

Title 290 WAC

WASHINGTON STATE JUDICIAL RETIREMENT BOARD

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Chapter 290-12 WAC BOARD DEFINITIONS

WAC

290-12-010 Definitions.

WAC 290-12-010 Definitions. As used in these rules, unless a different meaning is plainly required by the context:

(A) "Retirement system" means the "Washington Judicial Retirement System".

(B) "Judge" means the person elected or appointed to serve as a judge of a court of record as provided in chapter 2.04, 2.06 and 2.08, RCW. Said word shall not include a person serving as a judge pro tempore.

(C) "Retirement board" means the "Washington Judicial Retirement Board" established by chapter 267, Laws of 1971, 1st ex. sess.

(D) "Surviving spouse" means the surviving widow or widower of a judge. The words shall not include the divorced spouse of a judge.

(E) The "retirement fund" means the "Washington Judicial Retirement Fund" established by chapter 267, Laws of 1971, 1st ex. sess.

(F) "Beneficiary" means any person in receipt of a retirement allowance, disability allowance or any other benefit described in chapter 267, Laws of 1971, 1st ex. sess.

(G) "Monthly salary" means the monthly salary of the position held by the judge.

(H) "Service" means all periods of time served as a judge, as herein defined. Any calendar month at the beginning or end of a term in which ten or more days are served shall be counted as a full month of service; provided, that no more than one month's service may be granted for any one calendar month. Only months of service will be counted in the computation of any retirement allowance or other benefit provided for in chapter

267, Laws of 1971, 1st ex. sess. Years of service shall be determined by dividing the total months of service by 12. Any fraction of a year of service as so determined shall be taken into account in the computation of such retirement allowance or benefit.

(I) "Final average salary" means

(1) For a judge in service in the same court for a minimum of twelve consecutive months preceding the date of retirement, the salary attached to the position held by the judge immediately prior to retirement;

(2) For any other judge, the average monthly salary paid over the highest 24-months period in the last ten years of service.

(J) "Retirement Allowance". For the purpose of applying cost-of-living increase or decrease, shall include retirement allowances, disability allowances and survivorship benefit.

(K) "Index" shall mean any calendar year, that year's annual average consumer price index for urban wage earners and clerical workers, all items (1957-1959 equal 100) compiled by the Bureau of Labor Statistics, the United States Department of Labor. [Order, § 290-12-010, filed 11/22/72.]

Chapter 290-16 WAC GENERAL ADMINISTRATION

WAC

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WAC 290-16-010 Members. The Board is an independent agency of the State of Washington and is composed of the members specified by chapter 267, Laws of 1971 ex. sess., as now or hereafter amended. [Order, § 290-16-010, filed 11/22/72.]

WAC 290-16-020 Officers. The Board shall annually at its July meeting or at the first meeting after July if there is no July meeting, elect a chairman and a vice-chairman, one of whom must be a judge and one appointed Board member. The Chairman with the approval of the Board may employ or engage such clerical, technical and administrative employees or consultants as may be necessary for the proper operation of the Retirement Board. [Order, § 290-16-020, filed 11/22/72.]

WAC 290-16-030 Function. The Board shall be responsible for making effective the provisions of chapter 267, Laws of 1971 ex. sess. and shall have the authority to make all rules and regulations necessary therefor. All such rules and regulations shall be governed by the provisions of chapter 24.04 RCW, as now or hereafter amended.

The administration of the retirement system is vested in the Director and staff of the Washington Public Employees' Retirement System, established pursuant to chapter 41.40 RCW. [Order, § 290-16-030, filed 11/22/72.]

WAC 290-16-040 Duties of the Board. The Retirement Board shall perform the following duties:

(A) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

(B) As of July 1 of each even numbered year, have an actuarial evaluation made as to the mortality and service experience of the beneficiaries under chapter 267, Laws of 1971 ex. sess., and the various accounts created for the purpose of showing the financial status of the retirement fund;

(C) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

(D) Keep a record of its proceedings which shall be open to inspection by the public;

(E) Serve without compensation subject to reimbursement for expenses incident to service as individual members;

(F) From time to time adopt such rules and regulations not inconsistent with chapter 267, Laws of 1971 ex. sess. and any amendments thereof for the administration of this act and for the transaction of the business of the Board. [Order, § 290-16-040, filed 11/22/72.]

WAC 290-16-050 Location of the board. The Board shall meet in Room 201 General Administration Building, Olympia, Washington, or at such other place as from time to time may be designated. [Order, § 290-16-050, filed 11/22/72.]

WAC 290-16-060 Meetings of the Board. The Board shall meet annually in July and such other times as the Board shall direct. [Order, § 290-16-060, filed 11/22/72.]

WAC 290-16-070 Office of the Chairman of the Board. The office of the Chairman of the Board shall be located in the headquarters of the State Employees' Retirement System, 201 General Administration Building, Olympia, Washington. [Order, § 290-16-070, filed 11/22/72.]

WAC 290-16-080 Business hours. The office of the Chairman of the Board shall be open between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. [Order, § 290-16-080, filed 11/22/72.]

