ((~~his/her~~)) the employee's base salary adjusted to the same step in the new range as held in the previous range unless otherwise determined by the director.

AMENDATORY SECTION

**WAC 357-28-155** **How is an employee's salary determined upon demotion?** (1) The base salary of an employee who accepts a demotion in lieu of layoff must be set in accordance with WAC 357-28-135.

(2) An employee demoted for any other reason must be paid within the salary range of the class or job family and level to which the position is allocated. The employee's base salary must be determined in accordance with the employer's salary determination policy.

AMENDATORY SECTION

**WAC 357-31-340** **When an employee returns from authorized leave without pay, what position will** ((**~~he/she~~**)) **the employee be returned to?** Employees returning from authorized leave without pay must be employed in the same position or a similar position in the same class or job family and level and in the same geographical area, provided that such return to employment is not in conflict with rules relating to layoff.

AMENDATORY SECTION

**WAC 357-34-050** **Can an employee be given an assignment for career development purposes?** (1) Employers may make the following planned training assignments for employee career development without incurring reallocation or compensation obligations:

(a) Performance of responsibilities outside the current job class or job family and level on a time-limited basis.

(b) Intra-agency or interagency rotational or special project assignments.

(2) The employee and the employer(s) shall mutually agree in writing, including time limits, to assignments identified in subsection (1)(a) and (b) of this section.

AMENDATORY SECTION

**WAC 357-46-005** **What is the impact of a layoff?** Layoff is an employer-initiated action taken in accordance with WAC 357-46-010 that results in:

(1) Separation from service with an employer;

(2) Employment in a class or job family and level with a lower salary range maximum;

(3) Reduction in the work year; or

(4) Reduction in the number of work hours.

AMENDATORY SECTION

**WAC 357-46-010** **What are the reasons for layoff?** (1) Employees may be laid off without prejudice according to layoff procedures that are consistent with these rules. The reasons for layoff include, but are not limited to, the following:

(a) Lack of funds;

(b) Lack of work; or

(c) Organizational change.

(2) Examples of layoff actions due to lack of work may include, but are not limited to:

(a) Termination of a project or special employment;

(b) Availability of fewer positions than there are employees entitled to such positions;

(c) Employee's ineligibility to continue in a position following its reallocation to a class or job family and level with a higher salary range maximum; or

(d) Employee's ineligibility to continue, or choice not to continue, in a position following its reallocation to a class or job family and level with a lower salary range maximum.

(e) Elimination of a position due to the work of the position being competitively contracted.

AMENDATORY SECTION

**WAC 357-46-020** **What must be included in the employer's layoff procedure?** The employer's layoff procedure must:

(1) Identify clearly defined layoff unit(s) that minimize disruption of the employer's total operation and provide options to employees scheduled for layoff;

|  |  |
| --- | --- |
| • | Employers may establish separate and exclusive layoff units for project employment, employee business units, or special employment programs. |

(2) Provide opportunities to avoid or minimize layoff, such as transfers, voluntary demotion, voluntary reduced work schedule, or voluntary leave without pay;

(3) Require the appointing authority to provide written notice of layoff to employees in accordance with WAC 357-46-025;

(4) Provide layoff options for permanent employees being laid off as provided in WAC 357-46-035;

(5) Address the time frame in which employees must select a layoff option;

(6) Define what the employer considers when determining the comparability of a position;

(7) Identify the employer's legitimate business requirements if the employer is going to consider those requirements in determining layoff options under WAC 357-46-035;

|  |  |
| --- | --- |
| • | Legitimate business requirements may include requirements such as circumstances or characteristics that render a position uniquely sensitive to disruption in continuity such as meeting critical deadlines, continuity in patient care, or research progress. |

(8) Describe how employment retention ratings will be calculated, including options for factoring performance into ratings; and

(9) Specify how the employer will break ties when more than one employee has the same employment retention rating.

(10) Higher education employers address in their layoff procedure whether or not employees have layoff list rights to classes or job families and levels they held permanent status in prior to any breaks in state service.

