

Chapter 162-20 WAC

AGE DISCRIMINATION IN PUBLIC EMPLOYMENT

WAC

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WAC 162-20-010 Purpose. These rules clarify the age discrimination provisions of RCW 49.60.180 and 49.44.090, with respect to candidates for public employment.

[Statutory Authority: RCW 49.60.120(3), 00-01-177, § 162-20-010, filed 12/21/99, effective 1/21/00; Order 9, § 162-20-010, filed 9/23/71; Resolution, § 1, filed 10/18/63.]

WAC 162-20-020 Statutes interpreted. Section 1, chapter 100, Laws of 1961, amended RCW 49.60.180 to add discrimination because of age as an unfair practice of employers.

RCW 49.44.090 reads in part:

" . . .

"Nothing contained in this section or in RCW 49.60.180 as to age shall be construed . . . ; nor shall anything in this section or in RCW 49.60.180 be deemed to preclude . . . ; nor shall this section be construed . . . as superseding any law fixing or authorizing the establishment of reasonable minimum or maximum age limits with respect to candidates for certain positions in public employment which are of such a nature as to require extraordinary physical effort, or which for other reasons warrant consideration of age factors."

[Statutory Authority: RCW 49.60.120(3), 00-01-177, § 162-20-020, filed 12/21/99, effective 1/21/00; Order 9, § 162-20-020, filed 9/23/71; Resolution, § 2, filed 10/18/63.]

WAC 162-20-030 Jurisdiction of commission. The human rights commission shall not exercise jurisdiction over any alleged unfair practice as to age (over forty) when the respondent is acting under a law, ordinance or valid rule fixing or authorizing the establishment of reasonable minimum or maximum age limits with respect to candidates for public employment.

[Statutory Authority: RCW 49.60.120(3), 00-01-177, § 162-20-030, filed 12/21/99, effective 1/21/00; Order 9, § 162-20-030, filed 9/23/71; Resolution, § 3, filed 10/18/63.]

WAC 162-20-040 Complaints concerning public employment. Complaints of candidates for public employment will be received in the manner provided by law and rule for the receipt of complaints in general.

[Resolution, § 4, filed 10/18/63.]

WAC 162-20-050 Duties of staff. When a complaint alleging age discrimination concerns a position in public employment, the commission's staff shall take the following

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steps before investigating and ascertaining the facts of the alleged act of discrimination:

(1) The staff shall determine whether the respondent is acting under a law or ordinance fixing or authorizing the establishment of age limits.

(2) If the staff finds that the respondent is not acting under a law or ordinance fixing or authorizing the establishment of age limits, the commission's staff shall proceed to process the complaint in the same manner as other complaints are processed, and in its findings the staff shall include a finding that the employer was not acting under a law or ordinance fixing or authorizing age limits.

(3) If the staff finds that the respondent had acted under a law or ordinance fixing or authorizing age limits it shall so report at the next commission meeting.

[Order 9, § 162-20-050, filed 9/23/71; Resolution, § 5, filed 10/18/63.]

WAC 162-20-060 Commission action. When the commission has received and accepted a report as provided in WAC 162-20-050(3) it shall dismiss the complaint for lack of jurisdiction.

[Order 9, § 162-20-060, filed 9/23/71; Resolution, § 6, filed 10/18/63.]

WAC 162-20-070 Primary jurisdiction. Unless the human rights commission should for good reason order otherwise, it will not act on any complaint concerning a position in public employment during the time while the complainant has an administrative review proceeding provided for his use by law, ordinance or valid rule by the respondent public agency or another public agency.

[Order 9, § 162-20-070, filed 9/23/71; Resolution, § 7, filed 10/18/63.]

WAC 162-20-080 Pending complaints covered. These rules, being an interpretation of the jurisdiction of the commission, shall apply to pending complaints as well as to complaints filed after the effective date of these rules.

[Order 9, § 162-20-080, filed 9/23/71; Resolution, § 8, filed 10/18/63.]