

# Title 251 WAC

## HIGHER EDUCATION PERSONNEL BOARD

### Chapters

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### DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

#### Chapter 251-16

#### EFFECT ON EXISTING RULES—RIGHT TO APPEAL

251-16-010	Effect upon existing rules. [Order 11, § 251-16-010, filed 2/18/72; Order 10, § 251-16-010, filed 12/16/71; Order 1, § 251-16-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-16-020	Right to appeal. [Order 11, § 251-16-020, filed 2/18/72.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-075 and 251-18-115.
251-16-030	Remedial action. [Order 58, § 251-16-030, filed 5/23/77; Order 29, § 251-16-030, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-600.

### Chapter 251-04 WAC GENERAL PROVISIONS

#### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-04-005	State environmental policy act. [Order 56, § 251-04-005, filed 1/14/77, effective 2/14/77.] Repealed by Order 63, filed 11/22/77.
251-04-045	Exempt conversion appeals. [Permanent and Emergency Order 50, § 251-04-045, filed 1/20/76.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-04-010 Purpose.** (1) The interests of state higher education institutions and the employees of those institutions will be furthered by the enactment of a system of personnel administration designed specifically to meet particular needs in connection with employer-employee relations. The general purpose of this chapter is to establish a system of personnel administration for the state higher education institutions which is based on merit principles and scientific methods.

(2) In the development of rules consistent with the purposes set forth in WAC 251-04-010(1), the following merit principles shall be guiding:

(a) Recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointments;

(b) Providing equitable and adequate compensation;

(c) Training employees, as needed, to assure high-quality performance;

(d) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;

(e) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and

(f) Assuring that employees are protected against coercion for partisan political purposes. [Order 61, § 251-04-010, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-010, filed 9/15/69.]

**WAC 251-04-020 Definitions.** Unless the context clearly indicates otherwise, the words used in these rules shall have the meanings given in this section.

(1) "ADMINISTRATIVE EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(a) Primary duty is office or nonmanual work directly related to the management policies or general business operations; and

(b) Must have the authority to make important decisions, customarily and regularly exercise discretion and independent judgment, as distinguished from using skills and following procedures; and

(c) Must regularly assist an executive or administrative employee, or perform work under only general supervision along specialized or technical lines requiring special training, experience or knowledge; and

(d) Must be paid at a rate of at least \$672 a month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of responsible office or nonmanual work directly related to management policies or general business operations.

(2) "AGRICULTURAL EMPLOYEES" – Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

(3) "ALLOCATION" – The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

(4) "APPOINTING AUTHORITY" – A person or group of persons lawfully authorized to make appointments.

(5) "BOARD" – The higher education personnel board established under the provisions of the higher education personnel law.

(6) "CERTIFICATION" – The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

(7) "CHARGES" – A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

(8) "CLASS" – One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

(9) "CLASSIFIED SERVICE" – All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

(10) "COLLECTIVE BARGAINING" – The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

(11) "COMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

(12) "CORRECTIVE EMPLOYMENT PROGRAM" – A program designed to increase the employment of persons of under-represented groups to correct a condition of under-representation of such persons caused by present or past practices or other conditions which have resulted in limited employment opportunity for members of the affected groups.

(a) "UNDER-REPRESENTATION" – Having fewer employees by racial or ethnic minority, handicap, or sex within a class or job category than:

- (i) would reasonably be expected by their availability; or
- (ii) are included in the institution's approved corrective employment goal for that class or job category per WAC 251-18-390(1);

(b) "AVAILABILITY" – Within a class or job category, the existence of qualified persons of the under-represented groups in the employed and unemployed work force in that class or job category within the defined recruitment area;

(c) "JOB CATEGORIES" – Those groupings required in equal employment opportunity reports to federal agencies.

(13) "DEMOTION" – The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

(14) "DEVELOPMENT" – The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

(15) "DIRECTOR" – The personnel director of the higher education personnel board.

(16) "DISMISSAL" – The termination of an individual's employment for just cause as specified in these rules.

(17) "ELIGIBLE" – An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated on the bulletin board posting.

(18) "ELIGIBLE LIST" – A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

(19) "EMPLOYEE ORGANIZATION" – Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

(20) "EMPLOYING OFFICIAL" – An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

(21) "EXECUTIVE EMPLOYEES" – Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (a) Primary duty must be management of a recognized department or subdivision; and
- (b) Must customarily and regularly direct the work of two or more employees; and

(c) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and

(d) Must customarily and regularly exercise discretionary powers; and

(e) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if he/she regularly directs the work of at least two other employees and the primary duty is management of a recognized department or subdivision thereof.

(22) "EXEMPT POSITION" – A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040.

(a) "ADMINISTRATIVE ASSISTANT EXEMPTION" – A president or vice president may have individual(s) acting as his or her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

(b) "EXECUTIVE HEAD EXEMPTION" – Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

(c) "RESEARCH EXEMPTION" – Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

(d) "COUNSELING EXEMPTIONS" – Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

(e) "EXTENSION AND/OR CONTINUING EDUCATION EXEMPTION" – Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

(f) "GRAPHIC ARTS OR PUBLICATION EXEMPTION" – Individuals qualifying for exemption under this section will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

(g) "PRINCIPAL ASSISTANT EXEMPTION" – Individuals qualifying for exemption under this section function as second in command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence or alternatively have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

(23) "FRINGE BENEFITS" – As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

(24) "FULL-TIME EMPLOYMENT" – Work consisting of forty hours per week.

(25) "GRIEVANCE" – A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

(26) "HANDICAPPED PERSON" – Any person who:

(a) has a physical or mental impairment which substantially limits one or more major life activity;

(b) has a record of such an impairment; or

(c) is regarded as having such an impairment. For purposes of affirmative action, the major life activity affected must be employment.

(27) "HEARING EXAMINER" – An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

(28) "INSTITUTIONS OF HIGHER EDUCATION" – The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

(29) "INSTRUCTIONAL YEAR" – The schedule established annually by an institution to identify the period required to meet the educational requirements of a given academic or training program.

(30) "LATERAL MOVEMENT" – Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

(31) "LAYOFF" – Any of the following management initiated actions caused by lack of funds, curtailment of work, or good faith reorganization for efficiency purposes:

(a) Separation from service to an institution;

(b) Separation from service within a class;

(c) Reduction in the work year; and/or

(d) Reduction in the number of work hours.

(32) "LAYOFF SENIORITY" – The last period of unbroken service in the classified service of the higher education institution. Authorized leave of absence or leave without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute and except in the case of positions established on the basis of an instructional year. Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken institution service the veteran's active military service to a maximum of five years' credit.

(33) "LAYOFF UNIT" – A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

(34) "LEAD" – An employee who performs the same duties as other employees in his/her work group and in addition regularly assigns, instructs and checks the work of the employees.

(35) "NONCOMPETITIVE SERVICE" – All positions in the classified service for which a competitive examination is not required.

(36) "ORGANIZATIONAL UNIT" – A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

(37) "PART-TIME EMPLOYMENT" – Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

(38) "PERMANENT EMPLOYEE" – An employee who has successfully completed a probationary period at the institution within the current period of employment.

(39) "PERSONNEL OFFICER" – The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

(40) "POSITION" – A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

(41) "PROBATIONARY PERIOD" – The initial six months of employment in a class following appointment from an eligible list of a nonpermanent employee of the institution.

(42) "PROBATIONARY REAPPOINTMENT" – Appointment of a probationary employee from an eligible list to a position in a different class.

(43) "PROFESSIONAL EMPLOYEES" – Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

(a) Primary duty must involve work that requires knowledge of an advanced type in a field of science or learning, customarily obtained by a prolonged course of specialized instruction and study or work that is original and creative in character in a recognized field of artistic endeavor and the result of which depends primarily on invention, imagination, or talent; and

(b) Must consistently exercise discretion and judgment; and

(c) Must do work that is predominantly intellectual and varied, as distinguished from routine or mechanical duties; and

(d) Must be paid at a rate of at least \$737 per month exclusive of board, lodging or other facilities.

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced type in a field of science or learning which requires consistent exercise of discretion and judgment.

(44) "PROMOTION" – The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

(45) "PUBLIC RECORDS" – Includes any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

(46) "REALLOCATION" – The assignment of a position by the personnel officer to a different class.

(47) "REASSIGNMENT" – A management initiated movement of a classified employee from one position to another in the same class.

(48) "RELATED BOARDS" – The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

(49) "RESIGNATION" – A voluntary termination of employment.

(50) "REVERSION" – The return of a permanent employee from trial service to the most recent class in which permanent status was achieved.

(51) "SEPARATION" – Resignation, retirement, layoff or dismissal from the classified service.

(52) "SUPERVISOR" – Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(53) "SUSPENSION" – An enforced absence without pay for disciplinary purposes.

(54) "TEMPORARY EMPLOYMENT" –

(a) Work performed in the absence of an employee on leave;

(b) Extra work required at a work load peak or special projects, or cyclic work loads not to exceed one hundred eighty calendar days.

(55) "TRAINING" – Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

(56) "TRANSFER" – An employee initiated change from one classified position to another in the same class within the institution without a break in service.

(57) "TRIAL SERVICE" – The initial period of employment following promotion, demotion or lateral movement into a class in which the employee has not held permanent status, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules.

(58) "UNION SHOP" – A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

(59) "UNION SHOP REPRESENTATIVE" – An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

(60) "UNION SHOP REPRESENTATION FEE" – Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

(61) "WRITING" – Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents. [Order 63, § 251-04-020, filed 11/22/77; Order 61, § 251-04-020, filed 8/30/77, effective 10/1/77; Order 52, § 251-04-020, filed 2/26/76, effective 3/29/76; Order 51, § 251-04-020, filed 1/20/76; Order 46, § 251-04-020, filed 9/19/75; Order 37, § 251-04-020, filed 10/15/74; Order 25, § 251-04-020, filed 7/17/73; Order 21, § 251-04-020, filed 5/24/73; Order 19, § 251-04-020, filed 12/20/72; Order 12, § 251-04-020, filed 5/23/72, effective 6/25/72; Order 8, § 251-04-020, filed 6/17/71, effective 7/19/71; Order 4, § 251-04-020, filed 2/19/71; Order 3, § 251-04-020, filed 1/15/71; Order 2, § 251-04-020, filed 3/12/70; Order 1, § 251-04-020, filed 9/15/69.]

**WAC 251-04-030 Scope.** The provisions of these rules shall apply to all personnel of the higher education institutions/related boards except those exempted under the provisions of WAC 251-04-040. [Order 61, § 251-04-030, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-030, filed 9/15/69.]

**WAC 251-04-040 Exemptions.** The following classifications, positions, and employees of higher education

institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education.

(2)(a) Students employed under separately funded student assistance work programs, or who are employed in a position directly related to the major field of study to provide training opportunity; or who are elected or appointed to student body offices or student organization positions such as student officers or student news staff members.

(b) Persons employed in a position scheduled for less than twenty hours per week or on an intermittent employment schedule.

(c) Temporary employees filling positions identified in WAC 251-04-020(54)(b).

(d) Part time professional consultants retained on an independent part time or temporary basis such as physicians, architects, or other professional consultants employed on an independent contractual relationship for advisory purposes and who do not perform administrative or supervisory duties.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution/related board may also exempt from this chapter, subject to the employee's right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: *Provided*, That no nonacademic employee engaged in office, clerical, maintenance, or food and trades services may be exempted by the higher education personnel board under this provision.

(6) Any employee who believes that any classification should or should not be exempt, or any employee because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080, et seq.

(7) Any employee having a classified service status in a position may take a temporary appointment in an exempt position, with the right to return to the regular position, or to a like position, at the conclusion of such temporary appointment. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment.

(8) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of

such position shall be as provided in WAC 251-18-420. [Order 64, § 251-04-040, filed 12/23/77, effective 1/23/78; Order 63, § 251-04-040, filed 11/22/77; Order 61, § 251-04-040, filed 8/30/77, effective 10/1/77; Order 10, § 251-04-040, filed 12/16/71; Order 4, § 251-04-040, filed 2/19/71; Order 1, § 251-04-040, filed 9/15/69.]

**WAC 251-04-050 Higher education personnel board.** (1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. No member appointed when the legislature was not in session shall continue to be a member of the board after the thirtieth day of the next legislative session unless his/her appointment shall have been approved by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board shall be paid fifty dollars for each day in which he/she has actually attended a meeting of the board officially held. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally.

(3) At its first meeting following the appointment of all its members, and annually thereafter, the board shall elect a chairman and vice chairman from among its members to serve one year. The presence of at least two members of the board shall constitute a quorum to transact business. A written public record shall be kept by the board of all actions of the board.

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

(5) No release of material, or statement of findings shall be made except with the approval of a majority of the board.

(6) In the conduct of hearings or investigations, a member of the board, or the director, or the hearing officer appointed to conduct the hearing, may administer oaths.

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules,

classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis, and procedures to be followed for the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions, with the number of names equal to two more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six months and rejections therein; transfers; sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment, both according to seniority; determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees; certification and decertification of exclusive bargaining representatives; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein shall permit or grant to any employee the right to strike or refuse to perform his/her official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position; allocation and reallocation of positions within the classification plans; adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC; training programs including in-service, promotional, and supervisory; increment increases within the series of steps for each pay grade, based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service; and veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board

shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives. A standardized procedure shall be instituted not later than July 1, 1978, for all employees. [Order 61, § 251-04-050, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-050, filed 9/15/69.]

**WAC 251-04-060 Director.** (1) The board shall appoint a personnel director who shall be the chief staff officer for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the state board for community college education. When necessary, the director may request the creation of task forces drawn from the four-year institutions of higher education, and representatives of the various state community colleges through the state board for community college education, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business.

(2) The director shall, at least once each year, and at such other times as may be necessary, audit and review the personnel administration and management at each institution and related board, and file a written report with the higher education personnel board. Such audits and/or reviews may include audit of positions which are required or authorized by chapter 28B.16 RCW and Title 251 WAC.

Position audits may include on-site position analysis and/or review of a position description form describing work which is performed. All relevant files and records of appointing authorities and personnel officers shall be made available to the director at any time.

(3) The director shall take any action necessary to ensure and enforce compliance with the higher education personnel law and these rules. [Order 61, § 251-04-060, filed 8/30/77, effective 10/1/77; Order 51, § 251-04-060, filed 1/20/76; Order 1, § 251-04-060, filed 9/15/69.]

**WAC 251-04-070 Personnel officers.** (1) Each higher education institution/related board shall designate an officer who shall perform duties as personnel officer. The personnel officer shall direct, supervise, and manage administrative and technical personnel activities for the classified service consistent with policies established by the institution/related board and in accordance

with the provisions of the higher education personnel act and the rules and regulations approved and promulgated thereunder. Institutions may undertake jointly with one another to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects.

(2) The state board for community college education shall have general supervision and control over activities undertaken by the various state community colleges.

(3) Rules adopted by the higher education personnel board shall provide for local administration and management by the higher education institutions/related boards, subject to periodic audit and review by the board, of the following:

- (a) Appointment, promotion, and transfer of employees.
- (b) Dismissal, suspension, or demotion of employees.
- (c) Examinations for all positions in the competitive and noncompetitive service.
- (d) Probationary periods of six months and rejections therein.
- (e) Sick leaves and vacations.
- (f) Hours of work.
- (g) Layoffs when necessary and subsequent reemployment.
- (h) Allocation and reallocation of positions within the classification plans.
- (i) Training programs.
- (j) Maintenance of personnel records. [Order 61, § 251-04-070, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-070, filed 9/15/69.]

**WAC 251-04-100 Computation of time.** Periods of notice or periods of time within which acts are to be completed, as prescribed or allowed by these rules or by order of the board, shall be computed by excluding the first and including the last day unless specifically provided in these rules to the contrary. If the last day is a Saturday, Sunday or holiday, the act must be completed on the next business day, unless a period of notice is being computed and such Saturday, Sunday or holiday is a regularly scheduled workday for the employee. [Order 61, § 251-04-100, filed 8/30/77, effective 10/1/77.]

**WAC 251-04-105 Method and completion of service.** Service of papers shall be made either personally or by registered or certified mail, unless otherwise provided by law. Service upon parties shall be regarded as complete when personal service has been accomplished; or by mail, upon deposit in the United States mail properly stamped and addressed to the last known address on file with the institution. [Order 61, § 251-04-105, filed 8/30/77, effective 10/1/77.]

**WAC 251-04-110 Filing with board.** Papers required to be filed with the board shall not be deemed filed until actual receipt of the papers by the board at its headquarters in Olympia, Washington. All papers shall be filed at the office of the director, where the date of

receipt shall be recorded on such papers. [Order 61, § 251-04-110, filed 8/30/77, effective 10/1/77.]

**WAC 251-04-150 State environmental policy act.** Pursuant to RCW 43.21C.120 and the State Environmental Policy Act Guidelines, chapter 197-10 WAC, the higher education personnel board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-10 WAC. [Order 61, § 251-04-150, filed 8/30/77, effective 10/1/77.]

### Chapter 251-05 WAC PUBLIC RECORDS

#### WAC

251-05-010	Purpose.
251-05-030	HEPB—Location—Organization—Jurisdiction.
251-05-040	Method of operation.
251-05-050	Office hours.
251-05-060	Records—Availability—Copies.
251-05-070	Exemptions—Public records.
251-05-080	Appeal—Denial of public records request.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-05-020	Definitions. [Order 21, § 251-05-020, filed 5/24/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-04-020.
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**WAC 251-05-010 Purpose.** The purpose of this chapter shall be to insure compliance by the higher education personnel board with the provisions of RCW 42.17.250 through 42.17.340. [Order 61, § 251-05-010, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-010, filed 5/24/73.]

#### WAC 251-05-030 HEPB—Location—Organization—Jurisdiction.

(1) The higher education personnel board is quartered at 1202 Black Lake Boulevard, Olympia, Washington 98504.

(2) The staff is organized into six general areas:

(a) Classification and compensation which provides classification, compensation, and allocation services.

(b) Personnel services which provides for examination development, employee development, and affirmative action plans.

(c) Labor relations which provides for mediation and arbitration, creation of collective bargaining units, and certification of exclusive representatives.

(d) Field services which provides rules interpretation and development and institution audit services.

(e) Fiscal services which manages the operational cost of the higher education personnel board (agency No. 383) and the higher education personnel board revolving fund.

(f) Administrative services which provides appeal services, and overall administration of agency operations.

(3) All classified employees of the twenty-eight higher education institutions and three related boards are under the jurisdiction of the higher education personnel board. [Order 61, § 251-05-030, filed 8/30/77,

effective 10/1/77; Order 21, § 251-05-030, filed 5/24/73.]

**WAC 251-05-040 Method of operation.** (1) The general conduct of agency business is pursuant to the charter established in RCW 28B.16.100 and Title 251 WAC.

(2) Provisions for all interested parties to participate in formulation of rules governing administration of the law is assured by a twenty-day notice requirement prerequisite to formal higher education personnel board adoption of any jurisdictional matter, except appeals.

(3) Special meetings may be called by the board subject to twenty-four hour notice, as required by law.

(4) Informal work sessions with interested parties are conducted by staff as necessary to insure maximum representation from employee organizations and institutions before proposals are made to the board. [Order 61, § 251-05-040, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-040, filed 5/24/73.]

**WAC 251-05-050 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding designated holidays. [Order 61, § 251-05-050, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-050, filed 5/24/73.]

**WAC 251-05-060 Records—Availability—Copies.** (1) Copies of all public records as defined in WAC 251-04-020 and identified in current indexes maintained in the office of the director of the higher education personnel board, shall be available upon written request. Response to such requests will be made in the order received.

(2) Available indexes shall include but not be limited to the following:

(a) Rules – Title 251 WAC;

(b) Twenty-day notice and minutes of meetings – regular and special;

(c) Board orders;

(d) Findings, conclusions and order of hearing examiners;

(e) Annual director's report;

(f) Higher education personnel board budget;

(g) Higher education personnel board revolving fund data;

(h) Staff administrative procedures manual;

(i) Higher education personnel board classification and compensation plan;

(j) Documents filed with the board as required by Title 251 WAC or board order, i.e., reduction in force procedure, holiday schedule, collective bargaining agreement, etc.

