

Chapter 391-08 WAC
RULES OF PRACTICE AND PROCEDURE—PUBLIC EMPLOYMENT RELATIONS COMMIS-
SION

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-08-103 Service of process—Additional time after service by mail. [Order 77-1, § 391-08-103, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-105 Service of process—Extension of time. [Order 77-1, § 391-08-105, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-110 Service of process—By whom served. [Order 77-1, § 391-08-110, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.

391-08-130 Service of process—Method of service. [Order 77-1, § 391-08-130, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-140 Service of process—Completion of service on parties. [Order 77-1, § 391-08-140, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-150 Service of process—Filing with agency. [Order 77-1, § 391-08-150, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-160 Service of process—Opportunity for hearing. [Order 77-1, § 391-08-160, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

391-08-170 Service of process—Notice of hearing. [Order 77-1, § 391-08-170, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-190 Prefiling of collective bargaining agreements. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-08-190, filed 1/31/08, effective 4/1/08.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.

391-08-200 Definition of issues—Before hearing. [Order 77-1, § 391-08-200, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.

391-08-210 Definition of issues—Prehearing conference. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-210, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-210, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

391-08-220 Definition of issues—Record of action taken during prehearing conference. [Order 77-1, § 391-08-220, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-08-230 Summary judgment. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 98-14-112, § 391-08-230, filed 7/1/98, effective 8/1/98. Statutory Authority:

ity: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. WSR 90-06-070, § 391-08-230, 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 81-02-034 (Order 81-01), § 391-08-230, filed 1/6/81.] Repealed by WSR 00-14-048, filed 6/30/00, effective 8/1/00. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050.

- 391-08-320 Subpoenas—Service. [Order 77-1, § 391-08-320, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-330 Subpoenas—Fees. [Order 77-1, § 391-08-330, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-340 Subpoenas—Proof of service. [Order 77-1, § 391-08-340, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-350 Subpoenas—Quashing. [Order 77-1, § 391-08-350, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-360 Subpoenas—Enforcement. [Order 77-1, § 391-08-360, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-370 Subpoenas—Geographical scope. [Order 77-1, § 391-08-370, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-400 Evidence—Examination of witnesses. [Order 77-1, § 391-08-400, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-410 Evidence—Application of rules of evidence. [Order 77-1, § 391-08-410, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-420 Evidence—Objections and rulings. [Order 77-1, § 391-08-420, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-450 Evidence—Stipulations and admissions of record. [Order 77-1, § 391-08-450, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-460 Evidence—Submission of documentary evidence. [Order 77-1, § 391-08-460, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-470 Evidence—Excerpts from documentary evidence. [Order 77-1, § 391-08-470, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-490 Evidence—Refusal of witness to answer. [Order 77-1, § 391-08-490, filed 1/27/77.] Repealed by WSR 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-500 Declaratory rulings authorized. [Order 77-1, § 391-08-500, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-510 Declaratory rulings—Petition. [Order 77-1, § 391-08-510, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-600 Agency decisions—Form and content. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-600, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-600, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 35.05.461 [34.05.461], 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.
- 391-08-630 Agency structure—Substitution for executive director. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-630, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060, 41.58.010 and [41.58].015. WSR 03-03-064, § 391-08-630, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.58.010 and 41.58.015. WSR 98-14-112, § 391-08-630, filed 7/1/98, effective 8/1/98; WSR 90-06-070, § 391-08-630, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 85-19-059 (Resolution No. 85-01), § 391-08-630, filed 9/16/85.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-800 Agency records—Public records officer—Contact information. [Statutory Authority: RCW 28B.52.080, 41.56.050, 41.59.110, 41.76.060, 41.80.080, 47.64.280(2), 49.39.060. WSR 16-19-058, § 391-08-800, filed 9/19/16, effective 10/20/16. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-800, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.05.220 and 34.05.476. WSR 98-14-112, § 391-08-800, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59,

49.08, 53.18 and 42.17 RCW. WSR 90-06-070, § 391-08-800, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-800, filed 1/27/77.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.

