

[Statutory Authority: RCW 42.17.370(1). 79-11-124 (Order 79-07), § 390-24-020, filed 11/6/79; Order 94, § 390-24-020, filed 10/31/77; Order 87, § 390-24-020, filed 11/19/76; Order 62, § 390-24-020, filed 8/26/75; Order 48, § 390-24-020, filed 3/3/75.]

### Chapter 390-37 WAC

#### ENFORCEMENT PROCEDURES--INVESTIGATIVE HEARINGS

##### WAC

- 390-37-050 Enforcement procedures--Respondent's notice of complaint.  
390-37-150 Reconsideration and review of decisions.

**WAC 390-37-050 Enforcement procedures--Respondent's notice of complaint.** Within ten days of receipt by the commission of a complaint which on its face appears to have merit, the commission shall notify the respondent that a complaint has been filed. The notice shall set forth the nature of the complaint and its origin (citizen complaint, commission or other) and the statutory provision alleged to have been violated. [Statutory Authority: RCW 42.17.370(1). 79-08-046 (Order 79-03), § 390-37-050, filed 7/19/79; Order 81, § 390-37-050, filed 7/22/76.]

**WAC 390-37-150 Reconsideration and review of decisions.** (1) For purposes of this rule, "decision" means any findings, conclusions, order, or other action by the commission which is reviewable by a court.

(2) A decision may be reconsidered only upon (a) the written request of the person aggrieved thereby or (b) the motion or written request of a commissioner who voted on the prevailing side when that decision was made.

(3) Such a request for reconsideration shall be served, or motion made, within thirty days after service of the decision of which reconsideration is sought.

(4) A request or motion for reconsideration shall specify the grounds therefor.

(5) Upon being served with a decision, the respondent may treat that decision as final for the purpose of petitioning for judicial review. The commission may not reconsider any decision after being served with a petition for judicial review.

(6) When a request for reconsideration is served, or motion made, enforcement of the decision of which reconsideration is sought shall be stayed and the decision shall not be final until the commission has acted on the reconsideration.

(7) The commission shall act on the reconsideration, at the next meeting at which it practicably may do so, by: (a) Deciding whether to reconsider its decision, and (b) if it decides to do so, either affirming or amending its decision: *Provided*, That before a decision may be amended other than by lowering a penalty, the respondent shall be given notice and an opportunity to be heard if, and in the same manner as, required for the original decision. [Statutory Authority: RCW 42.17.370(1). 79-08-046 (Order 79-03), § 390-37-150, filed 7/19/79.]

### Title 391 WAC

#### PUBLIC EMPLOYMENT RELATIONS COMMISSION

##### Chapters

- 391-21 Collective bargaining rules--Public employment.  
391-30 Collective bargaining rules--Educational employment.  
391-50 Collective bargaining rules--Community colleges.  
391-70 Collective bargaining rules--Marine employees.

### Chapter 391-21 WAC

#### COLLECTIVE BARGAINING RULES--PUBLIC EMPLOYMENT

##### WAC

- 391-21-003 Application to port districts.  
391-21-137 Filing and service of cross-objections.  
391-21-321 Filing and service of cross-petition for review.  
391-21-535 Filing and service of cross-petition for review.

**WAC 391-21-003 Application to port districts.** Portions of this chapter govern specific proceedings under chapter 53.18 RCW and other statutes relating to collective bargaining between port districts and their employees. The portions of this chapter applicable to port districts are:

(1) Procedures for representation cases, contained in WAC 391-21-100 through WAC 391-21-142.

(2) Procedures for clarification of existing bargaining units, contained in WAC 391-21-300 through WAC 391-21-322.

(3) Procedures for impasse resolution, contained in WAC 391-21-700 through WAC 391-21-708.

(4) Procedures for arbitration of disputes arising from interpretation or application of a collective bargaining agreement, contained in WAC 391-21-800 through WAC 391-21-814. [Statutory Authority: RCW 41.58-.050 and 53.18.030. 79-03-015 (Order 79-1), § 391-21-003, filed 2/16/79.]

