

Rule Review Meeting – March 12, 2019

ITEM #1 – Information Technology Professional Structure

Staff note: Contingent on legislative funding, the state is implementing a new information technology 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 (ITPS). We are proposing the following rules to address those employees who have been placed into the new ITPS.

- The proposed new rules in **Section A** address the amended definitions of class (WAC 357-01-075) and class series (WAC 357-01-080) to include job family and/or level rather than amend all references to class, classes and classifications to be followed by job family/ies and/or level/s. This change was as a result of feedback received from the February 15, 2019 rules meeting. **Instead of the 90+ amended WACs that were proposed in Section B of the February 15, 2019 rules meeting it has been proposed to expand the current definitions of “class” and “class series” to include job family and/or level for efficiency and clarity purposes.**
- The proposed new rules in **Section B** addresses definitions for job family (WAC 357-01-187) and job level (WAC 357-01-188).
- The proposed new rule (WAC 357-28-215) in **Section C** addresses when an IT employee must receive supervisory pay differential. The proposed new rule (WAC 357-01-317) addresses the definition of supervisor that is referenced in WAC 357-28-215.
- The proposed new rule (WAC 357-13-058) in **Section D** addresses 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.
- The proposed amendment to WAC 357-46-045 in **Section E** adds the ITPS evaluator’s handbook as a documented criteria for establishing competency and other position requirements for IT positions.

SECTION A

AMENDATORY SECTION

WAC 357-01-075 Class. A level of work within the statewide job classification system. Where there is a professional structure that includes a job family and a job level, the combination of the job family and the job level constitutes a class, and a change in job family, job level or both is a change in class.

AMENDATORY SECTION

WAC 357-01-080 Class Series. A grouping of job functions having similar purpose and knowledge requirements, but different levels of difficulty and responsibility. Where there is a professional structure that includes a job family and a job level, different job levels within one job family constitutes a class series.

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SECTION B

NEW SECTION

WAC 357-01-187 Job family. A functional discipline involving work focused within a specific and specialized body of knowledge as established within a professional structure.

NEW SECTION

WAC 357-01-188 Job level. The measure of complexity of work performed.

SECTION C

NEW SECTION

WAC 357-28-215 When must an employee receive supervisory pay differential?

Employees within the information technology professional structure that are in the entry, journey and senior/specialist levels designated as and performing all the duties of a supervisor, in accordance with chapter 357-01 WAC, must receive a five percent supervisory pay differential in addition to their base pay.

NEW SECTION

WAC 357-01-317 Supervisor. (1) An employee who is assigned responsibility by management to participate in the following functions with respect to their subordinate employee(s):

- (a) Selecting staff;
- (b) Training and development;
- (c) Planning and assignment of work;
- (d) Evaluating performance;
- (e) Resolving grievances; and
- (f) Taking corrective action.

(2) Participation in these functions is not routine and requires the exercise of individual judgment.

(3) A supervisor must supervise a minimum of one full-time employee or equivalent (total of part-time FTEs).

SECTION D

NEW SECTION

WAC 357-13-058 What is the requirement for employers to develop procedures which address evaluating positions for placement in the information technology professional structure (ITPS)? (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 the process for requesting and evaluating positions for placement within the ITPS. The procedure must require, at a minimum the establishment of a committee of three or more employees to include the following:

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(a) A human resource (HR) professional who is designated as the employers ITPS coordinator and who also serves as the single point of contact for the director's office regarding ITPS issues.

(b) An information technology (IT) manager from the employer who has comprehensive knowledge of the employer's business; and

(c) At least one other HR professional or IT manager.

(3) 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.

(4) All evaluation results and a copy of the signed IT position description form must be uploaded in the tool identified by the director.

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.

SECTION E

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 specification;

(4) Information technology professional structure evaluator's handbook;

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

~~((5))~~ (6) Bona fide occupational requirement(s) approved by the Washington human rights commission; or

~~((6))~~ (7) Additional documented competencies or requirements not reflected in the position description.