WAC 290-16-090 Correspondence with the Board. All correspondence and official communications, including notices, appeals and pleadings must be in writing, served and filed with the Chairman of the Board, at the Board's office, 201 General Administration Building, Olympia, Washington 98504, or P.O. Box 918, Olympia, Washington 98504. [Order, § 290-16-090, filed 11/22/72.]

Chapter 290-20 WAC GENERAL PROCEDURES

WAC

290-20-010 Representation.

SERVICE OF PROCESS

290-20-020 By whom served.

290-20-030 Subpoena.

WAC 290-20-010 Representation. No person may appear in a representative capacity before the board or its designated representative other than Attorneys at law duly qualified and entitled to practice before the Supreme Court of the State of Washington.

No former member of the board or employee of the board or member of the Attorney General's staff may at any time after serving on, with or for the board, appear except with written permission of the board in compliance with RCW 34.04.020 in a representative capacity on behalf of other parties in a formal proceeding where-in he previously took an active part. [Order, § 290-20-010, filed 11/22/72.]

SERVICE OF PROCESS

WAC 290-20-020 By whom served. (1) The board shall cause to be served all orders, notices and other papers issued by it, together with any other papers which it is required by law to serve. Every other paper shall be served by the party filing it.

(2) **UPON WHOM SERVED.** All papers served by either the board or any party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel or upon their agent designated by them or by law.

(3) **SERVICE UPON PARTIES.** The final order and any other papers required to be served by the board upon a party shall be served upon such party or upon the agent designated by him or by law to receive service of such papers and a copy shall be furnished to counsel of record.

(4) **METHOD OF SERVICE.** Service of papers shall be made personally or, unless otherwise provided by law, by first class, registered or certified mail.

(5) **WHEN SERVICE COMPLETE.** 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.

(6) **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, 201 General Administration Building, Olympia, Washington 98504.

(7) **COMPUTATION OF TIME.** In computing any period of time prescribed or allowed by board rules, by order of the board or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday or Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor legal holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. [Order, § 290-20-020, filed 11/22/72.]

WAC 290-20-030 Subpoena. (1) ISSUANCE. Upon application of counsel for any party there shall be issued to such party subpoenas requiring the attendance and testimony of witnesses or the production of evidence in such proceeding. The board may issue subpoenas to parties not so represented upon request or upon showing a general relevance and reasonable scope of the testimony or evidence sought.

(2) **FORM.** Every subpoena shall name the board and 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 other things under his control at a specified time and place.

(3) **SERVICE.** Unless the service of the subpoena is acknowledged on its face by the person subpoenaed, service shall be made by delivering a copy of the subpoena to such person and by tendering to him on demand, where entitled to make such a demand, the fees for one day's attendance and the mileage allowed by law.

(4) **FEES.** Witnesses summoned before the board shall be paid by the party at whose instance they appear the same fees and mileage that are paid to witnesses in the superior court of the state of Washington.

(5) **PROOF OF SERVICE.** The person serving the subpoena shall make proof of service by filing the subpoena and the required return, affidavit or acknowledgment of service with the board or the officer before whom the witness is required to testify or produce evidence. If service is made by a person other than a representative of the board, and 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.

(6) **QUASHING.** Upon motion made promptly and in any event at least three days before the time specified in the subpoena for compliance, by the person to whom the subpoena is directed (and upon notice to the party to whom the subpoena was issued), the board or its designated representative 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.

(7) **ENFORCEMENT.** Upon application and for good cause shown, the board will seek judicial enforcement of subpoenas issued to parties and which have not been quashed.

(8) **GEOGRAPHICAL SCOPE.** Refer to RCW 34-.04.105 as now or hereafter amended. [Order, § 290-20-030, filed 11/22/72.]

**Chapter 290-24 WAC
APPEALS**

WAC

290-24-010	Filing appeals in cases involving disability retirement applications.
290-24-020	Filing appeals from other orders.
290-24-030	Appearance.
290-24-040	Action on appeal.
290-24-050	Notice of hearing.
290-24-060	Objections.
290-24-070	Hearing.
290-24-080	Order of proceedings at hearings.
290-24-090	Continuances.
290-24-100	Decisions in general.
290-24-110	Orders on hearings.
290-24-120	Decision and order on agreement of the parties.
290-24-130	Form and content of decision and order.

WAC 290-24-010 Filing appeals in cases involving disability retirement applications. Any judge aggrieved by any final decision of the Retirement Board must before he appeals to the court of Thurston County, invoke the jurisdiction of the board by filing with the chairman personally or by mail within 60 days from the date such decision was communicated to such judge, a notice of appeal before the board. A notice of appeal must contain:

(A) The name and mailing address of the judge and the name and address of the court of which he is a member;

(B) If the judge is represented, the name and address of his representative;

(C) The date and nature of the disability;

(D) A statement identifying the decision or action appealed from and that portion of the decision or action considered to be unjust or unlawful;

(E) A clear and concise statement of facts in support of the grounds stated, including where applicable a description of the physical facts constituting the claimant's disability and how it is manifested;

(F) Type of relief sought;

(G) Statement that the appealing judge has read the notice of appeal and believes the contents to be true, followed by his signature and the signature of his representative, if any;

(H) The appealing judge shall file with the chairman, by mail or otherwise, the original and two copies of the notice of appeal and the chairman shall forthwith acknowledge receipt of the copies filed with him and his stamp placed upon such copy shall be prima facie evidence of the date of receipt. The board may thereafter require additional copies to be filed if necessary. [Order, § 290-24-010, filed 11/22/72.]