- 391-08-810 Agency records—Confidentiality. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010. WSR 99-14-060, § 391-08-810, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 98-14-112, § 391-08-810, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010. WSR 90-06-070, § 391-08-810, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-810, filed 1/27/77.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-820 Agency offices. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-08-820, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 96-07-105, § 391-08-820, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-820, 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 80-14-045 (Order 80-4), § 391-08-820, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-820, filed 1/27/77.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-830 Agency records—Availability—Organization—Requests. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-830, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-840 Processing of public records requests. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-840, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-850 Processing of public records—Electronic records. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-850, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-860 Exemptions to public records. [Statutory Authority: [RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060.] WSR 10-20-172, § 391-08-860, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-870 Costs for providing public records. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-870, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-880 Review of denial of public records. [Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 42.56.040, and 49.39.060. WSR 10-20-172, § 391-08-880, filed 10/6/10, effective 11/6/10.] Repealed by WSR 22-23-101, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060.
- 391-08-900 Petitions for rule making—Who may petition. [Order 77-1, § 391-08-900, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-910 Petitions for rule making—Form. [Order 77-1, § 391-08-910, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-920 Petitions for rule making—Agency must consider. [Order 77-1, § 391-08-920, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-930 Petitions for rule making—Notice of disposition. [Order 77-1, § 391-08-930, filed 1/27/77.] Repealed by WSR 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.

Reviser's note: Chapter 15, Laws of 1983 recreates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-08-001 Application and scope. The purpose of chapter 391-08 WAC is to provide comprehensive and uniform rules of practice

and procedure before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency. To the extent these rules of practice and procedure differ from the model rules adopted by the chief administrative law judge under RCW 34.05.250 and found in chapter 10-08 WAC, these rules prevail.

If a conflict arises between a general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule governs.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-001, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-001, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, and 49.39.060. WSR 10-20-172, § 391-08-001, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-08-001, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 01-14-009, § 391-08-001, filed 6/22/01, effective 8/1/01; WSR 00-14-048, § 391-08-001, filed 6/30/00, effective 8/1/00; WSR 98-14-112, § 391-08-001, filed 7/1/98, effective 8/1/98; WSR 96-07-105, § 391-08-001, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-001, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-045 (Order 80-4), § 391-08-001, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-001, filed 1/27/77.]

WAC 391-08-003 Policy—Construction—Waiver. The policy of the state being primarily to promote peace in labor relations, these rules and all other rules adopted by the commission are liberally construed to effectuate the purposes and provisions of the statutes administered by the agency. Nothing in any rule prevents the agency from using its best efforts to adjust any labor dispute. The agency may waive any requirement of the rules unless a party shows that it would be prejudiced by a waiver.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-003, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.58.005(1). WSR 90-06-070, § 391-08-003, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-003, filed 1/27/77.]

WAC 391-08-007 Definitions. As used in Title 391 WAC:
(1) "Agency" means the public employment relations commission, its officers, and its agents;
(2) "Commission" means the commissioners of the public employment relations commission appointed by the governor;

(3) "Executive director" means the officer of that title appointed by the commission under RCW 41.58.015(2);

(4) "Labor dispute" means any controversy concerning terms or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(5) "Presiding officer" means an agency official, examiner, or hearing officer.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-007, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-007, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-007, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-007, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-045 (Order 80-4), § 391-08-007, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-007, filed 1/27/77.]

WAC 391-08-008 Agency structure. (1) The agency maintains an impartial role in all proceedings pending before it.

(2) The commission consists of three citizen members appointed by the governor with the advice and consent of the senate under RCW 41.58.010. Commission members serve on a part-time basis only. All commission members represent the interests of the public. The commission reserves to itself a policy-making and appellate function.

(3) The executive director appointed by the commission under RCW 41.58.015(2) is the full-time agency head with authority to act in administrative and personnel matters. Authority is also delegated to the executive director to make substantive decisions in certain types of cases.

(4) The agency's staff is appointed under RCW 41.58.015(3). Individual members of the agency's staff are assigned to conduct any or all of the types of dispute resolution services provided by the agency.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-008, filed 11/16/22, effective 1/1/23.]