(3) No fee will be charged for inspection of public records. Inspection will be during office hours in a space provided by the agency and must be accomplished without excessive interference with the essential function of the agency.



(4) Copies of the records will be made available at actual cost to the agency. [Order 61, § 251-05-060, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-060, filed 5/24/73.]

**WAC 251-05-070 Exemptions—Public records.**

(1) The agency, through its designated public records officer, reserves the right to determine that a public record requested in accordance with these rules is exempt under the provisions of RCW 42.17.310.

(2) Pursuant to RCW 42.17.260, the agency reserves the right to delete identifying details when making available or publishing any public record or any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 42.17 WAC. The public records officer will justify any such deletion in writing.

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld will be included. [Order 61, § 251-05-070, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-070, filed 5/24/73.]

**WAC 251-05-080 Appeal—Denial of public records request.**

(1) Any person who objects to the denial of a request for a public record may petition the director for prompt review of the public records officer's decision by making a written request for review. The request shall specifically refer to the written statement by the public records officer which constituted or accompanied the denial.

(2) The director will review the denial and shall render a final decision within two business days following the original denial. [Order 61, § 251-05-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-080, filed 5/24/73.]

**Chapter 251-06 WAC  
CLASSIFICATION**

**WAC**

251-06-010	Classification plan—Preparation.
251-06-020	Classification plan—Adoption.
251-06-030	Interpretation of specifications.
251-06-050	Position allocation—Reallocation.
251-06-060	Position review.
251-06-065	Effective date—Allocation—Reallocation.
251-06-070	Allocation appeal—Higher education personnel board.
251-06-080	Position reallocation—Effect on incumbent.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

251-06-040	Use in examination. [Order 10, § 251-06-040, filed 12/16/71; Order 1, § 251-06-050, filed 9/15/69. Formerly WAC 251-06-050.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-06-075	Conversion allocation appeals. [Order 37, § 251-06-075, filed 10/15/74; Order 29, § 251-06-075, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-06-010 Classification plan—Preparation.** The director shall prepare and may revise for board approval a comprehensive classification plan for all positions after investigation and in consultation with personnel officers, employee representatives, and other interested parties, and after analysis of the duties and responsibilities of positions within each class including relevant supporting data. When complete, the plan will include, for each class, a specification including an appropriate title, a description of duties and responsibilities, and the minimum requirements of training, experience and other qualifications. [Order 61, § 251-06-010, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-010, filed 9/15/69.]

**WAC 251-06-020 Classification plan—Adoption.**

The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures. [Order 61, § 251-06-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-020, filed 9/15/69.]

**WAC 251-06-030 Interpretation of specifications.**

The definitions in class specifications are descriptive. They are intended to indicate the kinds of positions that are allocated to the classes as determined by their duties and responsibilities and are to be used as a guide for the appointing authority in assigning, directing, and controlling the work of employees. The use of a particular expression or illustration of duties shall not exclude others which are consistent with the overall class concept but are not mentioned in the specification. [Order 61, § 251-06-030, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-030, filed 9/15/69.]

**WAC 251-06-050 Position allocation—Reallocation.**

(1) The personnel officer shall allocate or reallocate each classified position to the appropriate class in the classification plan. In determining the class to which the position should be allocated, specifications describing each class shall be considered as a whole. Consideration should be given to the general duties, specific tasks, responsibilities, and relationships to other classes as a composite description of the kind of employment that the class is intended to embrace. The personnel officer shall allocate the employee's position to the class which best describes the overall duties and responsibilities.

(2) When there are permanent and substantive changes in the functions of a position involving the addition, reduction, or modification of duties and responsibilities, the personnel officer shall reallocate the position to the appropriate class. The employee shall be notified of the action including the effective date, as provided in WAC 251-06-065 and be informed that the appeal rights provided in WAC 251-06-070 may be exercised

within thirty calendar days of the notification or the effective date of the action, whichever is later. [Order 61, § 251-06-050, filed 8/30/77, effective 10/1/77; Order 10, § 251-06-050, filed 12/16/71; Order 1, § 251-06-040, filed 9/15/69. Formerly WAC 251-06-040.]

**WAC 251-06-060 Position review.** (1) Whenever an employee feels that his/her position is not allocated to the proper class, the employee or his/her representative may request a position review by the personnel officer. The request must be in writing and describe the work assigned and performed which is alleged to be outside of the class specification.

(2) The personnel officer will investigate the position and issue a written response to the employee or employee representative within sixty calendar days of receipt of the request. If the personnel officer does not approve the reallocation, the response must state the reason(s) that the position does not warrant reallocation. The response must include a notice to the employee that an appeal, as provided in WAC 251-06-070, may be exercised within thirty calendar days of receipt of the response or the effective date of the action, whichever is later. [Order 61, § 251-06-060, filed 8/30/77, effective 10/1/77; Order 10, § 251-06-060, filed 12/16/71.]

**WAC 251-06-065 Effective date—Allocation—Reallocation.** (1) The effective date of allocations or reallocations initiated by the institution shall be determined by the personnel officer.

(2) The effective date of reallocations resulting from an employee or employee representative request for position review will be established as of the date that the request is filed with the personnel officer as required per WAC 251-06-060(1). [Order 61, § 251-06-065, filed 8/30/77, effective 10/1/77.]

**WAC 251-06-070 Allocation appeal—Higher education personnel board.** (1) The employee or employee representative may file a written appeal with the board under provisions of WAC 251-06-060 when:

(a) The response required in WAC 250-06-060(2) is not issued to the employee or employee representative within the sixty calendar day period following receipt of the employee request; or

(b) The response fails to address the specific reason(s) that the request was not approved; or

(c) The employee disagrees with the results of the response. The written appeal should include information which will assist the board in determining the proper allocation of the position.

(2) Within thirty calendar days, but prior to scheduling of the appeal hearing, the director will investigate the appeal and attempt to resolve the allocation to the satisfaction of all parties. This may be extended by thirty calendar days provided the affected employee is given notice of the extension. If the allocation remains unresolved and the appeal is not withdrawn within fifteen calendar days following the director's review, the director will schedule an appeal hearing with the board or its designee.

(3) Allocation appeal hearings will be informal and will allow sufficient time for the parties to present facts pertinent to the proper allocation of a position. The appellant may represent him/herself or may be represented by any person of his/her choosing at the hearing. In appeals heard by a hearing examiner, the hearing examiner will issue a recommended decision within thirty calendar days of the hearing. The recommended decision will be transmitted to both parties by certified mail with a statement regarding the right to file exceptions to the recommended decision. Within thirty calendar days of service of the recommended decision, any party adversely affected may file written exception to the recommended decision. If no written exceptions are filed, the hearing examiner's recommended decision will become final forty calendar days after service of the recommended decision unless within that forty calendar day period the board issues a notice to each of the parties that a hearing will be scheduled for reconsideration of the hearing examiner's recommended decision. When exceptions are filed, such written statements must indicate in detail the specific items of the recommended decision to which exception is taken. Thereafter, a hearing on the exceptions will be scheduled before the board at which time all parties may present written and/or oral argument. Within thirty calendar days of hearing the testimony or arguments upon exceptions, the board will issue a decision which is final and binding. [Order 63, § 251-06-070, filed 11/22/77; Order 61, § 251-06-070, filed 8/30/77, effective 10/1/77; Order 37, § 251-06-070, filed 10/15/74; Order 10, § 251-06-070, filed 12/16/71.]

**WAC 251-06-080 Position reallocation—Effect on incumbent.** (1) An employee occupying a position that is reallocated to a class with a higher salary range maximum, is affected as follows:

(a) When reallocation is a result of an accumulation of duties by the incumbent over a period of at least six months, the incumbent may elect to remain in the position following reallocation providing he/she meets the minimum qualifications for the class. The minimum qualifications may be waived by the director if it is determined that the incumbent has demonstrated sufficient experience to satisfactorily perform the duties of the class. Successful completion of the higher level duties by the incumbent for at least six months satisfies the examination requirement and confers permanent status. Documentation of such service shall be kept on file for each reallocation request approved;

(b) When reallocation will require immediate changes in the duties of the position, it will be filled in accord with chapter 251-18 WAC. The incumbent will be given an opportunity to compete for the position. If the employee is not selected, or chooses not to compete, subsection (2)(a), (b), and (d) will apply.

(2) An employee occupying a position which is reallocated to a class with a lower salary range maximum has the following options:

(a) Transfer to a vacant position within the current class;

(b) Be afforded such bumping rights and placement on layoff lists as would be provided in layoff;

(c) Demote with the position;

(d) In addition, the employee may make him/herself available for appointment on or before the effective date of the reallocation via the institution's transfer/lateral movement/voluntary demotion procedure. [Order 61, § 251-06-080, filed 8/30/77, effective 10/1/77; Order 44, § 251-06-080, filed 6/25/75; Order 10, § 251-06-080, filed 12/16/71.]

**Chapter 251-08 WAC  
COMPENSATION**

**WAC**

- 251-08-005 Compensation plans—General.
- 251-08-007 Compensation plans—Content.
- 251-08-021 Compensation plans—Salary survey.
- 251-08-031 Compensation plans—Adoption.
- 251-08-040 Compensation plans—Submission to governor.
- 251-08-051 Compensation plans—Implementation.
- 251-08-060 Compensation plans—Additional salary survey.
- 251-08-070 Salary—Limits.
- 251-08-080 Salary—Entrance.
- 251-08-090 Salary—Periodic increment.
- 251-08-100 Periodic increment date.
- 251-08-110 Salary—Promotion.
- 251-08-112 Salary—Reallocation.
- 251-08-115 Salary—Layoff, reversion, demotion.
- 251-08-120 Salary—Survey implementation.
- 251-08-130 Salary—Part-time.
- 251-08-150 Salary—Conversion of exempt positions.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

- 251-08-010 Compensation plans. [Order 1, § 251-08-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-005 and 251-08-007.
- 251-08-020 Compensation plans—Adoption. [Order 29, § 251-08-020, filed 1/22/74; Order 1, § 251-08-020, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-031.
- 251-08-030 Compensation plans—Approval. [Order 1, § 251-08-030, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-051.
- 251-08-050 Compensation plans—Periodic review. [Order 1, § 251-08-050, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-021.
- 251-08-111 Salary—Periodic increment—Exception. [Order 21, § 251-08-111, filed 5/24/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-08-140 Salary—Overtime records. [Order 1, § 251-08-140, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-08-005 Compensation plans—General.**

The director shall prepare, and subject to board approval shall periodically revise in a manner consistent with the development of the original plan, compensation plans for all classes. The plans shall provide for:

(1) Full compensation to each employee for all work assigned and performed.

(2) Regular salary increment increases based upon length of service for all employees whose performance is

such as to permit them to retain job status in the classified service.

(3) Assignment of each class to a salary range reflecting prevailing rates other public employment and in private employment in this state or in the locality in which the institution is located, provided funds are available as defined in WAC 251-08-051.

(4) Equal pay for similar duties, responsibilities, and qualifications among classes as determined by the salary survey process.

(5) Such other provisions as are appropriate in the establishment and maintenance of compensation equity in relation to prevailing practices found in Washington state private industries and other governmental units. [Order 61, § 251-08-005, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-007 Compensation plans—Content.**

The compensation plan shall apply to all approved classes, and shall include:

(1) Salary schedules (grids) including regular increment step increases within salary ranges.

(2) Classification schemas assigning each class to a salary range of an approved salary schedule.

(3) Such supplemental compensation plans and provisions as are necessary to implement approved compensation practices as provided in chapter 251-09 WAC and/or such area wage variances as may be approved by the board for each member institution. [Order 63, § 251-08-007, filed 11/22/77; Order 61, § 251-08-007, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-021 Compensation plans—Salary survey.**

(1) For purposes of reflecting in salary schedules and in the compensation plans the prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, the director shall undertake salary and fringe benefit surveys for the board with the assistance of the various personnel officers and on a joint basis with the department of personnel, with one such survey to be conducted each year prior to the convening of each regular session of the state legislature.

(2) Salary and fringe benefit surveys shall be conducted according to the following criteria in addition to any other provisions under this chapter:

(a) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and

(b) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparison of survey data to individual state job classes.

(3) Salary and fringe benefit surveys shall be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of financial management,

employee organizations, the standing committees for appropriations in the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include, but not be limited to, the following:

(a) A complete explanation of the technical, statistical process to be used in the salary and fringe benefit survey including the percentage of accuracy expected from the planned statistical sample chosen for the survey and a definition of the term "prevailing rates" which is to be used in the planned survey;

(b) A comprehensive salary and fringe benefit survey model based on scientific statistical principles which:

- (i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;
- (ii) Is representative of private and public employment in this state;
- (iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and
- (iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

(c) A prediction of the increase or decrease in total funding requirements expected to result from the pending salary and fringe benefit survey based on consumer price index information and other available trend data pertaining to Washington state salaries and fringe benefits.

(4) Every comprehensive survey plan shall fully consider fringe benefits as an element of compensation in addition to basic salary data. The plans shall be developed jointly by the higher education personnel board and the department of personnel. All comprehensive salary and fringe benefit survey plans shall be submitted on a joint signature basis by the higher education personnel board and the department of personnel. The legislative budget committee shall review and evaluate all survey plans before final implementation.

(5) Any interim or special surveys conducted shall conform when possible to the statistical techniques and principles developed for regular periodic surveys. [Order 61, § 251-08-021, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-031 Compensation plans—Adoption.** (1) The proposed compensation plans shall be submitted by the director to the board for adoption, revision, or rejection.

(2) Twenty calendar days prior to open hearings on the plans, the director shall circulate notice of the hearing to enable affected employees, employee representatives, institutions, and related boards to present their views either orally or in writing. The notice shall state the date, time, and place of the hearing, and shall include a copy of the proposed plans or revisions or reference thereto. [Order 61, § 251-08-031, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-040 Compensation plans—Submission to governor.** (1) The results of the salary and fringe benefit survey as adopted by the board shall be forwarded by the board with recommended salary adjustments to the governor and the director of the office of financial management for their use in preparing budgets to be submitted to the succeeding legislature. Such recommendation shall be advisory only. A copy of the data and supporting documentation shall be furnished by the board to the standing committees for appropriations of the senate and house of representatives.

(2) The board shall furnish the following supplementary data in support of its recommended salary schedule:

(a) A total dollar figure which reflects the recommended increase or decrease in state salaries as a direct result of the specific salary and fringe benefit survey that has been conducted and which is categorized to indicate what portion of the increase or decrease is represented by salary survey data and what portion is represented by fringe benefit survey data.

(b) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

(c) A list of class codes and titles indicating recommended monthly salary ranges for all state classes under the control of the higher education personnel board with:

- (i) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and
- (ii) Those higher education personnel board classes which are substantially the same as classes being used by the department of personnel clearly marked to show the commonality of the classes between the two jurisdictions;

(d) A supplemental salary schedule which indicates the additional salary to be paid state employees for hazardous duties or other considerations requiring extra compensation under specific circumstances. Additional compensation for these circumstances shall not be included in the basic salary schedule but shall be maintained as a separate pay schedule for purposes of full disclosure and visibility; and

(e) A supplemental salary schedule which indicates those cases where the board determines that prevailing rates do not provide similar salaries for positions that require or impose similar responsibilities, judgment, knowledge, skills, and working conditions. This supplementary salary schedule shall contain proposed salary adjustments necessary to eliminate any such dissimilarities in compensation. Additional compensation needed to eliminate such salary dissimilarities shall not be included in the basic salary schedule but shall be maintained as a separate salary schedule for purposes of full disclosure and visibility. [Order 61, § 251-08-040, filed 8/30/77,

effective 10/1/77; Order 1, § 251-08-040, filed 9/15/69.]

**WAC 251-08-051 Compensation plans—Implementation.** Implementation of the results of salary and fringe benefit surveys shall be subject to approval as to availability of funds by the director of the office of financial management and after consultation with the chief financial officer of each institution for that institution, or in the case of the various community colleges, by the chief financial officer of the state board for community college education. [Order 61, § 251-08-051, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-060 Compensation plans—Additional salary survey.** Upon the establishment of new classes, redefinition of existing classes, realignment or reorganization of duties and responsibilities, recruitment difficulties, employee or appointing authority salary protests, or whenever the board or director find it necessary in the administration of the plans, the director shall conduct additional salary surveys. Such findings and recommendations shall be presented by the director for consideration by the board. [Order 61, § 251-08-060, filed 8/30/77, effective 10/1/77; Order 35, § 251-08-060, filed 7/23/74; Order 1, § 251-08-060, filed 9/15/69.]

**WAC 251-08-070 Salary—Limits.** The basic compensation rate for all employees shall be within the salary range assigned to the class, unless a different rate is permitted by these rules or by the board because of special circumstances. [Order 61, § 251-08-070, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-070, filed 9/15/69.]

**WAC 251-08-080 Salary—Entrance.** The entrance salary for any nonpermanent employee of the institution shall be the minimum salary step of the range unless the personnel officer authorizes a higher entrance salary step. [Order 61, § 251-08-080, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-080, filed 1/22/74; Order 1, § 251-08-080, filed 9/15/69.]

**WAC 251-08-090 Salary—Periodic increment.** Employees, whose performance permits them to retain job status in the classified service, shall receive periodic increments within the steps of the salary range. The salary of each employee shall be increased two steps on the periodic increment date and annually thereafter on the periodic increment date, not to exceed the maximum step of the range. When the periodic increment date falls on the same effective date as another salary action, the periodic increment shall be applied prior to, and in addition to, any other action resulting in a salary increase or decrease. [Order 61, § 251-08-090, filed 8/30/77, effective 10/1/77; Order 18, § 251-08-090, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-090, filed 9/15/69.]

**WAC 251-08-100 Periodic increment date.** (1) For purposes of payment of periodic increment increases, the effective date shall be determined as follows:

(a) The first of the current month for actions occurring between the first and the fifteenth of the month; or

(b) The first of the following month for actions occurring between the sixteenth and the end of the month.

(2) The periodic increment date of new employees or probationary employees who are reappointed to a new class during the probationary period shall be established:

(a) Upon completion of the probationary period for those appointed at the first step in the salary range; or

(b) Upon completion of twelve months' service in the class for those appointed at a salary step above the first step in the salary range.

(3) The periodic increment date of all employees shall be changed as follows:

(a) Upon promotion, the existing periodic increment date will be eliminated and a new date established to be effective upon completion of the trial service period;

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in WAC 251-08-100(2);

(c) Upon reallocation under WAC 251-06-080(1)(a) of an employee who is at the top step of the current salary range, the existing periodic increment date will be eliminated and a new date established to be effective six months following the reallocation action;

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and 251-18-380;

(e) When employees return from layoff status, the date will be reestablished and extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(f) When an instructional-year leave of absence without pay exceeds ninety calendar days, the periodic increment date shall be extended on a month-for-month basis. Provisions of WAC 251-08-100(3)(d) shall apply to that period exceeding the ninety calendar days. Instructional-year employees serving a probationary or trial service period will have their periodic increment dates extended by an amount of time equal to the period in which the employee is on leave of absence without pay;

(g) When employees are reverted from trial service following promotion (or return from alternate appointment), the periodic increment date held prior to promotion or layoff will be reestablished;

(h) When the board or the director order remedial action per WAC 251-12-600, the periodic increment date may be modified as part of the order.

(4) The periodic increment date of all employees shall remain unchanged for all other actions including, but not limited to, transfer within class, appointment to another class with the same or lower salary range maximum, and reallocations except as provided in WAC 251-08-100(3)(c).

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420. [Order 64, § 251-08-100, filed 12/23/77; Order 61, § 251-08-100, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-100, filed 1/22/74; Order 21, § 251-08-100, filed 5/24/73; Order 18, § 251-08-100, filed 10/25/72, effective 7/1/73.]

**WAC 251-08-110 Salary—Promotion.** An employee who is promoted shall be paid at the salary step which represents at least a two step increase over the salary received immediately prior to the promotion as determined by the personnel officer, provided such increase is not less than the first step of the new range; and does not exceed the top step of the new range. [Order 61, § 251-08-110, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-110, filed 1/22/74; Order 21, § 251-08-110, filed 5/24/73; Order 18, § 251-08-110, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-110, filed 9/15/69.]

**WAC 251-08-112 Salary—Reallocation.** (1) An employee occupying a position that is reallocated to a class with a higher salary range maximum shall receive an increase in accordance with the provisions of WAC 251-08-110.

