

**WAC 391-45-430 Motion for temporary relief.** In addition to the remedies available under WAC 391-45-410, a complainant in an unfair labor practice proceeding may make a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) When the complaint is filed, or as soon thereafter as facts giving rise to the request for temporary relief become known, the complainant shall file written notice of its intent to make a motion for temporary relief with the executive director as required by WAC 391-08-120(1), and shall serve a copy of the notice on each of the other parties to the proceedings as required by WAC 391-08-120 (3) and (4).

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the processing of the matter shall be expedited under WAC 391-45-110.

(3) After a determination that the complaint states a cause of action under WAC 391-45-110, the complainant may file and serve, as required by WAC 391-08-120, a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies.

(4) If there is a motion for temporary relief, the due date for counter-affidavits from other parties is seven days following the date on which that party is served with a motion for temporary relief. The counter-affidavits shall be filed and served as required by WAC 391-08-120.

(5) The executive director shall forward all motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making its determination, the commission shall adhere to the following policy:

"The name and authority of the public employment relations commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under WAC 391-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the executive director, acting in the name and on behalf of the commission and with the assistance of the attorney general, shall petition the superior court of the county in which the main office of the employer is located or wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for the temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) A determination by the commission that temporary relief should not be sought at a particular time shall not bar renewal of the motion for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.56.160(3) and 41.59.150. WSR 00-14-048, § 391-45-430, filed 6/30/00, effective 8/1/00; WSR 98-14-112, § 391-45-430, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073 and 41.59.150. WSR 90-06-074, § 391-45-430, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-048 (Order 80-7), § 391-45-430, filed 9/30/80, effective 11/1/80.]