WAC 391-08-010 Who may appear before the agency—Notice of appearance. (1) Any of the following may appear in a representative capacity before the agency:

(a) A bona fide officer, employee, or other authorized representative of (i) Any employer subject to the jurisdiction of the agency or (ii) any employee organization; or

(b) An individual or their authorized representative.

(2) Except where the information is already listed in the agency's docket records for the particular case, a person appearing in a representative capacity shall file and serve a notice of appearance listing the representative's name, email address, mailing address, and telephone number.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-010, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-058, § 391-08-010, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 00-14-048, § 391-08-010, filed 6/30/00, effective 8/1/00. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-010, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-010, filed 1/27/77.]

WAC 391-08-020 Appearance and practice before agency—Standards of conduct. Misconduct at any hearing conducted by the agency is grounds for suspension or exclusion from appearing before the agency after due notice and hearing.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-020, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-020, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-020, filed 1/27/77.]

WAC 391-08-030 Appearance and practice before agency—Former employee of agency or former member of attorney general's staff as representative. A former member of the commission, former employee of the agency, or former member of the attorney general's staff assigned to represent the agency may not, at any time after severing employment with the agency or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding in which that person participated personally or substantially during the time of employment with the agency or attorney general.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-030, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 96-07-105, § 391-08-030, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-030, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-030, filed 1/27/77.]

WAC 391-08-040 Appearance and practice before agency—Former employee or former member of attorney general's staff as witness. Except upon the express written consent of the agency, a former member of the commission, former employee of the agency, or former member of the attorney general's staff assigned to represent the agency may not, at any time after severing employment with the agency or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding in which that person participated personally or substantially during the time of employment with the agency or attorney general.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-040, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 96-07-105, § 391-08-040, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-040, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-040, filed 1/27/77.]

WAC 391-08-100 Computation of time. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays are excluded from the computation.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-100, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 98-14-112, § 391-08-100, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-100, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-100, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-100, filed 1/27/77.]

WAC 391-08-120 Filing and service of documents. (1) The agency will post on its website at www.perc.wa.gov information for filing using the agency's e-filing system, the email address for filing by email, the mailing address for filing by mail, and the street address for filing by personal delivery.

(2) Documents may be filed with the agency by one of the following methods:

(a) E-filing on the agency's website at www.perc.wa.gov;

(b) Email to filing@perc.wa.gov;

(c) First class, registered, or certified mail to the agency's Olympia mailing address;

(d) Commercial parcel delivery to the agency's Olympia office;
(e) Hand delivery to the agency's Olympia office; or
(f) Other methods posted on the agency website at
www.perc.wa.gov.

(3) Documents filed with the agency must be served on all parties on the same day the documents are filed. Service must be upon counsel and representatives of record, or upon unrepresented parties or upon their agents designated by them or by law.

(4) Unless otherwise ordered by the agency in a particular proceeding, filing and service is complete upon one or a combination of the following methods:

(a) E-filing. Filing is complete when a legible copy of the document is successfully uploaded to the e-filing system. Service is complete upon receipt of the entire electronic transmission by the recipient. The metadata created by the successful transmission of the email will serve as the record of the time of service.

(b) Email. Filing or service is complete upon receipt of the entire electronic transmission by the recipient. The metadata created by the successful transmission of the email will serve as the record of the time of filing or service.

(c) Depositing the document(s) correctly addressed and postage paid, in the U.S. mail.

(d) Acceptance of the document(s) for delivery by a commercial parcel delivery company.

(e) Hand delivery.

(5) A document uploaded to the agency's e-filing system or an email received by the agency after 5:00 p.m. is considered filed on the following business day.

(6) On the same day that filing and service of documents is completed under subsection (3) of this section, the person who completed service must take one of the following actions:

(a) Obtain the confirmation of filing and service upon the recipient(s) generated by the agency's e-filing system under subsection (4)(a) of this section.