AMENDATORY SECTION

**WAC 357-46-035** **Layoff option.** (1) **What option does a permanent employee have to take a position when the employee is scheduled for layoff?**

Within the layoff unit, a permanent employee scheduled for layoff must be offered the option to take a position, if available, that meets the following criteria:

(a) The position is allocated to the class or job family and level in which the employee holds permanent status at the time of the layoff. If no option to a position in the current class or job family and level is available, the employee's option is to a position in a class or job family and level in which the employee has held permanent status that is at the same salary range. If the employee has no option to take a position at the same salary range, the employee must be given an opportunity to take a position in a lower class or job family and level in a class series or job family in which the employee has held permanent status, in descending salary order. The employee does not have to have held permanent status in the lower class or job family and level in order to be offered the option to take a position in the class or job family and level.

(b) The position is comparable to the employee's current position as defined by the employer's layoff procedure.

(c) The employee satisfies the competencies and other position requirements.

(d) The position is funded and vacant, or if no vacant funded position is available, the position is occupied by the employee with the lowest employment retention rating.

(2) **What if the employee has no option under subsection (1) of this section?**

(a) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an available position in the layoff unit to offer the employee in lieu of separation that meets the following criteria:

(i) The position is at the same or lower salary range maximum as the position from which the employee is being laid off;

(ii) The position is vacant or held by a probationary employee or an employee in a nonpermanent appointment;

(iii) The position is comparable or less than comparable; and

(iv) The position is one for which the employee meets the competencies and other position requirements.

(b) If more than one qualifying position is available, the position with the highest salary range maximum is the one that must be offered.

(3) **What happens when a class or job family and level in which the employee previously held permanent status has been revised or abolished?**

If a class or job family and level in which an employee has previously held permanent status has been revised or abolished, the employer shall determine the closest matching class or job family and level to offer as a layoff option. The closest matching class or job family and level must be at the same or lower salary range maximum as the class or job family and level from which the employee is being laid off.

(4) **Does an employee have layoff option rights as provided in subsection (1) of this section to** ((**~~classifications~~**)) **classes or job families and levels the employee held permanent status in prior to any breaks in state service?**

General government employees have layoff option rights as provided in subsection (1) of this section to ((~~classifications~~)) classes or job families and levels the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff options to classes or job families and levels they held permanent status in prior to any breaks in state service

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AMENDATORY SECTION

**WAC 357-46-045** **How do employers establish competency and other position requirements?** In establishing competency and other position requirements, employers may use any of the following documented criteria:

(1) Licensing/certification requirements;

(2) Position description;

(3) Class or job family and level specification;

(4) Skills/competencies listed on the position's most recent recruitment announcement or the last announcement used to fill the position;

(5) Bona fide occupational requirement(s) approved by the Washington human rights commission; or

(6) Additional documented competencies or requirements not reflected in the position description.

AMENDATORY SECTION

**WAC 357-46-070** **Which employees are eligible to have their name placed on an employer's internal layoff list?** (1) Permanent employees of the employer who satisfy the following criteria must have their name placed on the employer's internal layoff list if the employee exercises this option within the two-year eligibility period:

(a) **Employees who are laid off or have been notified in writing by the employer that they are scheduled to be laid off** are eligible to be on the internal layoff list for classes or job families and levels in which they held permanent status at the same or lower salary range and lower classes or job families and levels in the same class series or job family. Permanent status is not required for the lower classes or job families and levels in the class series or job family. For purposes of this subsection "employees" includes Washington management service (WMS) employees who are laid off or have been notified by the employer that they are scheduled to be laid off and who have held permanent status in Washington general service. WMS employees only have layoff list rights to classes or job families and levels which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff.

(b) **Employees who accept a voluntary demotion in lieu of layoff** are eligible to be on the internal layoff list for the class or job family and level from which they demoted and classes or job families and levels at that salary range and lower salary ranges in which the employee held permanent status and lower classes or job families and levels in the same class series or job family. Permanent status is not required for the lower classes or job families and levels in the class series or job family. Washington management service (WMS) employees who accept a voluntary demotion in lieu of layoff are eligible to be on the internal layoff list for classes or job families and levels in which they held permanent status. WMS employees only have layoff list rights to classes or job families and levels which the highest step of the salary range is equal to or below the WMS salary at the time of the demotion.

