

**WAC 162-04-026 Clerk.** (1) **Designation.** The executive director with the advice and consent of the chairperson shall designate a staff member to serve as clerk of the commission.

(2) **Qualifications.** The person designated as clerk shall not have any duties involving the investigation or conciliation of complaints or the prosecution of administrative hearings. If the clerk has been actively involved in the investigation or conciliation of a case or the prosecution of an administrative hearing in any capacity other than as clerk, he or she shall not thereafter serve as clerk for that case, and a substitute clerk shall be designated. The purpose of this subsection is to ensure compliance with chapter 34.05 RCW, restricting consultation with hearing officers, and RCW 49.60.250(2).

(3) **Duties.** The clerk shall have the duty and power to:

(a) Attend commission meetings and provide aid and services to the chairperson and commissioners as requested by the executive director.

(b) Assist the chairperson of the commission in requesting appointment of an administrative law judge, issuing notices of hearing and carrying out all other duties of the chairperson under RCW 49.60.250.

(c) Keep custody of the minutes of commission meetings, declaratory rulings, rule-making orders, and the commission's order register, and other records of action by the commissioners.

(d) Keep custody of the file of complaints after they are referred to the commission for action or report of no reasonable cause at a meeting, or upon certification of the file to the chairperson under RCW 49.60.250(1). The clerk shall deliver the investigator's file of cases ready for hearing to the commission's chief counsel at the onset of the contested case process and shall obtain return of the file when litigation is completed.

(e) Respond to requests for information on actions by the commissioners or administrative law judge and furnish copies of records and files in the clerk's possession pursuant to WAC 162-04-030, Public access to records.

(f) Have custody of the commission's seal.

(g) Certify copies of commission records under the commission's seal.

(h) Serve as clerk of administrative hearings. In this capacity, the clerk, subject to the direction of the administrative law judge, shall keep custody of the official file of the administrative hearing, date stamp and file all papers filed in the proceeding when the hearing is not convened, serve all notices and papers required to be served by the administrative law judge, make the physical arrangements for hearings, provide for making and preserving the record of hearings, respond to inquiries about administrative practices and procedures, and generally do all things necessary and appropriate for the clerk of a judicial body to do.

(i) Serve as personal advisor to the chairperson of the commission and administrative law judge on matters relating to the hearing process.

(j) Perform such other duties as the chairperson of the commission or the administrative law judge shall assign from time to time, consistent with their duties.

(4) Upon direction from the chairperson of the commission, the administrative law judge, or the executive director, whichever is the appropriate authority, the clerk may enter upon his or her own signa-

ture, procedural orders, notices of hearing, orders appointing administrative law judges, notices of rule making, and similar items.

(5) **Independence.** The clerk when assisting the chairperson of the commission to carry out the chairperson's duties under RCW 49.60.250 and when serving as clerk of an administrative hearing shall be free from supervision of the executive director and other staff members of the commission to the extent necessary to ensure that the chairperson of the commission and the administrative law judges are free from influence from staff persons having a prosecutorial function.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-026, filed 11/7/89, effective 12/8/89. Statutory Authority: RCW 42.18.250, 49.60.120, and chapter 49.60 RCW. WSR 78-02-065 (Order 39), § 162-04-026, filed 1/23/78. Formerly WAC 162-08-026.]