WAC 290-24-020 Filing appeals from other orders. The notice of appeal must contain:

(A) The name and mailing address of the appealing party and the name and address of his representative, if any;

(B) The appealing party's legal residence and the name and address of the court of which he is a member, if applicable;

(C) A statement identifying the order appealed from;

(D) Grounds upon which the appealing party considers such an order to be unjust or unlawful;

(E) A statement of facts in support of and following each stated ground of contention;

(F) The particular relief sought;

(G) An affidavit of the appealing party or his representative that they have read the notice of appeal and believe the contents to be true;

(H) The notice of appeal must be phrased in direct language presenting the contents in the required order and a statement of facts must be specific and detailed. [Order, § 290-24-020, filed 11/22/72.]

WAC 290-24-030 Appearance. Upon receipt of the notice of appeal, the chairman shall forthwith mail a copy thereof to the Director of the Washington Public Employees' Retirement System and a copy to the member of the Attorney General's office assigned to the Retirement Board. [Order, § 290-24-030, filed 11/22/72.]

WAC 290-24-040 Action on appeal. After the notice of appeal is filed, the chairman will grant the appeal and order a prehearing conference or hearing, except in cases where the appeal may be lawfully determined by a final decision or award without a hearing. In such cases the director shall submit the application, together with the legal advisor's recommendation to the board for a decision or award. The chairman shall notify the appellant and the Washington Public Employees' Retirement System and the Attorney General assigned to the board of the action of the board. [Order, § 290-24-040, filed 11/22/72.]

WAC 290-24-050 Notice of hearing. In any appeal, all parties shall be served with a notice at least 15 days before the date set for the hearing. The notice shall state the time, place, and issues involved as required by RCW 34.04.090. [Order, § 290-24-050, filed 11/22/72.]

WAC 290-24-060 Objections. If the appellant objects to the time appointed in the notice of hearing, he must file his objection with the chairman of the board at its headquarters in Olympia, Washington within ten days after the notice is communicated to him. If the board acts favorably upon such objection, the appellant will be notified of cancellation of the notice objected to and in due course an amended notice will be issued in accordance with this rule. [Order, § 290-24-060, filed 11/22/72.]

WAC 290-24-070 Hearing. The hearing will be held in accordance with the notice of hearing unless the

appeal shall be disposed of prior to the date of the hearing. The hearing will be held before one or more members of the board as the board shall direct and shall be presided over by the chairman or such other board member as he shall designate. The presiding officer at the hearing shall administer the oath, preserve and enforce order and rule on procedure, applications, motions and objections made during the course of the hearing. Ruling by the presiding officer on all procedural applications, motions and objections will be part of the record. The presiding officer may also at any time prior to the final disposition of the appeal recess the hearing for a prehearing or informal conference or continue the hearing from time to time as the ends of justice may require. [Order, § 290-24-070, filed 11/22/72.]

WAC 290-24-080 Order of proceedings at hearings. It is the policy of the board, through the chairman, to schedule and hold a single hearing for the taking of all evidence to be presented on an appeal. The appellant must initially introduce all the evidence for his case in chief. The Washington Public Employees' Retirement System and/or the Attorney General for the board may introduce any additional evidence necessary in the case. The board or its designated representative may at any time present additional evidence as it deems necessary to decide the appeal fairly and equitably. Opportunity for cross-examination will be given immediately following the direct examination of any witness. [Order, § 290-24-080, filed 11/22/72.]

WAC 290-24-090 Continuances. Continuances may be granted by the chairman or the presiding officer for hardship upon a proper showing thereof in the record. Reasons for continuances known to the appellant, the Washington Public Employees' Retirement System, the Attorney General of the board prior to the date specified in the notice of hearing, must be stated in the application for continuance. The application must be forthwith filed upon discovery of such reasons and served upon other parties to the proceedings. [Order, § 290-24-090, filed 11/22/72.]

WAC 290-24-100 Decisions in general. Appeals may be decided after hearing on the evidence submitted at the hearing by confirmation of the agreement with the appellant without further hearing (either with or without a prehearing conference) before a hearing upon inspection of the notice of appeal and the records of the Washington Public Employees' Retirement and the Washington Judicial Retirement System pertaining to the case or after a prehearing conference. All appeals will be decided by a vote of the majority of the members of the board and final disposition of every appeal will be by written decision and order adopted by resolution and made part of the record of the board. Copies of such decision and order shall be forthwith mailed by the chairman to all parties to the appeal. [Order, § 290-24-100, filed 11/22/72.]

