

**Chapter 162-04 WAC
GENERAL PROVISIONS**

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WAC

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WAC 162-04-010 Definitions. In general, words are used with this title in the same meaning as they are used in the law against discrimination, chapter 49.60 RCW. See, in particular, RCW 49.60.040. The following words are used with the meaning given, unless the context clearly indicates another meaning.

"Administrative Procedure Act" means chapter 34.05 RCW.

"Age" means between forty and seventy years of age.

"Chairperson" means the chairperson of the commission. The word "chairperson" is used in the place of "chairman" where that word appears in the law against discrimination. The chairperson of the commission is the member of the commission designated as chairman by the governor under RCW 49.60.050.

"Civil rule" or "CR" means the superior court civil rules as now or hereafter amended.

"Clerk" means the clerk of the commission appointed pursuant to WAC 162-04-026.

"Commission" means the Washington state human rights commission.

"Complainant" means a person who has filed a complaint under authority of RCW 49.60.230.

"Complaint" means a formal complaint filed with the commission pursuant to RCW 49.60.230 and these rules.

"Executive director" means the executive director of the commission appointed pursuant to RCW 49.60.120(1).

"Handicap" is short for the phrase "the presence of any sensory, mental, or physical handicap" used in the law against discrimination, and means the full phrase. See WAC 162-22-040.

"Law against discrimination" means chapter 49.60 RCW.

"Marital status" refers to the legal status of being married, single, divorced, or widowed.

"Member" means a member of the commission, except where the context indicates another meaning is intended.

"Protected class" means the persons who are members of (or who are treated as members of) one of the groups against whom discrimination is declared to be an unfair practice by the law against discrimination. Protected classes include persons between the ages of forty and seventy, persons of any race, creed, color, national origin, sex, or marital status, and persons who are handicapped.

"Respondent" means one against whom a complaint has been filed under authority of RCW 49.60.230.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-010, filed 11/7/89, effective 12/8/89; Order 37, § 162-04-010, filed 10/27/77; Order 30, § 162-04-010, filed 11/23/76; Order 23, § 162-04-010, filed 7/21/75; Order 16, § 162-04-010, filed 5/22/74; Order 9, § 162-04-010, filed 9/23/71; Order 7 (part), § 162-04-010, filed 1/19/68.]

WAC 162-04-020 Organization and operations. (1) **Membership.** The Washington state human rights commission consists of five members, one of whom is designated as chairperson, appointed by the governor for staggered five-year terms.

(2) **Meetings.** The commission holds regular meetings commencing at 9:30 a.m. on the fourth Thursday of each month, except for November and December, at various places throughout the state. No regular meeting is held in August. The place and dates of the meetings can be learned by writing or calling the commission clerk at the Olympia office at (360) 753-6770.

(3) **Quorum.** Three members constitute a quorum. The affirmative vote of a majority of those present is action of the commission when there is a quorum at a meeting.

(4) **Executive director.** The executive director is the commission's chief executive. He or she is responsible for carrying out the commission's programs and directing the commission's staff.

(5) **Authority and duty.** It is the commission's duty to administer the law against discrimination, chapter 49.60 RCW, which has as its purpose the elimination and prevention of discrimination because of race, creed, color, national origin, sex, marital status, age or handicap. The commission has the authority and duty to, among other things:

(a) Study and report on all things having an impact on human rights;

(b) Make recommendations to the governor, legislature, and agencies of state and local government;

(c) Create advisory agencies and conciliation councils;

(d) In the areas of employment, public accommodations, real property transactions, credit transactions and insurance transactions, initiate, receive and process complaints of unfair practices, hold hearings, issue orders, and seek enforcement of the orders in court.

(6) **Offices.** The commission's principal office is 402 Evergreen Plaza Building, Seventh and Capitol Way, Olympia, Washington 98504-3341. Branch offices are maintained at the following locations:

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| Seattle: | 1516 Second Avenue Suite 400 Seattle, Washington 98101 |
| Spokane: | W. 905 Riverside Ave. Suite 416 Spokane, Washington 99201-1099 |
| Tacoma: | Suite 110 Hess Building 901 Tacoma Avenue South Tacoma, Washington 98402-2101 |
| Yakima: | Washington Mutual Bldg. Suite 441 32 No. Third St. Yakima, Washington 98901-2730 |

(7) **Where to obtain information.** Information on the application of the law against discrimination and related material is available at all offices of the commission. Information that branch offices are not able to supply may be obtained from the clerk at the Olympia office.