**WAC 391-21-137 Filing and service of cross-objections.** Where objections have been timely filed under WAC 391-21-136, any party who has not previously filed objections may, within five days following the last date on which objections may be filed, file cross-objections. Such cross-objections shall be filed and served in the same manner as objections filed under WAC 391-21-136. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-137, filed 6/15/78.]

**WAC 391-21-321 Filing and service of cross-petition for review.** Where a petition for review has been timely filed under WAC 391-21-320, any party who has not previously filed a petition for review may, within seven days following the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-321, filed 6/15/78.]

**WAC 391-21-535 Filing and service of cross-petition for review.** Where a petition for review has been timely filed under WAC 391-21-534, any party who has not previously filed a petition for review may, within seven days following the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall each be extended by seven days. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-535, filed 6/15/78.]

#### Chapter 391-30 WAC COLLECTIVE BARGAINING RULES-- EDUCATIONAL EMPLOYMENT

WAC	
391-30-137	Filing and service of cross-objections.
391-30-321	Filing and service of cross-petition for review.
391-30-535	Filing and service of cross-petition for review.

**WAC 391-30-137 Filing and service of cross-objections.** Where objections have been timely filed under WAC 391-30-136, any party who has not previously filed objections may, within five days following the last date on which objections may be filed, file cross-objections. Such cross-objections shall be filed and served in the same manner as objections filed under WAC 391-30-136. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-137, filed 6/15/78.]

**WAC 391-30-321 Filing and service of cross-petition for review.** Where a petition for review has been timely filed under WAC 391-30-320, any party who has not previously filed a petition for review may, within seven days following the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-321, filed 6/15/78.]

**WAC 391-30-535 Filing and service of cross-petition for review.** Where a petition for review has been timely filed under WAC 391-30-534, any party who has not previously filed a petition for review may, within seven days following the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall each be extended by seven days. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-535, filed 6/15/78.]

#### Chapter 391-50 WAC COLLECTIVE BARGAINING RULES-- COMMUNITY COLLEGES

WAC	
391-50-137	Filing and service of cross-objections.
391-50-321	Filing and service of cross-petition for review.

**WAC 391-50-137 Filing and service of cross-objections.** Where objections have been timely filed under WAC 391-50-136, any party who has not previously filed objections may, within five days following the last date on which objections may be filed, file cross-objections. Such cross-objections shall be filed and served in the same manner as objections filed under WAC 391-50-136. [Statutory Authority: RCW 28B.52.080 and 41.58.050. 78-07-012 (Order 78-5), § 391-50-137, filed 6/15/78.]

**WAC 391-50-321 Filing and service of cross-petition for review.** Where a petition for review has been timely filed under WAC 391-50-320, any party who has not previously filed a petition for review may, within seven days following the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days. [Statutory Authority: RCW 28B.52.080 and 41.58.050. 78-07-012 (Order 78-5), § 391-50-321, filed 6/15/78.]

#### Chapter 391-70 WAC COLLECTIVE BARGAINING RULES--MARINE EMPLOYEES

WAC	
391-70-010	Scope—Contents—Other rules.
391-70-020	Special rules.
391-70-030	Modifications and exceptions.
391-70-040	Address for communications.
391-70-050	Office hours.
391-70-070	Definitions.
391-70-080	Informal procedure.
391-70-090	Formal procedure.
391-70-105	Formal notices—Number of copies—Filing—Service.
391-70-110	Intervention.

391-70-120	Appearances.
391-70-140	Voluntary settlement.
391-70-170	Hearings.
391-70-220	Order of procedure.
391-70-245	Inspection of conditions.
391-70-260	Briefs.
391-70-300	Compliance with orders—Notification to commission.

