

RCW 41.58.070 Law enforcement personnel disciplinary grievance arbitration—Procedures—Effect of collective bargaining agreements—Arbitrator roster. (1) For the purposes of this section, the definitions in this subsection have the meanings given them.

(a) "Employer" means a political subdivision or law enforcement agency employing law enforcement personnel.

(b) (i) "Law enforcement personnel" means:

(A) Any individual employed, hired, or otherwise commissioned to enforce criminal laws by any municipal, county, or state agency or department, or combination thereof, that has, as its primary function, the enforcement of criminal laws in general, rather than the implementation or enforcement of laws related to specialized subject matter areas. For the purposes of this subsection (1) (b), officers employed, hired, or otherwise commissioned by the department of fish and wildlife are considered law enforcement personnel.

(B) Corrections officers and community corrections officers employed by the department of corrections.

(ii) "Law enforcement personnel" does not include any individual hired as an attorney to prosecute or litigate state or local criminal laws or ordinances, nor any civilian individuals hired to do administrative work.

(iii) For the purposes of this subsection (1) (b), "primary function" means that function to which the greater allocation of resources is made.

(c) "Disciplinary grievance" means a dispute or disagreement regarding any disciplinary action, discharge, or termination decision arising under a collective bargaining agreement covering law enforcement personnel.

(d) "Grievance arbitration" means binding arbitration of a disciplinary grievance under the grievance procedures established in a collective bargaining agreement covering law enforcement personnel.

(2) (a) The arbitrator selection procedure established under this section applies to all grievance arbitrations for disciplinary actions, discharges, or terminations of law enforcement personnel which are heard on or after January 1, 2022.

(b) (i) The grievance procedures for all collective bargaining agreements covering law enforcement personnel negotiated or renewed on or after January 1, 2022, must include the arbitrator selection procedure established in this section if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(ii) The provisions of grievance procedures governing the appeal of disciplinary grievances in collective bargaining agreements covering law enforcement personnel negotiated or renewed prior to January 1, 2022, that provide for arbitration but do not contain the arbitrator selection procedures established in this section expire upon the expiration date of the collective bargaining agreement and may not be extended or rolled over beyond the expiration date of the collective bargaining agreement.

(c) This section does not require any party to a collective bargaining agreement in existence on July 25, 2021, to reopen negotiations of the agreement or to apply any of the rights and responsibilities under chapter 13, Laws of 2021 unless and until the existing agreement is reopened or renegotiated by the parties or expires.

(3) All fees charged by arbitrators under this section must be in accordance with a schedule of fees established by the commission on an annual basis. The parties are responsible for paying the arbitrator's fees as set forth in the parties' negotiated fee-sharing provisions of their collective bargaining agreement or, in the absence of contractual fee-sharing provisions, shall be borne equally by the parties.

(4) The commission must appoint a roster of a minimum of nine persons and a maximum of 18 persons suited and qualified by training and experience to act as arbitrators for law enforcement personnel grievance arbitrations under this section.

(a) The commission may only consider appointing persons who possess:

(i) A minimum of six years' experience as a full-time labor relations advocate and who has been the principal representative of either labor or management in at least 10 arbitration proceedings;

(ii) A minimum of six years' experience as a full-time labor mediator with substantial mediation experience;

(iii) A minimum of six years' experience as an arbitrator and who has decided at least 10 cases involving collective bargaining disputes; or

(iv) A minimum of six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration.

(b) In making these appointments, and as applicable, the commission must consider these factors:

(i) A candidate's familiarity, experience, and technical and theoretical understanding of and experience with labor law, the grievance process, and the field of labor arbitration;

(ii) A candidate's ability and willingness to travel through the state, conduct hearings in a fair and impartial manner, analyze and evaluate testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties;

(iii) A candidate's experience and training in cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(iv) A candidate's familiarity and experience with the law enforcement profession, including ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required by officers in the field.

(5) The appointments are effective immediately upon selection by the commission. Except for appointments subject to subsection (6) of this section, appointments are for three years to expire on the first Monday in January.