(8) **Where to make submissions or requests.** In circumstances where no special provision is made by rule in this Title 162 WAC, submissions or requests to the commission may be directed to the executive director at either the Olympia or Seattle office.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-020, filed 11/7/89, effective 12/8/89; Order 37, § 162-04-020, filed 10/27/77; Order 30, § 162-04-020, filed 11/23/76; Order 16, § 162-04-020, filed 5/22/74; Order 10, § 162-04-020, filed 11/5/71; Order 9, § 162-04-020, filed 9/23/71; Order 7 (part), § 162-04-020, filed 1/19/68.]

WAC 162-04-024 Chairperson pro tem. (1) The commission may designate one of its members as chairperson pro tem for a particular time or for an indefinite time, to serve at the will of the commission. If the commission has not designated a chairperson pro tem and the chairperson is absent from the state, ill, or otherwise unable to carry out the duties of chairperson, then the most senior member of the commission other than the chairperson shall serve as chairperson pro tem until the chairperson is again able to carry out the duties of chairperson.

(2) The chairperson pro tem may exercise all of the powers of the chairperson during the time when the chairperson is absent, ill, or otherwise unable to carry out the duties of chairperson.

[Statutory Authority: RCW 42.18.250, 49.60.120, and chapter 49.60 RCW. WSR 78-02-065 (Order 39), § 162-04-024, filed 1/23/78. Formerly WAC 162-08-024.]

WAC 162-04-026 Clerk. (1) **Designation.** The executive director with the advice and consent of the chairperson shall designate a staff member to serve as clerk of the commission.

(2) **Qualifications.** The person designated as clerk shall not have any duties involving the investigation or conciliation of complaints or the prosecution of administrative hearings. If the clerk has been actively involved in the investigation or conciliation of a case or the prosecution of an administrative hearing in any capacity other than as clerk, he or she shall not thereafter serve as clerk for that case, and a substitute clerk shall be designated. The purpose of this subsection is to ensure compliance with chapter 34.05 RCW, restricting consultation with hearing officers, and RCW 49.60.250(2).

(3) **Duties.** The clerk shall have the duty and power to:

(a) Attend commission meetings and provide aid and services to the chairperson and commissioners as requested by the executive director.

(b) Assist the chairperson of the commission in requesting appointment of an administrative law judge, issuing notices of hearing and carrying out all other duties of the chairperson under RCW 49.60.250.

(c) Keep custody of the minutes of commission meetings, declaratory rulings, rule-making orders, and the commission's order register, and other records of action by the commissioners.

(d) Keep custody of the file of complaints after they are referred to the commission for action or report of no reasonable cause at a meeting, or upon certification of the file to the chairperson under RCW 49.60.250(1). The clerk shall deliver the investigator's file of cases ready for hearing to the commission's chief counsel at the onset of the contested case process and shall obtain return of the file when litigation is completed.

(e) Respond to requests for information on actions by the commissioners or administrative law judge and furnish copies of records and files in the clerk's possession pursuant to WAC 162-04-030, Public access to records.

(f) Have custody of the commission's seal.

(g) Certify copies of commission records under the commission's seal.

(h) Serve as clerk of administrative hearings. In this capacity, the clerk, subject to the direction of the administrative law judge, shall keep custody of the official file of the administrative hearing, date stamp and file all papers filed in the proceeding when the hearing is not convened, serve all notices and papers required to be served by the administrative law judge, make the physical arrangements for hearings, provide for making and preserving the record of hearings, respond to inquiries about administrative practices and procedures, and generally do all things necessary and appropriate for the clerk of a judicial body to do.

(i) Serve as personal advisor to the chairperson of the commission and administrative law judge on matters relating to the hearing process.

(j) Perform such other duties as the chairperson of the commission or the administrative law judge shall assign from time to time, consistent with their duties.

(4) Upon direction from the chairperson of the commission, the administrative law judge, or the executive director, whichever is the appropriate authority, the clerk may enter upon his or her own signature, procedural orders, notices of hearing, orders appointing administrative law judges, notices of rule making, and similar items.

(5) **Independence.** The clerk when assisting the chairperson of the commission to carry out the chairperson's duties under RCW 49.60.250 and when serving as clerk of an administrative hearing shall be free from supervision of the executive director and other staff members of the commission to the extent necessary to ensure that the chairperson of the commission and the administrative law judges are free from influence from staff persons having a prosecutorial function.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-026, filed 11/7/89, effective 12/8/89. Statutory Authority: RCW 42.18.250, 49.60.120, and chapter 49.60 RCW. WSR 78-02-065 (Order 39), § 162-04-026, filed 1/23/78. Formerly WAC 162-08-026.]

