

# Title 358 WAC

## PERSONNEL APPEALS BOARD

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### Chapter 358-01 WAC GENERAL PROVISIONS

#### WAC

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**WAC 358-01-010 Declaration of purpose.** The purpose of the personnel appeals board is to provide a system of adjudication of appeals for eligible state employees. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-010, filed 12/16/81.]

**WAC 358-01-020 Personnel appeals board--Composition--Appointment.** (1) The personnel appeals board shall consist of three members appointed by the governor and confirmed by the senate. Each member must be qualified by experience and training in the field of administrative procedures and merit principles.

(2) No member shall hold other employment with the state.

(3) No member may during the term to which he/she is appointed be or become a candidate for public office, hold any other public office or trust, engage in any occupation or business which interferes or is inconsistent with his/her duties as a member of the board, serve on or under any committee of any political party nor have been an officer of a political party for a period of one year immediately prior to appointment.

(4) No member may act in a representative capacity before the board on any matter for a period of one year after the termination of his/her membership on the board.

(5) Members of the board shall serve overlapping terms of six years. A member appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term. Each member shall continue to hold office after expiration of his/her term until a successor has been appointed.

(6) The board shall elect a chairperson and vice chairperson from among its members in July of each

year to serve one year. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-020, filed 12/16/81.]

**WAC 358-01-030 Personnel appeals board--Powers--Duties.** It shall be the responsibility of the personnel appeals board to:

(1) Hear appeals filed pursuant to RCW 41.06.170 and issue findings, conclusions and orders.

(2) Establish general policies, rules and regulations for the hearing of appeals.

(3) Maintain a journal containing a record of all official actions of the board with the exception of findings and decisions.

(4) Perform all the powers and duties specified by chapter 41.64 RCW or as otherwise provided by law. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-030, filed 12/16/81.]

**WAC 358-01-040 Personnel appeals board--Procedure--Quorum.** (1) The principal office of the board shall be at the state capitol but it may sit or hold hearings at any other place in the state.

(2) A majority of the board shall constitute a quorum for making orders or decisions, promulgating rules necessary for the conduct of its powers and duties, or transacting other official business. The board may act though one position on the board be vacant.

(3) One or more members may hold hearings and take testimony to be reported for action by the board. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-040, filed 12/16/81.]

**WAC 358-01-050 Executive secretary--Appointment--Removal.** (1) An executive secretary, who shall be exempt from the provisions of chapter 41.06 RCW, may be appointed and discharged by the board.

(2) The executive secretary's salary shall be fixed by the governor pursuant to RCW 43.03.040. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-050, filed 12/16/81.]

**WAC 358-01-060 Executive secretary--Powers--Duties.** (1) The executive secretary shall direct and supervise all administrative activities in accordance with the provisions of chapter 41.64 RCW and the rules and regulations approved and promulgated by the personnel appeals board.

(2) The executive secretary shall appoint staff as necessary.

(3) The executive secretary may delegate authority to subordinates to act for him or her in carrying out duties assigned. Such delegations of authority shall be in writing and the board shall be notified of them. [Statutory

Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-01-060, filed 12/16/81.]

358-20-040 Filing appeals.  
358-20-050 Declaratory rulings.

### Chapter 358-10 WAC DEFINITIONS

#### WAC

358-10-005 Scope and construction of terms.  
358-10-010 Executive secretary.  
358-10-020 Public record.  
358-10-030 Writing.

**WAC 358-10-005 Scope and construction of terms.** (1) Words used in these rules which are not defined herein or in WAC 356-06-010 are to be given their usual and ordinary meaning unless a contrary intent is apparent. Dictionary definitions may be utilized.

(2) Words and phrases used herein in the past, present or future tense shall include the past, present and future tenses. Words and phrases used herein in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. Words and phrases used herein in the singular or plural shall include the singular and plural. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-10-005, filed 12/16/81.]

**WAC 358-10-010 Executive secretary.** The executive secretary of the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-10-010, filed 12/16/81.]

**WAC 358-10-020 Public record.** Any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-10-020, filed 12/16/81.]

**WAC 358-10-030 Writing.** Handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-10-030, filed 12/16/81.]

### 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.

**WAC 358-20-010 Appeal from dismissal, demotion, suspension, reduction, dismissal for abandonment or disability separation.** Any permanent employee who is dismissed, demoted, suspended, reduced, dismissed for abandonment or given a disability separation may appeal to the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 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 merit system rules (Title 356 WAC) may appeal to the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 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 utilizing the position may appeal the determination of the director of personnel or designee issued pursuant to WAC 356-10-060(5). [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-030, filed 12/16/81.]