(b) Make a certificate stating that the person signing the certificate completed service of the document(s) by:

(i) Electronically transmitting a copy under subsection (4)(b) of this section;

(ii) Mailing a copy under subsection (4)(c) of this section;

(iii) Depositing a copy with a commercial parcel delivery company named in the certificate under subsection (4)(d) of this section; or

(iv) Personally delivering a copy under subsection (4)(e) of this section.

(c) Obtain an acknowledgment of service from the person who accepted personal service under subsection (4)(e) of this section.

(7) Where the sufficiency of service is contested, a confirmation of filing obtained under subsection (6)(a) of this section, a certificate of service made under subsection (6)(b) of this section, or an acknowledgment of service obtained under subsection (6)(c) of this section constitutes proof of service.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-120, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.280(2), 49.39.060. WSR 16-05-033, § 391-08-120, filed 2/9/16, effective 3/11/16. Statutory Authority: RCW 28B.52.080, 41.56.090,

41.59.110, 41.58.050 and 34.05.010 (6) and (19). WSR 00-14-048, § 391-08-120, filed 6/30/00, effective 8/1/00; WSR 98-14-112, § 391-08-120, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 34.05.010 (6) and (18). WSR 96-07-105, § 391-08-120, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-120, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. WSR 88-12-053 (Order 88-01), § 391-08-120, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-120, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-120, filed 1/27/77.]

WAC 391-08-155 Adjudicative proceedings—Dispositive prehearing motions. Unless controlled by WAC 391-08-180, 391-25-170, 391-25-190, 391-45-070, 391-45-210, or 391-45-250, all prehearing motions must be made in writing and filed and served on all parties of record in accordance with WAC 391-08-120.

(1) When a hearing date(s) has not been established, dispositive prehearing motions may be filed at any time after the answer has been filed. The presiding officer shall establish a schedule for any non-moving party to respond to the motion and for the moving party to file a brief in reply to the response(s).

(2) If a hearing date(s) has been established, all dispositive prehearing motions must be filed with the presiding officer at least 65 days before the first hearing date, unless the presiding officer deems the time frame waivable for good cause shown.

(a) When a dispositive prehearing motion is filed, any nonmoving party may file and serve a response to the motion within 21 days from the date on which the motion was filed.

(b) When a response to the dispositive prehearing motion is filed, the moving party may file and serve a reply to the response within seven days from the date on which the response was filed.

(c) The presiding officer must rule on or respond to the motion at least 21 days before the first hearing date.

(3) All motions must state the relief sought, the specific basis for the request, and the supporting legal authorities. Motions may be accompanied by other supporting materials, such as affidavits.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-155, filed 11/16/22, effective 1/1/23.]

WAC 391-08-180 Continuances. (1) Postponements, continuances, extensions of time, and adjournments may be ordered on the presiding officer's own motion or may be granted on the timely request of any party, with notice to all other parties, if the party shows good cause.

(2) A request for a continuance may be oral or written. The party seeking the continuance shall notify all other parties of the request. The request for a continuance must state whether or not all other parties agree to the continuance.

If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference or request written submissions to receive argument and to rule on the request.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-180, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 00-14-048, § 391-08-180, filed 6/30/00, effective 8/1/00; WSR 98-14-112, § 391-08-180, filed 7/1/98, effective 8/1/98; WSR 96-07-105, § 391-08-180, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-070, § 391-08-180, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-180, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-045 (Order 80-4), § 391-08-180, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-180, filed 1/27/77.]

WAC 391-08-300 Discovery. Under the authority delegated to the agency by RCW 34.05.446(2), prehearing discovery is not available in proceedings before the agency.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-300, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 34.05.446. WSR 98-14-112, § 391-08-300, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. WSR 90-06-070, § 391-08-300, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-300, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-300, filed 1/27/77.]

WAC 391-08-310 Subpoenas—Form—Issuance to parties. The power of subpoena is limited to compelling the testimony of witnesses and production of documents or other tangible evidence at hearings conducted by the agency.

(1) Every subpoena must:

(a) State the name of the agency as state of Washington, public employment relations commission;

(b) State the title of the proceeding and case number; and

(c) Identify the party causing issuance of the subpoena.