WAC 162-04-030 Public access to records. (1) RCW 42.56.070(1) requires the human rights commission to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" at RCW 42.56.010(3) to include any "writing containing information relating to the conduct of govern-

ment or the performance of any governmental or proprietary function prepared, owned, used, or retained" by the agency. RCW 42.56.010(3) excludes from the definition of "public record" the records of volunteers that are not otherwise required to be retained by the agency and which are held by volunteers who do not serve in an administrative capacity; have not been appointed by the agency to an agency board, commission or internship; and do not have a supervisory role or delegated authority.

(2) The purpose of these rules is to establish the procedures that the human rights commission will follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the human rights commission and establish processes for both requestors and human rights commission staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. The act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the act, the human rights commission will be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-030, filed 8/23/21, effective 9/23/21. Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, §162-04-030, filed 11/7/89, effective 12/8/89; Order 13, §162-04-030, filed 2/16/73.]

WAC 162-04-032 Agency contact information—Public records officer. (1) The human rights commission central office is located at 711 S. Capitol Way, Ste. 402, P.O. Box 42490, Olympia, Washington 98504.

(2) The public records officer will oversee compliance with the act but another human rights commission staff member may process the request. Therefore, these rules will refer to the public records officer or "designee." The public records officer or designee and the human rights commission will provide full assistance to requestors; create and maintain for use by the public and human rights commission officials an index to public records of the human rights commission (when applicable); ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the human rights commission.

(3) Any person wishing to request access to public records of the human rights commission, or seeking assistance in making such a request should contact the public records officer designee of the human rights commission:

Records Analyst
Human Rights Commission
711 S. Capitol Way, Ste. 402
P.O. Box 42490
Olympia, WA 98504-2490
360-359-4925
360-586-2282
records@hum.wa.gov

Information is also available at the human rights commission's website at www.hum.wa.gov.

(4) The human rights commission will provide members of the public with a form to make a public records request. This form is available through the public records officer designee or the website at www.hum.wa.gov.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-032, filed 8/23/21, effective 9/23/21.]

WAC 162-04-033 Availability of public records. (1) Hours for inspection of records. Public records are available for inspection and copying during normal business hours of the human rights commission, Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the Olympia office of the human rights commission. Many public records are also available for inspection and copying on the human rights commission's website at any time, at no cost.

(2) **Organization of records.** The human rights commission will maintain its records in a reasonably organized manner. The human rights commission will take reasonable actions to protect records from damage and disorganization. A requestor shall not take human rights commission records from the human rights commission. A variety of records is available on the human rights commission's website at www.hum.wa.gov. Requestors are encouraged to view the documents available on the website prior to submitting a records request.

(3) **Making a request for public records.**

(a) Any person wishing to inspect or copy public records of the human rights commission should make the request in writing on the human rights commission's request form, or by letter, fax, or email addressed to the public records officer designee at the email address records@hum.wa.gov, or by submitting the request in person at the human rights commission, 711 S. Capitol Way, Ste. 402, P.O. Box 42490, Olympia, Washington 98504 and including the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any email address;
- Identification of the public records adequate for the public records officer or designee to locate the records;
- Any limitations to the records request, such as by date that the record was created, by respondent entity, or by statutorily covered area such as employment or housing;
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, they should so indicate and make arrangements to pay for copies of the records or a deposit. Pursuant to WAC 132-04-037 charges for copies are provided in a fee schedule available at 711 S. Capitol Way, Ste. 402, P.O. Box 42490, Olympia, Washington 98504, or at www.hum.wa.gov.

(c) A records request form is available for use by requestors at the office of the public records officer designee and online at www.hum.wa.gov.

(d) The public records officer designee may accept requests for public records that contain the above information by telephone or in

person. If the public records officer designee accepts such a request, they will confirm receipt of the information and the substance of the request in writing.

(e) If requestors refuse to identify themselves or provide sufficient contact information, the agency will respond to the extent feasible and consistent with the law.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-033, filed 8/23/21, effective 9/23/21.]

WAC 162-04-034 Processing of public records requests—General.

(1) **Providing "fullest assistance."** The human rights commission is charged by statute with adopting rules which provide for how it will "provide full access to public records"; "protect records from damage or disorganization"; "prevent excessive interference with other essential functions of the agency"; provide "fullest assistance" to requestors; and provide the "most timely possible action" on public records requests. The public records officer or designee will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) Upon receipt of a request, the public records officer designee will log the text of the request, the name of the requestor, and the date of the request.