(c) **Employees who accepted less than comparable positions** as defined by the employer's layoff procedure are eligible to be on the internal layoff list for classes or job families and levels in which they held permanent status at the same or lower salary range and lower classes or job families and levels in the same class series or job family. Permanent status is not required for the lower classes or job families and levels in the class series or job family.

(d) **Employees who have not successfully completed a trial service period and are placed in a nonpermanent position following reversion** are eligible to be on the internal layoff list for classes or job families and levels in which the employee previously held permanent status.

(e) **Employees who remain in a position reallocated to a lower salary range** are eligible to be on the internal layoff list for the class or job family and level the employee held permanent status in prior to the reallocation.

(2) Employees who have been demoted for cause from a class or job family and level are **not** eligible to be on the internal layoff list for that class or job family and level.

(3) General government employees have layoff list rights to all ((~~classifications~~)) classes or job families and levels the employee has held permanent status in regardless of any breaks in state service.

Higher education employers must address in their layoff procedure whether or not employees will be given layoff rights to classes or job families and levels they held permanent status in prior to any breaks in state service.

AMENDATORY SECTION

**WAC 357-46-075** **Can an employee be on an internal layoff list for classes or job families and levels with a higher salary range than the class or job family and level from which the employee is being laid off?** An employee may be on the internal layoff list for classes or job families and levels with a higher salary range than the class or job family and level from which the employee is being laid off as long as the employee has held permanent status in the higher class or job family and level and the employer's layoff procedure allows access to higher level classes or job families and levels.

AMENDATORY SECTION

**WAC 357-46-080** **Which employees are eligible to have their name placed on an employer's statewide layoff list?** (1) Permanent employees who satisfy the following criteria must have their name placed on the statewide layoff list for other employers if the employee exercises this option within the two-year eligibility period:

(a) Laid off or notified in writing by the employer they are scheduled to be laid off;

(b) Accepted a voluntary demotion in lieu of layoff; or

(c) Accepted less-than-comparable positions at the time of layoff.

For purposes of this subsection "employees" includes Washington management service (WMS) employees who have held permanent status in Washington general service.

(2) All employees who meet the criteria in subsection (1) of this section are eligible to be on the statewide layoff list for classes or job families and levels in which they held permanent status at the same or lower salary range and lower classes or job families and levels in the same series or job family. Permanent status is not required in the lower classes or job families and levels in the same class series or job family. General government employees have statewide layoff list rights to classes or job families and levels in which they held permanent status which are at a higher salary range and lower classes or job families and levels in the same class series or job family. Higher education employees do not have access to the statewide layoff list for higher level classes or job families and levels unless the employer's layoff procedure allows.

(3) WMS employees only have layoff list rights to classes or job families and levels in which the highest step of the salary range is equal to or below the WMS salary at the time of layoff or notification of layoff, or at the time of demotion.

(4) General government employees have layoff list rights to all ((~~classifications~~)) classes or job families and levels the employee has held permanent status in regardless of any breaks in state service.

(5) Higher education employers must address in their layoff procedure whether or not employees will be given layoff list rights to classes or job families and levels they held permanent status in prior to any breaks in state service.

(6) Employees who have been demoted for cause from a class or job family and level are **not** eligible to be on the statewide layoff list for that class or job family and level.