**WAC 391-70-010 Scope—Contents—Other rules.** This chapter governs specific proceedings under chapter 47.64 RCW and other statutes relating to collective bargaining between the state of Washington and its marine employees. The provisions of this chapter should be read in conjunction with the provisions of chapter 391-08 WAC, which contains general rules applicable to all types of proceedings before the public employment relations commission. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-010, filed 12/14/78.]

**WAC 391-70-020 Special rules.** Special rules may in the future be adopted applying to particular proceedings, and in case such special rules are inconsistent with these general rules, the special rules shall govern. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-020, filed 12/14/78.]

**WAC 391-70-030 Modifications and exceptions.** These rules and regulations are subject to such changes, modifications and additions as the commission from time to time may prescribe, and such exceptions as may be just and reasonable in individual cases as determined by the commission. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-030, filed 12/14/78.]

**WAC 391-70-040 Address for communications.** All written communications and documents should be addressed to "Public Employment Relations Commission, 603 Evergreen Plaza Building, Olympia, Washington 98504" and not to individual members of the commission. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-040, filed 12/14/78.]

**WAC 391-70-050 Office hours.** The office of the commission is open on each business day between the hours of 8:00 a.m. and 5:00 p.m., except Saturday. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-050, filed 12/14/78.]

**WAC 391-70-070 Definitions.** (1) "Public employment relations commission" and "commission" mean the public employment relations commission of this state or its authorized agents.

(2) "Person" or "party" includes an individual, corporation, partnership, labor union, association, the Washington toll bridge authority, or any public officer or agency.

(3) Parties to proceedings before the commission shall be styled petitioners, respondents or intervenors, according to the relationship of the parties thereto.

(a) "Petitioner" means a person who files a notice of labor dispute with the commission.

(b) "Respondent" means a person who is identified in a notice of labor dispute as the party to the dispute other than the petitioner.

(c) "Intervenor" means a person having an interest in the disposition of a labor dispute and who moves for intervention pursuant to WAC 391-70-110.

(4) "Labor dispute" means any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-070, filed 12/14/78.]

**WAC 391-70-080 Informal procedure.** (1) Informal notice: An informal notice to the commission concerning a labor dispute may be given by letter or other writing. No form of informal notice is prescribed, but in substance the letter or other writing should contain all facts essential to a disposition of the matter, including the dates of acts or omissions complained of and the names, addresses and telephone numbers of the principal representatives of all parties.

(2) Commission action: Informal procedure will be used wherever practicable. Upon the filing of an informal notice, the executive director shall appoint a mediator from the list of qualified persons maintained by the commission for that purpose. The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take such other steps as the mediator deems appropriate in order to aid the parties in voluntarily resolving their differences and effecting an agreement. No mandatory or prohibitory order may be issued in an informal proceeding unless the parties stipulate in writing that such an order may be entered.

(3) Transfer to formal proceedings: Proceedings instituted by informal notice shall be without prejudice to the right of any party to file a formal notice. Any party desiring a formal order of the commission should file a formal notice pursuant to WAC 391-70-090. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-080, filed 12/14/78.]

**WAC 391-70-090 Formal procedure.** (1) Formal notice: Any notice of a labor dispute filed in accordance with RCW 47.64.040 to obtain a formal ruling of the commission shall be deemed a formal notice. A formal notice may be required by the commission in any case.

(2) Contents of formal notice:

(a) The name and address of the party giving notice and the name, address and telephone number of its principal representative.

(b) The name and address of each other party to the labor dispute and the name(s), address(es) and telephone number(s) of its(their) principal representative(s).

(c) A brief and concise statement of the facts and circumstances of the labor dispute and the relief sought.

(d) Any other relevant information.

(e) The name, signature and capacity of each officer, attorney or other representative acting for the filing party or parties.

(3) Liberal construction: All notices shall be liberally construed to effect justice between the parties. The commission will, at every stage of any proceeding, disregard errors or defects in the notice or proceedings which do not affect the substantial rights of the parties.

(4) Amendments: The commission may allow amendments to the notice or other relevant documents at any time upon such terms as may be just.