**WAC 358-20-040 Filing appeals.** (1) An appeal must be received in writing at the principal office of the personnel 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) (WAC 358-20-030); or (d) 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 employing agency, and a telephone number at which the appellant can be reached. 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 the merit system rules must cite the law(s) or rule(s) which the appellant claims has been violated, the particular circumstances of the alleged violation, how the employee is adversely affected by the alleged violation and the remedy requested. [Statutory Authority: RCW 41.64.060 and chapter 41.64 RCW. 82-14-007 and 82-16-027 (Order 82-1 and 82-1A), § 358-20-040, filed 6/25/82 and 7/28/82. Statutory Authority: Chapter 41.64 RCW. 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 nonbinding 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. 82-14-007 (Order 82-1), § 358-20-050, filed 6/25/82. Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-20-050, filed 12/16/81.]

### Chapter 358-30 WAC HEARINGS—PROCEDURES

WAC	
358-30-010	Acknowledgment of appeal, setting of hearing.
358-30-020	Hearings examiners.
358-30-030	Hearings.
358-30-040	Motions for and orders of continuance.
358-30-050	Disposition following hearing.
358-30-060	Summary motions.
358-30-070	Recommended decisions of hearings examiners— Exceptions.
358-30-080	Hearing on exceptions—Orders of board.
358-30-090	Exhibits at hearings.
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358-30-120	Subpoenas.
358-30-130	Witness fees.
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358-30-150	Discovery.
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358-30-170	Burden of proof.

358-30-180	Restoration of rights and benefits.
358-30-190	Service.
358-30-200	Computation of time.
358-30-210	Appeals to superior court.
358-30-220	Appeals to superior court.

**WAC 358-30-010 Acknowledgment of appeal, setting of hearing.** (1) Upon receipt of an appeal, the executive secretary of the personnel appeals board or designee will acknowledge receipt of the appeal and send a copy to the other affected parties.

(2) A hearing before the personnel appeals board or hearings examiner shall be arranged after consultation with the parties for a time mutually convenient but never less than 15 days notice of such hearing, unless all parties agree to waive such notice. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-010, filed 12/16/81.]

**WAC 358-30-020 Hearings examiners.** The personnel appeals board may appoint one or more hearings examiners to preside over hearings and make recommended decisions in accordance with rules established by the personnel appeals board in all cases of employee appeals to the board. Hearings examiners shall be retained with a personal services contract and compensated for each hearing in accordance with the provisions of chapter 43.88 RCW and rules adopted pursuant thereto. Hearings examiners shall conduct hearings in the same manner and shall have the same authority as the personnel appeals board when conducting hearings. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-020, filed 12/16/81.]

**WAC 358-30-030 Hearings.** (1) Hearings on all appeals shall be open to the public unless the personnel appeals board or hearings examiner determines there is substantial reason for not having an open hearing, or the employee so requests.

(2) The hearing shall be informal. Technical rules of evidence shall not apply to the proceedings, except for the rules of privilege recognized by law.

(3) All parties may select representatives of their choosing, present and cross-examine witnesses, and give evidence before the personnel appeals board or hearings examiner.

(4) All testimony shall be on oath administered by a member of the personnel appeals board or hearings examiner.

(5) One member of the personnel appeals board may hold a hearing and take testimony to be reported for action by the board. Any such hearing shall be done only at the direction of the chairperson of the board or as provided in these rules.

(6) The personnel appeals board or hearings examiner shall prepare an official record of the hearing, including all testimony recorded manually or by mechanical device, and exhibits.

(7) The personnel appeals board or hearings examiner shall not be required to transcribe such record unless requested by the employee or agency who shall be furnished with a complete transcript upon payment of a

reasonable charge therefor. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-030, filed 12/16/81.]

**WAC 358-30-040 Motions for and orders of continuance.** Any party to a hearing may make a motion to continue the hearing for good cause shown. Any such motion shall be in writing directed to the person or persons who will be conducting the hearing. The motion shall state the specific reasons a continuance is necessary and shall be filed with the executive secretary and served on the hearings examiner, if any, and the opposing party at least five days prior to the scheduled hearing date. In unusual circumstances and only where the reason for the continuance could not reasonably have been foreseen, the motion may be made when the party becomes aware of the reason. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-040, filed 12/16/81.]