(2) An employee occupying a position that is reallocated to a class with a lower salary maximum shall be placed in the salary step in the new range which is equal to the current salary, provided such salary does not exceed the top step of the new salary range.

(3) When reallocation is necessary because the board has created, abolished, or modified a class, the incumbent will remain in the position and the following will apply:

(a) An employee occupying a position reallocated to a class with a lower salary range maximum will be placed at the step in the new salary range which is equal to the current salary and will be allowed to achieve the salary maximum of the former class at the time of reallocation. The employee will lose the right to such salary maintenance if he/she voluntarily demotes, promotes, or moves to another class;

(b) An employee occupying a position reallocated to a class with a higher salary range maximum will receive an increase as provided in WAC 251-08-110;

(c) A reallocation which results from the board's abolishment of a class will be effective the date of the board's action. [Order 61, § 251-08-112, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-115 Salary—Layoff, reversion, demotion.** (1) When an employee who has been separated returns from the institution-wide layoff list to the same class occupied immediately prior to layoff, the employee shall return to the same salary step held at time of layoff, unless the employee is currently employed by the institution and to do so would cause him/her to suffer a reduction in salary.

(2) When an employee accepts a layoff option under WAC 251-10-030(5), the salary shall be retained provided it does not exceed the top step of the new range.

(3) When an employee accepts a layoff option under WAC 251-10-030(6), the salary shall be determined by the personnel officer.

(4) When an employee is reverted from trial service following promotion (or returns from alternate appointment), the former salary step shall be restored, provided that adjustments shall be made to take into account any periodic increments which would have occurred during the trial service period.

(5) When an employee accepts a voluntary demotion, the salary shall be determined by the personnel officer.

(6) For disciplinary demotion, the salary shall be lowered step-for-step. The personnel officer may, however, authorize exceptions to this provision. [Order 61, § 251-08-115, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-120 Salary—Survey implementation.** When adjustment in salary range is based on implementation of a salary survey and there is no change in class concept, duties and responsibilities, the salary shall be adjusted to the same step in new range as held in previous range, except for those instances when the new range has a different number of salary steps, in which case the director shall determine the proper salary adjustments. [Order 61, § 251-08-120, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-120, filed 9/15/69.]

**WAC 251-08-130 Salary—Part-time.** Part-time employment shall be compensated on the same pro rata basis as the appointment bears to a full-time appointment. [Order 61, § 251-08-130, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-130, filed 9/15/69.]

**WAC 251-08-150 Salary—Conversion of exempt position.** The incumbent of an exempt position converted to classified status per the provisions of WAC 251-18-420 shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary. [Order 64, § 251-08-150, filed 12/23/77.]

## Chapter 251-09 WAC

### HOURS OF WORK, PREMIUM PAY

#### WAC

251-09-010	Hours of work—General.
251-09-020	Work period designations.
251-09-025	Schedule changes.
251-09-030	Overtime.
251-09-035	Holiday premium pay.
251-09-040	Shift differential.
251-09-060	Call back pay.
251-09-070	Multilingual/sign language/braille premium pay.
251-09-080	Standby pay.
251-09-090	Special premium pay.
251-09-100	Hazardous conditions pay.
251-09-110	Rest periods.

**WAC 251-09-010 Hours of work—General.** (1) Hours of work for classified employees of the higher education institutions are to be established by the employing official.

(2) Nothing in these rules shall preclude the assignment of overtime outside of normally scheduled shifts. Overtime worked is compensated per WAC 251-09-030. [Order 62, § 251-09-010, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-020 Work period designations.** Each position will be assigned by the personnel officer to one of the work period designations identified below, and employees will be informed of their eligibility for overtime compensation.

(1) **SCHEDULED WORK PERIODS**, within which there are two work schedules:

(a) **Regular Work Schedule.** The regular work schedule for full time classified employees shall consist of five consecutive and uniformly scheduled eight hour days in a seven day period. Uniformly scheduled means a daily repetition of the same working hours and a weekly repetition of the same working days.

(b) **Alternate Work Schedule.** Operational necessity or employee convenience may require positions that are normally designated regular work schedule to work an alternate forty hour work schedule (other than five uniform and consecutive eight hour days in a seven day period), or as provided by the Washington State Minimum Wage Law in conjunction with the federal law which provides for an eighty hour workweek in a fourteen day period for hospital personnel. Alternate work schedules shall be made available upon request of the director.

(2) **NONSCHEDULED WORK PERIOD.** The non-scheduled work period designation applies to those positions for which the hours cannot be scheduled but which work a forty hour week and do not meet any of the other work period designations. The personnel officer shall designate positions as nonscheduled in accordance with the institution's procedure approved by the director.

(3) **EXCEPTED WORK PERIOD.** The excepted work period designation applies to classes and positions which meet the HEPB definitions of executive, administrative, or professional employees and are assigned to salary ranges forty-five and above. Qualifying classes will be approved by the director. Each personnel officer will be responsible for determining the positions designated "excepted" at his/her institution. The personnel officer will develop a procedure for verifying "excepted" positions which will be available for review by the director. [Order 62, § 251-09-020, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-025 Schedule changes.** Changes to a scheduled work period employee's assigned hours may be made under the following condition(s):

(1) For temporary changes of work hours within the assigned week:

(a) By providing two calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall have the right to work his/her regularly assigned schedule in addition to the modified schedule (in accordance with the provisions of WAC 251-09-030) unless:

(i) there is no work; or

(ii) there is a safety hazard to the employee or others; or

(iii) the resulting total hours worked would exceed one and one-half of the employees regular shift.

(2) For changes in work hours or shift extending beyond seven calendar days for an indefinite period:

(a) By providing seven calendar days notice to the employee. (The day notification is given constitutes a day of notice); or

(b) Because of emergency conditions; or

(c) When the change is requested by the employee and approved by the employing official; or

(d) For operational convenience (instances where the conditions above do not exist), in which case the employee shall be paid premium pay (at time and one-half) for each hour outside of the regular shift (pro rata for part time employees) for a maximum of seven calendar days from the date of the notice of the schedule change.

(3) Overtime worked shall be computed on the employee's base rate plus shift premium where applicable. [Order 62, § 251-09-025, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-030 Overtime.** (1) The following conditions constitute overtime:

(a) Work in excess of the daily work shift for fulltime employees assigned to scheduled work period positions.

(b) Work in excess of forty hours in one workweek for employees assigned to scheduled or nonscheduled work period positions; or work in excess of eighty hours in a fourteen day period for hospital personnel assigned to a fourteen day schedule.

(2) Overtime worked by employees assigned to scheduled or nonscheduled work period positions shall be compensated at a rate of one and one-half times the employee's straight time hourly rate including shift differential for all overtime worked as provided in subsection (1) above.

(3) Employees assigned to scheduled or nonscheduled work period positions shall receive monetary payment as compensation for overtime worked; however, at the employee's request compensatory time off at one and one-half times the overtime hours worked may be granted in lieu of monetary payment, except that agricultural employees shall receive compensatory time off or monetary payment at the option of the institution.

(4) Use of accrued compensatory time shall be approved by the employing official with consideration being given to the work requirements of the department and the wishes of the employee. Compensatory time off may be scheduled by the employing official during the final sixty days of a biennium.

(5) Employees assigned to excepted work period positions normally do not qualify for overtime. Under circumstances in which the employee is directed to work an excessive amount of overtime, the personnel officer may authorize additional compensation in cash or compensatory time off not to exceed one and one-half times the employee's regular rate. The employee may petition the personnel officer for compensation of the directed overtime.

(6) For purposes of computing overtime compensation, leave with pay during the employee's regular work schedule shall be considered as time worked. [Order 62, § 251-09-030, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-035 Holiday premium pay.** (1) Employees assigned to scheduled or nonscheduled work period positions qualify for holiday premium pay under the following conditions:

(a) When full time employees work on a designated holiday, they shall receive their regular eight hours of pay plus premium pay at time and one-half for all hours worked on such holiday. Compensatory time off may be granted by the institution in lieu of monetary payment.

(b) When classified employees working less than a full time schedule work on a designated holiday, they shall receive their regular holiday pay on the same pro rata basis that their monthly schedule bears to a full time schedule, plus premium pay at time and one-half for all hours worked on such holiday. Compensatory time off may be granted by the institution in lieu of monetary payment.

(2) Classified employees occupying excepted work period positions normally do not qualify for holiday premium pay. [Order 62, § 251-09-035, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-040 Shift differential.** (1) Shift differential for employees assigned to an afternoon shift in which the majority of time worked, daily or weekly, is between 5:00 p.m. and 12:00 midnight shall be:

(a) \$.18 per hour or \$31.00 per month;

(b) Registered nurses - \$.24 per hour or \$42.00 per month.

(2) Shift differential for employees assigned to a night shift in which the majority of time worked, daily or weekly, is between 12:00 midnight and 7:00 a.m. shall be:

(a) \$.22 per hour or \$38.00 per month;

(b) Registered nurses - \$.22 per hour or \$38.00 per month.

(3) Shift differential shall be paid for the entire daily or weekly shift which qualifies under subsection (1) or (2) above. Shift differential may also be computed and paid at the above monthly rate for employees permanently assigned to a qualifying afternoon or night shift.

(4) An employee assigned to a shift that qualifies for shift differential pay shall receive the shift differential for authorized periods of paid leave.

(5) When an employee is regularly assigned to an afternoon or evening shift that qualifies for shift differential, he/she shall continue to receive the shift differential during temporary assignment, not to exceed five working

days, to a shift that does not qualify for shift differential.

(6) Shift differential shall not apply to police officers where salaries are correlated with a rotating shift in accordance with local prevailing rate practice. [Order 62, § 251-09-040, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-060 Call back pay.** When a scheduled work period employee has left the institution grounds and is called to return to the work station outside of regularly scheduled hours to handle emergency situations which could not be anticipated, he/she shall receive two hours bonus pay plus time actually worked. The bonus pay shall be compensated at the regular rate; time worked shall be compensated at time and one-half. Time worked immediately preceding the regular shift does not constitute call back, provided time worked does not exceed two hours or notice of at least eight hours has been given. An employee on standby status called to return to the work station does not qualify for call back pay. [Order 62, § 251-09-060, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-070 Multilingual/sign language/braille premium pay.** Whenever a classified position has a bona fide requirement for regular use of competent skills in more than one language, and/or sign language (AMESLAN), and/or braille, as identified by the director, the personnel officer shall authorize premium pay of two steps above the level normally assigned for that position, except for those instances where the position is allocated to a class that specifies these skills. [Order 62, § 251-09-070, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-080 Standby pay.** Compensation for a scheduled or nonscheduled work period employee required to restrict off-duty activities to be available for duty will be approved by the higher education personnel board and will be included in the individual institution compensation plan. [Order 62, § 251-09-080, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-090 Special premium pay.** The board may approve special premium pay required by the employer due to unique working conditions, as may be requested by the personnel officer of an institution. [Order 62, § 251-09-090, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-100 Hazardous conditions pay.** The board may approve special pay provisions to the institution compensation plan to reflect hazardous/dangerous working conditions when:

(1) such conditions are not normally expected of those positions assigned to the respective classes; and

(2) such provisions are found to be in accordance with prevailing practices in the industry and/or local community in which the institution is located. [Order 62, § 251-09-100, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-110 Rest periods.** Employees shall receive not less than a ten minute rest period for each four hours of work. Each eight hour shift shall include



two rest periods, even though the shift is unequally divided. [Order 62, § 251-09-110, filed 8/30/77, effective 10/1/77.]

**Chapter 251-10 WAC**  
**SEPARATION—DISCIPLINE**

**WAC**

251-10-020	Resignation.
251-10-030	Layoff.
251-10-035	Layoff—Special employment programs.
251-10-045	Layoff—Veterans retention preference.
251-10-055	Layoff lists—Institution-wide.
251-10-060	Layoff lists—State-wide.
251-10-110	Demotion, suspension, reduction, dismissal—Cause for.
251-10-120	Dismissal—Grounds for—Notice.
251-10-130	Suspension—Grounds for—Duration—Notice.
251-10-140	Immediate dismissal.
251-10-150	Reduction, demotion—Procedure.
251-10-160	Withdrawal or amendment of charges—Time limitation.
251-10-170	Dismissal—Union shop—Notice—Recision.
251-10-180	Presumption of resignation—Unauthorized absence.
251-10-190	Probationary period—Rejection.
251-10-195	Trial service reversion.

**DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

251-10-010	Separation. [Order 1, § 251-10-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-10-040	Layoff lists. [Order 29, § 251-10-040, filed 1/22/74; Order 8, § 251-10-040, filed 6/17/71, effective 7/19/71; Order 4, § 251-10-040, filed 2/19/71; Order 1, § 251-10-040, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-10-050	Veterans retention preference. [Order 8, § 251-10-050, filed 6/17/71, effective 7/19/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-10-020 Resignation.** Any employee may resign from service and should present, at least fourteen calendar days in advance of the effective date, his/her resignation in writing to the appointing authority or employing official. With the approval of the appointing authority or employing official, an employee may withdraw a resignation. [Order 61, § 251-10-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-10-020, filed 9/15/69.]

**WAC 251-10-030 Layoff.** (1) An appointing authority may separate or reduce the number of working hours or the work year of an employee without prejudice because of lack of funds, curtailment of work, or good faith reorganization for efficiency reasons.

(2) Each institution shall develop for approval by the director a layoff procedure based upon layoff seniority as defined in WAC 251-04-020, to include as a minimum:

(a) Clearly defined layoff unit(s), in order to minimize the disruption of an institution's total operation, and

(b) Provision for veterans preference for eligible veterans and their unmarried widows/widowers as defined in WAC 251-10-045.

(3) A permanent status employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in subsections (5) and (6) of this section. The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate institution-wide layoff list(s).

(4) Written notice of at least fifteen calendar days must be given to the employee after he/she has selected one of the options or upon completion of the option period.

(5) Within the layoff unit, a permanent status employee scheduled for layoff shall be offered employment options to comparable position(s), as determined by the personnel officer, in:

(a) Class(es) in which the employee has held permanent status which have the same or lower salary range maximum as the current class;

(b) Lower class(es) in those same class series for which the employee is qualified.

The employee may exercise either option (5)(a) or (5)(b) provided that the employee being replaced is the least senior in a comparable position in the class and has less layoff seniority than the employee replacing him/her. A vacant position, if available, should be considered to be the position in the class held by the least senior person. The employee may elect to have access to less-than-comparable positions by so notifying the personnel officer in writing.

(6) Except as provided in WAC 251-10-035, a permanent employee scheduled for layoff who has no options available under subsection (5) above shall be offered position(s) as follows:

(a) The personnel officer will offer in writing not less than three positions from among the highest available classes (unless the total available is less than three); provided that any position(s) offered must be:

- (i) At the same level or lower than the class from which the employee is being laid off; and
- (ii) vacant or held by a provisional, temporary, or probationary employee; and
- (iii) in a class for which the employee being laid off meets the minimum qualifications and can pass the appropriate qualifying examination.

(b) The employee will be required to indicate within three working days his/her interest in a specific class(es) so that the personnel officer may schedule the appropriate examination(s).

(c) Upon satisfactory completion of the examination(s) the employee will be offered option(s) to specific position(s), including salary information.

(d) Employees appointed to positions through provisions of this subsection (6) will be required to serve a trial service period.

(7) In order to be offered a layoff option or return from layoff to a position for which selective certification as identified in WAC 251-18-250(1)(a) has been authorized by the personnel officer, the employee must possess the required prerequisite skill(s) called for in the selective certification.

(8) In a layoff action involving a position for which a particular sex is a bonafide occupational requirement, as approved by the Washington State Human Rights Commission, the most senior employee meeting the occupational requirements may be retained in the position over more senior employees in such class who do not meet the occupational requirement.

(9) When it is determined that layoffs will occur within a unit, the personnel officer will:

(a) Provide a copy of the institution's reduction-in-force procedure to all employees subject to layoff;

(b) Advise each employee in writing of available options in lieu of layoff;

(c) Advise each employee in writing of the specific institution-wide layoff list(s) upon which he/she may be placed as required per WAC 251-10-055;

(d) Provide information relative to state-wide layoff lists as required per WAC 251-10-060(7);

(e) Advise each employee of the right to appeal his/her layoff to the board per WAC 251-12-080. [Order 61, § 251-10-030, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-030, filed 6/25/75; Order 41, § 251-10-030, filed 3/17/75; Order 35, § 251-10-030, filed 7/23/74; Order 32, § 251-10-030, filed 3/19/74; Order 8, § 251-10-030, filed 6/17/71, effective 7/19/71; Order 4, § 251-10-030, filed 2/19/71; Order 1, § 251-10-030, filed 9/15/69.]

**WAC 251-10-035 Layoff—Special employment programs.** (1) Institutions participating in special employment programs qualifying under the conditions identified in WAC 251-18-410 shall establish a special employment program layoff unit.

(2) Employment options of individuals being laid off from positions in special employment programs are limited to positions within the special employment program layoff unit and/or program for which the employee qualifies.

(3) Within the special employment program layoff unit, a permanent status employee scheduled for layoff from service or from the class shall be offered employment options in class(es) with the same or lower salary range maximum that are:

(a) Class(es) in which the employee has held permanent status;

(b) Lower class(es) in the same class series for which the employee is qualified.

The employee may exercise either option provided that the employee being replaced is the least senior in the class and has less layoff seniority than the employee replacing him/her.

(4) The names of employees scheduled for layoff or actually laid off from service within a class shall be placed on the special employment program layoff list as provided in WAC 251-18-180. [Order 61, § 251-10-035, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-035, filed 6/25/75.]

**WAC 251-10-045 Layoff—Veterans retention preference.** (1) For the purpose of this section veteran means any permanent employee who has one or more years in active military service in any branch of the

armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

(2) Veterans as defined in subsection (1) shall have added to their unbroken service in an institution of higher education, their total active military service, not to exceed five years. The combined total of unbroken institutional employment and active military service will constitute the veterans' layoff seniority.

(3) The unmarried widow/widower of an eligible veteran shall be entitled to veterans retention benefits as outlined in subsections (1) and (2) regardless of the veteran's length of active military service.

(4) For the purpose of this rule "veteran" shall not include any person who as a veteran retired with twenty or more years' active military service and has military retirement pay in excess of five hundred dollars per month. [Order 61, § 251-10-045, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-055 Layoff lists—Institution-wide.**

(1) The names of permanent and probationary employees who are scheduled for layoff, who have been laid off from service within a class or service to the institution, or who have accepted a lower option in lieu of layoff shall be placed on the institution-wide layoff list(s) for those class(es) in which they have held permanent status, probationary (if within the same class series as the list), or trial service appointment status within the current period of employment at the institution provided that:

(a) The employee has requested placement on the list;

(b) The employee has not been rejected, reverted, demoted or dismissed from such class(es); and

(c) The class has the same or lower salary range maximum as the class from which laid off.

In addition such employees shall be placed on institution-wide layoff list(s) for all lower class(es) in these same class series.

(2) Upon request, employees shall be placed on these lists at the completion of the three day option period or upon selection of an option, whichever is sooner.

(3) Layoff lists shall be institution-wide with eligibles ranked according to layoff seniority as defined in WAC 251-04-020.

(4) Eligibles certified from such lists shall be re-employed in preference to all other eligibles.

(5) Removal from the institution-wide layoff list shall be as provided below:

(a) Acceptance of a layoff option or appointment from a layoff list shall cause removal from the list(s) for all classes with the same or lower salary range maximum, except that no employee may be removed via this procedure from the layoff list for the class from which laid off.

(b) Retirement, resignation, or dismissal from the institution shall cause removal from the list(s). [Order 61, § 251-10-055, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-060 Layoff lists—State-wide.** (1) A permanent employee of any institution of higher education, related board, or state agency on layoff status or scheduled for layoff shall be offered the option of placement on the state-wide layoff list(s) at all of the higher education institutions/related boards for the classes in which they have held permanent status appointment and lower classes in the same class series, or for those equivalent classes under the jurisdiction of the state department of personnel provided they can meet the minimum qualifications and pass the qualifying examination. This option must be exercised by the affected employee within thirty calendar days of the effective date of layoff.