AMENDATORY SECTION

**WAC 357-46-095** **Who is eligible for the general government transition pool program?** The following individuals are eligible to participate in the general government transition pool program:

(1) All general government permanent employees separated by layoff or notified by their employer that they are at risk of layoff. This includes Washington management service permanent employees who are separated by layoff or notified by their employer that they are at risk of layoff;

(2) All general government permanent employees who are reverted and not returned to a permanent position in the ((~~classification~~)) class or job family and level in which the employee last held permanent status;

(3) All general government permanent employees who are reallocated to a ((~~classification~~)) class or job family and level with a lower salary range maximum;

(4) Permanent Washington management service employees who accept a position in Washington general service and are being voluntarily or involuntarily reverted during the trial service period;

(5) Former permanent classified general government employees who have submitted a written request for reemployment within two (2) years of disability separation and who have met the reemployment requirements of WAC 357-19-475;

(6) General government employee business unit members whose contract has expired or been terminated; and

(7) Permanent Washington management service employees who accept acting appointments and who do not return on the agreed upon date in accordance with WAC 357-58-275.

AMENDATORY SECTION

**WAC 357-46-135** **What causes an individual's name to be removed from a layoff list?** (1) An individual's name **must** be removed from an internal layoff list or statewide layoff list at the request of the individual or upon an employee's retirement, resignation, expiration of eligibility or dismissal from the employer.

(2) An individual's name **may** be removed from the internal and/or statewide layoff list for a class or job family and level when:

(a) The individual is appointed to a permanent position in the class or job family and level. The individual may also be removed from the internal and/or statewide layoff list for any classes or job families and levels with a lower salary range maximum in that class series or job family.

(b) The individual is appointed to a permanent position in a class or job family and level with a higher salary range maximum in a different class series or job family.

(c) The individual has been certified from the layoff list and waives consideration for a position in the class or job family and level three times.

(d) The employer or the director's office determines good and sufficient reason exists.

AMENDATORY SECTION

**WAC 357-46-160** **What is a disability separation?** A disability separation is an action taken to separate an employee from service when the employer determines that the employee is unable to perform the essential functions of the employee's position or class or job family and level with or without reasonable accommodation due to mental, sensory, or physical incapacity. Disability separation is not a disciplinary action.

AMENDATORY SECTION

**WAC 357-46-165** **When may an employer separate an employee in accordance with WAC 357-46-160?** An employer may separate an employee in accordance with WAC 357-46-160 due to disability when any of the following circumstances exist:

(1) The employer is unable to reasonably accommodate the employee.

(2) The employer has medical documentation of the employee's inability to work in any capacity.

(3) The employee requests separation due to disability and the employer has medical information which documents that the employee cannot perform the essential functions of the employee's position or class or job family and level.

AMENDATORY SECTION

**WAC 357-49-015** **How does an individual or employee request a director's review?** Director's review requests must be filed with the director's office. Review requests must include:

(1) The requestor's name, address and telephone number;

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

(3) If applicable, the employee representative's name, address and telephone number;

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

(5) A short statement of the grounds or reasons for the request; and

(6) A short statement of the relief or remedy sought by the requestor.

AMENDATORY SECTION

**WAC 357-52-020** **What information must be submitted with the appeal?** (1) The appeal must include:

(a) The name and address of the appellant and if represented the name, address and telephone number of the representative((~~,~~));

(b) The name of the employer and the department that took the action which is being appealed((~~,~~));

(c) A telephone number at which the appellant can be reached((~~,~~));

(d) The ((~~job classification~~)) class or job family and level or position of the employee at the time of the action which is being appealed((~~,~~));

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

(f) A short statement of the relief or remedy sought by the appellant((~~,~~)); and

(g) A short statement of whether the appellant believes the case would or would not be appropriate for mediation.

(2) An appeal of a disciplinary action, separation, layoff, or exemption must also include the effective date of the action and the employee's appointment status at the time of the action. The appeal must include a short statement of the nature of the action being appealed or a copy of the action letter from the employer.

(3) An appeal on exception to a director's determination must also detail the specific items of the director's determination to which exception is taken and should include a copy of the director's determination.

AMENDATORY SECTION

**WAC 357-58-325** **What happens when a Washington general service (WGS) employee serving a probationary or trial service period is appointed to a Washington management service (WMS) position within the same agency?** ((~~An~~)) A Washington general service (WGS) employee serving a probationary or trial service period who is appointed to a Washington management service (WMS) position ((~~from a WGS position~~)) in the same agency ((~~while serving a probationary or trial service period~~)) in the same or similar occupational field may serve the trial service or probationary period concurrently with the review period. At the discretion of the employer, the employee may attain permanent status in the previous ((~~job classification~~)) class or job family and level once the original probationary or trial service period concludes.

