

**WAC 132V-22-200 Hearing procedure relating to dismissal for cause and reduction in force.**

(1) The required notice of dismissal for cause or reduction in force to the affected academic employee(s) shall include notice of the right of a hearing before the review committee and that if the affected employee does not request such a hearing, from the president of the college within ten days after the effective date of separation from the payroll. Management will request a written determination from the employee as to whether he/she wishes to avail themselves of the right to a hearing. If after five additional days the academic employee fails to respond, this failure to request a hearing shall constitute acceptance of dismissal and waiver of any right to a hearing under the provisions of this negotiated agreement.

(2) In the event the president receives a request for a hearing, all parties shall be afforded an opportunity for a hearing after not less than twenty days' notice. The notice shall include:

- (a) A statement of the time, place, and nature of the proceeding;
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held;
- (c) A reference to the particular rules of the colleges that are involved;
- (d) A short and plain statement [of] [to] the matters asserted.

(3) Prior to the time of the hearing, the board and the union shall request an impartial hearing officer from the public employment relations commission to sit as a nonvoting member of the committee. It shall be his/her responsibility to:

- (a) Make all rulings regarding the evidentiary and procedural issues presented during the course of the dismissal review committee hearings;
- (b) Meet and confer with the members of the dismissal review committee and advise them in regard to procedural and evidentiary issues considered during the course of the committee's deliberations;
- (c) Appoint a court reporter, who shall operate at the direction of the presiding officer and shall record all testimony, receive all documents and other evidence introduced during the course of [the] hearings, and record any other matters [related] [relating] to the hearing as directed by the presiding officer;
- (d) Prepare the record if requested under subsection (6) herein.

(4) Opportunity shall be afforded all parties to respond and present evidence and argument on all [issues] [issued] involved, and to examine and cross-examine witnesses.

(5) Oral proceedings shall be transcribed, if necessary, for the purposes of rehearing or court reviews. A copy of the record or any part thereof shall be transcribed and furnished to any party to the hearing upon request [therefor] [thereof] and payment of the costs thereof.

[(6)] The record in a contested case shall include:

- (a) All documents, motions, and intermediate rulings;
- (b) Evidence received or considered;
- (c) A statement of matters officially noticed;
- (d) Questions and offers of proof, objections, and rulings thereon;
- (e) Proposed findings and exceptions; and
- (f) Any decision[s], opinion, or report by the officer or committee chairman presiding at the hearing.

(7) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

[(8)] The college or its authorized hearing officer or committee may:

(a) Administer oaths and affirmations, examine witnesses, and receive evidence. No person shall be compelled to divulge information which he/she could not be compelled to divulge in a court of common law;

(b) Issue subpoenas;

(c) Take or cause depositions to be taken pursuant to rules promulgated by the college. No person shall be compelled to divulge information which he/she could not be compelled to divulge by deposition in connection with a court proceeding;

(d) Regulate the course of the hearing;

(e) Hold conferences for the settlement or simplification of the issues by consent of the parties.

(9) Within twenty days following the review hearing, the review committee shall prepare recommendations on the action they propose be taken and submit such recommendations to the appointing authority. A copy of the recommendations shall be given [to] the academic employee involved and the president.

(10) The board shall meet within thirty days after receipt of the dismissal review committee recommendations to consider those recommendations. The academic employee affected by the review committee recommendations may request a hearing before the board within ten days after receipt of the said recommendations. If board action affects academic employees other than the academic employee against whom dismissal action was originally taken, those academic employees shall be guaranteed protection of the entire dismissal for cause hearing procedure provided for herein. Within thirty days after the hearing before the board, the appointing authority shall inform the affected academic employee of their decision by letter.

[Statutory Authority: RCW 28B.50.140(13) and 28B.50.852. WSR 81-08-002 (Order 6-81, Resolution No. 81-6), § 132V-22-200, filed 3/19/81; Order 16, § 132V-22-200, filed 12/28/73.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.