(2) Employees shall be ranked by their total layoff seniority as measured by their last period of unbroken service in the classified service of the state. The list shall consist of two categories and certification within each category shall be in order of:

(a) Employees of higher education institutions/related boards;

(b) Employees of other state agencies.

(3) The duration of eligibility on this list shall be one year from the date of placement on the list.

(4) Referral from this list shall be on a rule of three.

(5) Employees appointed from this list shall be required to serve a probationary period of six months. Termination during the probationary period shall not affect the employees' status on state-wide layoff lists upon which they previously have been placed.

(6) Employees appointed from this list shall be credited with unused sick leave accrued at the time of layoff. Annual leave shall be computed as provided in WAC 251-22-060.

(7) The institution will provide each employee scheduled for layoff with a copy of this rule and the comparable state department of personnel rule and a listing of institutions, related boards, or offices of the state department of personnel which they may contact. It shall be the responsibility of the employee to contact the institution/related board, or the state department of personnel if he/she has an interest in being placed on the respective state-wide layoff list(s).

(8) Certification from the state-wide layoff list shall be as provided in WAC 251-18-240. [Order 61, § 251-10-060, filed 8/30/77, effective 10/1/77; Order 32, § 251-10-060, filed 3/19/74.]

**WAC 251-10-110 Demotion, suspension, reduction, dismissal—Cause for.** Appointing authorities may demote, suspend, reduce in salary, or dismiss an employee under their jurisdiction for just cause. Examples of activities which may result in disciplinary action are, but are not limited to: Neglect of duty, inefficiency, incompetence, insubordination, conviction of a crime involving moral turpitude, malfeasance, gross misconduct, physical or mental incapacity, willful violation of the published institution or related board or higher education personnel board rules or regulations, mistreatment or abuse of

fellow workers or members of the public, conflict of interest, etc. [Order 61, § 251-10-110, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-120 Dismissal—Grounds for—Notice.** Appointing authorities may dismiss a permanent employee for just cause as specified in WAC 251-10-110. The employee shall be provided written notice of the specified cause(s), specific charges, and the right to appeal the dismissal action to the board. The notice shall be furnished at least fifteen calendar days prior to the effective date of the action (unless the dismissal is to be effective immediately as provided in WAC 251-10-140) and shall be furnished directly to the employee during working hours, or if this is not possible because of the absence of the employee on his/her regularly scheduled working day, mailed by certified letter to the employee's last known address. If the notification is furnished directly to the employee, the day it is furnished shall be counted as a day of notice. If the notification is mailed, the notice shall be considered received the same day as it is postmarked and the notice period shall be computed as provided in WAC 251-04-100. A copy of the notice to the employee shall be transmitted to the director. [Order 61, § 251-10-120, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-130 Suspension—Grounds for—Duration—Notice.** Appointing authorities may suspend an employee without pay for cause as specified in these rules for a period not exceeding fifteen calendar days as a single penalty or for a total of thirty calendar days in any calendar year as an accumulation of several penalties. The specified cause(s) as provided in WAC 251-10-110, specific charges, duration of the suspension, and notice of the right of appeal shall be furnished to the employee in writing not later than one day after the suspension takes effect. A copy of the notice shall be filed with the director. Notice to the employee shall be furnished in the manner provided in WAC 251-04-105. [Order 61, § 251-10-130, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-140 Immediate dismissal.** When the appointing authority determines that a permanent employee is to be dismissed for cause as provided in WAC 251-10-110 and the circumstances are such that retention of the employee in an active duty status may result in damage to state property or may be injurious to the employee, fellow workers, or the client public, the employee may be dismissed immediately. The employee must be notified in writing as provided in WAC 251-10-120, but the fifteen calendar notice requirement does not apply. The notification must state the cause for the dismissal and in addition the necessity for the immediacy of the action. [Order 61, § 251-10-140, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-150 Reduction, demotion—Procedure.** Appointing authorities may reduce the salary of a permanent employee within the range or may demote an employee to a class at a lesser pay range for which

he/she meets the minimum qualifications. Specific charges in writing for either of these actions shall be furnished to the employee at least fifteen calendar days prior to the effective date of the action. [Order 61, § 251-10-150, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-160 Withdrawal or amendment of charges—Time limitation.** Appointing authorities may withdraw or amend demotion, suspension, reduction, or dismissal actions, but not after an appeal of the action has been heard by the board. [Order 61, § 251-10-160, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-170 Dismissal—Union shop—Notice—Recision.** Appointing authorities shall dismiss an employee, who is employed within a bargaining unit that has a certified union shop representative, when notified by the union shop representative of the employee's failure to comply with union shop requirements per WAC 251-14-058. The employee shall be furnished with a written notice of the dismissal at least fifteen calendar days prior to the effective date of the action. Prior to the effective date, the dismissal shall be rescinded upon the employee's presenting evidence to the appointing authority of compliance with WAC 251-14-058. [Order 61, § 251-10-170, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-180 Presumption of resignation—Unauthorized absence.** An employee may be presumed to have resigned his/her position when there has been an absence without authorized leave from the job for a period of three consecutive working days. Thereafter, a notice acknowledging the presumption of resignation shall be sent by certified mail to the last known address of the employee with a copy to the director. Within seven calendar days after the date of service, the employee may petition the appointing authority in writing for reinstatement upon proof that the absence was involuntary or unavoidable. If a permanent employee petitions within the seven calendar days and is not reinstated, notification shall be given advising of the right to appeal to the higher education personnel board per the provision of WAC 251-12-075. [Order 61, § 251-10-180, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-190 Probationary period—Rejection.** An appointing authority may reject an employee who has not completed a probationary period. Written notice of the action must be given to the employee at least one workday (eight hours) prior to the effective date of the action. Written notice should be given directly to the employee. If the employee is unavailable, notification shall be by certified mail. Service of papers shall be as provided in WAC 251-04-105. A probationary employee may not appeal rejection to the board. [Order 61, § 251-10-190, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-195 Trial service reversion.** An employee, prior to completing a trial service period, may be reverted by an employing official for failure to perform

satisfactorily in the class. When such reversion becomes necessary, the written notice and employee rights upon reversion will be as provided in WAC 251-18-330(2). Trial service reversion is not appealable to the board when the conditions of WAC 251-18-330(3) have been satisfied. [Order 61, § 251-10-195, filed 8/30/77, effective 10/1/77.]

## Chapter 251-12 WAC APPEALS

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-12-010	Demotion—Suspension—Reduction—Dismissal—Causes. [Order 21, § 251-12-010, filed 5/24/73; Order 1, § 251-12-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-110.
251-12-015	Dismissal—Union shop requirement—Notice—Recision of dismissal. [Order 25, § 251-12-015, filed 7/17/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-170.
251-12-020	Reduction—Demotion—Procedure. [Order 1, § 251-12-020, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-150.
251-12-030	Suspension—Grounds for—Duration—Notice. [Order 1, § 251-12-030, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-130.
251-12-040	Dismissal—Grounds for—Notice. [Order 1, § 251-12-040, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-120.
251-12-045	Probationary period—Rejection. [Order 17, § 251-12-045, filed 10/16/72, effective 11/20/72.] Repealed

- 251-12-050 by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-190. Suspension—Concurrently—Notice. [Order 1, § 251-12-050, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-140.
- 251-12-060 Unauthorized absence—Presumption of resignation—Notice. [Order 21, § 251-12-060, filed 5/24/73; Order 1, § 251-12-060, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-180.
- 251-12-070 Demotion, suspension—Reduction—Dismissal—Withdrawal of charges by appointing authority—Time limitation. [Order 1, § 251-12-070, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-160.
- 251-12-130 Computation of time. [Order 1, § 251-12-130, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-100.
- 251-12-150 Method and completion of service. [Order 1, § 251-12-150, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-105.
- 251-12-160 Filing with board. [Order 1, § 251-12-160, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-110.
- 251-12-280 Grounds—Notice requirements. [Order 1, § 251-12-280, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-270.
- 251-12-501 Appeals—Relief from indirect effect of board's order. [Order 29, § 251-12-501, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-502 Written notice by director. [Order 29, § 251-12-502, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-503 Request for review by board. [Order 29, § 251-12-503, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-504 Board ruling on review. [Order 29, § 251-12-504, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.

**WAC 251-12-071 Appeals from allocation.** Any employee or employee representative desiring to appeal the allocation of his/her position may do so in accord with the provisions of WAC 251-06-070. [Order 61, § 251-12-071, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-072 Appeals from eligibility determinations.** An applicant whose application has been rejected, or who feels the examination or grade unfair, in error, or not applied uniformly, or whose name has been removed from the eligible list may appeal such action in accord with the provisions of WAC 251-18-115. [Order 61, § 251-12-072, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-073 Appeals from exempt status.** As indicated in WAC 251-04-040(6), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

[Order 61, § 251-12-073, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-075 Appeals from alleged violations of HEPB law or rules.** Any employee, employee representative or appointing authority desiring to appeal an alleged violation of the higher education personnel law or rules adopted thereunder, may appeal such alleged violation to the board. Such appeal must be in writing and be filed in the office of the director within thirty calendar days after the effective date of the action appealed. The director shall forward the written notice of appeal to the board which shall determine that one of the following actions be taken:

(1) The case may be handled in the same manner as appeals from demotion, suspension, layoff, reduction or dismissal, as provided in WAC 251-12-080 through 251-12-260; or

(2) The director may investigate the case and based upon that investigation issue a determination. Within thirty calendar days of the date of service either party may file written exceptions with the board detailing the specific items of the determination to which exception is taken. A hearing on the exceptions will be scheduled before the board which may limit argument to the exceptions or may rehear the case in its entirety; or

(3) Both parties to the appeal may be requested to submit evidence upon which the board may take action without a hearing. [Order 61, § 251-12-075, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-080 Appeals from demotion, suspension, layoff, reduction, dismissal.** Any permanent employee who is demoted, suspended, laid off, reduced, or dismissed, may appeal such action. Appeals must be in writing and must be filed in the office of the director within thirty calendar days after the effective date of the action appealed. [Order 61, § 251-12-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-12-080, filed 5/24/73; Order 1, § 251-12-080, filed 9/15/69.]

**WAC 251-12-085 Hearing examiners.** (1) The board may appoint one or more hearing examiners to preside over, conduct and make recommended decisions in all cases of employee appeals to the board. The hearing examiner shall conduct hearings in the same manner and shall have the same authority as the presiding board member at hearings before the board.

(2) Within thirty calendar days of the hearing, the hearing examiner shall issue a recommended decision which shall be transmitted to the board and be served upon the parties by certified mail with a statement regarding the right to file exceptions to the recommended decision.

(3) Within thirty calendar days of service of the recommended decision, any party adversely affected may file written exceptions with the board.

(4) If no written exceptions are filed, the hearing examiner's recommended decision will become final forty calendar days after service of the recommended decision unless within that period the board issues a notice to each of the parties that a hearing will be scheduled for

reconsideration of the hearing examiner's recommended decision.

(5) When exceptions are filed, such written statements shall include in detail the specific items of the hearing examiner's recommended decision to which exception is taken. A hearing on the exceptions will be scheduled before the board at which time all parties may present written and/or oral argument on the basis of the transcript and exhibits. Following the hearing on the exceptions the board may affirm, reverse, or modify the recommended findings of fact, conclusions of law and/or decision of the hearing examiner. [Order 61, § 251-12-085, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-090 Appeals receipt—Procedure.** The director shall forward the written notice of appeal to the board or hearing examiner and the institution concerned and shall aid in arranging an appeal hearing as soon as possible. The hearing shall be conducted within thirty calendar days after receipt of the appeal by the director. [Order 61, § 251-12-090, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-090, filed 9/15/69.]

**WAC 251-12-100 Hearings before the board.** (1) Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where either party so requests. Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) Both parties shall be notified reasonably in advance of the hearing and may select representatives of their choosing, present and cross-examine witnesses and give evidence before the board. Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court.

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails. [Order 61, § 251-12-100, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-100, filed 9/15/69.]

**WAC 251-12-110 Appearance and practice before the board.** Appellants shall have the right to represent themselves in all types of hearings before the board. In addition appellants may be represented by a party of their choosing, except that no person may represent an

appellant in hearings of demotion, reduction, suspension, dismissal, layoff, or refusal to reinstate after presumption of resignation other than the following:

(1) Attorneys at law duly qualified and entitled to practice before the supreme court of the state of Washington.

(2) Attorneys at law duly qualified and entitled to practice before the highest court of record of any other state, if the attorneys at law of the state of Washington are permitted to appear in a representative capacity before administrative agencies of such other state, and if not otherwise prohibited by Washington state law.

(3) Authorized legal interns, when accompanied by their qualified supervising attorney. [Order 61, § 251-12-110, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-110, filed 9/15/69.]

**WAC 251-12-120 Standards of ethical conduct.** All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to these standards, the board may decline to permit him/her to appear in a representative capacity in proceedings before the board. [Order 61, § 251-12-120, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-120, filed 9/15/69.]

**WAC 251-12-140 Service of papers.** In matters of appeal the board shall cause to be served all orders, notices, and other papers issued by it. Every other paper shall be served by the party filing the notice, document or paper. All notices, documents, or papers served by either the board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel. [Order 61, § 251-12-140, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-140, filed 9/15/69.]

**WAC 251-12-170 Subpoenas—Form.** Every subpoena shall name the board and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or records under his/her control at a specified time and place, and shall as nearly as practicable follow the form required in superior court. [Order 61, § 251-12-170, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-170, filed 10/15/71; Order 1, § 251-12-170, filed 9/15/69.]

**WAC 251-12-180 Subpoenas—Issuance to parties.** Subpoenas may be issued by any member of the board, the director, or the hearing examiner before whom the appeal is to be heard, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by members of the board or the director shall prepare them for issuance, send them to the board's office for signature, and upon return shall make arrangements for service. The service of all subpoenas shall be at the expense of the party requiring

the witness to appear. In order to insure return to the requesting party in time for service, it is recommended that all subpoenas be submitted at least five calendar days prior to the hearing. [Order 61, § 251-12-180, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-180, filed 6/18/74; Order 9, § 251-12-180, filed 10/15/71; Order 1, § 251-12-180, filed 9/15/69.]

**WAC 251-12-190 Subpoenas—Service of subpoena.** Service of subpoena shall be made by delivering a copy of the subpoena a reasonable period ahead of time to such person and by tendering, on demand, the fees for one day's attendance and the mileage allowed by law. [Order 61, § 251-12-190, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-190, filed 9/15/69.]

**WAC 251-12-200 Subpoenas—Witness fees.** Witnesses summoned before the board shall be paid the same fees and mileage paid to witnesses in the superior court of the state of Washington by the party at whose instance they appear. The board shall be responsible only for paying the witness fees of witnesses subpoenaed by it. [Order 61, § 251-12-200, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-200, filed 10/15/71; Order 1, § 251-12-200, filed 9/15/69.]

**WAC 251-12-210 Subpoenas—Proof of service.** The person serving the subpoena shall make proof of service by filing the original subpoena. If such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service. [Order 61, § 251-12-210, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-210, filed 9/15/69.]

**WAC 251-12-220 Subpoenas—Quashing.** Upon motion promptly made by a party or by the person to whom the subpoena is directed (and upon notice to the party who issued the subpoena), the board or hearing examiner may:

(1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or

(2) Condition denial of the motion upon just and reasonable conditions. [Order 61, § 251-12-220, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-220, filed 6/18/74; Order 1, § 251-12-220, filed 9/15/69.]

**WAC 251-12-230 Discovery—Depositions—Interrogatories.** Attorneys of record for a party to a hearing may use discovery procedures in a manner consistent with the civil rules for the superior courts of the State of Washington, or the members of the board, the director, or a hearing examiner may issue orders for discovery upon petition of the party desiring discovery. Any motions, challenges or objections concerning discovery shall be ruled upon by the board or the hearing examiner assigned to the hearing. [Order 61, § 251-12-230, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-230, filed 6/18/74; Order 1, § 251-12-230, filed 9/15/69.]

**WAC 251-12-240 Burden of proof.** At any hearing on appeal from a layoff, demotion, suspension, reduction, or dismissal the institution shall have the burden of proof. [Order 61, § 251-12-240, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-240, filed 9/15/69.]

**WAC 251-12-250 Findings of fact—Conclusions of law—Filing procedure.** Within thirty calendar days after the conclusion of the appeal hearing, the board shall make and fully record in its permanent records, findings of fact, conclusions of law, and its order based thereon, which shall be final subject to action by the court on appeal as hereinafter provided; at the same time a copy of the findings, conclusions and order shall be sent by registered mail to the employing institution and to the employee at his/her address as given at the hearing or to his/her counsel of record. [Order 61, § 251-12-250, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-250, filed 9/15/69.]

**WAC 251-12-260 Restoration of rights.** (1) Any employee, when fully reinstated after appeal, shall be guaranteed all employee rights and benefits including back pay, sick leave, annual leave accrual, retirement and OASDI credits.

(2) In instances of immediate dismissal as provided in WAC 251-10-140 where the institution is unable to justify under appeal the immediacy of the dismissal but the dismissal action itself is upheld, the employee's entitlement to recovery shall not exceed the fifteen calendar day period which would have served as the notice period had the dismissal been processed as provided in WAC 251-10-120. In instances where the board does not uphold the dismissal action but deems a suspension to have been warranted, the employee may be reinstated and a suspension ordered of up to fifteen calendar days. [Order 61, § 251-12-260, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-260, filed 9/15/69.]

**WAC 251-12-270 Superior court appeals—Grounds—Notice requirements.** (1) Within thirty calendar days after the recording of the order and the mailing thereof, either party may appeal to the superior court of the county in which the employing institution is located on one or more of the grounds that the order was:

(a) Founded on or contained error of law, which shall specifically include error in construction or application of any pertinent rules or regulations.

(b) Contrary to a preponderance of the evidence as disclosed by the entire record with respect to any specified finding or findings of fact.

(c) Materially affected by unlawful procedure.

(d) Based on violation of any constitutional provision.

(e) Arbitrary or capricious.

(2) Such grounds shall be stated in written notice of appeal filed with the superior court, with copies thereof served on the director or a member of the board and on the adverse party, all within the time stated. [Order 61, § 251-12-270, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-270, filed 9/15/69.]

**WAC 251-12-285 Superior court appeals—Statement of facts—Preparation.** (1) When an appellant pursues an appeal into superior court and the appellant wants the statement of fact (written record of oral proceeding at the hearing) included with the certified record, the appellant must pay the cost of the preparation of the statement of fact. Liability for payment of the cost of the statement of fact used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails. In such cases, the appellant will either:

(a) Order the statement of fact from the court reporter and direct that the original be transmitted to the HEPB for inclusion in the certified record; or

(b) If the proceedings were recorded mechanically, post a deposit with the director in an amount sufficient to cover the reasonable cost of the preparation of the statement of fact as determined by the director. Prior to transmitting the statement of fact to the court, final adjustment reflecting the actual cost of preparation of the statement of fact will be made.

(2) In the event the appellant requests less than the full statement of facts, the respondent may order additional portions and shall be responsible for the cost of such preparation. [Order 61, § 251-12-285, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-285, filed 2/22/74.]

**WAC 251-12-290 Superior court appeals—Preparation of record—Time limitations—Cost.** Within thirty calendar days after service of the notice of appeal to the superior court, or within such further time as the superior court may allow, the board shall transmit to the court a certified record, with exhibits, of the hearing; but by stipulation between the employing institution and the employee the record may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The superior court may require or permit subsequent corrections or additions to the record. [Order 61, § 251-12-290, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-290, filed 2/22/74; Order 1, § 251-12-290, filed 9/15/69.]

**WAC 251-12-300 Superior court appeals—Consideration of record.** (1) The superior court shall review the hearing without a jury on the basis of the record and exhibits, except that in case of alleged irregularities in procedure before the board, not shown by the record, the court may order testimony to be given thereon. Upon request by either party, the court shall hear oral argument and receive written briefs.

(2) The court may affirm the order of the board, remand the matter for further proceedings before the board, or reverse or modify the order if it finds that the objection thereto is well taken on any of the grounds stated.

(3) Appeal shall be available to the supreme court from the order of the superior court as in other civil cases. [Order 61, § 251-12-300, filed 8/30/77, effective

10/1/77; Order 31, § 251-12-300, filed 2/22/74; Order 1, § 251-12-300, filed 9/15/69.]