(3) The public records officer or designee will evaluate the request according to the nature of the request, volume, and availability of requested records.

(4) Access to public records can be provided by allowing inspection of the record, providing a copy, or posting the record on the human rights commission's website and assisting the requestor with finding it.

(5) A requestor must request an "identifiable record" or "class of records" before the human rights commission must respond to it. RCW 42.56.080 and 42.56.550(1). An "identifiable record" is one that is existing at the time of the request and which agency staff can reasonably locate. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records.

(6) **Acknowledging receipt of request.** Following the initial evaluation of the request under subsection (3) of this section, and within five business days of receipt of the request, the public records officer or designee will do one or more of the following:

(a) Make the records available for inspection or copying including:

(i) If copies are available on the human rights commission's internet website, provide an internet address and link on the website to specific records requested;

(ii) If copies are requested and payment of a deposit for the copies, if any, is made or other terms of payment are agreed upon, send the copies to the requestor;

(b) Acknowledge receipt of the request and provide a reasonable estimate of when records or an installment of records will be available (the public records officer or designee may revise the estimate of when records will be available);

(c) Acknowledge receipt of the request and ask the requestor to provide clarification for a request that is unclear, and then to pro-

vide, to the greatest extent possible, a reasonable estimate of time the human rights commission will require to respond to the request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing.

(ii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the human rights commission need not respond to it. The human rights commission will respond to those portions of a request that are clear; or

(d) Deny the request.

(7) **Consequences of failure to respond.** If the human rights commission does not respond in writing within five business days of receipt of the request for disclosure, the requestor should contact the public records officer to determine the reason for the failure to respond.

(8) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask the person to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(9) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the human rights commission believes that a record is exempt from disclosure and should be withheld, the public records officer will state the specific exemption and provide a brief written explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted. A description of the records being withheld and the reasons for withholding, and the date of the final disposition of the request shall be logged.

(10) **Inspection of records.**

(a) A requestor may request to inspect records at the human rights commission office in Olympia. The records will be assembled and redacted of exempt information. Consistent with other demands, the human rights commission shall then provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document.

(b) The requestor must review the assembled records within thirty days of the human rights commission's notification to them that the records are available for inspection or copying. The agency will notify the requestor in writing of this requirement and inform the requestor that they should contact the agency to make arrangements to review the records. If the requestor or a representative of the requestor fails to review the records within the thirty-day period or make other arrangements, the human rights commission may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which can be processed as a new request.

(c) **Providing copies of records.** After inspection is complete, the requestor requests copies of documents, the public records officer

or designee shall make the requested copies or arrange for copying. If documents are copied, the copying charges outlined in WAC 162-04-037 will apply.

(11) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if they reasonably determine that it would be practical to provide the records in that way. If, within thirty days, the requestor fails to inspect or provide payment for one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(12) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee will indicate on the log and in the last communication with the requestor that the human rights commission has completed a reasonable search for the requested records and made any located nonexempt records available for inspection or has provided the requested copies or electronic documents.

(13) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request, or fails to clarify an entirely unclear request, or fails to fulfill their obligations to inspect the records, pay the deposit, pay the required fees for an installment, or make final payment for the requested copies, the public records officer or designee will close the request and, unless the agency has already indicated in previous correspondence that the request would be closed under the above circumstances, indicate to the requestor that the human rights commission has closed the request.

(14) **Later discovered documents.** If, after the human rights commission has informed the requestor that it has provided all available records, the human rights commission becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-034, filed 8/23/21, effective 9/23/21.]

WAC 162-04-035 Processing of public records requests—Electronic record. (1) **Requesting electronic records.** The process for requesting electronic public records is the same as for requesting paper public records.

(2) **Providing electronic records.** When a requestor requests records in an electronic format, the public records officer designee will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the human rights commission and is generally commercially available, or in a format that is reasonably translatable from the format in which the agency keeps the record. Costs for providing electronic records are governed by WAC 162-04-037. The fee schedule is available at 711 S. Capitol Way, Ste. 402, P.O. Box 42490, Olympia, Washington 98504 and www.hum.wa.gov.