(5) Consolidation of proceedings: Two or more proceedings in which the facts or principles of law are related may be consolidated and heard together. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-090, filed 12/14/78.]

**WAC 391-70-105 Formal notices--Number of copies--Filing--Service.** Formal notices shall be typewritten, mimeographed or printed. The original and three copies thereof shall be filed with the commission at its Olympia office. The party filing the notice shall cause a copy thereof to be served on each of the other parties to the labor dispute. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-105, filed 12/14/78.]

**WAC 391-70-110 Intervention.** (1) Motion for intervention: Any person, not a party, who desires to appear and participate in any proceeding before the commission may make a written motion for intervention prior to the hearing or make an oral motion for intervention at the outset of the hearing. No such motion shall be filed or made after the hearing of evidence has commenced, except for good cause shown. The motion for intervention must state the name and address of the moving party; the name, address and telephone number of its principal representative, if any; the party's interest in the proceedings; and the party's position in regard to the labor dispute. (2) Disposition of motions for intervention: Motions for intervention shall be considered first at all hearings, or may be set for prior hearing. An opportunity shall be afforded the original parties to be heard thereon. If it appears that the motion discloses an interest in the labor dispute or that participation by the moving party is in the public interest, the commission shall grant the motion. Thereafter, the moving party shall be a party to the proceeding and shall be known as an "intervenor", with the same right to produce and cross-examine witnesses as the other parties. If it appears during the course of a proceeding that an intervenor has no substantial interest therein, the commission may dismiss such intervenor. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-110, filed 12/14/78.]

**WAC 391-70-120 Appearances.** (1) General: Parties shall enter their appearances at the beginning of any formal hearing by giving their names and addresses to the commission and the reporter shall include them in the minutes of the hearing.

(2) Answers and replies: An answer in writing or a reply in writing to an answer may be required by the commission or made voluntarily by any party. Answers and replies shall be filed and served as is required for formal notices under WAC 391-70-105. The commission shall fix the time allowable for filing an answer or reply. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-120, filed 12/14/78.]

**WAC 391-70-140 Voluntary settlement.** Parties to a labor dispute may, with the approval of the commission, enter into a voluntary settlement of the dispute at any time prior to the issuance of a final order by the commission. In furtherance of a voluntary settlement, the commission may, in its discretion, invite the parties to confer with it. Such conferences shall be informal and without prejudice to the rights of the parties, and no statement, admission or offer of settlement made at such informal conference shall be admissible in evidence in any formal hearing before the commission. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-140, filed 12/14/78.]

**WAC 391-70-170 Hearings.** (1) General: The time and place of holding hearings will be set by the commission and notice thereof served upon all parties at least ten days in advance of the hearing date, unless the commission finds that an emergency exists requiring the hearing to be held upon less notice. An effort will be made to set all hearings sufficiently in advance so that all parties will have a reasonable time to prepare their cases, and so that continuances will be reduced to a minimum.

(2) Who shall conduct: Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

(3) Dismissals: If the petitioner fails to appear at the time and place set for hearing, the commission may dismiss the notice or may recess the hearing to a time to be set by the hearing officer to enable the petitioner to attend. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-170, filed 12/14/78.]

**WAC 391-70-220 Order of procedure.** (1) Presentation of evidence: Evidence will ordinarily be received in the following order:

- (a) petitioner,
- (b) respondent,
- (c) commission's staff, and
- (d) rebuttal.

Where an intervenor takes a position in support of the position of one of the original parties, the intervenor's evidence shall follow that of the supported party. If the intervention is not in support of either original party, the hearing officer shall designate the order of presentation of evidence by that intervenor.

(2) Modification of procedure: The order of presentation prescribed above shall be followed, except where the hearing officer may otherwise direct. In hearings of several proceedings upon a consolidated record, the hearing officer shall designate who shall open or close. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-220, filed 12/14/78.]

**WAC 391-70-245 Inspection of conditions.** In addition to any other evidence, the commission may take official notice of the results of its own inspection of the conditions involved. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-245, filed 12/14/78.]