WAC 290-24-110 Orders on hearings. If an appeal is granted and the parties do not obtain final disposition

of such appeal by agreement, the record of the board shall be the exclusive basis for the decision and order of the board. Such record will consist of the notice of appeal, the decision of the board from which appeal is taken, the responsive pleadings and notices of appearance and any other written applications, notices or requests duly filed in the appeal by any party. Such record will also include all depositions, written interrogatories and transcripts of testimony in other proceedings at the hearings, together with all exhibits offered. No part of the record of the Washington Public Employees' Retirement System or the Washington Judicial Retirement System shall be made part of the record of the board unless offered in evidence at the hearing. After the hearing and completion of the record, a majority of the board shall consider the record and dispose of the appeal by a written decision and order and adopt it by resolution. Such written decision and order shall contain the opinion, findings of fact, conclusions of law and order of the board. [Order, § 290-24-110, filed 11/22/72.]

WAC 290-24-120 Decision and order on agreement of the parties. If at any time prior to or during the hearing, whether or not pursuant to a prehearing or informal conference, agreement concerning final disposition of the appeal is reached by the parties, the retirement board or its designated representative will supersede further hearings pending the board's determination upon such agreement. If it finds that such agreement is in conformity with the law and the facts, a decision and order in accordance therewith shall be made. [Order, § 290-24-120, filed 11/22/72.]

WAC 290-24-130 Form and content of decision and order. Every decision and order, whether proposed, initial, or final, shall:

- (A) Be correctly captioned as to the name of the board and the name of the proceeding;
- (B) Designate all parties and counsel to the proceedings;
- (C) Include a concise statement of the nature and background of the proceeding;
- (D) Be accompanied by appropriate numbered findings of fact and conclusions of law;
- (E) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded;
- (F) Wherever practical, the conclusions and/or decision and order shall be referenced to specific provisions of the law and/or regulations appropriate thereto, together with reasons and precedents relied upon to support the same. [Order, § 290-24-130, filed 11/22/72.]

Chapter 290-28 WAC APPEALS TO SUPERIOR COURT

WAC

290-28-010 Notice of appeal.
290-28-020 Certification of record.

WAC 290-28-010 Notice of appeal. Upon an appeal from any decision or order of the board to the superior

court, the appealing party within thirty days from the decision and order of the board must perfect his appeal by serving notice of appeal on the chairman of the board by personal service or by mailing copy thereof and filing the notice of appeal, together with proof of service with the clerk of court of Thurston County. The service and filing, together with the proof of service of the notice of appeal within thirty days shall be jurisdictional. [Order, § 290-28-010, filed 11/22/72.]

WAC 290-28-020 Certification of record. The chairman or legal adviser to the board shall within thirty days after receipt of such notice of appeal, serve and file on behalf of the board notice of appearance upon the appellant or his attorney of record and such appeal shall thereupon be deemed at issue. The chairman shall promptly serve upon the appellant or his attorney of record and file with the clerk of court a certified copy of the complete record of the hearing before the board which shall upon being so filed become the record in such case. Appeal shall lie from the judgment of the superior court to the court of appeals or the supreme court as in other cases. [Order, § 290-28-020, filed 11/22/72.]

Chapter 290-32 WAC PREHEARING PROCEDURES

WAC

290-32-010 Definition of issues before hearing.
290-32-020 Prehearing conference rule.
290-32-030 Conclusion of prehearing conference.
290-32-040 Other agreements prior to hearing.
290-32-050 Other agreements during hearing.
290-32-060 Depositions.
290-32-070 Fees of officers and deponents.

WAC 290-32-010 Definition of issues before hearing. In all proceedings the issues to be adjudicated shall be made initially as precise as possible, in order that the presiding officer may proceed promptly to conduct the hearing on relevant and material matters only. [Order, § 290-32-010, filed 11/22/72.]

WAC 290-32-020 Prehearing conference rule. In any proceeding the board or its designated representative upon its or his own motion, or upon the motion of one of the parties or their qualified representatives, may in its or his discretion direct the parties or their qualified representatives to appear at a specific time and place for a conference to consider:

- (A) The simplification of the issues;
- (B) The necessity of amendments to the pleadings;
- (C) The possibility of obtaining stipulations, admissions of fact and of documents;
- (D) The limitation of the number of expert witnesses;
- (E) Such other matters as may aid in the disposition of the proceedings;
- (F) The possibility of the parties agreeing to an order disposing of the matter at issue; or
- (G) New medical facts, upon such facts being submitted by the appealing party or his representative, the retirement board or its designated representative may,

on his own motion, agree to another medical examination on behalf of the board to assist in the expeditious disposition of the appeal. [Order, § 290-32-020, filed 11/22/72.]

WAC 290-32-030 Conclusion of prehearing conference. If at any informal conference the parties reach agreement upon all of the issues involved in the appeal so that it may be finally disposed of in accordance with the law and facts, further hearing will be discontinued and the appeal shall be submitted to the board by the chairman or the hearing officer for final decision or award. The chairman shall forthwith notify all parties to the appeal by mail of the decision and order of the board. [Order, § 290-32-030, filed 11/22/72.]