ITEM #2 – Sick Leave for Bonding

Staff note: We are proposing to amend WAC 357-31-130(1)(i) to state that an employer must allow an employee (upon request) to use their accrued sick leave for the purpose of parental leave to bond with a newborn adoptive or foster child for a period up to 18 weeks. Sick leave taken for this purpose must be 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

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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))~~
When an employee requests to use sick 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 period up to 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((;));

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(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 #3 – Washington Management Service

Staff note: A review of chapter 357-58 WAC was completed as a result of a request from the WMS Coordinator's group. A sub-group of five agencies met to review the chapter to determine what updates were needed. The rules team identified additional amendments per documentation in the rule clean-up files and by reviewing WMS questions that were received by stakeholders. The bullets below are a summary of the proposed rule changes.

- The changes indicated in blue text below are housekeeping in nature specifically related to changing "incumbent" to "employee."

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- The changes in **orange** text are housekeeping in nature. Per rule clean-up file- changing the term “purposes” to “reasons” when it is used in reference to discipline.
- The changes indicated in **purple** text below are housekeeping in nature.
- **WAC 357-58-065-** Adding definition for subsection (1) break in service for consistency with WGS.

For reference only:

WAC 357-46-057 When is an employee considered to have a break in state service? An employee has a break in his/her continuous state service if the employee is separated, dismissed, or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-46-063 is not considered a break in continuous state service.

- **WAC 357-58-085-** To clarify that the only time a WMS employee can be set outside the maximum of an assigned band is under WAC 357-58-125 or when approved by the director.

For reference only:

WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary? An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A WMS employee occupying a position that is effected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to his/her previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary administration policy.

- **WAC 357-58-095-** To clarify that agencies may provide salary increases in recognition for an employee's demonstrated growth and development for a maximum of 25%.

For reference only:

WAC 357-58-100 Is there a limit for salary increases? Salary increases initiated by the agency normally will not exceed a total of **twenty-five percent** during the tenure of an employee's appointment to a position as long as the position's duties are unchanged or would not evaluate higher if new duties were assigned.

- **WAC 357-58-115-** Request from WMS Coordinators group to keep consistent with WAC 357-58-110 which addresses promotion.

For reference only:

WAC 357-58-110 What is a promotion? A promotion is one of the following:

(1) The assignment of additional responsibilities, which results in higher evaluation points and/or a higher salary standard for the same position, or

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(2) Movement to a different position that has a **higher salary standard** and/or higher evaluation points.

- **WAC 357-58-130-** Clarify that a group of employees means five or more employees with the same job working title for consistent rule application
- **WAC 357-58-145-** Housekeeping to keep consistent with language in other WACs.
- **WAC 357-58-170-** Clarify when an agency may have the discretion to offer additional compensation to Washington Management Service employees.
- **WAC 357-58-175(1)-** Clarify for consistent rule application.
- **WAC 357-58-205-** Housekeeping in nature per rule clean-up file. To align with WAC 357-19-175.

For reference only:

WAC 357-19-175 What are the provisions for reassigning a permanent employee to a different geographic area? When reassigning a permanent employee to a position in a different geographic area, the following applies: (1) If the reassignment is within a reasonable commute of **the employee's domicile**, the appointing authority may reassign the employee without the employee's agreement.

(2) If the reassignment is outside of a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employer's layoff procedure applies

(3) The employer defines what is within a reasonable commute.

- **WAC 357-58-207-** Per rule clean-up file. New rule to address the notice period.
- **WAC 357-58-275-** Per rule clean-up file.
- **WAC 357-58-290-** Per rule clean-up file. If an employee in a WMS review period accepts a non perm position in WGS, we need to clarify that if the agency wants to suspend the review period and allow the employee to resume where they left off when they return to the WMS position they should be able to do that or if the agency wants the employee to start the review period over they have that option too. The only thing they can't do is count the time in the WGS position towards the WMS review period.
- **WAC 357-58-375(2)-** Per rule clean-up file to address a question we received, if you are putting an employee in a vacant position, how could you end up with too many people in the position. Amending subsection (2) needs to read like subsection (1).
- **WAC 357-58-438-** Clarification there are no WMS seasonal employees. Remove "reduction in the work year"
- **WAC 357-58-540-** Request to repeal WAC. This WAC was pre-civil service reform and pre-HRMS when agencies were required to submit a form to DOP when they had a WMS appointment. The info that was on the forms can now be found within HRMS and OFM has the capability to run the data versus having agencies submit reports.
- **WAC 357-58-552-** Request to repeal because agencies no longer need to submit reports because OFM has the capability to obtain these reports.

