

**WAC 162-08-09501 Methods of obtaining information<sup>1</sup>.** (1) Pursuant to RCW 49.60.140 and 49.60.240, as part of the investigative process, staff members of the commission may obtain information by one or more of the following methods: Subpoenas, oral questions, written questions and answers, requests for specific documents and records.

(2) Use of these methods is available only to commission staff. Since the investigation is an internal agency process, and not an adversarial proceeding, use of the methods for obtaining information described in subsection (1) of this section are available only to commission staff members.

(3) Scope of inquiry. Commission staff members may obtain information regarding any matter, not privileged, which is relevant to the complaint filed with the commission.

(4) Methods of obtaining information.

(a) **Subpoena and subpoena duces tecum.** Subpoenas may be issued by the chairperson of the commission, any member of the commission designated by the chairperson, the executive director, or any staff member designated by the executive director, to compel the appearance of any person to give information relevant to a complaint which is under investigation.

(i) Subpoenas may be served in any manner authorized by WAC 162-08-041 and RCW 49.60.140 for the service of papers generally.

(ii) Pursuant to RCW 49.60.170, witnesses shall be paid the same fees and mileage as are paid witnesses in the courts of this state, and by the same party who would pay if the proceeding were before a court of this state. Any person authorized to issue subpoenas who desires the attendance of a witness residing outside of the county in which attendance is desired, or more than twenty miles from the place where attendance is desired, may compel the attendance of the witness by subpoena accompanied by ten dollars, tickets or other arrangements for travel, or an appropriate mileage allowance if the witness agrees to travel by automobile, plus not less than one day's per diem at the rate specified by law for witnesses required to attend court proceedings. The executive director may order additional amounts for meals, lodging, and travel as the executive director may deem reasonable for the attendance of the witness, consistent with RCW 5.56.010 and other statutes governing allowances for witnesses in the courts of this state, if the witness objects to the arrangements or amounts provided by the person issuing the subpoena.

(iii) The party who calls an expert witness shall pay the professional fee charged by the expert witness and all other costs of the expert's testimony. If the other party's or parties' questioning of an expert witness exceeds the time taken by the party who requested the expert, they shall reimburse the party who called the expert witness for that portion of the fee charged by the expert witness and the other costs of the expert's testimony.

(iv) Questions relating to subpoenas shall be addressed by the executive director. Motions relating to subpoenas shall be addressed by the executive director or chairperson of the commission pursuant to the procedures set forth in WAC 162-08-019.

(b) **Oral questions and answers.** Oral questions and answers may be taken in any reasonable manner at any time after a complaint has been filed with the commission, provided all parties are notified that the information may be transcribed and used as evidence in any hearing arising out of the matter under investigation.

(i) Oral questions and answers may be taken before a member of the commission's staff who is not involved in the investigation of the complaint or matter, or before a person who has been commissioned to administer oaths by the chairperson of the commission, or before any person who is a notary public.

(ii) Record of examination. Questions and answers may be recorded mechanically or video-taped.

(iii) If signature is not waived, the witness shall have five days after submission of the transcription of their answers to register desired changes and sign it, and if the witness does not sign in the time allowed, the recording official may, the officer may certify the accuracy of the transcription.

(iv) The recording officer shall certify the transcription in the manner provided in CR 30(f) and shall send or deliver the original transcript to the clerk, unsealed. The recording officer need not notify parties of the transmittal.

(v) Upon receipt of a transcription certified as above, the clerk shall examine it to verify that it has been certified, and if it has been, the clerk shall file it. A transcription that has been so filed is published and is available for any use to which a deposition may be put, except to the extent that use is limited by a protective order (see WAC 162-08-096).

(vi) Transcriptions may be used in the same manner as depositions may be used under the civil rules for superior court, particularly CR 32.

(vii) Errors and irregularities in question and answer procedure are waived unless they substantially prejudice a party and are promptly objected to.

(c) **Written questions and answers.** Any commission staff person may serve written questions and answers on any party to be answered under oath.

(i) Form. Each written question shall be followed by adequate space for the answer.

(ii) Time for answer. Written questions shall be answered within ten days after service, unless their number, together with others served by the commission within the last ten days, exceed twenty questions, in which event they shall be answered within twenty days.

(d) **Production of documents and records.** Any staff member authorized by the commission may request production of documents and records relevant to a matter under investigation and issue a subpoena duces tecum for the same material when not produced upon request.

Time for response. The party upon whom the request for production is served shall serve its written response within ten days, unless the parties have stipulated to, or the commission staff person has specified, a shorter or longer time.

<sup>1</sup> This section is intended to cover informal methods of obtaining information pursuant to RCW 49.60.140 and 49.60.240. When more formal methods of discovery are invoked, WAC 162-08-263 applies.

[Statutory Authority: RCW 49.60.120(3). WSR 89-23-020, § 162-08-09501, filed 11/7/89, effective 12/8/89.]