WAC 290-32-040 Other agreements prior to hearing. If at a prehearing conference, agreement upon final disposition of the appeal is not reached, the chairman or the designated hearing officer will make an order which recites the action taken at the conference, the agreements of the parties concerning issues, admissions, witnesses, medical facts, stipulations and other matters that may be of assistance in subsequent proceedings and the issues remaining to be considered at the hearing. Such order, subject to modification at the hearing, shall control the subsequent course of the proceedings. [Order, § 290-32-040, filed 11/22/72.]

WAC 290-32-050 Other agreements during hearing. If at any recess during a hearing an informal conference is held which does not result in the final disposition of the appeal upon agreement of the parties, the presiding officer will state on the record of the hearing the result of such conferences. Such statements on the record, subject to modification at the hearing, shall control the subsequent course of the proceedings. [Order, § 290-32-050, filed 11/22/72.]

WAC 290-32-060 Depositions. Taking of depositions and their use in hearings before the board shall be governed by the Rules for Civil Proceedings of the Superior Courts of the State of Washington. [Order, § 290-32-060, filed 11/22/72.]

WAC 290-32-070 Fees of officers and deponents. Fees of officers and deponents shall be the same as those provided in taking of depositions in the Superior Courts of the State of Washington. [Order, § 290-32-070, filed 11/22/72.]

Chapter 290-36 WAC EVIDENCE

WAC

290-36-010	General.
290-36-020	Sworn testimony.
290-36-030	Cross-examination.
290-36-040	Objections.
290-36-050	Rulings.
290-36-060	Submission of documentary evidence in advance.

290-36-070	Official notice—Matters of law—Matters of fact.
290-36-080	Presumptions.
290-36-090	Stipulations and admissions of record.
290-36-100	Excerpts from documentary evidence.
290-36-110	Expert or opinion testimony.

WAC 290-36-010 General. Subject to other provisions of this rule, all evidence as provided in RCW 34.04.400, is admissible, which in the opinion of the presiding officer is the best evidence obtainable, having due regard to necessity, availability and truthworthiness. [Order, § 290-36-010, filed 11/22/72.]

WAC 290-36-020 Sworn testimony. No testimony shall be received into evidence unless it shall have been taken by deposition or written interrogatories in accordance with Rule WAC 290-32-060 or the witness shall have first sworn to testify to the truth in the matter being heard. [Order, § 290-36-020, filed 11/22/72.]

WAC 290-36-030 Cross-examination. Every party shall have the right to cross-examination of a witness other than his own, if it is necessary for a full and true disclosure of the facts. [Order, § 290-36-030, filed 11/22/72.]

WAC 290-36-040 Objections. Objections to the admission or exclusion of evidence must be in short form, stating legal grounds of the objection relied upon and the transcript will not include extended argument or debate. All objections shall be deemed waived unless renewed before the end of the hearing. Renewal of such objections shall consist of two steps:

(A) Forthwith upon the making of the ruling by the presiding officer, notifying him of intention to renew, followed by an offer of proof in cases of exclusion of testimony and

(B) Within ten days after the hearing, by filing any necessary written briefs with the chairman of the board, briefs to be used in cases where there was an exclusion of testimony. The briefs and offers of proof must be served upon the other parties to the proceeding in accordance with Rules WAC 290-20-020(1) through (7). The chairman shall submit all such material to the board and it shall consider the ruling of the presiding officer as on an appeal and in case of error shall order the correction of the record accordingly. [Order, § 290-36-040, filed 11/22/72.]

WAC 290-36-050 Rulings. The presiding officer may, in his discretion, either with or without objection, exclude inadmissible evidence and order cumulative or repetitious evidence discontinued. In ruling upon objections to the competency or admissibility of evidence and disposing of appeals from such rulings, if any, the presiding officer shall give due consideration to the requirement that hearings be informal and shall give consideration to, but shall not be bound to follow, the rules of evidence governing civil proceedings in matters not involving trial by jury, in the superior court of the state of Washington. [Order, § 290-36-050, filed 11/22/72.]

WAC 290-36-060 Submission of documentary evidence in advance. Where practicable, the board or its designated hearing officer may require:

(A) That all documentary evidence which is to be offered during the taking of evidence be submitted to the presiding officer and to the other parties to the proceedings sufficiently in advance of such taking of evidence to permit study and preparation of cross-examination and rebuttal evidence;

(B) That documentary evidence not submitted in advance, as may be required by subdivision A, be not received in evidence in the absence of a clear showing that the offering party had good cause for his failure to produce the evidence sooner;

(C) That the authentication of all documents submitted in advance in a proceeding in which such submission is required, be deemed admitted unless written objection thereto is filed prior to the hearing, except that a party will be permitted to challenge such authentication at a later time upon a clear showing of good cause for failure to have filed such written objection. [Order, § 290-36-060, filed 11/22/72.]

WAC 290-36-070 Official notice—Matters of law—Matters of fact. The hearing officer shall take official notice of all matters of law and matters of fact which a judge of the superior court in a civil trial may take judicial notice. [Order, § 290-36-070, filed 11/22/72.]

