

WAC 162-06-030 Rulings granting exceptions to rules. (1) **Reservation of power.** The commission reserves the power to grant exceptions in specific instances to any rule adopted by the commission (that is, to any rule in Title 162 WAC).

(2) **Authority to act.** An exception to a rule may be granted only by action of the commissioners.

(3) **Request from person affected.** Any person may request an exception to a commission rule. The request must be in writing and shall be filed with the clerk.

(4) **Contents of request for exception.** A request for exception shall contain the following:

(a) Name of the person making the request;

(b) Identification of the rule from which the exception is requested;

(c) The exception requested;

(d) A statement of the reasons why the exception is requested;

(e) A statement as to whether any person other than the requesting person will be affected by the exception, and, if so, the name and address of each person. If a class of persons is affected, it will be sufficient to name a representative or representatives of the class;

(f) A statement as to whether or not the subject of the request is included in a lawsuit or administrative complaint, and, if so, an identification of the case or cases;

(g) Any other information the requestor wishes to include.

(5) **Additional information.** The requestor shall provide any additional information with respect to the request that the requestor is asked to provide by the commissioners or staff.

(6) **Exception on own motion or at request of staff.** The commission may make an exception to the application of its rules on its own motion or at the request of its staff when the commissioners are acting on a case, a declaratory ruling, or on any other matter.

(7) **Nature of proceeding.** The commissioners will ordinarily act on the basis of the information in the written request and any additional information reported by its staff. The commission may ask a representative of the requestor to appear and make further explanation. There will be no hearing, and the procedure on a request for an exception is not a "contested case" for purposes of the Administrative Procedure Act, chapter 34.04 RCW. Persons desiring a formal ruling with right of appeal may petition for a declaratory ruling under RCW 34.04.080 and WAC 162-08-700.

(8) **Procedure when complaint is pending.** If the question of an exception arises or is pending while a complaint filed under RCW 49.60.230 is pending, the request for exception will not be considered initially by the commissioners but will be processed by the staff in the course of its work on the complaint. The staff will include a recommended disposition of an exception (whether requested by an interested person or the staff itself) in its recommended finding made under RCW 49.60.240. The recommendation on an exception will be brought especially to the attention of the commissioners at the time the finding comes before the commissioners for action. When the recommendation is in a finding of "reasonable cause," it shall be brought to the commissioners for ruling before the staff commences its endeavors to eliminate the unfair practice by conference, conciliation, and persuasion.

(9) **Grounds for exception.** The commission will grant an exception when in its judgment the reasons for the exception outweigh the adverse effect that the exception will have on the purposes of the law

against discrimination or the administration of the law against discrimination. Reasons for an exception include:

(a) Compliance with the rule would cause unreasonable hardship;

(b) The special circumstances of the requestor are such that literal application of the rule will not carry out the purposes of the law against discrimination, or may work counter to the purposes of the law against discrimination;

(c) The purposes of the law against discrimination will be equally well served and the requestor will be benefitted by application of the rule in a modified form;

(d) Conflict with the purpose or policy of other law.

(10) **Ruling on request for exception.** The commission will grant or deny a request for an exception as a matter of judgment. The commission may decline to rule on a request. A grant of an exception may be subject to conditions set out in the ruling, and it may be limited in time. The ruling will be in writing and copies will be sent to the requesting person and to any other persons who are named in the request as interested persons or who ask for a copy of the ruling.

(11) **Revocation or revision.** A ruling granting an exception may be revoked or revised at any time by the commissioners. The revocation or revision shall take effect when written notice of the revocation or revision is delivered to the requestor, or three days after it is mailed to the last known address of the requestor, whichever is earlier.

[Statutory Authority: RCW 49.60.120(3). WSR 82-19-086 (Order 41), § 162-06-030, filed 9/22/82.]