**WAC 358-30-050 Disposition following hearing.** (1) At the conclusion of a hearing, a hearings examiner or the personnel appeals board may require post-hearing briefs.

(2) A hearings examiner may affirm, reverse or modify an action of an agency.

(3) The personnel appeals board may affirm, reverse or modify the action of an agency or the recommended decision of a hearings examiner or remand the matter for further proceedings before the hearings examiner.

(4) When a hearings examiner or the personnel appeals board reduces a dismissal to a suspension, the period of suspension is not limited by RCW 41.06.170(1). [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-050, filed 12/16/81.]

**WAC 358-30-060 Summary motions.** (1) The personnel appeals board, or a hearings examiner, may decide all, or any part, of an appeal by motion, after a hearing and notice to all parties, if the documents on file, depositions and affidavits, if any, show there is no genuine issue as to any material fact and the appeal should be decided or dismissed as a matter of law.

(2) Summary motions may be made at any time by any party.

(3) If motions are made prior to the hearing date, or if no hearing date has been assigned, the motion may be heard by the board as provided in WAC 358-30-030, or by the hearings examiner. Any such motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board and served on all parties. After receipt of the motion, the parties will be notified by the executive secretary or hearings examiner, at least ten days in advance, of the time and place of the hearing on the motion.

(4) Any affidavits to be filed in support of a motion shall be served with the motion. Opposing affidavits shall be served at least three days prior to the hearing. Counter affidavits by the moving party shall be served at least one day prior to the hearing.

(5) When an appeal is dismissed or decided on motion, an order, or recommended order shall be issued as in other cases of appeal to the personnel appeals board. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-060, filed 12/16/81.]

**WAC 358-30-070 Recommended decisions of hearings examiners--Exceptions.** (1) A hearings examiner shall serve his/her recommended decision, including findings of fact, conclusions of law, and order, upon the personnel appeals board and upon each party and representative as soon as possible after conclusion of the hearing. Service to the employing agency and to the employee or the employee's designated representative shall be made by certified mail, a return receipt requested.

(2) Within 30 days after service of the recommended decision, any party adversely affected thereby may take exception to the personnel appeals board by filing a written notice of exceptions at the principal office of the personnel appeals board. The notice shall set forth specific exceptions to the recommended decision including each finding of fact and conclusion of law to which exception is taken and any additional errors the parties contend were made by the hearings examiner.

(3) If no exceptions are filed, the recommended decision shall become final within 40 days after service thereof, unless the personnel appeals board notifies each party within that 40-day period that a hearing will be scheduled to consider the recommended decision. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-070, filed 12/16/81.]

**WAC 358-30-080 Hearing on exceptions--Orders of board.** (1) The hearing by the personnel appeals board on exceptions from a recommended decision of a hearings examiner shall be limited to the contentions set forth in the notice of exceptions.

(2) The personnel appeals board will issue its decision within 30 days after the conclusion of the hearing.

(3) When the construction of a rule, regulation or statute is in question the board will issue findings of fact, conclusions of law and its order.

(4) The decision and order of the personnel appeals board shall be final in cases filed pursuant to RCW 41.06.170(3). In cases filed pursuant to RCW 41.06.170(2) the order and decision of the personnel appeals board shall be final subject to action by the court on appeal. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-080, filed 12/16/81.]

**WAC 358-30-090 Exhibits at hearings.** At any hearing before the personnel appeals board or hearings examiner when exhibits are offered, copies shall be furnished to the opposing party, to each board member or hearings examiner and for the official file. The parties should interchange copies of exhibits before or at the commencement of the hearing. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-090, filed 12/16/81.]

**WAC 358-30-100 Ethical conduct.** All persons appearing in appeal proceedings before the personnel appeals board or hearings examiner in a representative capacity shall conduct themselves in a manner compatible with generally accepted practices in the courts of the state of Washington. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-100, filed 12/16/81.]

**WAC 358-30-110 Filing papers with the personnel appeals board.** Papers which must be filed with the personnel appeals board shall not be deemed filed until actual receipt of the papers in the principal office of the personnel appeals board in Olympia, Washington. The executive secretary or designee shall issue a receipt and an acknowledgment stating the date filed. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-110, filed 12/16/81.]