WAC 290-36-080 Presumptions. In all hearings before the board, the same presumptions shall apply which would apply in a trial of a civil matter in the superior courts of the state of Washington. [Order, § 290-36-080, filed 11/22/72.]

WAC 290-36-090 Stipulations and admissions of record. Parties to a hearing before the board may enter into stipulations and make admissions to the same extent that parties to a civil action in the superior court may do. [Order, § 290-36-090, filed 11/22/72.]

WAC 290-36-100 Excerpts from documentary evidence. When portions only of a document are to be relied upon, the offering party shall prepare the pertinent excerpts, adequately identified, and shall supply copies of such excerpts, together with a statement indicating the purpose for which such material will be offered, to the hearing officer and the other parties. Only the excerpts, so prepared and submitted, shall be received in the record. However, the whole of the original document shall be made available for examination and for use by all parties to the proceeding. [Order, § 290-36-100, filed 11/22/72.]

WAC 290-36-110 Expert or opinion testimony. The board or its designated representative in all classes of cases shall where practicable make an effort to have the interested parties agree upon the witness or witnesses who are to give expert or opinion testimony, either by selecting one or more to speak for all parties or by limiting the number for each party and if the interested

parties cannot agree, require them to submit to him and to the other parties written statements containing the names, address and qualifications of their respective opinion or expert witnesses by a date determined by him and fixed sufficiently in advance of the hearing to permit the other interested party to investigate such qualifications.

The board or its designated representative shall in all classes of cases where it is practicable and permissible require and when not so permissible make every effort to bring about by voluntary submission that all direct opinion or expert testimony and all direct testimony based on economic or statistical data be reduced to be written sworn statements and together with the exhibits on which it is based, be submitted to him and to the other parties to the proceeding by a date determined by the presiding officer and fixed a reasonable time in advance of the hearing and that such sworn statements be acceptable as evidence upon formal offer at the hearing, subject to the objections on any ground except that such sworn statements shall not be subject to challenge because the testimony is not presented orally, and provided that the witnesses making such statements shall not be subject to cross-examination unless a request is made sufficiently in advance of the hearing to insure the presence of the witness.

The board or its designated hearing officer, in its or his discretion, but consistent with the rights of the parties, may cause the parties to make available for inspection in advance of the hearing and for purpose of cross-examination at the hearing, the data underlying statements and exhibits submitted in accordance with the above paragraph, but wherever practical that he restrict to a minimum the placing of such data in the record.

Whenever the manner of introduction of opinion and expert testimony or testimony based on economic or statistical data is governed by the two preceding paragraphs, such testimony not submitted in accordance therewith shall not be received in evidence in the absence of a clear showing that the offering party had good cause for his failure to conform to such requirements. [Order, § 290-36-110, filed 11/22/72.]

Chapter 290-40 WAC DECLARATORY RULINGS

WAC	
290-40-010	General.
290-40-020	Forms.

WAC 290-40-010 General. As prescribed by RCW 34.04.070 and 34.04.080, any interested person may petition the board for a declaratory ruling. The board shall consider the petition and within a reasonable time it shall:

- (A) Issue a nonbinding declaratory ruling; or
- (B) Notify the person that no declaratory ruling is to be issued; or
- (C) Set a reasonable time and place for a hearing or submission of written evidence upon the matter and give reasonable notification to the person of the time and

place for such hearing or submission of written evidence upon the issue involved. If a hearing is held or evidence submitted, the board shall within a reasonable time:

- (a) Issue a binding declaratory ruling; or
- (b) Issue a nonbinding declaratory ruling; or
- (c) Notify the person that no declaratory ruling is to be issued. [Order, § 290-40-010, filed 11/22/72.]

WAC 290-40-020 Forms. Any person petitioning the board for any ruling shall generally adhere to the following form for such purpose.

At the top of the page in capitals shall appear the words "BEFORE THE WASHINGTON JUDICIAL RETIREMENT BOARD". On the left side of and below the foregoing name shall be set out the following caption: "In the Matter of the Petition of (name of petitioning party) for a (state action desired of board)". Opposite this caption shall appear the words (state the action sought of the board). The body of the petition shall be set out as complaints in civil actions in the superior court. The prayer shall be set forth as in complaints in superior court.

All original pleadings filed with the board shall be accompanied by two legible copies. Pleadings shall be on white paper, 8 1/2" x 11" in size, and shall be typewritten and double-spaced. All pleadings shall be signed by the party on whose behalf the same are filed and shall contain on the lower lefthand side the typed name, address and phone number of the party filing the petition and on the lower righthand side the name and address and phone number of such party's representative, if any. [Order, § 290-40-020, filed 11/22/72.]

Chapter 290-44 WAC
PETITIONS FOR RULE MAKING
AMENDMENT OR REPEAL

WAC
290-44-010 General.

WAC 290-44-010 General. Pursuant to RCW 34-.04.060, any interested person may petition the board requesting the promulgation, amendment, or repeal of any rule.