AMENDATORY SECTION

WAC 357-58-035 What is the definition of a manager or managerial employee? In accordance with RCW 41.06.022, a manager or managerial employee is defined as the ~~((incumbent))~~ employee of a position that:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

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(2) Administers one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or an agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; and/or

(5) Functions above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

AMENDATORY SECTION

WAC 357-58-042 What happens when it has been determined that a position no longer meets the definition of manager found in WAC 357-58-035? When an agency has determined that the duties of a position no longer meet the definition of manager, found in WAC 357-58-035, and is no longer appropriate in Washington management service (WMS), then provisions of chapter 357-58 WAC ((357-58)) no longer apply. The Washington general service (WGS) rules on reallocation (((WAC 357-13)) (chapter 357-13 WAC)) will apply. The employee will retain existing status.

AMENDATORY SECTION

WAC 357-58-055 What civil service rules do not apply to Washington management service (WMS)? Except where specifically stated otherwise, the following WAC chapters do not apply to positions or employees included in the Washington management service (WMS):

Chapter 357-01 WAC, Definitions;

Chapter 357-13 WAC, Classification;

Chapter 357-16 WAC, Recruitment, assessment, and certification;

Chapter 357-19 WAC, Appointments and reemployment;

Chapter 357-28 WAC, Compensation;

Chapter 357-46 WAC, Layoff and separation; and

Chapter 357-49 WAC, Director's reviews.

AMENDATORY SECTION

WAC 357-58-065 Definitions for Washington management service (WMS). The following definitions apply to chapter 357-58 WAC:

(1) **Break in service.** An employee has a break in continuous state service if the employee is separated, dismissed or resigns from state service. A furlough for the purposes of temporary layoff as provided in WAC 357-58-550 is not considered a break in continuous state service.

(2) **Competencies.** Those measurable or observable knowledge, skills, abilities and behaviors critical to success in a key job role or function.

~~((2))~~ (3) **Director.** State human resources director within the office of financial management.

~~((3))~~ (4) **Dismissal.** The termination of an individual's employment for disciplinary ~~((purposes))~~ reasons.

~~((4))~~ (5) **Employee.** An individual working in the classified service. Employee business unit members are defined in WAC 357-43-001.

~~((5))~~ (6) **Evaluation points.** ~~((Evaluation points are))~~ The points resulting from an evaluation of a position using the managerial job value assessment chart.

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~~((6))~~ **(7) Layoff unit.** A clearly identified structure within an employer's organization within which layoff options are determined in accordance with the employer's layoff procedure. Layoff units may be a series of progressively larger units within an employer's organization.

~~((7))~~ **(8) Management bands.** ~~((Management bands are))~~ A series of management levels included in the Washington management service (WMS). Placement in a band reflects the nature of management, decision-making environment and policy impact and scope of management accountability and control assigned to the position.

~~((8))~~ **(9) Performance management confirmation.** Approval granted by the director to an employer allowing the employer to factor in individual employee performance when granting recognition leave and when making layoff decisions.

~~((9))~~ **(10) Premium.** Pay added to an employee's base salary on a contingent basis in recognition of special requirements, conditions or circumstances associated with the job.

~~((10))~~ **(11) Reassignment.** ~~((A reassignment is))~~ An employer initiated movement of:

(a) A WMS employee from one position to a different position within WMS with the same salary standard and/or evaluation points; or

(b) A WMS position and its ~~((incumbent))~~ employee in that position from one section, department or geographical location to another section, department or geographical location.

~~((11))~~ **(12) Review period.** ~~((The review period is))~~ A period of time that allows the employer an opportunity to ensure the WMS employee meets the requirements and performance standards of the position.

~~((12))~~ **(13) Salary standard.** Within a management band a salary standard is the maximum dollar amount assigned to a position in those agencies that use a salary standard in addition to, or in place of, evaluation points.