(2) Every subpoena shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or things under that person's control at the time and place set for the hearing. No subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, a member of the commission or agency staff in any proceeding before the agency.

(3) Upon a showing of general relevance and reasonable scope of the testimony or evidence sought, subpoenas may be issued by the commission or a presiding officer:

(a) On the request of counsel or other representative; or

(b) On the request of a party not represented by counsel or other representative.

(4) Subpoenas may be issued by attorneys under the authority conferred upon them by RCW 34.05.446(1).

(5) A subpoena may be served by any suitable person over 18 years of age by exhibiting and reading it to the witness, by giving the witness a copy of the subpoena, or by leaving a copy of the subpoena at the witness's abode or usual dwelling place. When service is made by any person other than an officer authorized to serve process, proof of service must be made by affidavit or declaration under penalty of perjury.

(6) The party that issues or requests issuance of a subpoena shall pay the fees and allowances and the cost of producing records required to be produced by subpoena.

(a) Witness fees, mileage, and allowances for meals and lodging must be at the rates and terms allowed by the superior court for the county the witness is in when the hearing occurs.

(b) Witnesses are entitled to payment in advance for their fees for one day's attendance, together with mileage for traveling to and returning from the place where they are required to attend, if their demand for payment is made to the officer or person serving the subpoena at the time of service.

(7) The presiding officer, upon motion made at or before the time specified in the subpoena, may:

(a) Quash or modify the subpoena if it is unreasonable or oppressive; or

(b) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, documents, or things.

(8) Subpoenas may be enforced as provided in RCW 34.05.588(1).

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-310, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 2.40.010, 5.56.010 and 34.05.446. WSR 00-14-048, § 391-08-310, filed 6/30/00, effective 8/1/00; WSR 99-14-060, § 391-08-310, filed 7/1/99, effective 8/1/99; WSR 98-14-112, § 391-08-310, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. WSR 90-06-070, § 391-08-310, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-310, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-310, filed 1/27/77.]

WAC 391-08-315 Interpreters. (1) For all adjudicative proceedings under the Administrative Procedure Act (cases under chapters 391-25, 391-35, and 391-45 WAC), the provisions of WAC 10-08-150 apply.

(2) For all cases that are not adjudicative proceedings under the Administrative Procedure Act (cases under chapters 391-55 and 391-65

WAC), the provisions of WAC 10-08-150 apply, except that all interpreter fees and expenses must be paid by the party that requests the participation of an impaired person as defined in chapter 2.42 RCW or a non-English-speaking person as defined in chapter 2.43 RCW.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-315, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 2.42.120 and 2.43.030. WSR 98-14-112, § 391-08-315, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100, 41.59.150 and chapter 2.42 RCW. WSR 90-06-070, § 391-08-315, filed 3/7/90, effective 4/7/90.]

WAC 391-08-520 Declaratory orders. Any person may petition the commission for a declaratory order under RCW 34.05.240 with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the agency. For purposes of this section, the term person includes natural persons, employee organizations, and employers.

(1) A petition for a declaratory order must generally adhere to the following form:

(a) At the top of the page must appear the wording "Before the Public Employment Relations Commission," a caption setting out "In the Matter of the Petition of (name of petitioner to be inserted) for a Declaratory Order," and the title "Petition."

(b) The body of the petition must set out, in numbered paragraphs:

(i) The name, email address, and mailing address of the petitioner and of the petitioner's representative, if any;

(ii) The name(s), email address(es), and mailing address(es) of any other party that the petitioner seeks to have bound by any declaratory order issued by the commission, and the name(s), email address(es), and mailing address(es) of those parties' representatives, if known;

(iii) The rule(s), order(s), or statute(s) from which the controversy arises;

(iv) The facts that the petitioner wishes the commission to consider;

(v) The issues that the petitioner wishes the commission to address;

(vi) The relief requested by the petitioner; and

(vii) The reasons on which the petitioner relies to show that uncertainty necessitating resolution exists; there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion; the uncertainty adversely affects the petitioner; and the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

(c) The petition must be filed and served as required by WAC 391-08-120.

