

# Chapter 358-20 WAC

## APPEALS—FILINGS—DECLARATORY RULINGS

### WAC

358-20-010	Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.
358-20-020	Appeal from violation of law or rules.
358-20-030	Appeal of allocation or reallocation.
358-20-032	Appeal from exemption of position.
358-20-040	Filing appeals.
358-20-050	Declaratory rulings.

**WAC 358-20-010 Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.** Any permanent employee subject to the statutory jurisdiction of the personnel appeals board who is dismissed, demoted, suspended, reduced in pay, dismissed for abandonment or given a disability separation may appeal to the personnel appeals board.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-20-010, filed 3/15/95, effective 4/15/95. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-20-010, filed 12/16/81.]

**WAC 358-20-020 Appeal from violation of law or rules.** An employee who is adversely affected by a violation of the state civil service law (chapter 41.06 RCW) or of the rules promulgated thereunder (Titles 251, 356 and 359 WAC), including rules regarding a layoff or reduction in force, may appeal to the personnel appeals board.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-20-020, filed 3/15/95, effective 4/15/95. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-20-020, filed 12/16/81.]

**WAC 358-20-030 Appeal of allocation or reallocation.** An employee incumbent in a position at the time of its allocation or reallocation or the agency/institution of higher education or related board utilizing the position may appeal by filing exceptions to the determination of the director of personnel or designee.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-20-030, filed 3/15/95, effective 4/15/95. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-20-030, filed 12/16/81.]

**WAC 358-20-032 Appeal from exemption of position.** (1) An employee whose position has been exempted after July 1, 1993, may appeal the exemption to the personnel appeals board.

(2) When otherwise authorized, an employee in a nonexempt classification may appeal the failure to exempt the position to the personnel appeals board.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-20-032, filed 3/15/95, effective 4/15/95.]

**WAC 358-20-040 Filing appeals.** (1) An appeal must be received in writing at the principal office of the personnel

(3/15/95)

appeals board within 30 days after: (a) The effective date of the disciplinary or dismissal for abandonment action (WAC 358-20-010); (b) notification of disability separation (WAC 358-20-010); (c) notification of the allocation determination of the director of personnel or director's designee made pursuant to WAC 356-10-060(5), 251-06-060, or their successor rule or rules (WAC 358-20-030); (d) the effective date of the exemption of a position (WAC 358-20-032); or (e) the employee could reasonably be expected to have knowledge of the action giving rise to a law or rule violation claim under WAC 358-20-020 or the stated effective date of the action, whichever is later.

(2) The appeal shall include the name and address of the appellant, the name of the agency, or institution of higher education and any relevant department that took the action which is being appealed, a telephone number at which the appellant can be reached, the job classification or position of the employee at the time of the action which is being appealed, a short statement of the grounds or reasons for the appeal, a short statement of the relief or remedy sought by the appellant, and a brief explanation if the appellant does not believe this case would be appropriate for mediation. The appeal should also include a listing of any related or companion cases filed, if known, and an indication of whether the parties have met to attempt to resolve the issue prior to filing the appeal. The appellant is responsible for notifying the board of any change in address or telephone number. Appellants who are represented shall include the name, address and telephone number of their representative.

(3) An appeal of a violation of the state civil service law or of the rules promulgated thereunder must cite the law(s) or rule(s) which the appellant claims has been violated, the particular circumstances of the alleged violation, and how the employee is adversely affected by the alleged violation.

(4) An appeal of a disciplinary action, disability separation, or layoff or reduction in force shall include the effective date of the action and the employee's appointment status at the time of the action. An appeal of a disciplinary action shall include a short statement of the nature of the disciplinary action which is being appealed or a copy of the disciplinary letter from the agency or institution of higher education.

(5) An appeal of an allocation determination should include a copy of the determination of the director or designee of the department of personnel.

(6) Forms which may be used in filing appeals shall be available from the executive secretary of the board. In the alternative, appellants may prepare and use their own appeal documents. However, such documents must contain all of the information required by subsections (2) through (5) of this section, as appropriate.

(7)(a) Upon receipt of an appeal, the executive secretary or his/her designee will review the document(s) filed to deter-

mine whether the information required by this section has been provided.

(b) If any of the required information is not provided with the appeal, the appellant will be directed, with notification to all affected parties, to provide such information.

(c) The appellant must provide the missing information as requested within twenty-one calendar days of the date the notification is mailed.

(d) Upon receipt of the requested information, the executive secretary or his/her designee will send a copy to the other affected parties.

(8) If an appellant fails to provide required information within the time limits set forth in subsection (7) of this section, the executive secretary or his/her designee shall note the matter for a dismissal or other nonmonetary sanctions by the board. The executive secretary or his/her designee shall provide notice to the parties that the matter will be considered for dismissal by the board. The board's order will be based on the information available at the time the matter is considered for dismissal. The appellant shall have the burden of demonstrating compliance with this section. The respondent(s) may submit written argument prior to the date set for the board's dismissal of the appeal. Oral argument shall be allowed at the request of either party and may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

(9) Failure of an appellant to comply with the requirements of this section may result in dismissal for failure to state grounds for an appeal.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-20-040, filed 3/15/95, effective 4/15/95. Statutory Authority: Chapter 41.64 RCW. WSR 87-20-035 (Order 87-1), § 358-20-040, filed 9/30/87. Statutory Authority: RCW 41.64.060 and chapter 41.64 RCW. WSR 82-14-007 and 82-16-027 (Orders 82-1 and 82-1A), § 358-20-040, filed 6/25/82 and 7/28/82. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-20-040, filed 12/16/81.]

**WAC 358-20-050 Declaratory rulings.** (1) As prescribed by RCW 34.04.080, any interested party may petition the personnel appeals board for a declaratory ruling with respect to the applicability to any person, property or state of facts of any statute or rule enforceable by the personnel appeals board. The petition must be filed in the principal office of the personnel appeals board.

(2) Upon receipt of a petition for declaratory ruling, the executive secretary or his/her designee will acknowledge receipt of the petition and send a copy to the other parties.

(3) The personnel appeals board shall consider the petition without argument and within a reasonable time will:

(a) Notify the petitioner that no declaratory ruling will be issued;

(b) Based on the information in the petition, issue a non-binding declaratory ruling; or

(c) Notify the parties of the time for submitting written argument or of a time and place for hearing oral argument. If a hearing is scheduled, the notice will inform the parties whether a decision, when rendered, will be binding between the agency and the petitioner.

(4) After considering argument, the personnel appeals board will:

(a) If written argument was submitted, notify the parties within a reasonable time that no declaratory ruling will be issued or issue a nonbinding ruling.

(b) If a hearing is held, notify the parties within a reasonable time that no declaratory ruling will be issued; issue a nonbinding ruling; or if the notice so provided, issue a binding ruling.

(5) A declaratory ruling, if issued after argument and stated to be binding, is binding between the agency and the petitioner on the state of facts alleged, unless it is altered or set aside by a court. Such a ruling is subject to review in the superior court of Thurston County in the manner provided in the Administrative Procedure Act (chapter 34.04 RCW) for the review of decisions in contested cases.

[Statutory Authority: RCW 41.64.060. WSR 82-14-007 (Order 82-1), § 358-20-050, filed 6/25/82. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-20-050, filed 12/16/81.]