~~((13))~~ **(14) Separation.** Separation from state employment for nondisciplinary ~~((purposes))~~ reasons.

~~((14))~~ **(15) Suspension.** An absence without pay for disciplinary ~~((purposes))~~ reasons.

~~((15))~~ **(16) Transfer.** ~~((A WMS transfer is))~~ An employee initiated movement from one position to a different position with the same salary standard and/or same evaluation points.

~~((16))~~ **(17) Washington general service (WGS).** ~~((Washington general service is))~~ The system of personnel administration that applies to classified employees or positions under the jurisdiction of chapter 41.06 RCW which do not meet the definition of manager found in RCW 41.06.022.

~~((17))~~ **(18) Washington management service (WMS).** ~~((Washington management service is))~~ The system of personnel administration that applies to classified managerial employees or positions under the jurisdiction of RCW 41.06.022 and 41.06.500.

AMENDATORY SECTION

WAC 357-58-085 Can Washington management service (WMS) salaries be set outside the maximum of an assigned management band? Compensation for a Washington management service (WMS) position may be set outside the maximum of the assigned management band when allowed under ~~((any provision of this chapter))~~ WAC 357-58-125 or when approved by the director.

AMENDATORY SECTION

WAC 357-58-095 May agencies provide salary increases for Washington management service (WMS) employees? Employers may provide salary increases to Washington management service (WMS) employees in recognition of the employee's demonstrated growth and development in accordance with WAC 357-58-100.

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AMENDATORY SECTION

WAC 357-58-115 What is a voluntary demotion and what changes may occur in salary?

A voluntary demotion is a voluntary movement by an employee to a position ~~((with))~~ that has a lower salary standard and/or lower evaluation points. Such movement may result in a salary decrease.

AMENDATORY SECTION

WAC 357-58-125 What is an involuntary downward movement and how does that affect the salary?

An involuntary downward movement is based on a nondisciplinary reassignment of duties that results in a lower salary standard and/or lower evaluation points for an employee's current position. A Washington management service (WMS) employee occupying a position that is ~~((affected))~~ affected by an involuntary downward movement must be placed within the salary standard established for the WMS position at an amount equal to ~~((his/her))~~ the employee's previous base salary. If the previous base salary exceeds the new salary standard, the employee's base salary must be set equal to the maximum of the salary standard for the position. The employee's base salary may be set higher than the salary standard maximum, but not exceeding the previous base salary, if allowed by the employer's salary administration policy.

AMENDATORY SECTION

WAC 357-58-126 How is the employee affected when ~~((his/her))~~ the employee's position is involuntarily moved downward as described in WAC 357-58-125? When an employee's position is moved involuntary downward as described in WAC 357-58-125, the following applies:

(1) If the employee meets the position requirements and chooses to remain in the position the employee retains appointment status and ~~((his/her))~~ the employee's salary is set in accordance with WAC 357-58-125.

(2) If the employee chooses to vacate the position or does not meet the position requirements, the employer's Washington management service (WMS) layoff procedure applies.

AMENDATORY SECTION

WAC 357-58-130 Do salary increases greater than five percent for a group of employees need approval?

Salary ~~((changes))~~ increases greater than five percent proposed for any group of five or more employees must be reviewed and approved by the director. A group of employees means five or more employees with the same working title.

AMENDATORY SECTION

WAC 357-58-136 Can an employer authorize a lump sum payment to support recruitment and/or retention of a WMS position?

(1) With director approval, employers may authorize up to a fifteen percent lump sum payment in addition to the employee's base salary to support the recruitment and/or retention of the ~~((incumbent))~~ employee or candidate for a specific WMS position.

(2) An employee may not receive more than fifteen percent of their annual base salary over a twelve-month period.

(3) In advance of authorizing a lump sum payment for recruitment and/or retention, employers must establish express conditions in writing for the payment. The conditions must

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include a specified period of employment or continued employment. Any lump sum payment under this section must only be made after services have been rendered in accordance with conditions established by the employer.

AMENDATORY SECTION

WAC 357-58-145 When may an agency authorize lump sum relocation compensation?

