

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. However, the right of return may not be exercised if the employee is terminated from an exempt position for gross misconduct or malfeasance, or during the pendency of an investigation if the employee has been given written notice that they are the subject of an active workplace investigation which may result in a finding of gross misconduct or malfeasance.

The employee's right is to a position in the highest class 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 was held. A position in the highest class 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.

For purposes of this section:

- (1) "Written notice" includes notice sent by email to the employee's work email address; and
- (2) "Pendency of an investigation" lasts until the employer has taken final appropriate action based on the finding of the investigation.

[Statutory Authority: RCW 41.06.150 and 41.06.070. WSR 23-24-020, § 357-19-195, filed 11/28/23, effective 1/1/24. Statutory Authority: Chapter 41.06 RCW. WSR 05-01-206, § 357-19-195, filed 12/21/04, effective 7/1/05.]