(2) Within 15 days after receipt of a petition for a declaratory order, the executive director or designee shall give notice of the petition to all persons to whom notice is required by law and may give notice to any other person the executive director or designee deems

desirable. The notice must establish a deadline for necessary parties other than the petitioner to file written consent to the determination of the matter by a declaratory order.

(3) The petition and any responses from parties must be forwarded to the commission for consideration. The commission may not issue a declaratory order if:

(a) The matter is or could have been the subject of any other adjudicative proceeding before the commission; or

(b) A necessary party whose rights would be substantially prejudiced does not consent, in writing, to the determination of the matter by a declaratory order.

(4) The commission may consider the petition without argument and shall, within 30 days after receipt of the petition, do one of the following:

(a) Enter an order declaring the applicability of the rule, order, or statute in question to the specified circumstances;

(b) Set a reasonable time and place for a hearing to be held within 90 days after receipt of the petition, including submission of evidence by the parties if deemed necessary by the commission or submission of written argument if the material facts are not in dispute. The commission shall give seven days' or more advance written notice to the petitioner and other persons who have been given notice of the petition under subsection (2) of this section of the time, date, and place for the hearing or submission and of the issues it will be considering;

(c) Set a specified time within 90 days after receipt of the petition when it will enter a declaratory order;

(d) Decline to enter a declaratory order, stating the reasons for its action.

(5) The commission may extend the time limits of subsection (4)(b) and (c) of this section, for good cause.

(6) The commission may, at any time before taking final action on a petition under this section, request submission of additional facts or argument, which may include setting the case for oral argument.

(7) If the commission proceeds in the manner provided in subsection (4)(b) of this section, it shall within a reasonable time after conclusion of the proceeding:

(a) Issue a declaratory order; or

(b) Notify the petitioner and any other party to the proceeding that no declaratory order will be issued and state the reasons for that action.

(8) A declaratory order entered by the commission or a decision to decline to enter a declaratory order must be in writing and be served on all parties identified in subsection (2) of this section. Each declaratory order must contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

(9) A declaratory order is a final agency order.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-520, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-520, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 34.05.240. WSR 98-14-112, § 391-08-520, filed 7/1/98, effective 8/1/98.]

WAC 391-08-610 Agency decisions—Service. Every final order issued by the agency must be served on each party or upon the agency designated by the party or by law to receive service of documents; and a copy must be furnished to any counsel or person appearing for a party in a representative capacity.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-610, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. WSR 90-06-070, § 391-08-610, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-031 (Order 83-01), § 391-08-610, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-610, filed 1/27/77.]

WAC 391-08-640 Amicus briefs—Commission review. (1) The commission will only consider amicus briefs filed in conformity with this subsection.

(a) The person or organization desiring to file an amicus brief must:

(i) Obtain a copy of the decision on appeal, the notice of appeal, and the briefs of the parties;

(ii) Limit any amicus brief to particular issues on appeal;

(iii) Limit any legal analysis to arguments that differ from those advanced by the parties;

(iv) Exclude restatement or reargument of the facts, except as necessary to legal arguments under (a)(iii) of this subsection;

(v) Limit any amicus brief to 25 pages in total length (double-spaced, 12-point type); and

(vi) File the amicus brief with the commission within 14 days following the filing and service of the parties' briefs and serve copies of the amicus brief on each of the original parties to the case.

(b) The commission may extend the deadline for a party wishing to file an amicus brief if the petitioning party demonstrates good cause for an extension.

(c) The original parties to the case may, within 14 days following the filing and service of an amicus brief, file and serve written responses to the amicus brief.

(d) A person or organization that files an amicus brief does not have any right to reply to the responses filed by the original parties to the case.

(e) A person or organization that files an amicus brief does not become a party to the case for purposes of any further proceedings or appeal.

(2) The commission may, on its own motion, review any order which is subject to appeal by giving written notice to all parties within 30 days following the issuance of the order.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-640, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.080, and 49.39.060. WSR 12-05-066, § 391-08-640, filed 2/15/12,

effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-08-640, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 34.05.464. WSR 98-14-112, § 391-08-640, filed 7/1/98, effective 8/1/98.]