(3) **Customized electronic access services.** While not required, and with the consent of the requestor, the human rights commission may decide to provide customized electronic access services and assess charges under RCW 42.56.120 (2)(f). A customized service charge ap-

plies only if the human rights commission estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the agency for other purposes. The human rights commission may charge a fee consistent with RCW 42.56.120 (2) (f) for such customized access.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-035, filed 8/23/21, effective 9/23/21. Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-035, filed 11/7/89, effective 12/8/89.]

WAC 162-04-036 Exemptions. (1) The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. The human rights commission will exempt these records from inspection and copying.

(2) The human rights commission is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-036, filed 8/23/21, effective 9/23/21.]

WAC 162-04-037 Costs of providing copies of public records. (1) **Inspection.** There is no fee for inspecting public records, including inspecting records on the human rights commission's website.

(2) **Statutory default costs.** The human rights commission is not calculating actual costs for copying its records because to do so would be unduly burdensome for the following reasons: Funds were not allocated for performing a study to calculate such actual costs and the human rights commission does not have the resources to conduct a study to determine actual copying costs for all its records; staff resources are insufficient to perform a study and to calculate such actual costs; to conduct such a study would interfere with other essential agency functions; and, through the legislative process, the public and requestors have commented on and been informed of authorized fees and costs provided in the Public Records Act, including RCW 42.56.120 and other laws. Therefore, in order to timely implement a fee schedule consistent with the Public Records Act, it is more cost efficient, expeditious and in the public interest for the human rights commission to adopt the state legislature's approved fees and costs for most of the human rights commission's records, as authorized in RCW 42.56.120 and as published in the agency's fee schedule.

(3) **Fee schedule.** The fee schedule is available at 711 S. Capitol Way, Ste. 402, P.O. Box 42490, Olympia, Washington 98504 and on the human rights commission's website at www.hum.wa.gov.

(4) **Estimate of costs for requestor.** If a requestor asks, the human rights commission will provide a summary of the applicable charges before copies are made, and the requestor may revise the request to reduce the number of copies to be made. The human rights commission will also provide a requestor, in advance, information concerning customized service charges if the request involves customized service.

(5) **Processing payments.** Before beginning to make the copies or processing a customized service, the public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public re-

records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment. The human rights commission will not charge sales tax when it makes copies of public records.

(6) **Costs of mailing.** The human rights commission may also charge actual costs of mailing, including the cost of the shipping container.

(7) **Payment.** Payment may be made by cash, check, or money order to the human rights commission.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-037, filed 8/23/21, effective 9/23/21.]

WAC 162-04-038 Review of denials of public records. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including email) to the public records officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the agency executive director. That person will immediately consider the petition and either affirm or reverse the denial within two business days following the human rights commission's receipt of the petition, or within such other time as the human rights commission and the requestor mutually agree to.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the human rights commission denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office to review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

[Statutory Authority: RCW 42.56.120 and 42.56.040. WSR 21-18-025, § 162-04-038, filed 8/23/21, effective 9/23/21.]

WAC 162-04-040 State Environmental Policy Act. Pursuant to RCW 43.21C.120 and the SEPA guidelines, chapter 197-11 WAC, the commission has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-11 WAC.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-040, filed 11/7/89, effective 12/8/89; Order 27, § 162-04-040, filed 5/21/76.]

WAC 162-04-050 Ethics and conflicts of interest. (1) **Purpose.** This section is intended to guide the commission's staff and commissioners on official ethics, and to carry out the policies and purposes

of chapter 42.18 RCW, the Executive Conflict of Interest Act, as provided in RCW 42.18.250.

(2) **General rule.** It is the duty of all employees of the commission and of all commissioners to maintain the highest standard of ethics in all official actions, and specifically to comply strictly with the requirements of the Executive Conflict of Interest Act, chapter 42.18 RCW.

(3) **Specific matters.** The following applications of the rule are for guidance on common problems and are to serve as examples for extension by analogy; they are not a complete catalog of applications of the general rule:

(a) **Dealing with parties.** No commission employee who has duties with respect to a complaint pending before the commission shall deal in any way with the complainant or respondent, on a business or personal basis, except for routine transactions done on the same basis as other members of the public transact business with the party. An employee may continue to deal privately with a public utility or continue to shop at a party's store, if the employee deals with appropriate customer service representatives or salespersons and does not identify his or her official position or mix official business into the transaction. In circumstances unlike these, employees shall either not deal with parties or shall report the matter to the employee's supervisor, who shall relieve the employee of responsibility for the case. Commissioners who have nonroutine dealings with parties shall abstain from voting or other action on the matter.

