

the production of any books, papers, correspondence, memorandums or other records which the commission deems relevant or material[s].

(2) Such subpoena will issue and may be enforced in the form and manner set forth in RCW 34.04.105 and WAC 10-08-120. [Statutory Authority: RCW 42.17.370(1), 85-15-020 (Order 85-03), § 390-37-210, filed 7/9/85; 84-12-017 (Order 84-03), § 390-37-210, filed 5/25/84; Order 81, § 390-37-210, filed 7/22/76.]

Reviser's note: RCW 34.04.058 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 390-37-215 Repealed. See Disposition Table at beginning of this chapter.

WAC 390-37-220 Repealed. See Disposition Table at beginning of this chapter.

WAC 390-37-225 Repealed. See Disposition Table at beginning of this chapter.

WAC 390-37-230 Repealed. See Disposition Table at beginning of this chapter.

**Title 391 WAC
PUBLIC EMPLOYMENT RELATIONS
COMMISSION**

Chapters

- 391-08** Rules of practice and procedure--Public employment relations commission.
- 391-25** Representation case rules.
- 391-35** Unit clarification case rules.
- 391-45** Unfair labor practice case rules.
- 391-95** Union security dispute rules.

**Chapter 391-08 WAC
RULES OF PRACTICE AND PROCEDURE--
PUBLIC EMPLOYMENT RELATIONS
COMMISSION**

WAC

- 391-08-630 Agency decisions--Substitution for executive director.

WAC 391-08-630 Agency decisions--Substitution for executive director. In the event the executive director disqualifies himself or herself from participation in a decision or preliminary ruling as may be required under WAC 391-25-390, 391-35-190, or 391-45-110, the most senior (in terms of length of service with this agency) member of the agency's mediation staff, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and

28B.52.080, 85-19-059 (Resolution No. 85-01), § 391-08-630, filed 9/16/85.]

**Chapter 391-25 WAC
REPRESENTATION CASE RULES**

WAC

- 391-25-390 Proceedings before the executive director.
- 391-25-650 Briefs and written arguments on objections.

WAC 391-25-390 Proceedings before the executive director. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine whether a question concerning representation exists, and shall issue a direction of election, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. Such actions shall be subject to review by the commission only as follows:

(1) Except for rulings as to whether the employer is subject to the jurisdiction of the commission, a direction of election and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080, 85-19-059 (Resolution No. 85-01), § 391-25-390, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040, 80-14-046 (Order 80-5), § 391-25-390, filed 9/30/80, effective 11/1/80.]

WAC 391-25-650 Briefs and written arguments on objections. All parties shall be entitled to submit briefs or written arguments for consideration by the commission. The briefs or written arguments of all parties shall be due simultaneously, as follows:

(1) The deadline for the filing of briefs or written arguments shall be fourteen days following the later of:

(a) The close of an investigation under WAC 391-25-630(1);

(b) The issuance of a transcript of a hearing held under WAC 391-25-630(1); or

(c) The filing of objections under WAC 391-25-590(2).

(2) The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established.

The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52-.080. 85-19-059 (Resolution No. 85-01), § 391-25-650, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-650, filed 9/30/80, effective 11/1/80.]

prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52-.080. 85-19-059 (Resolution No. 85-01), § 391-35-210, filed 9/16/85. Statutory Authority: RCW 28B.52-.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-210, filed 9/30/80, effective 11/1/80.]

**Chapter 391-35 WAC
UNIT CLARIFICATION CASE RULES**

WAC

- 391-35-190 Proceedings before the executive director.
- 391-35-210 Proceedings before the commission—Petition for review.

WAC 391-35-190 Proceedings before the executive director. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-35-190, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-190, filed 9/30/80, effective 11/1/80.]

WAC 391-35-210 Proceedings before the commission—Petition for review. The final order of the executive director shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days after the date of the order. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on any other parties. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the filing of the petition for review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made

**Chapter 391-45 WAC
UNFAIR LABOR PRACTICE CASE RULES**

WAC

- 391-45-350 Petition for review of examiner decision.

WAC 391-45-350 Petition for review of examiner decision. The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission, the executive director or his designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-45-350, filed 9/16/85.]

Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-350, filed 9/30/80, effective 11/1/80.]

Chapter 391-95 WAC

UNION SECURITY DISPUTE RULES

WAC

391-95-150	Union security—Initial processing by executive director.
391-95-170	Union security—Notice of hearing.
391-95-190	Union security—Hearings—Who shall conduct.
391-95-250	Examiner decision.
391-95-260	Withdrawal or modification of examiner decision.
391-95-270	Proceedings before the commission—Petition for review.

WAC 391-95-150 Union security—Initial processing by executive director. The matter shall be referred to the executive director who shall determine whether the facts as alleged may constitute a basis for assertion of a right of nonassociation within the meaning of the applicable statute. If it is determined that the claim does not, as a matter of law, constitute a basis for assertion of a right of nonassociation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-95-270. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-150, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-150, filed 9/30/80, effective 11/1/80.]