WAC 391-08-650 Case docketing and numbering. The agency maintains a case docketing and numbering system that tracks and manages all requests for dispute resolution services.

(1) Each case is assigned an alphanumeric identifier that includes a unique sequential number, an alphabetic letter signifying the type of dispute being processed, and a number indicating the calendar year in which the case was filed.

(2) Cases involving various departments or divisions of an employer entity are docketed under the name of the employer entity.

(3) Cases filed by an employee organization are docketed under the name of the organization, even if employees represented by that organization are named individually in the pleadings or are affected by the outcome of the proceedings.

(4) Cases filed by two or more individual employees are docketed separately for each employee.

(5) Cases filed by an individual employee involving multiple respondents are docketed separately for each respondent.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-650, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.050, 41.59.110, 41.76.060, 41.80.080, 47.64.280(2), 49.39.060. WSR 16-19-058, § 391-08-650, filed 9/19/16, effective 10/20/16. Statutory Authority: RCW 28B.52.080, 34.05.220, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-650, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 34.05.220. WSR 96-07-105, § 391-08-650, filed 3/20/96, effective 4/20/96.]

WAC 391-08-670 Decision numbering—Citation of cases—Indexing of decisions. (1) Each decision issued by the agency in an adjudicative proceeding under the Administrative Procedure Act is assigned a unique number consisting of three or four components, as follows:

(a) The first component is a number and indicates the sequential number of adjudicative proceedings in which one or more decisions has been issued since the agency began operations on January 1, 1976.

(b) The second component (where appropriate) is a letter in consecutive alphabetical order and indicates the second and subsequent decisions issued in the case.

(c) The third component is a group of four alphabetical letters that indicates the statute under which the decision was issued:

"CCOL" - Chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges).

"EDUC" - Chapter 41.59 RCW (Educational Employment Relations Act).

"FCBA" - Chapter 41.76 RCW (Public Four-Year Institutions of Higher Education—Faculty Labor Relations).

"MRNE" - Chapter 47.64 RCW (Marine Employees—Public Employment Relations).

"PECB" - Chapter 41.56 RCW (Public Employees' Collective Bargaining Act), including some cases involving port districts.

"PORT" - Chapter 53.18 RCW (Employment Relations—Collective Bargaining and Arbitration), relating to port districts.

"PRIV" - Chapter 49.08 RCW, relating to private sector employers and employees.

"PSRA" - Chapter 41.80 RCW (Personnel System Reform Act).

(d) The fourth component is the year in which the decision was issued.

(2) All citations of agency decisions in subsequent agency decisions, in publications of agency decisions, and in briefs and written arguments filed by parties with the agency must conform to the formats specified in this section:

GENERAL RULE: Citations must list only the name of the employer *italicized*, the word "Decision" followed by the decision number, and the statute and year the decision was issued (in parentheses).

Examples: *City of Roe*, Decision 12345 (PECB, 2022)
City of Roe, Decision 12345-A (PECB, 2022)
City of Roe, Decision 12345-B (PECB, 2022)

EXCEPTION: For decisions in which an employee organization was named as the respondent in an unfair labor practice case, the citation must list the name of the union (in parentheses) following the name of the employer.

Example: *City of Roe (Doe Union)*, Decision 23456 (PECB, 2022)

(3) To satisfy the requirements of RCW 42.56.070(5), the agency publishes its decisions, together with a search engine, on its website at www.perc.wa.gov.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-08-670, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 34.05.220, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, and 49.39.060. WSR 12-05-066, § 391-08-670, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060, and 34.05.220. WSR 03-11-029, § 391-08-670, filed 5/15/03, effective 6/15/03; WSR 03-03-064, § 391-08-670, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, and 34.05.220. WSR 00-24-044, § 391-08-670, filed 11/30/00, effective 1/1/01; WSR 96-07-105, § 391-08-670, filed 3/20/96, effective 4/20/96.]