An agency director may authorize lump sum relocation compensation, within existing resources, whenever:

- (1) It is reasonably necessary that a ~~((person move his or her home to accept a transfer or))~~ new or existing employee move their primary domicile to accept an appointment; or
- (2) It is necessary to successfully recruit or retain a qualified candidate or employee who will have to move ~~((his or her home))~~ in order to accept the position.

AMENDATORY SECTION

WAC 357-58-170 What about other pay issues? Each agency may establish policies and practices for additional compensation ~~((such as))~~ for shift differential, call back pay, and standby pay in accordance with the provisions of chapter 357-28 WAC. Additional compensation may be allowed when approved by the director.

AMENDATORY SECTION

WAC 357-58-175 Can an employer authorize lump sum vacation leave or accelerate vacation leave accrual rates to support the recruitment and/or retention of an

~~((incumbent))~~ employee or candidate for a Washington management service (WMS) position? In addition to the vacation leave accruals as provided in WAC 357-31-165, an employer may authorize additional vacation leave as follows to support the recruitment and/or retention of an ~~((incumbent))~~ employee or candidate for a specific Washington management service (WMS) position:

- (1) Employers may authorize an accelerated accrual rate for an ~~((incumbent))~~ employee or candidate. The WMS employee would remain at the accelerated accrual rate until the WMS employee's anniversary date caught up to the accrual rate amount in accordance with WAC 357-31-165; and/or
- (2) Employers may authorize a lump sum accrual of up to eighty hours of vacation leave for the ~~((incumbent))~~ employee or candidate.

Vacation leave accrued under this section must be used in accordance with the leave provisions of chapter 357-31 WAC.

AMENDATORY SECTION

WAC 357-58-180 Must an agency have a policy regarding authorization of additional leave to support the recruitment of a candidate or the retention of an

~~((incumbent))~~ employee for a **WMS position**? In order to authorize additional leave for the recruitment and/or retention of a candidate or ~~((incumbent))~~ employee for a WMS position, an agency must have a written policy that:

- (1) Identifies the reasons for which the employer may authorize additional leave; and
- (2) Requires that lump sum accruals only be granted after services have been rendered in accordance with express conditions established by the employer.

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AMENDATORY SECTION

WAC 357-58-205 Under what conditions may an employer reassign a Washington management service (WMS) employee? At any time, an agency may reassign an employee or a position and its ~~((incumbent))~~ employee to meet client or organizational needs. If the new location is within a reasonable commute of the employee's domicile, as defined by the agency, the employee must accept the reassignment.

If the reassignment is beyond a reasonable commute of the employee's domicile and the employee does not agree to the reassignment, the employee has layoff rights in accordance with this chapter.

NEW SECTION

WAC 357-58-207 How much notice must an employer give when reassigning a Washington management service (WMS) employee? An employer must give fifteen calendar days' written notice to a Washington management service (WMS) employee who is being reassigned unless the employer and employee agree to waive the fifteen days' notice period.

AMENDATORY SECTION

WAC 357-58-210 When may a Washington management service (WMS) employee transfer to a Washington general service (WGS) position and vice versa? A permanent employee may transfer from a Washington management service (WMS) position to a Washington general service (WGS) position if ~~((his/her))~~ the employee's salary is within the salary range of the WGS position.

A permanent employee may transfer from a WGS position to a WMS position if ~~((his/her))~~ the employee's salary is within the management band assigned to the WMS position.

AMENDATORY SECTION

WAC 357-58-215 May a permanent employee voluntarily demote to a Washington general service (WGS) position? A permanent employee may voluntarily demote from a Washington management service (WMS) position to a Washington general service (WGS) position at a lower pay level than ~~((his/her))~~ the employee's current position.

AMENDATORY SECTION

WAC 357-58-225 What return rights must an employer provide to a permanent Washington management service (WMS) employee who accepts a nonpermanent appointment to a Washington general service (WGS) position? (1) When a permanent Washington management service (WMS) employee has accepted a nonpermanent appointment to a Washington general service (WGS) position within the **same** agency and the nonpermanent appointment ends, the agency must at a minimum provide the employee the layoff rights of ~~((his/her))~~ the employee's permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position.