(6) The commission must make at least three of the initial appointments to the roster of arbitrators for terms to expire on the first Monday in January 2024, at least three of the appointments for terms to expire on the first Monday in January 2025, and at least three of the appointments for terms to expire on the first Monday in January 2026. The initial terms of arbitrators appointed under this subsection may be for longer than three years.

(7) Subsequent appointments to the roster of arbitrators must be for three-year terms to expire on the first Monday in January, with

the terms of no more than three arbitrators to expire in the same year.

(8) Nothing in this section prevents roster arbitrators from issuing decisions, or retaining jurisdiction to address issues relating to remedy, after the expiration of their term, if the arbitration hearing occurred during the term of their appointment.

(9) An arbitrator may be reappointed to the roster upon expiration of the arbitrator's term. If the arbitrator is not reappointed, the arbitrator may continue to serve until a successor is appointed, but in no case later than July 1st of the year in which the arbitrator's term expires.

(10) The commission may remove an arbitrator from the roster through a majority vote. A vacancy on the roster caused by a removal, a resignation, or another reason must be filled by the commission as necessary to fill the remainder of the arbitrator's term. A vacancy on the roster occurring with less than six months remaining in the arbitrator's term must be filled for the existing term and the following three-year term.

(11) A person appointed to the arbitrator roster under this section must complete training as developed, implemented, and required by the executive director. The commission may adopt rules establishing training requirements consistent with this section. The commission may also establish fees in order to cover the costs of developing and providing the training. At a minimum, an initial training must include:

(a) At least six hours on the topics of cultural competency, racism, implicit bias, and recognizing and valuing community diversity and cultural differences; and

(b) At least six hours on topics related to the daily experience of law enforcement personnel, which may include ride-alongs with on-duty officers, participation in a citizen's academy conducted by a law enforcement agency, shoot/don't shoot training provided by a law enforcement agency, or other activities that provide exposure to the environments, choices, and judgments required of officers in the field. For the purposes of this subsection (11)(b), "shoot/don't shoot training" means an interactive firearms training that simulates real-world scenarios to train law enforcement personnel on the use of force.

(12) An arbitrator appointed to the roster of arbitrators must complete the required initial training within six months of the arbitrator's appointment.

(13)(a) The executive director must assign an arbitrator or panel of arbitrators from the roster to each law enforcement personnel grievance arbitration under this section on rotation through the roster alphabetically ordered by last name.

(i) If the arbitrator is unable to hear the case within three months from the request for an arbitrator, the executive director must appoint the next arbitrator from the roster alphabetically.

(ii) If an arbitrator has a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality, the arbitrator must disclose such conflict to the executive director. The executive director may determine whether the conflict merits assigning the next arbitrator on the roster. Either party may petition the executive director to have an assigned arbitrator removed due to a conflict of interest that may reasonably be expected to materially impact the arbitrator's impartiality. If their petition is granted by the executive director, the executive

director must assign the next arbitrator or panel of arbitrators on the roster.

(b) The arbitrator or panel of arbitrators shall decide the disciplinary grievance, and the decision is binding subject to the provisions of chapter 7.04A RCW.

(c) The parties may not participate in, negotiate for, or agree to the selection of an arbitrator or arbitration panel under this section. Employers and law enforcement personnel, through their certified exclusive bargaining representatives, do not have the right to negotiate for or agree to a collective bargaining agreement or a grievance arbitration selection procedure that is inconsistent with this section, if the collective bargaining agreement provides for arbitration as a means of resolving grievances for disciplinary actions, discharges, or terminations.

(14) The commission must post law enforcement grievance arbitration decisions made under this section on its website within 30 days of the date the grievance arbitration decision is made, with names of grievants and witnesses redacted.

(15) The arbitrator selection procedure for law enforcement grievance arbitrations established under this section supersedes any inconsistent provisions in any other chapter governing employee relations and collective bargaining for law enforcement personnel.
[2021 c 13 § 1.]