**WAC 251-12-500 Relief from effect of board's order.** (1) Employees who incur loss of position, seniority, salary or otherwise are caused to suffer directly by action of the board pursuant to rules set forth in chapter 251-18 WAC, may be considered to be aggrieved if the employee did not participate in the conditions as contributing to rules violation. Aggrieved employees may be provided by order of the board, such benefits as:

- (a) Permanent status when qualified by examination;
- (b) Salary maintenance or adjustment;
- (c) Seniority as appropriate;
- (d) Accrual of benefits.

(2) Upon receipt of written request for consideration from an employee, or upon initiation by the director, such action may be instituted as is required to provide appropriate relief under the rules for aggrieved employees when the employee is reduced in position or salary, laid off, or is otherwise caused to suffer as an indirect result of an order of the board and the employee was not a party to willful disregard of the rules. Such written request from the employee must be received within thirty calendar days of the action unless an extension in time is requested by the personnel officer.

(3) The director shall notify interested parties in writing of any recommended action and such order shall be binding unless a request for review is received by the higher education personnel board as provided in subsection (4) below.

(4) Request for board review of the action of the director must be made in writing by the employee, his/her representative, or the institution within fifteen calendar days of the mailing of such notice and must contain the reasons for such review. Within thirty calendar days of receipt of the notice the board will issue its ruling either affirming or modifying the director's action. The board's order shall be final and binding. [Order 61, § 251-12-500, filed 8/30/77, effective 10/1/77; Order 29, § 251-12-500, filed 1/22/74.]

**WAC 251-12-600 Remedial action.** When it has been determined that an individual has served six consecutive months in an institution in a position subject to the civil service but whose appointment by the institution has not been in accordance with the provisions of these rules, and the employee was not a party to the willful disregard of the rules, the director may take such appropriate action as to confer permanent status, set provision for salary maintenance, establish appropriate seniority, determine accrual of benefits, and such other actions as may be determined appropriate pursuant to the best standards of personnel administration. The order of the director shall be final and binding unless exceptions to the order are filed with the board within thirty calendar days. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order. [Order 61, § 251-12-600, filed 8/30/77, effective 10/1/77.]



**Chapter 251-14 WAC**  
**COLLECTIVE BARGAINING**

**WAC**

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**WAC 251-14-005 Purpose.** The general purpose of this chapter is to establish rules designed specifically to provide for a sound labor relations policy covering employer-employee relations in higher education institutions. Determination of exclusive representatives and union shop provisions shall be decided, to the maximum extent practical, by providing the fullest opportunity for each affected employee to participate through the election process. [Order 61, § 251-14-005, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-005, filed 5/23/75; Order 25, § 251-14-005, filed 7/17/73.]

**WAC 251-14-010 Employee rights.** Classified employees shall have, and shall be protected in the exercise of the right to form, join, and/or assist any employee organization, or to refrain therefrom, (except as provided in WAC 251-14-058) and to do so freely and without fear of penalty or reprisal. [Order 61, § 251-14-010, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-010, filed 7/17/73; Order 2, § 251-14-010, filed 3/12/70; Order 1, § 251-14-010, filed 9/15/69.]

**WAC 251-14-020 Employee organization filing requirements.** Any employee organization authorized to represent employees before the board or in collective bargaining with an appointing authority must first file with the director a notice of intent to represent employees. Such notice must set forth the name of the employee organization, the name of an agent authorized to speak on its behalf; a mailing address and telephone number; a general description of the types of employment falling within the intended area of representation and the number of classified higher education employees who are presently members of the employee organization; and a copy of a constitution, by-laws, or any other documents defining powers and authorizing representation. The director or designee shall, after verification of the documents submitted, notify the employee organization, each

institution and related board of the authorized recognition. [Order 61, § 251-14-020, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-020, filed 5/23/75; Order 2, § 251-14-020, filed 3/12/70; Order 1, § 251-14-020, filed 9/15/69.]

**WAC 251-14-030 Determination of bargaining unit.**

(1) Determination, alteration, modification or combination of appropriate bargaining units shall be made by the board upon petition from the appointing authority, an employee organization or upon the board's own motion, after twenty calendar days' notice has been given to the appointing authority and to affected employees and their representatives.

(2) In determining a bargaining unit, the board shall consider the following factors:

(a) Duties, skills and working conditions of the employees.

(b) History of collective bargaining by the employees and their bargaining representatives.

(c) Extent of organization among the employees.

(d) Desires of the employees.

(3) Any petition filed hereunder shall, in writing, set forth all pertinent facts and supporting reasons as comprehensively as possible, to aid the board in its determination.

(4) When the board combines existing bargaining units into one new unit and/or accretes additional classes and/or positions to a bargaining unit, such action shall effect an automatic decertification of any union shop representative provision in effect except in the following instances:

(a) Where the same employee organization is certified as the union shop representative in each of the existing bargaining units that are being combined into one new unit;

(b) Where results of the union shop election previously held still represent a majority vote in favor of the union shop provision in the new unit. Majority vote will be determined by adding the number of employees not previously covered by a union shop provision to the total number of employees eligible to vote in the previous election.

(5) After a hearing on a petition, the board shall enter an appropriate order containing findings of fact and conclusions of law.

(6) Bargaining units normally shall not include both supervisory and nonsupervisory employees. [Order 61, § 251-14-030, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-030, filed 2/26/76; Order 2, § 251-14-030, filed 3/12/70.]

**WAC 251-14-035 Election standards and procedures.** The director or designee shall establish the standards and procedures for the conduct of elections. [Order 61, § 251-14-035, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-035, filed 5/23/75; Order 25, § 251-14-035, filed 7/17/73.]

**WAC 251-14-040 Election and certification of exclusive representative.** (1) The director shall certify an employee organization as exclusive representative of the

employees of a bargaining unit when such organization shows proof that it represents a majority of such employees at the close of the last preceding payroll period and such proof is not contested by the appointing authority, the director, or any other interested party. Prior to certification, the director shall give ten calendar days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining unit. Such notice shall inform all other interested parties that an election may be requested as herein provided and that the proof of majority representation may be contested within ten calendar days. The director shall determine whether the proof of representation is satisfactory, and if it is not satisfactory shall require that an election be held.

The director will require that an election be held when not less than thirty percent of the employees in a bargaining unit petition for an election during the ten calendar day notice period.

(2) The director shall conduct a secret vote for selection of an exclusive representative of the employees of a bargaining unit upon request from an employee organization showing satisfactory proof of at least thirty percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the payroll period immediately preceding the date of request. Upon granting a request for an election, the director shall give written notice thereof and allow ten calendar days for other employee organizations desiring their names placed on the ballot to show satisfactory proof of at least ten percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the payroll period immediately preceding the date of notice of election.

(3) The director or designee, at a pre-election conference, shall review with interested employee organizations and the appointing authority or designee the standards and procedures for the conduct of the election, shall inform all affected employees of the conditions set forth therein, and shall distribute sample ballots. The ballot shall contain the name of the requesting employee organization and the name of any other employee organization showing satisfactory proof of at least ten percent representation within the unit, and shall provide a choice for any employee within the unit to designate that he/she does not desire to be represented by an exclusive representative. All employees on the active payroll and employed within the bargaining unit at the time of election are eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot. Absentee ballots may be requested prior to date of election, but will be counted only if received by the director or designee no later than two regular working days following the closing date of election. Where more than one organization is on the ballot and none receives a majority of all votes cast in such election, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second largest number of votes.

(4) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall

any person in the area discuss the advantages or disadvantages of representation by any organization whether on the ballot or otherwise, nor shall any person in that area engage in any other form of electioneering.

(5) An employee organization receiving a majority of all votes cast in such an election, or run-off, shall be certified by the director as the exclusive representative of the employees in the bargaining unit.

(6) When an employee organization has been certified as the exclusive representative of the employees in a bargaining unit, it shall be entitled to act for, and to negotiate collective agreements covering all employees in the unit, and shall be responsible for representing the interests of all such employees. Individual grievances or group grievances of employees may, however, be presented by them to management and may be adjusted by management so long as the adjustment is not inconsistent with the collective agreement and the exclusive representative has had an opportunity to review such adjustments.

(7) Another exclusive representative election shall not be held concerning the same bargaining unit until the lapse of at least twelve months from the date of the last previous exclusive representative election. [Order 61, § 251-14-040, filed 8/30/77, effective 10/1/77; Order 44, § 251-14-040, filed 6/25/75; Order 25, § 251-14-040, filed 7/17/73; Order 2, § 251-14-040, filed 3/12/70.]

**WAC 251-14-042 Disclaimer of interest petition—Decertification as exclusive representative.** (1) If an employee organization with a current certification as an exclusive representative of the employees of a bargaining unit seeks to disclaim any interest in continuing to represent the affected employees as their exclusive representative, it does so by filing a disclaimer of interest petition with the director; provided that in the event there is a collective bargaining agreement in existence between the appointing authority and the exclusive representative, any disclaimer of interest petition shall be valid only if filed within ninety calendar days prior to the expiration date of such collective bargaining agreement.

(2) Such disclaimer of interest petition must specifically state the reason(s) a decertification as exclusive representative should be granted to an employee organization by the director.

(3) Prior to decertification, the director shall give ten calendar days notice to the affected employees. The notice shall be posted by the institution in the work areas of the employees affected. Such notice shall inform the employees that decertification by a disclaimer of interest petition may be contested within the ten calendar days and an election requested.

(4) The director shall order a disclaimer of interest election to be held upon petition from not less than thirty percent of the employees affected.

(5) The director will decertify an employee organization as the exclusive representative on the basis of a disclaimer of interest petition as follows:

(a) Decertification as a result of an employee organization filing a disclaimer of interest petition not contested by at least thirty percent of the employees affected;

(b) Decertification as a result of a disclaimer of interest election wherein a majority of all votes cast are in favor of decertification.

(6) Another disclaimer of interest petition shall not be filed by the same employee organization concerning the same bargaining unit for at least twelve months from the date of the last filing. [Order 61, § 251-14-042, filed 8/30/77, effective 10/1/77; Order 37, § 251-14-042, filed 10/15/74.]

**WAC 251-14-050 Petition for decertification of exclusive representative.** (1) Upon petition to the director by not less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by a secret vote of the employees, providing twelve months have elapsed since the last certification and ninety calendar days or less remain before the termination of any existing collective bargaining agreement covering the employees of the unit. Such an election shall be conducted in accordance with WAC 251-14-040(2), (3), and (4). Another exclusive representative decertification election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous exclusive representative decertification election.

(2) When the board, pursuant to WAC 251-14-030, combines existing bargaining units into one new unit, the combination shall effect an automatic decertification of the affected exclusive representatives except in those instances where the same employee organization is certified as the exclusive representative for all of the existing bargaining units that are being combined into one new unit. [Order 61, § 251-14-050, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-050, filed 2/26/76; Order 25, § 251-14-050, filed 7/17/73; Order 2, § 251-14-050, filed 3/12/70.]

**WAC 251-14-052 Union shop representative election.** (1) The director shall order a union shop representative election to be held upon petition from an employee organization which has been certified per WAC 251-14-040 as the exclusive representative of the employees of a bargaining unit.

(2) The director shall, upon receipt of a petition for a union shop representative election, inform all affected employees of the union shop provisions contained in the state higher education personnel law, RCW 28B.16.100.

(3) The director or designee, at a pre-election conference, shall review with the employee organization and appointing authority or designee the standards and procedures for the conduct of the election and shall inform all affected employees of the conditions set forth therein.

(4) The election shall be held on state property during working hours unless otherwise agreed to by all parties during the pre-election conference.

(5) All employees on the active payroll and employed within the bargaining unit on the date of election will be eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot.

(6) Absentee ballots may be requested prior to date of election but will be counted only if received by the director or designee no later than two regular working days following the closing date of election.

(7) Transportation to official places of voting shall be provided to the degree practicable as determined by pre-election conference.

(8) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of a union shop and mandatory membership in an employee organization.

(9) The director will certify the employee organization as the union shop representative if a majority of employees in the bargaining unit vote in favor of requiring membership in the employee organization to be a condition of employment.

(10) Another union shop representative election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous union shop representative election. [Order 61, § 251-14-052, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-052, filed 7/17/73.]

**WAC 251-14-054 Union shop representative decertification election.** (1) The director shall, upon petition of thirty percent of the members of a bargaining unit, order an election to determine if a majority of employees in such bargaining unit wish to rescind membership in the employee organization as a condition of employment, providing twelve months have lapsed since the original election which established the union shop representative. Such election shall be conducted in accordance with WAC 251-14-052(2), (3), (4), (5), (6), (7), and (8).

(2) Another union shop representative decertification election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous union shop decertification election.

(3) The director will issue a notice of union shop representative decertification, which will nullify the requirement of membership in an employee organization or the payment of a representation fee as a condition of employment when a majority of the employees in the bargaining unit vote to rescind membership in an employee organization as a condition of employment. [Order 61, § 251-14-054, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-054, filed 7/17/73.]

**WAC 251-14-056 Employee listings.** When elections are requested per the provisions of WAC 251-14-040, 251-14-050, 251-14-052 and 251-14-054, institutions shall, upon request from a petitioning party and/or an affected employee organization, provide copies of a current listing indicating names, mailing addresses, classes and work locations of all employees eligible to vote in the election. [Order 61, § 251-14-056, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-056, filed 5/23/75; Order 25, § 251-14-056, filed 7/17/73.]

**WAC 251-14-057 Election validity—Objections.** (1) The director, an appointing authority or designee,

any employee of the bargaining unit, and/or any employee organization whose name appeared on the ballot as a choice, may question the validity of an election by objecting to the administration of the election or to improper conduct which may have affected the results of the election conducted under the provisions of chapter 251-14 WAC.

(2) The objections must contain a specific statement of the reasons therefor and be filed in the office of the director by the close of business on the fifth working day following the tabulation of the ballots. The party filing objections is required to submit evidence in support thereof at the time the objections are filed or forthwith upon request from the director.

(3) The director or designee will investigate the objections. Where the investigation reveals that the objections have merit, the director may set aside the results of the election and order a new election. [Order 61, § 251-14-057, filed 8/30/77, effective 10/1/77; Order 44, § 251-14-057, filed 6/25/75.]

**WAC 251-14-058 Union shop requirements.** (1) When a majority of employees within a bargaining unit determine by election to require as a condition of employment membership in the employee organization designated as the exclusive bargaining representative, all employees included in that bargaining unit are required to become members of such employee organization within thirty calendar days of the beginning of their employment within the bargaining unit or within thirty calendar days of the date of the union shop representative election, whichever is later.

(2) Membership in the employee organization shall be satisfied by the payment of monthly or other periodic dues and shall not require payment of initiation, reinstatement, or any other fees or fines, and shall include full and complete membership rights.

(3) Employees who wish the right of nonassociation with an employee organization must base their reasons on bona fide religious tenets or teachings of a church or religious body of which they are members. Such requests must be presented to the personnel office on the campus of the concerned institution. The appointing authority or designee and the union shop representative must be in agreement that the requests are based on such bona fide reasons. If agreement cannot be reached within a reasonable time, either party may submit the issues in dispute to the director or designee. Should the request for nonassociation be denied by the appointing authority or designee, the employee may submit the issue to the director or designee. The decision of the director regarding nonassociation shall be final.

(4) Employees who are granted the nonassociation right must pay a union shop representation fee to the employee organization. Such fee is equivalent to the regular dues of the organization minus any monthly premiums for union sponsored insurance programs.

(5) When an employee has qualified for nonassociation with an employee organization on religious grounds, the employee may designate which of the programs of

the employee organization are in harmony with the employee's conscience and may then designate that the union shop representation fee shall go to such programs.

(6) The employee who qualifies for the nonassociation clause shall not be a member of the employee organization, but shall be entitled to the same representation rights as a member of the employee organization.

(7) A condition of employment for an employee employed in a bargaining unit where an employee organization is the exclusive union shop representative, is membership in that employee organization or the regular payment of a union shop representation fee to such organization. Failure of an employee to become a member of the employee organization or make payment of the union shop representation fee within thirty calendar days following the beginning of employment within the bargaining unit or thirty calendar days after the date of the union shop representative election, whichever is later, shall constitute cause for dismissal per the provisions of WAC 251-10-170.

(8) The union shop representative shall inform the appointing authority, in writing, of those employees who have not complied with WAC 251-14-058.

(9) The requirement to be a member of an employee organization or the payment of a union shop representation fee as a condition of employment will be nullified when the employee organization which is the union shop representative is decertified per WAC 251-14-050 or 251-14-054.

(10) The appointing authority or designee shall notify affected employees of existing union shop provisions prior to their hire or transfer into a bargaining unit where there is a requirement to be a member of a designated employee organization and/or to pay a union shop representation fee as a condition of employment.

(11) Payroll deductions for employee organization dues and/or union shop representation fees may be provided by the institution upon written authorization from the employee. [Order 61, § 251-14-058, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-058, filed 7/17/73.]

**WAC 251-14-060 Contents of written agreements.**

(1) Written agreements may contain provisions covering all personnel matters over which the institution related board may lawfully exercise discretion.

(2) Written agreements shall include a grievance procedure for processing individual and group grievances within the bargaining unit and shall provide for mediation by the director or designee and for arbitration by the board. Mediation by the director or designee and arbitration by the board of a grievance dispute shall not apply in those instances where the same complaint has been filed for hearing either through the unfair labor practice or appeal procedures of the higher education personnel board rules.

(3) Written agreements may contain provisions for payroll deduction of employee organization dues and/or union shop representation fees upon written authorization from the employee. Any employee may cancel his/her payroll deduction of employee organization dues by filing a written notice with the appointing authority

or designee and the employee organization thirty calendar days prior to the effective date of such cancellation.

(4) Written agreements shall be for a minimum of one year in duration and shall not exceed three years. Automatic renewal or extension provisions may extend the term of a contract for only one year at a time.

(5) Where there are collective bargaining agreements in effect in bargaining units which are combined per WAC 251-14-030, the board shall determine the application of such bargaining agreements or terms thereof when there is an impasse between the exclusive representative and the institution.

(6) Institutions shall file signed written agreements with the director. Provisions of such agreements shall not prevail if in conflict with the higher education personnel board rules, the higher education personnel law or other applicable law. [Order 61, § 251-14-060, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-060, filed 2/26/76; Order 42, § 251-14-060, filed 5/23/75; Order 25, § 251-14-060, filed 7/17/73; Order 2, § 251-14-060, filed 3/12/70.]

**WAC 251-14-070 Unfair labor practices—Management—Employee organizations.** (1) It shall be an unfair labor practice for an institution:

(a) To interfere with, restrain, or coerce employees in the exercise of their rights guaranteed by the higher education personnel law and the rules adopted thereunder.

(b) To control, dominate, or interfere with a bargaining representative.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

(2) It shall be an unfair labor practice for employee organizations:

(a) To interfere with, restrain, or coerce employees in the exercise of their rights guaranteed by the higher education personnel law and the rules adopted thereunder.

(b) To induce an institution to commit an unfair labor practice.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

[Order 61, § 251-14-070, filed 8/30/77, effective 10/1/77; Order 2, § 251-14-070, filed 3/12/70.]

**WAC 251-14-080 Unfair labor practices—Powers of board—Procedure.** (1) The board, or its designee, whose final decision is appealable to the board, is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

(2) Unfair labor practice charges shall be filed on a form provided by the director or designee, and shall be filed in the office of the director within sixty calendar days after the parties become aware of the alleged unfair labor practice(s). The form shall be signed by the charging party or an authorized representative and shall contain the following:

(a) The name and address of the institution.

(b) The name and address of the party or organization filing the charge.

(c) A statement as to the basis of the charge which shall be specific as to facts, names, addresses, dates, places and the unfair labor practice section relied upon in support of the charge.

(3) Upon receipt of an unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules.

(4) Whenever a charge has been made concerning any unfair labor practice, the board or its designee shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the board or its designee at a place therein fixed to be held not less than seven calendar days after the serving of said complaint. Any such complaint may be amended by the board or its designee any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five calendar days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint. In the discretion of the board or its designee, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the board or its designee shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

(5) For the purpose of all hearings and investigations, which, in the opinion of the board or its designee are necessary and proper for the exercise of the powers vested in it by this act, the board or its designee shall at all reasonable times have access to for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or list of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board or its designee. The board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.