Where the petition requests the promulgation of a rule, the requested or proposed rule must be set out in full. The petition must also include all the reasons for the requested rule, together with briefs of any applicable law. Where the petition requests the amendment or repeal of a rule presently in effect, the rule or portion of the rule in question must be set out as well as the suggested amended form, if any. The petition must include all reasons for the requested amendment or repeal of the rule.

All petitions shall be considered by the board and the board may, in its discretion, order a hearing for the further consideration and discussion of the requested promulgation, amendment, repeal or modification of any rule.

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The board shall notify the petitioning party within a reasonable time of the disposition, if any, of the petition. [Order, § 290-44-010, filed 11/22/72.]

Chapter 290-48 WAC
PUBLIC RECORDS

WAC	
290-48-010	Purpose.
290-48-020	Definitions.
290-48-030	Description of central and field organization of Washington judicial retirement system.
290-48-040	Operations and procedures.
290-48-050	Public records available.
290-48-060	Public records officer.
290-48-070	Office hours.
290-48-080	Requests for public records.
290-48-090	Copying.
290-48-100	Exemptions.
290-48-110	Review of denials of public records requests.
290-48-120	Records index.
290-48-130	Washington judicial retirement system address.
290-48-140	Adoption of form.
290-48-990	Appendix A—Request for public records.

WAC 290-48-010 Purpose. The purpose of this chapter shall be to ensure compliance by the Washington judicial retirement board with the provisions of chapter 1, Laws of 1973 (Initiative 276), Disclosure-Campaign-Finances-Lobbying-Records; and in particular with sections 25-32 of that act, dealing with public records. [Order IV, § 290-48-010, filed 9/11/73.]

WAC 290-48-020 Definitions. (1) **PUBLIC RECORDS.** "Public record" includes any writing containing information relating to the conduct of governmental 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.

(2) **WRITING.** "Writing means 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."

(3) **WASHINGTON JUDICIAL RETIREMENT BOARD.** The Washington judicial retirement board is the board established by RCW 2.10.050. The Washington judicial retirement system shall hereinafter be referred to as the "system". Where appropriate, the term Washington judicial retirement system also refers to the staff and employees of the Washington judicial retirement board. [Order IV, § 290-48-020, filed 9/11/73.]

WAC 290-48-030 Description of central and field organization of Washington judicial retirement system. (1) **WASHINGTON JUDICIAL RETIREMENT SYSTEM.** The Washington judicial retirement system is a state retirement agency. The administrative office of

the Washington judicial retirement system and its staff are located at 201 General Administration Building, Olympia, Washington. [Order IV, § 290-48-030, filed 9/11/73.]

WAC 290-48-040 Operations and procedures. The Washington judicial retirement board is charged with the administration of the Washington judicial retirement system. Its duties are set forth in RCW 2.10.050 and 2.10.070 as follows:

"The Washington judicial retirement board is hereby established. This board shall be responsible for making effective the provisions of this chapter, and the authority to make all rules and regulations necessary therefor are hereby vested in the retirement board. All such rules and regulations shall be governed by the provisions of chapter 34.04 RCW, as now or hereafter amended. The administration of the retirement system is hereby vested in the director and staff of the Washington public employees' retirement system established pursuant to chapter 41.40 RCW." (RCW 2.10.050)

"The retirement board shall perform the following duties:

"(1) Keep in convenient form such data as shall be deemed necessary for actuarial evaluation purposes;

"(2) As of July 1 of every even-numbered year have an actuarial evaluation made as to the mortality and service experience of the beneficiaries under this chapter and the various accounts created for the purpose of showing the financial status of the retirement fund;

"(3) Adopt for the retirement system the mortality tables and such other tables as shall be deemed necessary;

"(4) Keep a record of its proceedings, which shall be open to inspection by the public;

"(5) Serve without compensation but shall be reimbursed for expense incident to service as individual members thereof;

"(6) From time to time adopt such rules and regulations not inconsistent with this chapter for the administration of this chapter and for the transaction of the business of the board.

"No member of the board shall be liable for the negligence, default or failure of any employee or of any member of the board to perform the duties of his office and no member of the board shall be considered or held to be an insurer of the funds or assets of the retirement system, but shall be liable only for his own personal default or individual failure to perform his duties as such member and to exercise reasonable diligence in providing for safeguarding of the funds and assets of the system." (RCW 2.10.070)

The methods by which one may communicate with the board and the procedures for appeals and other matters are set forth in chapter 290-10 through 290-44 WAC inclusive. [Order IV, § 290-48-040, filed 9/11/73.]

WAC 290-48-050 Public records available. All public records of the Washington judicial retirement system, as defined in WAC 290-48-020 are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by section 31, chapter 1, Laws of 1973, and WAC 290-48-020. [Order IV, § 290-48-050, filed 9/11/73.]

WAC 290-48-060 Public records officer. The Washington judicial retirement system's public records shall be in the charge of the public records officer designated by the agency. The person so designated shall be located in the administrative office of the agency. The public records officer shall be responsible for the following: The implementation of the Washington judicial retirement system's rules and regulations regarding release of public records, coordinating the staff of the system in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 1, Laws of 1973. [Order IV, § 290-48-060, filed 9/11/73.]