**WAC 358-30-120 Subpoenas.** (1) Any member of the personnel appeals board, the executive secretary or the hearings examiner may, and shall at the request of either party, issue subpoenas, including subpoenas duces tecum. The personnel appeals board or the hearings examiner assigned to the appeal shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and, if the evidence warrants, punish such refusal in the same manner and to the same extent as for contempt committed before or in connection with the proceedings of the court.

(2) Every subpoena shall name the personnel appeals board, the title and case number of the proceedings and shall command the person to whom it is directed to appear at a specified time and place and give testimony or produce designated books, documents, or things under that person's control.

(3) Any representative or party not represented shall prepare subpoenas for issuance, and may present them to a personnel appeals board member, the executive secretary or the hearings examiner for signature, and upon return shall make arrangements for service. The service of all subpoenas shall be at the expense of the party requiring the witness to appear. It is recommended that all subpoenas be submitted at least five days prior to the hearing.

(4) Subpoenas shall be personally served upon the designated individual who upon demand, where entitled to make such demand, shall be tendered the fees for one day's attendance and the mileage allowed by law. A copy of the subpoena will also be provided to the opposing representative or pro se party, agency personnel officer and union representative.

(5) Attorneys of record may issue subpoenas, including subpoenas duces tecum, in the same manner and form as members of the personnel appeals board, the executive secretary or the hearings examiner. Any attorney so issuing a subpoena shall report a refusal to obey a subpoena, take the oath, or testify to the personnel appeals board, the executive secretary or the hearings examiner who shall then issue a subpoena in accordance

with subsections 1 through 4 of this rule. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-120, filed 12/16/81.]

**WAC 358-30-130 Witness fees.** Witnesses summoned before the personnel appeals board who upon demand, where entitled to make such demand, shall be paid by the party at whose behalf they appear the same fees and mileage that are paid to witnesses in the superior court of the county in which the hearing is being held. State employees who remain in pay status shall be compensated for travel only. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-130, filed 12/16/81.]

**WAC 358-30-140 Proof of subpoena service.** The person serving the subpoena shall prove service by filing an acknowledgement or affidavit of service with the personnel appeals board or the hearings examiner at any time prior to adjournment of the hearing. Failure to prove service does not affect the validity of the service. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-140, filed 12/16/81.]

**WAC 358-30-150 Discovery.** (1) Attorneys of record may use discovery procedures in a manner consistent with the civil rules for the superior courts of the state of Washington.

(2) A party appearing pro se or not represented by counsel may obtain an order of discovery from the personnel appeals board or the hearings examiner and may use discovery procedures in a manner consistent with the civil rules of the superior courts of the state of Washington. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-150, filed 12/16/81.]

**WAC 358-30-160 Quashing.** Upon motion promptly made by a party to the appeal or by the person to whom the subpoena or discovery is directed and upon notice to the party who issued the subpoena or discovery, the personnel appeals board or hearings examiner may after a hearing:

(1) Deny the motion;

(2) Grant the motion if the subpoena or discovery is unreasonable or requires evidence not relevant to any matter in issue; or

(3) Deny the motion with modification of the subpoena or discovery for just and reasonable cause. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-160, filed 12/16/81.]

**WAC 358-30-170 Burden of proof.** At any hearing on appeal from a dismissal, suspension, demotion, reduction, dismissal for abandonment or disability separation the appointing authority shall have the burden of supporting the charges upon which the action was initiated. At any other hearing, the party filing the action shall have the burden of proof. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-170, filed 12/16/81.]

**WAC 358-30-180 Restoration of rights and benefits.** Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits, including back pay, sick leave, vacation accrual, retirement and OASDI credits as provided for in RCW 41.06.220. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-180, filed 12/16/81.]

**WAC 358-30-190 Service.** (1) All notices, documents and other papers required under the personnel appeals board rules to be filed or served, shall be filed with the board and served upon each of the parties and the hearings examiner to whom the appeal is assigned, if any, all within the time stated. Service shall be made personally, or, except as provided in WAC 358-30-070(1), by first class mail.

(2) Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail three days after deposit in the United States mail properly stamped and addressed. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-190, filed 12/16/81.]