**WAC 391-70-260 Briefs.** Briefs may be filed in any proceeding before the commission by any interested party, and shall be filed by any party to the proceeding upon the request of the commission. The commission may require the filing of all briefs within such time as may be reasonable, before or after any hearing, or may direct that oral argument be made at the close of the hearing in lieu of briefs. The original and three copies of each brief shall be filed with the commission and copies thereof shall be served on all other parties to the proceeding. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-260, filed 12/14/78.]

**WAC 391-70-300 Compliance with orders--Notification to commission.** When an order has been issued by the commission, any party named therein who is required by such order to do or refrain from doing any act or thing may be required to notify the commission on or before the date specified in such order for compliance as to what actions have been taken to comply with the order. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-300, filed 12/14/78.]

## Title 392 WAC

### PUBLIC INSTRUCTION, SUPERINTENDENT OF

#### Chapters

- 392-32 State plans adopted pursuant to federal laws.
- 392-40 Certificates of educational competence.
- 392-109 State board of education--Election of members.
- 392-121 Finance--General apportionment.
- 392-123 Finance--School district budgeting.

- 392-125 Finance--Educational service district budgeting.
- 392-137 Finance--Nonresident attendance.
- 392-139 Finance--Maintenance and operation levy limits.
- 392-143 Transportation--Specifications for school buses.
- 392-145 Transportation--Operation rules.
- 392-147 Transportation--Safe walkways to and from school.
- 392-164 Grants management--Elementary and Secondary Education Act--Title I program, migrant.
- 392-171 Education for all handicapped children.
- 392-185 Certified educational clinics--Distribution of state funds.
- 392-195 In-service training program.

## Chapter 392-32 WAC

### STATE PLANS ADOPTED PURSUANT TO FEDERAL LAWS

The state plans and amendments thereto filed in the reviser's office pursuant to chapter 34.04 RCW were omitted from the Washington Administrative Code pursuant to the authority of RCW 34.04.050(3). Such state plans have been repealed by Order 3-79, filed June 7, 1979. See Disposition Table below.

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

State Plan for the Adult Basic Education Program, FY-1968. Under the provisions of Public Law 89-750, Title III, Adult Education Act of 1966. 6/5/69. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title III National Defense Education Act, P.L. 85-864 (State Plans for Strengthening Instruction in Science, Mathematics, Modern Foreign Languages, etc.) - 8/3/67, 5/18/66, 1/27/66, 4/28/65, 8/3/64, 3/31/64, 11/18/63, 10/2/62, 8/28/62, 10/25/60, and 3/22/60. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Operation of Title III, Elementary and Secondary Education Act of 1965 (Public Law 89-10, as amended by Public Law 89-247). 5/23/69; Order 43, 11/17/71. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

State Plan for Operation of Title III, Elementary and Secondary Education Act of 1965 (Public Law 89-10 as amended by Public Law 90-247). 8/22/68. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title V & VA National Defense Education Act, P.L. 85-864, Guidance, Counseling, and Testing - 2/23/67, 1/25/67, 8/5/64, 10/2/62, 8/28/62, and 10/25/60. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Washington State Plan for Migrant Education, P.L. 89-10, Title I, as amended by P.L. 89-750 (fiscal year 1971). Filed 9/11/70. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Amendment to Washington State Plan for Migrant Education, P.L. 89-10, Title I, as amended by P.L. 89-750 (fiscal year 1971) to reflect budget changes because of federal appropriations being increased. Filed 12/1/70. For fiscal year 1972. Order 40, filed 10/15/71 and Order 44, filed 2/23/72. Repealed by 79-07-006 (Order 3-79), filed 6/7/79. Statutory Authority: RCW 28A.03.030(1) and (3).

Title I Elementary and Secondary Education Act, P.L. 89-10 and/or as amended by P.L. 89-750, Educational Programs for Migratory Children - Order 19, filed 9/24/69, 1/10/69, 8/22/68, 3/19/68,