WAC 290-48-070 Office hours. Public records shall be available for inspection and copying during the customary office hours of the Washington judicial retirement system. For the purposes of this chapter, the customary office hours shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. [Order IV, § 290-48-070, filed 9/11/73.]

WAC 290-48-080 Requests for public records. In accordance with requirements of chapter 1, Laws of 1973 that agencies prevent unreasonable invasions of privacy, protect public records from damage or disorganization, and prevent excessive interference with essential functions of the agency, public records may be inspected or copied or copies of such records may be obtained, by members of the public, upon compliance with the following procedures:

(1) A request shall be made in writing upon a form prescribed by the Washington judicial retirement system which shall be available at its administrative office. The form shall be presented to the public records officer; or to any member of the system's staff, if the public records officer is not available, at the administrative office of the system during customary office hours. The request shall include the following information:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request was made;

(c) The nature of the request;

(d) If the matter requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index;

(e) If the requested matter is not identifiable by reference to the system's current index, an appropriate description of the record requested.

(2) In all cases in which a member of the public is making a request, it shall be the obligation of the public records officer or staff member to whom the request is

made, to assist the member of the public in appropriately identifying the public record requested. [Order IV, § 290-48-080, filed 9/11/73.]

WAC 290-48-090 Copying. No fee shall be charged for the inspection of public records. The system shall charge a fee of 2¢ per page of copy for providing copies of public records and 5¢ for use of the system's copy equipment. This charge is the amount necessary to reimburse the system for its actual costs incident to such copying. [Order IV, § 290-48-090, filed 9/11/73.]

WAC 290-48-100 Exemptions. (1) The system reserves the right to determine that a public record requested in accordance with the procedures outline in WAC 290-48-080 is exempt under the provisions of section 31, chapter 1, Laws of 1973.

(2) In addition, pursuant to section 26, chapter 1, Laws of 1973, the system reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by chapter 1, Laws of 1973. The public records officer will fully justify such deletion in writing.

(3) All denials of requests for public records must be accompanied by a written statement specifying the reason for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld. [Order IV, § 290-48-100, filed 9/11/73.]

WAC 290-48-110 Review of denials of public records requests. (1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the director of the system. The director shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision, within two business days following the original denial.

(3) Administrative remedies shall not be considered exhausted until the system has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first. [Order IV, § 290-48-110, filed 9/11/73.]

WAC 290-48-120 Records index. (1) INDEX. The system has available to all persons a current index which provides identifying information as to the following records issued, adopted or promulgated since June 30, 1972:

"(a) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

"(b) those statements of policy and interpretations of policy, statute and the constitution which have been adopted by the agency;

"(c) administrative staff manuals and instructions to staff that affect a member of the public;

"(d) planning policies and goals, and interim and final planning decisions;

"(e) factual staff reports and studies, factual consultant's reports and studies, scientific reports and studies, and any other factual information derived from tests, studies, reports or surveys, whether conducted by public employees or others; and

"(f) correspondence, and materials referred to therein, by and with the agency relating to any regulatory, supervisory or enforcement responsibilities of the agency, whereby the agency determines, or opines upon, or is asked to determine or opine upon, the rights of the state, the public, a subdivision of state government, or of any private party."

(2) AVAILABILITY. The current index promulgated by the system shall be available to all persons under the same rules and on the same conditions as are applied to public records available for inspection. [Order IV, § 290-48-120, filed 9/11/73.]

WAC 290-48-130 Washington judicial retirement system address. All communications with the system including but not limited to the submission of materials pertaining to its operations and/or the administration or enforcement of chapter 1, Laws of 1973 and these rules; requests for copies of the system's decisions and other matters, shall be addressed as follows: Washington Judicial Retirement System, c/o Public Records Officer, 201 General Administration Building, Olympia, Washington 98504. [Order IV, § 290-48-130, filed 9/11/73.]

WAC 290-48-140 Adoption of form. The system hereby adopts for use by all persons requesting inspection and/or copying or copies of its records, the form attached hereto as Appendix A, entitled "Request for Public Record". [Order IV, § 290-48-140, filed 9/11/73.]

WAC 290-48-990 Appendix A—Request for public records.

APPENDIX A

REQUEST FOR PUBLIC RECORDS

Name of Requestor:

Address:

Phone:

Date of Request:

Time of Request:

Nature of Request:

1. Index Reference

2. If not identifiable by reference to the index, then describe the document(s) in detail -----

Signature -----

For Office Use Only:

		Record
(1) Request	Record	Withheld
Granted <input type="checkbox"/>	Withheld <input type="checkbox"/>	In Part <input type="checkbox"/>

(2) If withheld, name the exemption contained in section 31, chapter 1, Laws of 1973, which authorizes the withholding of the record or part of record: Subsection (1)().

(3) If withheld, briefly explain how the exemption applies to the record withheld.

(4) If request granted, time -----, day -----

[Order IV, Appendix A (codified as WAC 290-48-990), filed 9/11/73.]