

# Title 251 WAC

## HIGHER EDUCATION PERSONNEL BOARD

### Chapters

<b>251-01</b>	<b>Definitions.</b>
<b>251-04</b>	<b>General provisions.</b>
<b>251-05</b>	<b>Public records.</b>
<b>251-06</b>	<b>Classification.</b>
<b>251-08</b>	<b>Compensation.</b>
<b>251-09</b>	<b>Hours of work--Premium pay.</b>
<b>251-10</b>	<b>Separation--Discipline.</b>
<b>251-12</b>	<b>Appeals.</b>
<b>251-14</b>	<b>Collective bargaining.</b>
<b>251-18</b>	<b>Employment--Appointment.</b>
<b>251-20</b>	<b>Employee performance evaluation.</b>
<b>251-22</b>	<b>Holidays--Leave.</b>
<b>251-23</b>	<b>Affirmative action.</b>
<b>251-24</b>	<b>Employee development and training.</b>
<b>251-25</b>	<b>Washington state internship program.</b>

### DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

#### Chapter 251-16

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

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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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

### Chapter 251-01 WAC

#### DEFINITIONS

#### WAC

251-01-005	Administrative assistant exemption.
251-01-010	Administrative employees.
251-01-015	Affirmative action.
251-01-020	Agricultural employees.
251-01-025	Allocation.
251-01-030	Annual performance evaluation.
251-01-035	Appointing authority.
251-01-040	Availability.
251-01-045	Board.
251-01-050	Certification.
251-01-055	Charges.
251-01-060	Class.
251-01-065	Classified service.
251-01-070	Collective bargaining.
251-01-075	Competitive service.
251-01-080	Counseling exemption.
251-01-085	Cyclic year position.
251-01-100	Demotion.
251-01-105	Development.

251-01-110	Director.
251-01-115	Dismissal.
251-01-120	Eligible.
251-01-125	Eligible list.
251-01-130	Employee.
251-01-135	Employee organization.
251-01-140	Employing official.
251-01-145	Essential job elements.
251-01-150	Examinations.
251-01-155	Executive employees.
251-01-160	Executive head exemption.
251-01-165	Exempt position.
251-01-170	Extension and/or continuing education exemption.
251-01-175	Final examination score.
251-01-180	Fringe benefits.
251-01-185	Full-time employment.
251-01-190	Goals.
251-01-195	Graphic arts or publication exemption.
251-01-200	Grievance.
251-01-205	Hearing examiner.
251-01-210	Institutional examination.
251-01-215	Institutions of higher education.
251-01-220	Job analysis.
251-01-225	Job categories.
251-01-230	Job group.
251-01-235	Lateral movement.
251-01-240	Layoff.
251-01-245	Layoff seniority.
251-01-250	Layoff unit.
251-01-255	Lead.
251-01-260	Noncompetitive service.
251-01-265	Organizational unit.
251-01-270	Part-time employment.
251-01-275	Periodic increment date (P.I.D.).
251-01-280	Permanent employee.
251-01-285	Person of disability.
251-01-290	Personnel officer.
251-01-295	P.I.D.
251-01-300	Position.
251-01-305	Principal assistant exemption.
251-01-310	Probationary period.
251-01-315	Probationary reappointment.
251-01-320	Professional employees.
251-01-325	Promotion.
251-01-330	Protected groups.
251-01-335	Provisional appointment.
251-01-340	Public records.
251-01-345	Rating factor.
251-01-350	Rating guide.
251-01-355	Reallocation.
251-01-360	Reassignment.
251-01-365	Related boards.
251-01-370	Research exemption.
251-01-375	Resignation.
251-01-380	Reversion.
251-01-385	Specific position elements.
251-01-390	Specific position requirements.
251-01-395	Supervisor.
251-01-400	Supplemental certification.
251-01-405	Suspension.
251-01-410	System examination.
251-01-415	Temporary appointment.
251-01-420	Timetables.
251-01-425	Training.
251-01-430	Transfer.
251-01-435	Trial service.
251-01-440	Underutilization.

251-01-445 Union shop.  
 251-01-450 Union shop representative.  
 251-01-455 Union shop representation fee.  
 251-01-460 Writing.

**WAC 251-01-005 Administrative assistant exemption.** A president or vice-president may have individual(s) acting as his/her administrative assistant(s). The employee normally performs supportive work for his/her superior as an individual contributor without subordinates.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-005, filed 4/22/86. Formerly WAC 251-04-020.]

**WAC 251-01-010 Administrative employees.** Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-010, filed 4/22/86.]

**WAC 251-01-015 Affirmative action.** A procedure by which racial/ethnic minorities, women, persons of disability, persons in the protected age category, Vietnam-era veterans, and disabled veterans are provided with increased employment opportunities. It shall not mean any sort of quota system.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-015, filed 4/22/86.]

**WAC 251-01-020 Agricultural employees.** Employees performing work which includes farming and all its branches, including cultivating the soil, or growing or harvesting crops, or raising livestock, bees, fur-bearing animals, or poultry; or doing any practices performed by a farmer or on a farm as an incident to or in conjunction with such farming operations.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-020, filed 4/22/86.]

**WAC 251-01-025 Allocation.** The assignment of an individual position to an appropriate class on the basis of the kind, difficulty, and responsibility of the work of the position.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-025, filed 4/22/86.]