(b) **Accepting things of value.** No commission employee or commissioner shall accept anything of economic value from a party to a complaint before the commission, or from any other person who is dealing with the commission, except under circumstances permitted in RCW 42.18.190. Permitting another person to pay for an employee's lunch is within the prohibition of this paragraph, but accepting a cup of coffee under normal office hospitality is not. If the coffee is ordered in a restaurant the prohibition of this section applies.

(c) **Honoraria for speaking.** If the speaking engagement is within the course of a person's official duties, acceptance of an honorarium or other compensation is prohibited. RCW 42.18.190. Payment of travel expenses and living expenses while traveling, or reimbursement of the commission for these expenses, is not prohibited, if the trip and payment arrangement have been approved by the employee's supervisor. It is not necessary for a person who is on the program to pay for a meal that is served, or for the price of admission to the seminar, where the custom is to not charge persons on the program for the meal at which they are speaking, or for admission to the seminar. The prohibitions of this subparagraph do not apply to commissioners, because speaking outside of commission meetings is not a duty of commissioners.

(d) **Job offers.** No employee of the commission shall make or continue an application or request for employment with a party to a case or other matter before the commission while the employee has official duties with respect to that case or matter. If any employee is assigned a case or matter while he or she has an application pending for employment with a party to the case or matter, the employee shall either withdraw the application or report the facts to his or her supervisor. The executive director shall determine whether to relieve the employee from further responsibility for the case or matter. If any employee receives and considers a job offer from a party to a case or other matter pending before the commission with which the employee has

official responsibilities, the employee shall report the facts to his or her supervisor and the supervisor shall relieve the employee from any further responsibility for the case or matter.

(4) **Indirect transactions.** These rules and the Executive Conflict of Interest Act apply to conflicts of interest and ethical problems whether they come directly or indirectly through members of a person's family, through corporations of which the employee is an officer, director, trustee, partner, or employee, or through other means.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-050, filed 11/7/89, effective 12/8/89. Statutory Authority: RCW 42.18.250, 49.60.120, and chapter 49.60 RCW. WSR 78-02-065 (Order 39), § 162-04-050, filed 1/23/78; Order 32, § 162-04-050, filed 3/21/77. Formerly WAC 162-08-050.]

WAC 162-04-060 Executive director may delegate duties. Unless a statute or rule provides otherwise, all duties and powers assigned to the executive director may be delegated by the executive director to other staff persons of the commission, with the executive director remaining responsible. The general practice of the commissioners is to assign all staff duties and powers to the executive director, with the understanding that the executive director will allocate and reallocate the tasks among the staff and see that the tasks are performed.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-060, filed 11/7/89, effective 12/8/89; Order 35, § 162-04-060, filed 9/2/77.]

WAC 162-04-070 Executive director may issue opinions. (1) **Authorization.** The executive director may issue written opinions to persons who request advice as to the application of the law against discrimination or rules or practices of the commission. The opinions shall not be inconsistent with the statute, or the regulations or policies of the commission.

(2) **Review by commission.** The executive director shall send a copy of each opinion to each commissioner before, or promptly after, it is sent to the person requesting it. Any commissioner may have the question of commission approval, disapproval, or revision of an opinion put on the agenda of a commission meeting, and the commission shall then approve, disapprove, or revise the opinion.

(3) **Revocation or revision.** An opinion of the executive director may be revoked or revised at any time by the executive director, or by action of the commissioners at a meeting. The revocation or revision shall not be effective as to the person who requested the opinion until that person has notice of the revocation or revision.

(4) **Supersedure.** An opinion of the executive director is automatically superseded by any material change in the applicable statutes, regulations, or case law. Notice to the person who requested the opinion is not necessary for supersedure under this paragraph.

(5) **Reliance.** When any person has relied in good faith on an opinion of the executive director, the commission will not thereafter assert a contrary position against that person, unless the opinion is revoked or revised, or is superseded by a material change in the applicable statutes, regulations, or case law. This paragraph covers

persons other than the person who requested the opinion, if the persons have justifiedly relied on the opinion.

(6) **Subdelegation.** The executive director may authorize members of the commission's staff or the commission's legal counsel to issue opinions in the name of the executive director, subject to the supervision of the executive director, and subject to all of the requirements of this section.

(7) **Authentication.** Nothing shall be an opinion of the executive director for purposes of this section unless it is designated as such in its caption or in its text.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-019, § 162-04-070, filed 11/7/89, effective 12/8/89; Order 35, § 162-04-070, filed 9/2/77.]