(2) When a permanent WMS employee has accepted a nonpermanent appointment to a WGS position within ~~((the))~~ a **different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency

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and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) or (2) of this section, the agency and the employee may agree to other terms.

AMENDATORY SECTION

WAC 357-58-230 May a permanent Washington management service (WMS) employee accept an appointment to a project position in the general service and does the employee have any return right to ~~((his/her))~~ the employee's permanent WMS position? A permanent Washington management service (WMS) employee may accept an appointment to a project Washington general service (WGS) position as provided in chapter 357-19 WAC. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the WGS position. If no return right is agreed to, the employee has the rights provided by chapter 357-46 WAC upon layoff from the project.

AMENDATORY SECTION

WAC 357-58-255 May a permanent Washington management service (WMS) employee accept a project appointment within WMS and does the employee have any return rights to ~~((his/her))~~ the employee's permanent WMS position? A permanent Washington management service (WMS) employee may accept an appointment to a project WMS position. Any right to return to the employee's permanent WMS position is negotiable between the employer and employee and must be agreed to prior to the employee accepting the project position. If no return right is agreed to, the permanent employee has the rights provided by WAC 357-58-465 upon layoff from the project.

AMENDATORY SECTION

WAC 357-58-275 May a permanent Washington management service (WMS) employee accept an acting WMS appointment and what are the employee's return rights at the conclusion of the acting appointment? Permanent Washington management service (WMS) employees may accept acting appointments to WMS positions.

(1) When a permanent WMS employee has accepted an acting appointment within the **same** agency and the acting appointment ends(~~(, the agency must at a minimum provide the employee the layoff rights of his/her permanent WMS position. If returning to a permanent WMS position the employee's salary must not be less than the salary of the previously held permanent WMS position))~~) the following applies:

(a) The agency may agree to return the employee to a permanent WMS position. If returning to a permanent WMS position, the employee's salary must not be less than the salary of the previously held permanent WMS position.

(b) The agency at a minimum provide the employee the layoff rights of the employee's permanent WMS position in accordance with WAC 357-58-465.

(2) When a permanent WMS employee has accepted an acting appointment within a **different** agency, the original agency must provide layoff rights as specified in subsection (1) of this section for six months from the time the employee is appointed. Any return right after six months is negotiable between the employee and agency and must be agreed to prior to the employee accepting the nonpermanent appointment. If the employee does not return on the

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agreed upon date, the employee can request placement in the general government transition pool per WAC 357-46-095.

(3) In lieu of the rights provided in subsection (1) and (2) of this section, the agency and the employee may agree to other terms.

AMENDATORY SECTION

WAC 357-58-290 How long does the review period last? Based on the nature of the job and the skills of the appointee, the review period will be between twelve and eighteen months as determined by the appointing authority. At the time of the appointment, the appointing authority will inform the appointee in writing of the length of the review period. If an employee in a Washington management service (WMS) review period accepts a nonpermanent position in a Washington general service (WGS) position, upon return to the WMS position the employer may suspend the review period and allow the employee to resume where the employee left off or start the review period over.

AMENDATORY SECTION

WAC 357-58-355 Can a permanent employee voluntarily revert during a review period?

Within the first thirty calendar days of any review period, a permanent employee may request to voluntarily revert to ~~((his/her))~~ the employee's former employer. If the former employer authorizes the reversion, the following applies:

(1) If the employee holds permanent status in Washington management service (WMS), the employer must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the last WMS appointment.

(2) If the employee holds permanent status in Washington general service (WGS) and has not yet gained permanent status in WMS, the employee has reversion rights in accordance with WAC 357-19-115, 357-19-117, and 357-19-120.

AMENDATORY SECTION

WAC 357-58-375 When permanent WMS employees promote or demote to positions in the general service and fail to complete the trial service period what reversion rights do permanent WMS employees have? (1) When a permanent WMS employee **promotes** to a WGS position within the **same** agency and is reverted during the trial service period, the agency must place the employee in a vacant funded WMS position for which the employee is qualified, and that is comparable to the employee's position and salary prior to the WGS appointment. **If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary.** If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

(2) When a permanent WMS employee **demotes** to a WGS position in the **same** agency and is reverted during the trial service period the agency must place the employee in a vacant funded WMS position for which the employee is qualified and with a salary that is equal to or less than the salary range maximum of the class from which the employee is reverting. If no vacant funded positions are available, the agency must place the employee in a WMS position for which the employee is qualified and which is similar to the employee's previous position and salary. If the reversion of the employee causes the total number of employees to exceed the total number of positions to be filled, the employer may implement a layoff.