(6) Within thirty days after the board or its designee has entered its findings of fact, the board or its designee whose final decision is appealable to the board, or any party to the proceedings shall have power to petition the superior court of the state, within the county wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify

and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee. [Order 61, § 251-14-080, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-080, filed 2/26/76; Order 2, § 251-14-080, filed 3/12/70.]

**WAC 251-14-090 Unfair labor practice—Hearings.** Complaints charging unfair labor practices shall be filed in writing with the board. The complaints shall not be processed per WAC 251-14-080 if the same charges have been filed for hearing either through the grievance or appeal procedures of the higher education personnel board rules. The board shall hold a hearing in the same manner as provided for appeals from demotions, suspensions, reductions, layoffs, and dismissals, and any decision of the board shall be binding unless reversed or modified by a court of law. [Order 61, § 251-14-090, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-090, filed 2/26/76; Order 2, § 251-14-090, filed 3/12/70.]

**WAC 251-14-100 Mediation—Collective bargaining impasse—Grievance disputes.** (1) When agreement cannot be reached within a reasonable time in collective bargaining between an institution and the certified exclusive representative of the employees in the bargaining unit, either party may submit the impasse issues to the director or designee who shall confer with both parties in an effort to resolve the impasse.

(2) When an unresolved grievance dispute has been referred to the director pursuant to the mediation provision of a grievance procedure in a signed agreement, the director or designee shall confer with both parties in an effort to resolve the dispute. [Order 61, § 251-14-100, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-100, filed 2/26/76; Order 2, § 251-14-100, filed 3/12/70.]

**WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes.** (1) When the director or designee is unable to resolve the collective bargaining impasse, the institution or the certified exclusive representative may submit such impasse to the board for arbitration.

(2) When the director or designee is unable to resolve a grievance dispute, the exclusive representative, employee or employer may submit such dispute to the board for arbitration.

(3) The board shall hold such hearings which may be conducted in the same manner as provided for appeals

from layoffs, demotion, suspensions, reductions and dismissals, and the decision of the board shall be final and binding. [Order 61, § 251-14-110, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-110, filed 2/26/76; Order 2, § 251-14-110, filed 3/12/70.]

## Chapter 251-18 WAC EMPLOYMENT—APPOINTMENT

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-18-040	Recruitment notice—Duration. [Order 3, § 251-18-040, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-18-045	Eligible list modification—Training. [Order 36, § 251-18-045, filed 8/20/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-18-090	Application—Freedom from bias. [Order 3, § 251-18-090, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

- 251-18-210 Notification of removal of name. [Order 37, § 251-18-210, filed 10/15/74; Order 3, § 251-18-210, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-220 Related eligible lists. [Order 3, § 251-18-220, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-235 Temporary conversion list. [Order 32, § 251-18-235, filed 3/19/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-360 Modification of minimum qualifications. [Order 35, § 251-18-360, filed 7/23/74; Order 3, § 251-18-360, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-370 Concurrent certification. [Order 3, § 251-18-370, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-18-010 Examination—Requirement—Definition.** (1) Appointment to positions in the classified service shall be made according to merit and suitability ascertained for each class by an appropriate examination developed and approved by the director. Examinations shall be developed utilizing the class specifications and a detailed job analysis, to the degree possible, in a manner which will test fairly the capacity and fitness of the candidates to discharge efficiently the duties of the position.

(2) An examination is any formal, scored, quantified measure or assessment used as the basis for a personnel selection decision. It may include written, oral, physical or performance tests, evaluation of experience and training; or any combination of these. It may take into consideration such factors as education, experience, physical fitness, performance appraisal, and any other qualifications which in the judgment of the director properly enter into the determination of the relative fitness of applicants.

(3) Competitive examinations are not required for the establishment of eligible lists in the noncompetitive service. [Order 61, § 251-18-010, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-010, filed 9/19/75; Order 33, § 251-18-010, filed 6/18/74; Order 3, § 251-18-010, filed 1/15/71.]

**WAC 251-18-020 Examination notice—Publicity—Duration.** (1) The personnel officer is responsible for determining when to open an eligible list and conduct examinations. Each personnel officer shall develop and maintain on file a procedure by which employees who have indicated an interest in promotion through the established procedure are made aware of promotional opportunities within the organizational unit.

(2) Public notice of examinations to establish eligible lists shall be made via bulletin board posting, for the duration of the announcement, and such other publicity as the personnel officer deems warranted in the interest of attracting adequate numbers of qualified applicants. The minimum period for posting employment bulletins will be seven calendar days. For an open competitive posting, the personnel officer may authorize a shorter minimum posting period.

(3) Examination notices are of two types:

(a) Those having definite duration; and  
 (b) Those having indefinite duration during which application may be made. Prior to closing a notice published for an indefinite period, public notice of at least three calendar days shall be given. Such notice may take either of the following forms:

- (i) Public notice given in the same manner as the original notice; or
- (ii) A statement on the bulletin board posting that when sufficient applications are received, the application period may be closed upon three days prior notice.

[Order 61, § 251-18-020, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-020, filed 9/19/75; Order 35, § 251-18-020, filed 7/23/74; Order 3, § 251-18-020, filed 1/15/71.]

**WAC 251-18-025 Examination notice—Exception—Training.** Notwithstanding other provisions of these rules, employees meeting the conditions outlined in WAC 251-24-050(3), may be examined without posting an examination notice. [Order 61, § 251-18-025, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-030 Examination notice—Content.** (1) Bulletin board postings except open-continuous shall specify as a minimum the title and salary range of the class for which the eligible list is open; the nature of the work to be performed; the experience and training required; the time, place and manner of making application; the minimum qualifications established for admission to the examination; and the type of examination required for the class.

(2) Bulletin board postings and examination announcements for open-continuous eligible lists shall specify the title and salary range of the class for which the eligible list is open, the manner of making application, and the location and procedure for obtaining information regarding minimum qualifications and examination requirements.

(3) When the personnel officer elects to establish a combined eligible list as provided in WAC 251-18-181 and 251-18-240(4), to limit the number of eligibles to be placed on a noncompetitive eligible list, or to limit the number of eligibles to be admitted to the entire examination as provided in WAC 251-18-060(3), such information shall be included in the bulletin board posting. [Order 61, § 251-18-030, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-030, filed 9/19/75; Order 3, § 251-18-030, filed 1/15/71.]

**WAC 251-18-050 Examination administration.** (1) Examinations shall be held at such times and places as in the judgment of the personnel officer most nearly meet the convenience of applicants, practicability of administration, and needs of the service. Current employee applicants shall suffer no loss in regular salary as a result of participating in examinations which are conducted for their institution during their regularly scheduled working hours.

(2) Examinations shall be conducted by the personnel officer or designee and shall be administered in accordance with standards and procedures approved by the director. [Order 61, § 251-18-050, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-050, filed 9/19/75; Order 33, § 251-18-050, filed 6/18/74; Order 3, § 251-18-050, filed 1/15/71.]

**WAC 251-18-060 Examination—Eligibility.** (1) Open-competitive examinations shall be open to all applicants, including probationary employees, who meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to permanent employees of the classified service at the institution. Promotional examinations may be opened on an organizational or institution-wide basis, whichever the personnel officer determines to be in the best interest of the service.

(3) When normal recruitment and examination of applicants is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may declare in advance the number of persons to be:

(a) Placed on a noncompetitive eligible list; or

(b) Admitted to the entire examination. Following the screening of applications and/or the initial scoring of the examination for this purpose, the applicants receiving the highest scores will be admitted to the final phases of the examination.

Such limitations must be stated on the published bulletin board posting, and do not preclude the personnel officer from adding members of under-represented groups to the eligible list in accordance with the institution's corrective employment program as provided in WAC 251-18-390(2)(e), provided such persons meet the same criteria and achieve the same examination score required of the original applicant group. [Order 61, § 251-18-060, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-060, filed 9/19/75; Order 38, § 251-18-060, filed 11/18/74; Order 3, § 251-18-060, filed 1/15/71.]

**WAC 251-18-070 Application forms.** Applications for employment shall be filed on forms prescribed by the personnel officer. Any question in any application form or examination shall be in compliance with applicable state and federal law. [Order 61, § 251-18-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-070, filed 1/15/71.]

**WAC 251-18-080 Application—Acceptance.** To be accepted for review, applications must be completed and signed by the applicant and delivered to the personnel office by the closing date specified on the bulletin board posting; or must be postmarked before midnight of the closing date and received at the personnel office within three working days or longer as indicated on the bulletin board posting. The personnel officer may require proof of age, education, experience, veteran's preference, and/or other claims relevant to the qualifications of the applicant. [Order 61, § 251-18-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-080, filed 5/24/73; Order 3, § 251-18-080, filed 1/15/71.]

**WAC 251-18-100 Application—Admission to examination.** Applicants who submit properly completed applications on or before the last date for filing as provided in WAC 251-18-080 and who meet the requirements for the class shall be notified of the date, time and place of the examination. Any applicant who, for good cause, is unable to appear as notified, may be given the examination at an alternate date only if he/she advised the institution personnel officer in advance of the inability to appear as scheduled. [Order 61, § 251-18-100, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-100, filed 9/19/75; Order 3, § 251-18-100, filed 1/15/71.]

**WAC 251-18-110 Application—Disqualification—Rejection.** The personnel officer may reject an application or an applicant for good and sufficient reason.

Whenever the personnel officer rejects an application or an applicant under the provisions of these rules, he/she shall furnish a written statement of the specific reasons therefor and advise of the right of appeal per WAC 251-18-115, except in those instances in which the applicant was present at the time of notification of rejection or disqualification. [Order 61, § 251-18-110, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-110, filed 11/18/74; Order 4, § 251-18-110, filed 2/19/71.]

**WAC 251-18-115 Examination—Eligibility—Right of appeal or review.** (1) An applicant shall have rights of appeal or review as provided in subsections (2) and (3) below when:

(a) His/her application has been rejected; or

(b) He/she feels the examination or grade unfair, in error, or not applied uniformly; or

(c) His/her name has been removed from the eligible list.

(2) An applicant who is a classified employee of the institution may appeal to the board. The appeal shall be in writing and shall be filed in the office of the director within thirty calendar days after the effective date of the action appealed. The provisions of WAC 251-12-090 through 251-12-240 shall apply to this section.

(3) An applicant who is not a classified employee of the institution may request a review by the director. Such request for review shall be in writing and shall be filed in the office of the director within thirty calendar days after the effective date of the action contested. Within thirty calendar days after the date of receipt of such request for review or as soon thereafter as possible, the director shall investigate the complaint and issue an order, which shall be final and binding. [Order 61, § 251-18-115, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-120 Applicants—Anonymity.** When practical, the identity of all persons taking a competitive written examination shall be concealed from the examiners by the use of an identification number on all examination papers. When used, this number shall be used from the beginning of the examination until the papers have all been rated. [Order 61, § 251-18-120,



filed 8/30/77, effective 10/1/77; Order 3, § 251-18-120, filed 1/15/71.]

**WAC 251-18-130 Examination—Veterans preference.** The claiming of the following veterans preference provisions is the responsibility of the applicant and must be claimed within eight years of the date of release from active service.

(1) The term "veteran" as used in these rules shall include any person who has served in any branch of the armed forces of the United States during World War I, World War II, the Korean Conflict, the Viet Nam era, and the period beginning on the date of any future declaration of war by Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the Congress. "Viet Nam era" shall mean the period beginning August 5, 1964, and ending on May 7, 1975.

(2) Only persons who received an honorable discharge; a physical discharge under honorable conditions; or who were released from active duty under honorable circumstances shall be eligible for veterans preference.

(3) Only those veterans who receive a passing score on an examination, prior to addition of veterans preference, shall be eligible to receive such preference.

(4) In all competitive examinations, veterans shall be given a preference by adding to their achieved passing scores, based upon a possible rating of one hundred points as perfect, a percentage of the achieved score under the following conditions:

(a) Ten percent (10%) of the passing examination score to a veteran who is not receiving any veterans retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(b) Five percent (5%) of the passing examination score to a veteran who is receiving any veterans retirement payments. This percentage shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(c) Five percent (5%) of the passing examination score to a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be limited to the first promotional examination following return from military service. [Order 61, § 251-18-130, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-130, filed 7/23/74; Order 3, § 251-18-130, filed 1/15/71.]

**WAC 251-18-140 Examination results—Notification.** (1) The personnel officer will notify in writing each applicant competing in an examination of his/her score or failure to obtain a passing score within ten working days after scoring the examination. Any applicant or authorized representative may request in writing that the personnel officer review the examination rating and/or score within fifteen calendar days after notification of the score. If an error in scoring has been made, it will be corrected and the eligible's name will be placed at the appropriate place on the eligible list. A correction

so made shall not invalidate any appointment previously made from the list.

(2) The personnel officer will notify the candidate of the date of placement on the eligible list and the date of expiration. [Order 61, § 251-18-140, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-140, filed 7/23/74; Order 21, § 251-18-140, filed 5/24/73; Order 3, § 251-18-140, filed 1/15/71.]

**WAC 251-18-150 Reexamination—Procedure.**

(1) The personnel officer may authorize an applicant to retake an examination upon written request provided:

(a) At least thirty calendar days have elapsed since the previous examination; and

(b) The bulletin board posting for the class is posted at the time of the request, except in the case of reexamination resulting from a sustained appeal; and

(c) An applicant is not permitted to take the same examination more than three times in a twelve month period.

(2) The limitations of this rule do not apply to the typing and/or dictation sections of an examination. [Order 61, § 251-18-150, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-150, filed 1/15/71.]

**WAC 251-18-155 Examination—Records requirement.** The personnel officer shall maintain and have available for inspection required evidence to disclose the impact of examinations upon employment opportunities of all applicants by identifiable racial, ethnic, and sex groups. The data required for this purpose and for conduct of validation research is included on the forms used for scoring examinations. [Order 61, § 251-18-155, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-155, filed 7/23/74.]

**WAC 251-18-160 Examination—Medical.** Candidates for employment or promotion shall take a medical examination if prescribed for the position to which appointment is sought. All candidates must conform with medical regulations for state employment established by the Washington State Board of Health. A medical examination and doctor's certificate may also be required where a question arises concerning the fitness of the incumbent to perform the duties of his/her position. [Order 61, § 251-18-160, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-160, filed 1/15/71.]

**WAC 251-18-170 Eligible lists—Establishment.** In order to carry out the purpose of these rules, the personnel officer shall:

(1) Establish and file with the director for approval, organizational units for purposes of employment which are based upon administrative unit or geographic location or both; and

(2) Establish and maintain eligible lists for the institution by class and organizational unit when necessary. [Order 61, § 251-18-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-170, filed 1/15/71.]

**WAC 251-18-175 Eligible list—Related list.** Should a vacancy occur in a class for which there is no

existing eligible list, it shall be the responsibility of the personnel officer to recruit and develop an eligible list. If it is impractical to recruit in order to establish a list of eligibles, the personnel officer may:

- (1) Substitute a related list if he/she deems the lists to be sufficiently similar, or
- (2) Request the use of an eligible list established for the class at another institution. [Order 61, § 251-18-175, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-176 Eligible list—Appointment—Modification of minimum qualifications.** When a vacancy exists and active and reasonable recruiting efforts fail to establish an eligible list for the class, the personnel officer may request that the director modify the minimum qualifications. If satisfied that reasonable effort has been made to recruit at the established minimum qualifications the director may modify the minimum qualifications for that recruiting cycle on a one-time basis. On approval, the personnel officer shall initiate recruiting at the reduced minimum qualifications. Such temporary modification will be reported to the board at the next regular meeting.

Appointments made from employment lists established in this manner will be in accordance with these rules. [Order 61, § 251-18-176, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-180 Eligible lists—Definition—Composition.** The various eligible lists are defined as follows:

(1) **Institution-wide Layoff Lists** shall be established by class and shall contain the names of all permanent and probationary employees laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055. Ranking of eligibles shall be in order of layoff seniority.

(2) **Organizational Unit Promotional Lists** shall be established by class and shall contain the names of all permanent employees of the organizational unit for which the list is established, who have successfully completed the examination for the class. Ranking of eligibles shall be in order of their final earned rating on the examination, plus any preference credits.

(3) **Institution-wide Promotional Lists** shall be established by class and shall contain the names of all permanent employees who have successfully completed the examination for the class, ranked in order of their final earned rating on the examination, plus any preference credits.

(4) **Special Employment Program Layoff Lists** shall be established by class and shall contain the names of permanent employees laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035. Ranking of eligibles shall be in order of layoff seniority.

(5) **State-wide Layoff Lists** shall be established by class and shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060. Ranking of eligibles

shall be in order of layoff seniority as provided in WAC 251-10-060(2).

**(6) Open Competitive/Noncompetitive Lists:**

(a) Open Competitive Lists shall be established by class and shall contain the names of all candidates who have successfully completed the examination for the class, ranked in order of their final earned rating on the examination, plus any preference credits.

(b) Noncompetitive lists shall be established by class where the class has been previously approved by the director to be part of the noncompetitive service at a particular higher education institution. They shall contain the names of applicants who meet the minimum requirements for the class for which the list is established. The eligibles shall be ranked by priority in time of filing application. [Order 61, § 251-18-180, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-180, filed 9/19/75; Order 44, § 251-18-180, filed 6/25/75; Order 32, § 251-18-180, filed 3/19/74; Order 21, § 251-18-180, filed 5/24/73; Order 12, § 251-18-180, filed 5/23/72, effective 6/25/72; Order 8, § 251-18-180, filed 6/17/71, effective 7/19/71; Order 6, § 251-18-180, filed 4/21/71, effective 5/25/71; Order 4, § 251-18-180, filed 2/19/71.]

**WAC 251-18-181 Eligible lists—Combined.** For positions in classes which meet the HEPB definitions of administrative, executive, or professional, the personnel officer may combine into a single list all the eligible lists provided in WAC 251-18-180, except the institution-wide layoff list. Such combined list shall be established by class and shall contain the names of all candidates who have successfully completed the examination for the class. Ranking of eligibles shall be in the order of their final earned rating on the examination as indicated below:

(1) Permanent employees of the institution shall have added to their passing score a five percent permanent employee preference bonus.

(2) All other candidates on the combined eligible list shall be placed on the list with their passing score. [Order 61, § 251-18-181, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-185 Eligible lists—Tied scores—Certification.** When two or more candidates on the same eligible list have the same rating, their position on the list, for record keeping purposes, will be determined by lot. When, in the process of certification, a tie score group is reached which, if all eligibles with the same score were certified would result in a certification of more than the number of eligibles permitted by these rules, the official responsible for certification may exercise either of the following options:

(1) Complete the certification by certifying the necessary number of eligibles according to their position on the list as drawn by lot for record keeping purposes; or

(2) Complete the certification by determining, on the basis of the description of the particular vacancy for which certification is being made, which eligible(s) from the tie score group will be referred. Such decision shall

be based on the appropriateness of the eligible's experience and training to the particular job vacancy. [Order 61, § 251-18-185, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-185, filed 5/24/73.]

**WAC 251-18-190 Eligible lists—Duration.** (1)

The term of eligibility for each name on an eligible list shall be one year from the date the name is placed on the eligible list except for institution-wide layoff list for which eligibility shall be two years. Prior to the expiration date of the eligible on all eligible lists except open competitive/noncompetitive and state-wide layoff lists, he/she shall be given the opportunity to extend eligibility for one additional year by written request to the personnel officer.

(2) The personnel officer may extend the duration of an entire eligible list for one additional year if it is determined to be in the best interest of the service.

(3) The personnel officer shall cancel the entire eligible list when the class or examination has been changed to the degree that the list would be invalid. All affected eligibles shall be notified of the cancellation. [Order 61, § 251-18-190, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-190, filed 3/19/74; Order 21, § 251-18-190, filed 5/24/73; Order 4, § 251-18-190, filed 2/19/71.]