If the positions are in the same or similar occupational field, the employer may allow for some or all of the time served in the probationary or trial service period to count towards the review period.

AMENDATORY SECTION

**WAC 357-58-330** **What happens when a Washington general service (WGS) employee serving a probationary or trial service period is appointed to a Washington management service (WMS) position in a different agency?** If agreed to in writing by the employers in both agencies, a Washington general service (WGS) employee who is appointed to a Washington management service (WMS) position in a different agency in the same or similar occupational field while serving in a probationary or trial service period may serve the probationary or trial service period concurrently with the WMS review period. The employee will not attain permanent status in the previous ((~~job classification~~)) class or job family and level unless agreed to in writing by the employers in both agencies.

If the positions are in the same or similar occupational field, the new employer may allow for some or all of the time served in the probationary or trial service period for the WGS position to count towards the review period.

AMENDATORY SECTION

**WAC 357-58-465** **What option does a permanent employee in a Washington management service (WMS) position have to take a position when the employee is scheduled for layoff?** (1) Within the layoff unit, a permanent employee scheduled for layoff from a Washington management service (WMS) position must be offered the option to take a position, if available, that meets the following criteria:

(a) The employee has the required competencies for the position.

(b) The WMS position is at the same salary standard and/or evaluation points. If no option to a position with the same salary standard and/or evaluation points is available, the employer must consider other WMS positions with a lower salary standard and/or evaluation points, or Washington general service (WGS) positions in accordance with WAC 357-46-035(1) in descending salary order if the employee has held permanent status in a WGS ((~~classification~~)) class or job family and level. At the agency's discretion, the employee may be offered a vacant position at higher evaluation points.

(c) The position being offered as the option is funded and vacant. If no vacant position is available, the position being offered as the option must be occupied by the employee with the lowest retention rating.

(2) If a permanent employee has no option available under subsection (1) of this section, the employer must determine if there is an acting position in the layoff unit for which the employee is qualified.

**SECTION C**

NEW SECTION

**357-28-XXX When must an employee receive supervisory pay differential?** Employees within the Information Technology Professional Structure designated as and performing all the duties of a supervisor must receive a five percent supervisory pay differential in addition to their base pay as long as they meet the definition of supervisor.

**SECTION D**

NEW SECTION

**WAC 357-13-058 What is the requirement for employers to develop procedures which address inclusion in the Information Technology Professional Structure (ITPS) and evaluating positions for placement within the structure?**

(1) Each employer must develop and document an Information Technology Professional Structure (ITPS) evaluation procedure consistent with this chapter and guidelines established by the director's office.

(2) The procedure must include processes for requesting and determining inclusion and evaluating and reevaluating positions for placement within the ITPS. The procedure must require, at a minimum:

(a) Appointment of a human resource professional as the agency or institution's ITPS coordinator who serves as the single point of contact for the director's office regarding ITPS issues.

(b) Inclusion, determination and position evaluation must be performed by a committee of three or more people, which must include:

(i) The agency or institution's ITPS coordinator;

(ii) An IT manager from the agency or institution who has comprehensive knowledge of the agency or institution's business; and

(iii) At least one other HR professional or IT Manager.

(d) Only those who have successfully completed training may participate on an ITPS committee. The training must satisfy the core curriculum as defined by the director's office.

(c) All evaluation results must be captured in the tool identified by the director and a copy of the signed IT position description form must be attached to the evaluation results within the tool.

### AMENDATORY SECTION

### WAC 357-13-035 Must a standard form be used for each position description?

A standard form developed by the director or one containing components similar to those found in the director's form must be used for each position description.

For positions in the Information Technology Professional Structure (ITPS), a standard form developed by the director, or an alternate form approved by the director must be used for requests to establish or reevaluate ITPS positions.