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(3) When a permanent WMS employee **promotes or demotes** to a WGS position in a **different** agency and is reverted during the trial service period, the employer may separate the employee by providing fifteen calendar days' written notice. The employee may apply for the general government transition pool.

AMENDATORY SECTION

WAC 357-58-395 What ~~((will be))~~ **is** the role of the department of enterprise services?

The department of enterprise services shall assist state agencies by providing a quality developmental and leadership training program and consultative and technical assistance to help agencies address the development needs of their managers.

AMENDATORY SECTION

WAC 357-58-438 What is the impact of a layoff? Layoff is an employer-initiated action taken in accordance with WAC 357-58-445 that results in:

- (1) Separation from service with an employer;
- (2) Employment in a [Washington management service \(WMS\)](#) position with a lower salary standard or evaluation points or a [Washington general service \(WGS\)](#) position with a lower salary range maximum(~~(;~~
~~(3) Reduction in the work year~~)); or
~~((4))~~ (3) Reduction in the number of work hours.

AMENDATORY SECTION

WAC 357-58-480 What provisions govern~~((s))~~ separation due to disability for [Washington management service \(WMS\)](#) employees? [Washington management service \(WMS\)](#) employees may be separated due to disability in accordance with WAC 357-46-160, 357-46-165, 357-46-170, and 357-46-175.

AMENDATORY SECTION

WAC 357-58-485 What provisions govern~~((s))~~ nondisciplinary separation for [Washington management service \(WMS\)](#) employees? Employers may separate [Washington management service \(WMS\)](#) employees for nondisciplinary reasons in accordance with WAC 357-46-195, 357-46-200, and 357-46-205.

AMENDATORY SECTION

WAC 357-58-490 What provisions govern~~((s))~~ separation for unauthorized absence for [Washington management service \(WMS\)](#) employees? Employers may separate [Washington management service \(WMS\)](#) employees for unauthorized absence in accordance with WAC 357-46-210, 357-46-215, 357-46-220 and 357-46-225.

AMENDATORY SECTION

WAC 357-58-500 May an employee request withdrawal of ~~((his/her))~~ [the employee's resignation](#)? An appointing authority or employing official may permit withdrawal of a resignation at any time prior to the effective date.

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AMENDATORY SECTION

WAC 357-58-515 When a Washington management service (WMS) employee disagrees with an employer's action, can the employee request the employer reconsider the action that was taken? Each agency will develop procedures to reconsider agency actions at the request of the employee. The agency's procedure must identify those actions for which an employee may request reconsideration. At a minimum, the agency's procedure must allow an employee to request reconsideration of the following:

- (1) Salary adjustment (or lack thereof) when the responsibilities of the permanent employee's position have been changed.
- (2) Placement following reversion of a permanent employee.
- (3) Decisions about whether or not a position is included in the Washington management service (WMS). When reconsidering decisions concerning inclusion in WMS the following apply:
 - (a) The final agency internal decision must be made by the agency director or designee.
 - (b) If the ~~((incumbent))~~ employee disagrees with the agency director/designee's decision, ~~((he/she))~~ the employee may request a review by the director, as long as such request is made within fifteen calendar days of notification of the decision. Such review will be limited to relevant documents and information and will be final.

AMENDATORY SECTION

WAC 357-58-552 Under the provisions of temporary layoff, what happens if an employer has less than twenty hours per week of work for a Washington management service (WMS) employee to perform? If an employer has less than twenty hours per week of work for a Washington management service (WMS) employee to perform during a period of temporary layoff, the employer must ~~((notify))~~ provide notification to the WMS employee that ~~((he/she))~~ is being furloughed. The employer may then offer the available work hours to the WMS employee as an acting appointment under the provisions of WAC 357-58-265.