**WAC 251-18-200 Eligible lists—Removal of name—Notification.** (1) The name of an eligible may be removed from an eligible list by the personnel officer for good and sufficient reason. Whenever any person's name is removed from an eligible list he/she shall be notified of the specific reasons for such removal and advised of the right of appeal per WAC 251-18-115; except in instances where the eligible:

(a) Has requested removal from the list in writing;

(b) Has failed to respond within ten calendar days to a written inquiry or within three calendar days to a telegraphed inquiry from the personnel office relative to availability for appointment;

(c) Has failed to notify the personnel office of changes of address; or

(d) Is an open competitive candidate and has been removed from an eligible list due to expiration of eligibility.

(2) Such person may, within five working days of notification, make a written request to the personnel officer for restoration to such eligible list for the duration of eligibility. The personnel officer, after full consideration of the request, may restore the name to the eligible list, or refuse to do so. The person shall be notified of the personnel officer's action. [Order 61, § 251-18-200, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-200, filed 1/15/71.]

**WAC 251-18-230 Certification—Request for.**

When a vacancy in the classified service is to be filled, the employing official shall submit a personnel requisition to the personnel officer. If the position meets the HEPB definitions of administrative, executive or professional and the employing official wishes to request that

the personnel officer consider utilizing a combined eligible list, or if special or outstanding qualifications are desirable for the position under consideration, these requests shall be noted on the requisition. [Order 61, § 251-18-230, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-230, filed 1/15/71.]

**WAC 251-18-240 Certification—Method.** (1)

Upon receipt of a personnel requisition, the personnel officer shall provide to the employing official a certification of names in writing. Certification from eligible lists will be made in the manner and in the strict order of priority provided in subsections (3) and (4) of this section.

(2) In the case of certification made from an institution-wide layoff list, the personnel officer shall certify the eligible with the greatest layoff seniority. If there are no eligibles on the institution-wide layoff list for the class, the personnel officer shall certify to the employing official two more names than there are vacancies to be filled by the certification in strict order of standing on the eligible list(s); except that if there are no existing promotional eligible lists at the time of certification, and there are eligibles on the special employment program layoff lists, the certification will be limited to the senior eligible on the list.

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Except as provided in subsection (4) of this section eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

- (a) Institution-wide Layoff List
- (b) Organizational Unit Promotion List
- (c) Institution-wide Promotion List
- (d) Special Employment Program Layoff List
- (e) State-wide Layoff List
- (f) Open Competitive or Noncompetitive List.

(4) If the position for which certification is being made meets the HEPB definitions of administrative, executive, or professional and there are no eligibles on the institution-wide layoff list for the class, the personnel officer may elect to combine eligible lists provided in subsection (3)(b) through (f) of this section per the provisions of WAC 251-18-181. Certification from this combined eligible list shall be on the basis of two more names than there are vacancies to be filled by the certification, even if the lists contain persons from the special employment program layoff list. [Order 61, § 251-18-240, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-240, filed 3/18/77, effective 4/18/77; Order 44, § 251-18-240, filed 6/25/75; Order 41, § 251-18-240, filed 3/17/75; Order 39, § 251-18-240, filed 12/24/74; Order 32, § 251-18-240, filed 3/19/74; Order 21, § 251-18-240, filed 5/24/73; Order 14, § 251-18-240, filed 6/16/72; Order 4, § 251-18-240, filed 2/19/71.]

**WAC 251-18-250 Certification—Selective.** (1)

The personnel officer may declare a selective certification of eligibles to fill a vacancy under the following conditions:

(a) When there is a requirement for specialized and/or distinctive technical or professional qualifications essential to fill the work requirements of a particular position;

(b) When the institution/related board is utilizing a corrective employment program to increase the representation of employees of a particular racial or ethnic group or sex per provisions of WAC 251-18-390, Corrective Employment Programs.

(2) Recruiting bulletins issued to establish lists of eligibles from which selective certification may be made must include the special qualifications and/or indicate that selective certification in accord with corrective employment program regulations may be utilized.

(3) The eligibles selectively certified shall be in strict order of their standing on the appropriate lists from among those meeting the approved selective criteria. When selective certification for corrective employment purposes as provided in subsection (1)(b) of this section does not result in a complete certification of two more names than there are vacancies to be filled, the personnel officer may complete the certification by adding the necessary number of names from the top of the appropriate eligible list as provided in WAC 251-18-240(3).

(4) The appointment of employees hired or promoted through selective certification will be reported monthly to the director. [Order 63, § 251-18-250, filed 11/22/77; Order 61, § 251-18-250, filed 8/30/77, effective 10/1/77; Order 19, § 251-18-250, filed 12/20/72; Order 3, § 251-18-250, filed 1/15/71.]

**WAC 251-18-260 Certification—Incomplete.** When the number of names available for filling any vacancy is fewer than three, the employing official may make an appointment from the eligible list or decline certification for that vacancy. [Order 61, § 251-18-260, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-260, filed 1/15/71.]

**WAC 251-18-265 Certification—Concurrent.** When more than one department submits a request for certification for a class concurrently, the top three names on the appropriate employment list will be certified to each department for consideration and selection. [Order 61, § 251-18-265, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-270 Certification—Interview of candidates.** The employing official shall interview each candidate certified prior to making an appointment, except when the eligible waives the interview. [Order 61, § 251-18-270, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-270, filed 11/18/74; Order 3, § 251-18-270, filed 1/15/71.]

**WAC 251-18-280 Certification—Selection—Actions required.** (1) Following certification of eligibles and upon completion of the resulting interviews, the personnel officer shall record one of the following dispositions of the employing official for each name certified:

(a) Eligible was interviewed and considered but not appointed;

(b) Eligible waived consideration for the position;

(c) Eligible could not be contacted, provided he/she had been given at least two working days to respond to notice of certification;

(d) Eligible failed to appear for the interview; or

(e) Eligible was appointed to the position.

(2) When the number of certified eligibles available is reduced to less than two more than there are positions to be filled, upon request from the employing official the personnel officer may provide a replacement name for each eligible who has waived consideration, been determined to be unavailable, or did not appear for the scheduled interview. [Order 61, § 251-18-280, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-280, filed 5/24/73; Order 4, § 251-18-280, filed 2/19/71.]

**WAC 251-18-290 Returning employee provisions—Layoff.** An eligible appointed from an established institution-wide layoff list shall be credited with the following:

(1) Assumption of appointment status, salary step as provided in WAC 251-08-115 and seniority held at the time of layoff;

(2) Sick leave accrued at the time of layoff;

(3) Periodic increment date extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff. [Order 61, § 251-18-290, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-290, filed 5/24/73; Order 3, § 251-18-290, filed 1/15/71.]

**WAC 251-18-291 Returning employee provisions—Reemployment.** A former state employee who is appointed from an open competitive list shall be:

(1) Credited with unused sick leave accrued if reemployed within three years of termination;

(2) Given a new periodic increment date in accordance with WAC 251-08-100(2);

(3) Required to serve a probationary period. [Order 63, § 251-18-291, filed 11/22/77; Order 61, § 251-18-291, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-300 Appointment—Provisional.** When a vacancy in the classified service exists and there is an inadequate eligible list, the personnel officer may authorize a provisional appointment of any person who meets the minimum requirements for the class. Any person appointed provisionally must be advised of his/her appointment status and of the requirement to compete for the position when recruitment is initiated. Such provisional appointment shall terminate prior to six months or within two weeks of the date of regular appointment, whichever comes first. No person shall receive more than one provisional appointment, nor serve more than six months in any twelve month period as a provisional appointee. The period of a provisional appointment shall not constitute a part of the probationary period.

The personnel officer shall immediately begin recruiting to establish a list of eligibles for the class. [Order 61, § 251-18-300, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-300, filed 1/15/71.]

**WAC 251-18-310 Appointment—Emergency.** An employing official may request that the personnel officer authorize a thirty calendar day emergency appointment, without regard to other provisions of these rules governing appointment, whenever the personnel officer determines that an emergency exists and there is an inadequate eligible list from which an appointment can be made. The period of emergency appointment shall not constitute part of a probationary period. Emergency appointments shall be reported in writing to the director at the time of appointment, and may be extended for another thirty calendar day period only upon prior approval of the director. [Order 61, § 251-18-310, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-310, filed 1/15/71.]

**WAC 251-18-320 Appointment—Probationary.** (1) Probationary appointment shall be made only upon appointment of eligibles from the:

- (a) Open-Competitive or Noncompetitive List.
- (b) Institution-Wide Layoff List – when the employee was in probationary status at the time of layoff.
- (c) State-wide Layoff List.
- (d) Combined eligible list as provided in WAC 251-18-181 and 251-18-240(4) when the person appointed is not a permanent employee of the institution.

(2) The probationary period will continue for a period of six months unless interrupted as provided in these rules. In the event an employee is on leave without pay for more than ten work days during the probationary period, the completion date of the probationary period shall be extended by an amount of time equal to the period of leave without pay.

(3) Qualified probationary employees may be reappointed during the probationary period to other classes. Upon such reappointment the following shall apply:

- (a) The employee shall begin a probationary period in the new class;
- (b) The salary in the new class shall be established as provided in WAC 251-08-080;
- (c) The former periodic increment date shall be abolished and a new periodic increment date established in the same manner as provided in WAC 251-08-100(2). [Order 61, § 251-18-320, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-320, filed 3/19/74; Order 3, § 251-18-320, filed 1/15/71.]

**WAC 251-18-330 Trial service period.** (1) A trial service period of six months shall be required upon appointment of a permanent employee to a new class, unless

- (a) permanent status has been held in the class to which the employee is moving, or
- (b) the class is lower in that same class series, or
- (c) the employee is being reallocated per the provisions of WAC 251-06-080(1)(a), or
- (d) the employee is moving to the class as part of a recognized apprenticeship program as provided in WAC 251-18-400(5).

(2) The trial service period provides the employing official an opportunity to observe and evaluate the new

employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

(a) With preemptive rights to the former position or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion). The personnel officer shall determine which position to preempt.

(b) Reversion must be preceded by written notice at least one work day (eight hours), before the effective date.

(c) If the former position to which the employee has preemptive rights has been abolished and a vacant position in the class is not available, or if there is no class to which the reverted employee has preemptive rights, the affected employee shall be accorded such bumping rights and placement on layoff lists as would be provided in layoff from his/her former class.

(3) Reversion from trial service is not appealable to the Board when prior to the reversion the employee was provided written notice detailing the deficiencies in performance and specific changes required, and was given an opportunity to overcome the deficiencies. Such opportunity is not required when the employee lacks a technical skill that would require more training time to acquire than is available in the trial service period.

(4) In the event an employee is on leave without pay status for more than ten work days during the trial service period, the completion date of the trial service period shall be extended by an amount of time equal to the period of leave without pay.

(5) Successful completion of the trial service period shall result in permanent status in the class.

(6) Salary and periodic increment date shall be determined as follows:

(a) Upon promotional trial service appointment, the salary shall be established as provided in WAC 251-08-110; and the existing periodic increment date shall be eliminated and a new date established to be effective the date of completion of trial service;

(b) Upon trial service reversion the salary shall be established as provided in WAC 251-08-115(4) and the former periodic increment date shall be reestablished;

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged. [Order 61, § 251-18-330, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-330, filed 1/15/71.]

**WAC 251-18-335 Appointment—Alternate.** Application of the alternate appointment rule shall apply only to unique research classes pre-approved by the board. An alternate appointment for research positions shall consist of the six month period following appointment from a layoff list or an option taken in lieu of layoff. This provides the employing official an opportunity to observe the employee's work and determine whether or not he/she can perform in that specific position. If it is determined that the employee cannot perform, as documented by a written performance review, the employee shall be placed on the appropriate layoff list or provided other transfer options as available. The director shall be

notified on a monthly basis of the new positions in which the alternate appointment rule is used.

Application of this rule shall be appealable under the same provisions as WAC 251-12-080 et. seq. [Order 61, § 251-18-335, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-335, filed 6/25/75.]

**WAC 251-18-340 Appointment—Permanent status.** Permanent status appointments shall be made under the following conditions:

(1) Upon successful completion of a six month probationary period or trial service period.

(2) Demotion either voluntary or involuntary when made to a class in which the employee has had permanent status.

(3) Transfer within a class.

(4) Certification from a layoff list for a class in which the employee had permanent status at the time of layoff or lower classes in the same class series for which the employee is qualified.

(5) Conversion, per the provisions of WAC 251-18-420, of the incumbent of an exempt position which is converted to classified status, provided the incumbent has been employed for at least six months in the exempt position. [Order 64, § 251-18-340, filed 12/23/77; Order 61, § 251-18-340, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-340, filed 1/15/71.]

**WAC 251-18-345 Reassignment.** The appointing authority may reassign an employee to a different position within the same class. Such reassignment shall not result in a change in salary or periodic increment date. [Order 61, § 251-18-345, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-345, filed 5/24/73.]

**WAC 251-18-346 Transfer—Lateral movement—Voluntary demotion.** (1) The personnel officer for each institution shall develop a "transfer/lateral movement/voluntary demotion procedure" to provide reasonable opportunity for employees desiring to transfer within class or to voluntarily demote or move laterally to classes where they have previously attained permanent status at the institution, or equivalent classes as determined by the personnel officer, when:

(a) The action is by employee request; or

(b) The personnel officer determines that the employee seeking the action is no longer able to perform in the current class due to physical or mental incapacity; or

(c) The employee's position is being reallocated upward and the employee is not appointed to the reallocated position.

(2) Except as provided in subsection (1) above, permanent employees who wish to be considered for appointment to classes with an equal or lower salary range maximum than their current class must apply in accord with institutional procedure, meet the minimum qualifications, pass the examination and be placed on the appropriate eligible list for the class.

(3) Upon appointment via the provisions of this rule, the following shall apply:

(a) For voluntary demotion, the salary shall be determined by the personnel officer and the periodic increment date shall remain unchanged.

(b) For transfer within class or lateral movement, the salary and periodic increment date shall remain unchanged. [Order 61, § 251-18-346, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-350 Appointment—Temporary.** (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary employment" in WAC 251-04-020.

(2) Temporary appointment to perform work in the absence of an employee on leave shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept temporary assignment. Temporary appointment made in accordance with this rule is not limited to the one hundred eighty calendar day limitation. [Order 61, § 251-18-350, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-350, filed 5/24/73; Order 3, § 251-18-350, filed 1/15/71.]

**WAC 251-18-380 Appointment—Instructional year.** (1) Positions established for periods coinciding with the instructional year of the institution are to be filled in accord with chapter 251-18 WAC.

(2) Employees occupying such positions may be placed on leave of absence without pay by the appointing authority for the scheduled vacation periods coinciding with the instructional year. Such leave of absence does not constitute a break in service and shall not be deducted from the employees' length of service in granting periodic increments except as provided in WAC 251-08-100(3)(f), nor in computing the employee's annual leave accrual rate.

(3) The personnel officer will maintain position rosters indicating all extended instructional year positions within the layoff unit which will become available to instructional year employees during the scheduled vacation period, and will maintain a seniority listing of eligible employees. The personnel officer will post the rosters by April 1 of each year. Eligible employees will have fifteen calendar days after the posting to indicate their availability for the positions.

(4) Within the layoff unit, extended instructional year positions filled during the scheduled vacation period will be filled by instructional year employees having the greatest institutional seniority.

(5) A permanent employee in an instructional year position may file a written request with the personnel office for appointment to vacant twelve-month positions through the institution's transfer procedure. [Order 61, § 251-18-380, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-380, filed 5/24/73; Order 12, § 251-18-380, filed 5/23/72, effective 6/25/72.]

**WAC 251-18-390 Corrective employment programs.** (1) Upon approval of the director of the Higher Education Personnel Board and the executive secretary of the Human Rights Commission, corrective employment programs to enhance the attainment of equal employment

rights and promotional opportunities for members of under-represented groups may be utilized by higher education institutions when the employer determines that employees of a particular group are under-represented because of present or past practices or other conditions which resulted in limited employment opportunities.

(2) Corrective employment programs for classified personnel shall include the following:

(a) The inclusion within an affirmative action program established by each higher education institution for each fiscal year of special goals and timetables for the employment and promotion of members of under-represented groups. Each program must be submitted for approval by the board. Written programs, goals and reports shall comply with state and federal regulations, following guidelines which affect the employer as a federal contractor;

(b) Provisions for ascertaining the race, religion, color, national origin, age, handicap or sex of applicants for employment and promotion;

(c) Selective certification from all eligible lists, except layoff (subject to the provisions of WAC 251-18-240);

(d) Provision for special training and development programs (such as New Careers, Public Service Careers, and others), and selective appointment of female, minority and disadvantaged employees into the programs;

(e) Provision, when corrective employment goals are not achieved through normal recruiting means, to supplement the eligible list for a class within a job category that is under-represented by race or sex as follows: When it is determined by the personnel officer that an eligible list for a class in a job category does not contain sufficient members of the under-represented groups, applicants who are members of such groups and who meet the minimum qualifications for the class may be admitted to the examination at any time. Those who obtain a passing score will be placed on the appropriate eligible list provided they meet the same criteria and achieve the same required examination score as the original applicant group;

(f) Provision for persons of an under-represented group to enter the employment or promotion process but not to exclude others from it. The rate of entry or promotion through selective certification of members of under-represented groups ordinarily should not exceed a ratio of one out of three positions filled;

(g) Provision for suspending the use of selective certification of members of under-represented groups for employment and promotion whenever the condition of under-representation has been corrected for a job category within an organizational unit of an institution's affirmative action plan; and provisions for reinstating selective certification when needed. [Order 61, § 251-18-390, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-390, filed 3/18/77, effective 4/18/77; Order 40, § 251-18-390, filed 1/23/75; Order 39, § 251-18-390, filed 12/24/74; Order 37, § 251-18-390, filed 10/15/74; Order 35, § 251-18-390, filed 7/23/74; Order 19, § 251-18-390, filed 12/20/72.]

**WAC 251-18-400 Apprenticeship programs.** (1) Apprentices shall be employed and compensated under conditions appropriate for the particular apprenticeable class which have been recommended by the joint apprenticeship committee as approved by the state apprenticeship council and the higher education personnel board. Each apprentice shall enter into a training contract with the joint apprenticeship committee and shall abide by its term and conditions.

(2) When an apprenticeship agreement is cancelled, the employee shall have the same reversionary employment rights he/she had available at the time of entering the apprenticeship program.

(3) When an employee moves into an apprenticeship program and he/she has a higher salary than is provided by the apprenticeship program, his/her salary shall be continued at the existing level until the employee has been in the apprenticeship program long enough to move onto the apprenticeship salary schedule without a reduction in salary.

(4) Incremental salary step increases shall be in accordance with the appropriate salary schedule but are not solely dependent upon time in grade. Objective evaluation of performance in on-the-job and related training may be justification to delay an incremental salary increase until training requirements for that step have been fulfilled. Conversely, objective evaluation of performance may be justification to advance incremental salary steps to the level equal to ability and training.

(5) Graduates from the apprenticeship program will be assigned to the mid-step of the journey scale and will remain until twelve months elapse before moving to the top step. Movement from the apprenticeship program into the journey class does not require competition and a trial service appointment is not required. [Order 61, § 251-18-400, filed 8/30/77, effective 10/1/77; Order 41, § 251-18-400, filed 3/17/75.]

**WAC 251-18-410 Special employment programs.**

(1) Special employment programs are those programs designated by the director which are designed and implemented to reduce unemployment and/or provide training opportunities to enable persons to become more employable. Special employment programs are funded in total, or in part, from sources other than the normal sources available to higher education institutions/related boards.

(2) Positions created for special employment programs are included in the regular classified service of an institution/related board. The primary distinction is that each institution or board shall establish a separate layoff unit to include all special employment programs. Employees occupying such positions are eligible for usual staff benefits. When special employment program positions are abolished, layoffs will occur as provided in WAC 251-10-035. [Order 61, § 251-18-410, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-410, filed 6/25/75.]

**WAC 251-18-420 Appointment—Conversion of exempt position.** (1) Incumbents of positions which are

converted from exempt to classified service for the following reasons may be placed within the classified service as provided in subsections (2) through (9) of this section:

(a) When it has been determined that the exempt position does not meet the criteria for exemption per WAC 251-04-040(1), (3), (4) or (5) and thus is inappropriately exempt;

(b) When an organizational realignment has caused the exempt position to become inappropriately exempt by no longer meeting the criteria for exemption per WAC 251-04-040(1), (3), (4) or (5); or

(c) When an institution elects to convert a position which has been exempt per the provisions of WAC 251-04-040(5).