WAC 391-95-170 Union security—Notice of hearing. There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-170, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-170, filed 9/30/80, effective 11/1/80.]

WAC 391-95-190 Union security—Hearings—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 an examiner. At any time, an examiner may be substituted for the examiner previously presiding. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-190, filed

9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-190, filed 9/30/80, effective 11/1/80.]

WAC 391-95-250 Examiner decision. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law, and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-250, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-250, filed 9/30/80, effective 11/1/80.]

WAC 391-95-260 Withdrawal or modification of examiner decision. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: *Provided, however,* That this section shall be inoperative after the filing of a petition for review with the commission. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-260, filed 9/16/85.]

WAC 391-95-270 Proceedings before the commission—Petition for review. The final order of the examiner shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the proceeding and on the employer. The petition for review shall identify the actions or rulings claimed to be in error. Any party to the proceeding may, within fourteen days after the initiation of review, file briefs or written arguments for consideration by the commission. The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served upon the other party. The commission, the executive director or the designee of the executive director may, for good cause, grant any party an extension of the time for filing of its brief or written argument where a request for additional time is made prior to the deadline previously established. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim

or include them by facsimile copy in the text or in an appendix to the brief. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-270, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-270, filed 9/30/80, effective 11/1/80.]

**Title 392 WAC
PUBLIC INSTRUCTION,
SUPERINTENDENT OF**

Chapters

- 392-105 Superintendent of public instruction--Access to public records.
- 392-109 State board of education--Election of members.
- 392-121 Finance--General apportionment.
- 392-122 Finance--Categorical apportionment.
- 392-123 Finance--School district budgeting.
- 392-125 Finance--Educational service district budgeting.
- 392-126 Finance--Salary-compensation lid compliance.
- 392-127 Finance--Group total salary and insurance benefits compliance.
- 392-129 Finance--Emergency school closure.
- 392-132 Finance--Nonhigh participatory finance--Including transfer of M and O levy authority from high to nonhigh districts.
- 392-134 Finance--Apportionment for part-time public school attendance.
- 392-136 Finance--Conversion of accumulated sick leave.
- 392-137 Finance--Nonresident attendance.
- 392-138 Finance--Associated student body moneys.
- 392-139 Finance--Maintenance and operation levy limits.
- 392-140 Finance--Special allocations, instructions, and requirements.
- 392-141 Transportation--State allocation for operations.
- 392-142 Transportation--Replacement and depreciation allocation.
- 392-143 Transportation--Specifications for school buses.
- 392-145 Transportation--Operation rules.
- 392-160 Special service program--Transitional bilingual.
- 392-162 Special service program--Remediation assistance.
- 392-163 Special service program--Chapter 1 Regular of the Education Consolidation and Improvement Act of 1981, financial assistance to local school districts.
- 392-165 Special service program--Chapter 2 of the Education Consolidation and Improvement

- 392-170 Act of 1981, financial assistance to local school districts.
- 392-171 Special service program--Highly capable students.
- 392-173 Special education programs--Education for all handicapped children.
- 392-182 Special education programs--DSHS students.
- 392-182 Student--Health records.
- 392-184 Reentry to common schools--Educational clinic and other students.
- 392-185 Certified educational clinics--Distribution of state funds.
- 392-191 School personnel--Evaluation of the professional performance capabilities.
- 392-193 School personnel--Permits for aliens.
- 392-195 School personnel--In-service training program.
- 392-196 School personnel--Beginning teachers assistance program.
- 392-200 School personnel--Employment discrimination.
- 302-210 Student testing and evaluation--Washington state honors award program.

**Chapter 392-105 WAC
SUPERINTENDENT OF PUBLIC INSTRUCTION--
ACCESS TO PUBLIC RECORDS**

WAC

392-105-003 Description of organization.

WAC 392-105-003 Description of organization. (1)

The superintendent of public instruction is a constitutional officer of the state charged with supervision over all matters pertaining to public schools. The superintendent of public instruction is also the statutory chief executive officer of the state board of education. Administrative offices of the superintendent of public instruction and the state board of education are located in Olympia, Washington.

(2) Organization of the superintendent of public instruction's office is divided into four operating divisions, the office of the deputy superintendent of public instruction, and the office of the secretary (executive director) to the state board of education.

(a) The office of the secretary (executive director) to the state board of education keeps the records for all board proceedings. The secretary to the state board of education is appointed by the state board of education.

(b) The office of the deputy superintendent of public instruction directs and coordinates the activities of the four operating divisions of the agency, the offices of professional education and certification, and several agency-wide support services sections. The deputy superintendent of public instruction is appointed by and reports directly to the superintendent of public instruction.

(c) The division of financial services is managed by an assistant superintendent. This person is appointed by the