**WAC 358-30-200 Computation of time.** The day of the act, event or default after which the designated period of time begins to run is not to be included in computing any period of time prescribed or allowed by the personnel appeals board rules. The last day of the period so computed is to be included unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-200, filed 12/16/81.]

**WAC 358-30-210 Appeals to superior court.** Within 30 calendar days after the recording and mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston County Superior Court as provided in RCW 41.64.130. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-30-210, filed 12/16/81.]

**WAC 358-30-220 Appeals to superior court.** (1) Within 30 calendar days after the mailing of a personnel appeals board order in appeal cases provided for in RCW 41.06.170(2), the employee may appeal to the Thurston County Superior Court as provided in RCW 41.64.130.

(2) The grounds for the appeal shall be stated in a written notice of appeal filed with the court, with copies thereof served on a member of the board or the executive secretary and on the employing agency, all within the time stated.

(3) By stipulation the parties may agree to shorten the record to be filed with the court. Either party unreasonably refusing to stipulate to such a limitation may be ordered by the court to pay the additional costs involved.

(4) Within 15 days after service of the notice of appeal, the appellant will:

(a) If the proceedings before the hearings examiner or board were recorded by a court reporter, order a transcript of proceedings from the court reporter and direct that the original be transmitted to the principal office of the personnel appeals board for inclusion in the certified record; and

(b) If the proceedings were recorded mechanically, post a deposit with the personnel appeals board in an amount sufficient to cover the reasonable costs of transcription as determined by the personnel appeals board. Prior to transmitting the transcript to court, final adjustment reflecting the actual cost of preparation of the transcript will be made.

(5) The board shall transmit to the court a certified record of the hearing with exhibits.

(6) If the employee prevails before the court, he/she shall be reimbursed by the employing agency for the cost of a transcript. [Statutory Authority: RCW 41.64.060. 82-14-007 (Order 82-1), § 358-30-220, filed 6/25/82.]

#### Chapter 358-40 WAC PUBLIC DISCLOSURE

WAC	
358-40-010	Purpose.
358-40-020	Location of agency.
358-40-030	Conduct of business.
358-40-040	Office hours.
358-40-050	Records availability—Copies obtained.
358-40-060	Exemptions—Public records.

**WAC 358-40-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the personnel appeals board with the provisions of chapter 42.17 RCW, Disclosure—Campaign finances—Lobbying—Records; and in particular with sections 25 through 32 of that chapter, dealing with public records. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-010, filed 12/16/81.]

**WAC 358-40-020 Location of agency.** (1) The administrative offices of the personnel appeals board and its staff are located at 2828 Capitol Boulevard, Olympia, Washington 98501. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-020, filed 12/16/81.]

**WAC 358-40-030 Conduct of business.** The general conduct of agency business shall be pursuant to the provisions of chapter 41.64 RCW and Title 358 WAC. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-030, filed 12/16/81.]

**WAC 358-40-040 Office hours.** Public records shall be available for inspection and copying from 8:00 a.m. until 12 noon and 1:00 p.m. to 5:00 p.m., Monday

through Friday, excluding legal holidays. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-040, filed 12/16/81.]

**WAC 358-40-050 Records availability--Copies obtained.** (1) Copies of all public records defined in Title 358 WAC and identified in current indexes maintained in the principal office of the personnel appeals board shall be made available upon request to the public records officer. Response to such requests will be in the order received.

(2) Available indexes shall include the following:

(a) Title 358 WAC.

(b) Notices and minutes of meetings.

(c) Personnel appeals board orders.

(d) Personnel appeals board budget and planning documents.

(e) Staff administrative procedures manuals.

(f) Factual staff reports and studies.

(3) No fee will be charged for inspection of public records. Inspection will be during office hours and must be accomplished without excessive interference with the essential functions of the agency.

(4) Copies of records will be made available at no more than actual cost as determined by the executive secretary. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-050, filed 12/16/81.]

**WAC 358-40-060 Exemptions--Public records.** (1) The public records officer shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the public records officer may delete identifying details when he/she makes available or publishes any public record and in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 RCW. The public records officer will justify such deletion in writing.

(3) Denials of requests for public records must be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption in chapter 42.17 RCW authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld will be included.

(4) Upon written request, denials of requests for public records will be reviewed by the executive secretary within two working days. [Statutory Authority: Chapter 41.64 RCW. 82-01-053 (Order 81-4), § 358-40-060, filed 12/16/81.]