(2) An incumbent whose position is converted as indicated in subsection (1)(c) must have served a minimum of one year in the position being converted in order to be subject to the provisions of this section.

(3) The incumbent shall not be required to pass a qualifying examination or meet the minimum qualifications for entry into the class.

(4) The incumbent shall enter the classified position with permanent status unless he/she has been employed less than six months in the exempt position being converted, in which case he/she shall hold probationary status until a total of six months has been served.

(5) The incumbent shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

(6) The periodic increment date shall be established as the date of conversion to the classified service or the date of last salary increase, whichever is sooner.

(7) The incumbent shall be credited with unused accrued sick leave on the books at the time of conversion and shall continue to accrue at the rate of one day per month as provided in WAC 251-22-100.

(8) The incumbent shall be credited with unused accrued annual leave on the books at the time of conversion and shall accrue at the same rate as for classified employees as provided in WAC 251-22-060.

(9) Layoff seniority for the incumbent shall be established based upon unbroken service at the institution. [Order 64, § 251-18-420, filed 12/23/77.]

### Chapter 251-22 WAC HOLIDAYS—LEAVE

#### WAC

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#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-22-010	Hours of work—General. [Order 29, § 251-22-010, filed 1/22/74; Order 3, § 251-22-010, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-09-010.
251-22-020	Work schedules. [Order 29, § 251-22-020, filed 1/22/74; Order 3, § 251-22-020, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-09-020.
251-22-030	Rest period. [Order 3, § 251-22-030, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-09-110.
251-22-105	Leave accrual date. [Order 16, § 251-22-105, filed 7/27/72, effective 7/1/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-053.
251-22-120	Sick leave—Reporting. [Order 3, § 251-22-120, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-111.
251-22-130	Sick leave—Physician's certificate. [Order 3, § 251-22-130, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-22-140	Sick leave—Workmen's compensation. [Order 19, § 251-22-140, filed 12/20/72; Order 3, § 251-22-140, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-165.
251-22-150	Sick leave—Change of employment. [Order 3, § 251-22-150, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-059.
251-22-160	Sick leave—Separation—Reinstatement. [Order 32, § 251-22-160, filed 3/19/74; Order 3, § 251-22-160, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-125.
251-22-230	Leave—Procedures. [Order 3, § 251-22-230, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later Promulgation, see WAC 251-22-048.

**WAC 251-22-040 Holidays.** (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

- The first day of January (New Year's Day);
- The twelfth day of February (Abraham Lincoln's birthday);
- The third Monday of February (George Washington's birthday);
- The last Monday of May (Memorial Day);
- The fourth day of July (Independence Day);
- The first Monday in September (Labor Day);
- The eleventh day of November, (Veteran's Day);
- The fourth Thursday of November (Thanksgiving Day);
- The day immediately following Thanksgiving Day; and



(j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community college education, may designate other days to be observed in lieu of the above holidays. Holiday schedules must be filed annually with the director for approval prior to implementation and may not be modified without prior approval by the director. Schedules may be submitted on a calendar or fiscal year basis. When an institution establishes an in lieu of schedule, paid holidays shall be granted based on the approved in lieu of schedule.

(2) Classified employees working twelve-month schedules or instructional year employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) Instructional year employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of annual leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045. [Order 61, § 251-22-040, filed 8/30/77, effective 10/1/77; Order 60, § 251-22-040, filed 7/18/77; Order 55, § 251-22-040, filed 6/1/76; Order 42, § 251-22-040, filed 5/23/75; Order 41, § 251-22-040, filed 3/17/75; Order 29, § 251-22-040, filed 1/22/74; Order 8, § 251-22-040, filed 6/17/71, effective 7/19/71; Order 3, § 251-22-040, filed 1/15/71.]

**WAC 251-22-045 Personal holiday.** (1) Each employee may select one personal holiday each calendar

year, as indicated in WAC 251-22-040(10) and the institution/related board must grant the day, provided:

(a) The employee has been continuously employed by the institution for more than four months.

(b) The employee has given not less than fourteen calendar days written notice to the supervisor; provided, however, the employee and the supervisor may agree upon an earlier date; and

(c) The number of employees selecting a particular day off does not prevent providing continued public service.

(2) Entitlement to the holiday will not lapse when denied under (1)(c) above.

(3) Full time alternate work schedule employees shall receive eight hours of regular holiday pay for the personal holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of annual leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(4) Part time classified employees shall be entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full time schedule. [Order 61, § 251-22-045, filed 8/30/77, effective 10/1/77; Order 55, § 251-22-045, filed 6/1/76.]

**WAC 251-22-048 Leave—Procedures.** Each institution shall have on file in the personnel office complete instructions specifying the procedure for granting all leave, as outlined in these rules. [Order 61, § 251-22-048, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-050 Leave—Authorization.** All leave must be authorized by the employing official or designee. Unauthorized absence shall be treated as absence without pay. [Order 61, § 251-22-050, filed 8/30/77, effective 10/1/77; Order 42, § 251-22-050, filed 5/23/75; Order 3, § 251-22-050, filed 1/15/71.]

**WAC 251-22-053 Leave—Accrual date.** The effective date for computing leave accrual shall be:

(1) The first of the month of hire for employees hired between the first and the fifteenth of a month; or

(2) The first of the following month for employees hired between the sixteenth and the end of a month.

(3) Employees terminating on or before the fifteenth of the month shall not receive accrued leave for the month; those terminating on or after the sixteenth shall receive the full monthly accrual credit, provided they have not been on leave of absence without pay during the month in excess of ten working days. [Order 61, § 251-22-053, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-056 Leave—Alternate work schedule employees.** (1) Full time alternate work schedule employees shall accrue annual and sick leave on the same schedule as provided in WAC 251-22-060; i.e., during the first year of employment a full time employee assigned to an alternate work schedule accrues eight hours of annual leave and eight hours of sick leave for each month of qualifying service, etc.

(2) Part time alternate work schedule employees shall accrue leave on the same pro rata basis that their

monthly work schedule bears to a full time work schedule.

(3) Leave use shall be charged on an hour for hour basis; i.e., an alternate work schedule employee on a ten hour per day work schedule would be charged ten hours of annual or sick leave for each such day taken. [Order 61, § 251-22-056, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-059 Leave—Change of employment.** Unused sick and annual leave credits of permanent status employees changing employment between higher education institutions, related boards or other state agencies shall move with the employee. [Order 61, § 251-22-059, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-060 Annual leave—Accrual.** (1) Full-time employees eligible for annual leave shall accrue annual leave, to be credited monthly, at the following rates:

(a) During the first year of continuous state employment – 12 days (8.0 hours per month);

(b) During the 2nd year of continuous state employment – 13 days (8 hours, 40 minutes per month);

(c) During the 3rd and 4th years of continuous state employment – 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment – 15 days (10 hours per month);

(e) During the 10th year of total state employment – 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment – 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment – 18 days (12 hours per month);

(h) During the 13th year of total state employment – 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment – 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment – 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment – 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full time schedules shall accrue annual leave credit on the same prorata basis that their appointment bears to a full time appointment.

(3) Per the provisions of WAC 251-18-380(2), the scheduled period of instructional year leave without pay shall not be deducted for purposes of computing the rate of annual leave accrual for instructional year employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(2) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040(2) shall not be credited;

(c) Each contract year of full time faculty and/or administrative exempt employment shall be credited as a year of qualifying service;

(d) Employment in part time positions shall be credited as full time service.

(5) Annual leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month. [Order 61, § 251-22-060, filed 8/30/77, effective 10/1/77; Order 49, § 251-22-060, filed 1/16/76; Order 47, § 251-22-060, filed 11/19/75; Order 23, § 251-22-060, filed 6/20/73, effective 1/1/74; Order 16, § 251-22-060, filed 7/27/72, effective 7/1/73.]

**WAC 251-22-070 Annual leave—Use.** (1) Annual leave may not be taken until an employee has completed six months of continuous employment. An employee bringing an accrued balance from another state agency may use the previously accrued annual leave during the institutional probationary period.

(2) All requests for annual leave must be approved by the employing official or designee in advance of the effective date.

(3) Annual leave shall be scheduled by the employing department at a time most convenient to the work of the department, the determination of which shall rest with the employing official. As far as possible, leave will be scheduled in accordance with the wishes of the employee in any amount up to the total of his/her earned leave credits.

(4) Paid annual leave may not be used in advance of its accrual. [Order 61, § 251-22-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-070, filed 1/15/71.]

**WAC 251-22-080 Annual leave—Accumulation.** Unused annual leave credits may be accumulated to a maximum of thirty working days, except that if an employee's request for leave is denied by the employing official or designee, then the maximum of thirty working days accrual shall be extended for each month that the leave is deferred. Such deferral must be reported to and approved by the personnel officer. [Order 61, § 251-22-080, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-080, filed 1/15/71.]

**WAC 251-22-090 Annual leave—Cash payment.** Cash payment for unused accumulated annual leave must be made to an employee who has completed six months of continuous employment under the following conditions:

(1) Upon written resignation, with a minimum of two calendar weeks notice. The employing official may waive the notice period.

(2) Upon separation by death, retirement, layoff or dismissal of an employee. [Order 61, § 251-22-090, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-090, filed 1/15/71.]

**WAC 251-22-100 Sick leave—Accrual.** (1) Full time classified employees shall accrue eight hours of sick leave credit for each month of completed classified service. Paid sick leave may not be used in advance of accrual.

(2) Employees working less than a full time schedule shall accrue sick leave credit on the same prorata basis

that their employment schedule bears to a full time schedule.

(3) Sick leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month. [Order 61, § 251-22-100, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-100, filed 12/24/74; Order 21, § 251-22-100, filed 5/24/73, effective 7/1/73; Order 16, § 251-22-100, filed 7/27/72, effective 7/1/73.]

**WAC 251-22-110 Sick leave—Use.** (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness in the immediate family that require the employee to provide immediate necessary care of the patient or to make arrangements for extended care. Immediate family shall be as defined in WAC 251-22-112. The personnel officer may authorize sick leave use as provided in this subsection for other than immediate family. The applicability of "emergency", "necessary care" and "extended care" shall be made by the personnel officer.

(d) Because of a death in the immediate family of the employee that requires the assistance of the employee in making arrangements for interment of the deceased.

(e) For the purpose of medical, dental, or optical appointments, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement. [Order 63, § 251-22-110, filed 11/22/77; Order 61, § 251-22-110, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-110, filed 12/24/74; Order 29, § 251-22-110, filed 1/22/74; Permanent and Emergency Order 15, § 251-22-110, filed 7/14/72; Order 3, § 251-22-110, filed 1/15/71.]

**WAC 251-22-111 Sick leave—Reporting.** Employees shall report illness or disability to the immediate supervisor at the beginning of any period of sick leave and daily thereafter unless prearranged. Upon returning to work, the employee may be required by the employing official to submit a written statement explaining the nature of the disability. [Order 61, § 251-22-111, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-112 Bereavement leave.** Sick leave in addition to that as provided in WAC 251-22-100 shall be granted for bereavement as follows:

(1) One day of bereavement leave shall be granted for each death in the immediate family. Bereavement leave may be extended to a maximum of three days with the approval of the employing official and the personnel officer.

(2) For the purposes of this rule, the immediate family is defined as mother, father, sister, brother, mother-

in-law, father-in-law, husband, wife, children, grandparents, and grandchildren. [Order 61, § 251-22-112, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-115 Maternity Leave.** Maternity leave shall be granted for the period of time that a woman is sick or temporarily disabled because of pregnancy or childbirth. Accrued sick leave may be used during the temporary disability resulting from pregnancy. [Order 61, § 251-22-115, filed 8/30/77, effective 10/1/77; Order 29, § 251-22-115, filed 1/22/74.]

**WAC 251-22-125 Sick leave—Separation—Reemployment.** (1) Upon separation of the employee from the classified service for any reason, compensation shall not be paid for accrued sick leave credits.

(2) Employees appointed from a layoff list shall have sick leave credits reinstated upon their return to active service.

(3) Former state employees who are reemployed within three years shall be credited upon appointment with their former sick leave balance. [Order 61, § 251-22-125, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-165 Workmen's compensation—Leave.** (1) Employees who suffer a work related injury or illness that is compensable under the state workmen's compensation law may select time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and accrued paid leave.

(2) Employees taking sick leave during a period in which they receive workmen's compensation under the industrial insurance provisions for a work related illness or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for workmen's compensation is determined by the department of labor and industries, the institution may pay full sick leave, provided that the employee shall return any overpayment to the institution when the salary adjustment is determined.

(b) Sick leave hours charged to an employee who receives workmen's compensation, as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the institution during the claim period.

(3) During a period when an employee receives pay for annual leave, compensatory time off or holidays and also receives workmen's compensation for time loss, he/she is entitled to both payments without any deduction for the industrial insurance payment.

(4) When an employee receives workmen's compensation payment for time loss and is on leave without pay, no deductions will be made for the industrial insurance payment.

(5) An employee who sustains an industrial injury, accident or illness, arising from employment by an institution under the jurisdiction of the higher education personnel board shall, upon written request and proof of continuing disability, be granted leave of absence without pay for up to six months without loss of layoff seniority or change in annual increment date. Leave

without pay exceeding six months without loss of layoff seniority or change in annual increment date may be granted at the option of the employing institution. [Order 61, § 251-22-165, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-170 Military training leave.** (1) Employees shall be entitled to leave with pay not to exceed fifteen calendar days in any one calendar year for active duty in the National Guard; Army, Air, Marine, or Naval Reserve Forces of the United States for annual field training or otherwise discharging reserve obligations.

(2) Such leave shall be in addition to any annual leave to which an employee is entitled and shall not result in any loss of benefits, privileges or pay.

(3) During military training leave, the employee shall receive the normal base pay.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service shall receive full pay for the time required to complete the examination. [Order 61, § 251-22-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-170, filed 1/15/71.]

**WAC 251-22-180 Military leave without pay.** A classified employee shall be entitled to military leave of absence without pay for service in the armed forces of the United States or the state, and to reinstatement to his/her former position or to one in the same class, with cumulative seniority and increments, upon application to the personnel officer within ninety calendar days after the expiration of such period of military service, in accordance with RCW 73.16.030 through 73.16.061. [Order 61, § 251-22-180, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-180, filed 1/15/71.]

**WAC 251-22-190 Civil duty leave.** Leave of absence with pay shall be granted employees to serve on jury duty, as trial witnesses, or to exercise other subpoenaed civil duties. Employees shall reimburse the institution for all compensation received for such civil duty, exclusive of expenses incurred. [Order 61, § 251-22-190, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-190, filed 1/15/71.]

**WAC 251-22-200 Leave of absence without pay.** (1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Maternity leave;
- (c) Educational leave;
- (d) Leave for Government service in the public interest;

(e) To accommodate annual work schedules of employees occupying positions established on the basis of an instructional year as specified in WAC 251-18-380.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is

scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Annual leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking a temporary appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of such temporary appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the temporary employment. [Order 61, § 251-22-200, filed 8/30/77, effective 10/1/77; Order 12, § 251-22-200, filed 5/23/72, effective 6/25/72; Order 3, § 251-22-200, filed 1/15/71.]

**WAC 251-22-210 Leave of absence—Duration.** Leave of absence without pay shall not exceed twelve months except for educational leave which may be allowed for the duration of actual attendance and leave for government service in the public interest. Leave of absence without pay may be extended for an additional twelve months upon signed request of the employee and signed approval of the employing official or designee and the personnel officer. Additional leave of absence without pay may be approved by the personnel officer. [Order 61, § 251-22-210, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-210, filed 1/15/71.]

**WAC 251-22-220 Leave of absence—Employee rights.** Employees returning from an authorized leave of absence shall be employed in the same position or in another position in the same class in the same geographical area and organizational unit, providing that such re-employment is not in conflict with rules relating to reduction in force. [Order 61, § 251-22-220, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-220, filed 1/15/71.]

**WAC 251-22-240 Suspended operation.** Notwithstanding the provisions of WAC 251-10-030, if the chief executive officer of the institution determines it is advisable due to emergency conditions beyond control (such as but not limited to riot, civil disturbance, mechanical failure, severe weather conditions, declaration by the governor of a state of energy supply alert or energy emergency as provided in RCW 43.21G.040, strike or work stoppage), to suspend the operation of all or any portion of the institution, the following will govern classified employees:

(1) When prior notification has not been given, employees released until further notice after reporting to work, shall receive a minimum of four hours pay for the first day with the option of using accrued compensatory time (where applicable), annual leave or leave without pay for the balance of the closure.

(2) Employees not required to work may use accrued compensatory time (where applicable), annual leave or leave without pay.

(3) Employees required to work shall receive their regular rate of pay for work performed during the period of suspended operation. Overtime worked will be compensated as provided in WAC 251-09-030.

(4) Each institution/related board, together with the appropriate exclusive representative(s), shall develop and file with the director, subject to approval, a procedure to provide for staffing during periods of suspended operation. [Order 61, § 251-22-240, filed 8/30/77, effective 10/1/77; Order 47, § 251-22-240, filed 11/19/75, effective 12/22/75; Order 41, § 251-22-240, filed 3/17/75.]

**WAC 251-22-245 Employee absence—Inclement weather.** (1) When an employee is absent from work due to inclement weather, the employee shall have the option of charging the absence to accrued compensatory time (where applicable), annual leave or leave without pay.

(2) Compensation for lost work time due to inclement weather is subject to the approval of the chief executive officer of the institution. [Order 61, § 251-22-245, filed 8/30/77, effective 10/1/77; Order 41, § 251-22-245, filed 3/17/75.]

## Chapter 251-24 WAC

### EMPLOYEE DEVELOPMENT AND TRAINING

#### WAC

251-24-010	Employee development—Authority, purpose, objective.
251-24-030	Training and development programs—Contents.
251-24-035	Training and development programs—Availability—Reporting.
251-24-040	HEPB sponsored training.
251-24-050	Training—General provisions.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-24-020	Definitions. [Order 29, § 251-24-020, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
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**WAC 251-24-010 Employee development—Authority, purpose, objective.** (1) The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.100(1), which provides in part, ". . . the higher education personnel board shall adopt and promulgate rules and regulations consistent with the purposes and provisions of this chapter . . . regarding the basis for, and the procedures to be followed for . . . training programs including in-service, promotional and supervisory . . ."

(2) It is the board's intent that institutions will establish, conduct and report employee training and development programs. The rules in this chapter provide the guidelines for such programs.

(3) The objective of these rules is to provide opportunity for the development of the potential occupational or professional ability of each employee to make the most effective and economic use of employee resources in accomplishing institution's goals. [Order 61, § 251-24-010, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-010, filed 1/22/74.]

**WAC 251-24-030 Training and development programs—Contents.** Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

(a) New employee orientation;

(b) Functional training, such as in accounting, data processing, office administration and job skills;

(c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training and upgrading of skills of women and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance. [Order 61, § 251-24-030, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-030, filed 1/22/74.]

**WAC 251-24-035 Training and development programs—Availability—Reporting.** (1) Copies of the institution's plan shall be made available to employees upon request.

(2) Each institution will have on file an annual report of the achievement of the training objectives of the preceding year. [Order 61, § 251-24-035, filed 8/30/77, effective 10/1/77.]

**WAC 251-24-040 HEPB sponsored training.** The administrative requirements of the higher education personnel system are such that periodic training programs or workshops may be required. In such cases, the higher education personnel board will sponsor the program and provide the necessary resources. To the extent possible,

the board will respond to the needs of the institutions by holding training sessions in various regions of the state. [Order 61, § 251-24-040, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-040, filed 1/22/74.]

**WAC 251-24-050 Training—General provisions.**

(1) Voluntary attendance in training courses outside of regular working hours does not constitute grounds for overtime or compensatory time off.

(2) Required attendance in courses which are outside of regular working hours and which are work related or meet an identified institution need is considered "paid time training" and constitutes time worked.

(3) Upon completion of institution approved training programs, respective eligible lists may be opened to employees who meet the minimum qualifications and desire to be examined, as provided in WAC 251-18-025. [Order 61, § 251-24-050, filed 8/30/77, effective 10/1/77; Order 36, § 251-24-050, filed 8/20/74; Order 29, § 251-24-050, filed 1/22/74.]