AMENDATORY SECTION

WAC 357-58-555 At the conclusion of a temporary layoff, does a Washington management service (WMS) employee have the right to return to the position ~~((he/she))~~ that was held immediately prior to being temporarily laid off? At the conclusion of the temporary layoff, the Washington management service (WMS) employee has the right to resume the position ~~((he/she))~~ that was held immediately prior to being temporarily laid off. The employee returns with the same status and percentage of appointment ~~((he/she))~~ that was held prior to the layoff.

REPEALER

~~WAC 357-58-540~~ What type of records are agencies required to keep and report for WMS employees? Each agency will maintain records of employees in the WMS. The records will identify employees as members of the WMS, including position numbers and position titles and will track all personnel actions related to them. Agencies will be responsible for collecting statistical information on WMS personnel regarding diversity, applicant flow, and appointments following each selection.

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REPEALER

~~WAC 357-58-565 What mechanism must be used to report WMS inclusion and evaluation activities?~~

~~(1) Agencies must submit their WMS activity reports to the director's office and make them available as prescribed by the director's office.~~

~~(2) A roll-up of all agencies' WMS activities will be made available to agencies.~~

ITEM #4 – Incumbent/Employee Cleanup

Staff Note: The proposed amendments are housekeeping in nature specifically related to changing “incumbent” to “employee.”

AMENDATORY SECTION

WAC 357-13-045 Who is responsible for completing the position description form? The manager of the position is responsible for completing the position description form. If the position is filled, input from the ((incumbent)) employee is recommended.

AMENDATORY SECTION

WAC 357-19-297 What are the notification requirements for appointing an employee to a cyclic year position? Upon appointment and before the start of each annual cycle, ((incumbents)) employees of cyclic year positions must be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Scheduled, cyclic leave without pay does not constitute a break in service and is not deducted from the employees' seniority and does not affect the employees' vacation leave accrual rate.

AMENDATORY SECTION

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

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

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

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AMENDATORY SECTION

WAC 357-28-100 When must an employer receive director approval to authorize additional pay to support recruitment or retention of an (~~incumbent~~) employee or candidate for a position? (1) Director approval is required for employers to authorize:

(a) Premiums exceeding fifteen percent under the provisions of WAC 357-28-095; and
(b) Additional pay to support the recruitment and/or retention of **like positions** at a specific work location.

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

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

AMENDATORY SECTION

WAC 357-31-165 At what rate do general government employees accrue vacation leave?

(1) Full-time general government employees accrue vacation leave at the following rates:

(a) During the first and second years of current continuous state employment - Nine hours, twenty minutes per month;

(b) During the third year of current continuous state employment - Ten hours per month;

(c) During the fourth year of current continuous state employment - Ten hours, forty minutes per month;

(d) During the fifth and sixth years of total state employment - Eleven hours, twenty minutes per month;

(e) During the seventh, eighth and ninth years of total state employment - Twelve hours per month;

(f) During the tenth, eleventh, twelfth, thirteenth and fourteenth years of total state employment - Thirteen hours, twenty minutes per month;

(g) During the fifteenth, sixteenth, seventeenth, eighteenth and nineteenth years of total state employment - Fourteen hours, forty minutes per month;

(h) During the twentieth, twenty-first, twenty-second, twenty-third and twenty-fourth years of total state employment - Sixteen hours per month; and

(i) During the twenty-fifth and succeeding years of total state employment - Sixteen hours, forty minutes per month.

(2) As provided in WAC 357-58-175, an employer may authorize a lump-sum accrual of vacation leave or accelerate the vacation leave accrual rate to support the recruitment and/or retention of a candidate or (~~incumbent~~) employee for a WMS position. Vacation leave accrual rates may only be accelerated using the rates established in subsection (1) of this section and must not exceed the maximum listed in subsection (1)(i) of this section.

(3) The following applies for purposes of computing the rate of vacation leave accrual:

(a) Employment in the legislative and/or the judicial branch except for time spent as an elected official or in a judicial appointment is credited.

(b) Employment exempt by the provisions of WAC 357-04-040, 357-04-045, 357-04-050, 357-04-055 is not credited.

(c) Exempt employment with a general government employer is credited, other than that specified in WAC 357-04-055 which is excluded.