**WAC 251-01-030 Annual performance evaluation.** The official annual performance rating of an employee recorded on a form approved by the board.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-030, filed 4/22/86.]

**WAC 251-01-035 Appointing authority.** A person or group of persons lawfully authorized to make appointments.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-035, filed 4/22/86.]

**WAC 251-01-040 Availability.** An estimate of the number of women, minorities, and handicapped persons who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-040, filed 4/22/86.]

**WAC 251-01-045 Board.** The higher education personnel board established under the provisions of the higher education personnel law.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-045, filed 4/22/86.]

**WAC 251-01-050 Certification.** The act of providing an employing official or appointing authority with the names of the appropriate eligibles to be considered for appointment to fill a vacancy.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-050, filed 4/22/86.]

**WAC 251-01-055 Charges.** A detailed statement of the specific incidents alleging cause for dismissal or disciplinary action.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-055, filed 4/22/86.]

**WAC 251-01-060 Class.** One or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used with propriety to designate each position allocated to the class; that the same general qualification requirements are needed for performance of the duties of the class; that the same tests of fitness may be used to select employees; and that the same schedule of pay can be applied with equity to all positions in the class under the same or substantially the same employment conditions.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-060, filed 4/22/86.]

**WAC 251-01-065 Classified service.** All positions in the higher education institutions which are subject to the provisions of the higher education personnel law.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-065, filed 4/22/86.]

**WAC 251-01-070 Collective bargaining.** The performance of the mutual obligation of the appointing authority and the certified exclusive bargaining representative to meet at reasonable times, to confer and bargain in good faith, and to execute a written agreement with respect to those personnel matters over which the appointing authority may lawfully exercise discretion.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-070, filed 4/22/86.]

**WAC 251-01-075 Competitive service.** All positions in the classified service for which a competitive examination is required as a condition precedent to appointment.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-075, filed 4/22/86.]

**WAC 251-01-080 Counseling exemption.** Individuals in counseling-exempt positions are responsible for directing and/or participating in providing academic, athletic, medical, career, financial aid, student activity and/or personal counseling to students. Such activities include, but are not limited to, providing individual and group guidance services using recognized professional techniques and practices.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-080, filed 4/22/86.]

**WAC 251-01-085 Cyclic year position.** A position scheduled to work less than twelve full months each year, due to known, recurring periods in the annual cycle when the position is not needed.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-085, filed 4/22/86.]

**WAC 251-01-100 Demotion.** The change of an employee from a position in one class to a position in another class which has a lower salary range maximum.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-100, filed 4/22/86.]

**WAC 251-01-105 Development.** The attainment through work experience and training of proficiency in skills which will enable the employee to perform higher level duties.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-105, filed 4/22/86.]

**WAC 251-01-110 Director.** The personnel director of the higher education personnel board.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-110, filed 4/22/86.]

**WAC 251-01-115 Dismissal.** The termination of an individual's employment for just cause as specified in these rules.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-115, filed 4/22/86.]

**WAC 251-01-120 Eligible.** An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has been admitted to and passed the examinations, and has met all requirements for eligibility as stated on the bulletin board posting; or an applicant for a position in the non-competitive service who has met all requirements for eligibility as stated on the bulletin board posting.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-120, filed 4/22/86.]

**WAC 251-01-125 Eligible list.** A list established by the personnel officer, composed of names of persons who have made proper application, met the minimum qualifications, and successfully completed the required examination process to be certified for vacancies in a class at the institution.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-125, filed 4/22/86.]

**WAC 251-01-130 Employee.** A person working in the classified service at an institution.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-130, filed 4/22/86.]

**WAC 251-01-135 Employee organization.** Any lawful association, labor organization, federation, council, or brotherhood, having as one of its purposes the improvement of working conditions among employees, and which has filed a notice of intent to represent employees with the director, and which has been authorized in accordance with WAC 251-14-020.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-135, filed 4/22/86.]

**WAC 251-01-140 Employing official.** An administrative or supervisory employee designated by the appointing authority to exercise responsibility for requesting certification, interviewing eligibles, and employing classified employees.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-140, filed 4/22/86.]

**WAC 251-01-145 Essential job elements.** Knowledge, skills, and abilities which persons must possess in order to perform the duties of a class or a specific position in a class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-145, filed 4/22/86.]

**WAC 251-01-150 Examinations.** Any measures or assessments used in the process of identifying names for certification to vacancies in accordance with RCW 28B.16.100(2) and WAC 251-18-240. Examinations include examination content, administration, and evaluation.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-150, filed 4/22/86.]

**WAC 251-01-155 Executive employees.** Management personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

- (1) Primary duty must be management of a recognized department or subdivision; and
- (2) Must customarily and regularly direct the work of two or more employees; and
- (3) Must have the authority to hire and fire, or to recommend with authority on these and other actions affecting employees; and
- (4) Must customarily and regularly exercise discretionary powers; and
- (5) Must be paid at a rate of at least \$672 per month exclusive of board, lodging or other facilities.

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

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-155, filed 4/22/86.]

**WAC 251-01-160 Executive head exemption.** Executive heads of major academic or administrative divisions are analogous in the hierarchy to vice-presidents, deans and chairmen. Directors may be executive heads as determined by the higher education personnel board. An executive head is in charge of a separate budget unit and directs subordinates.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-160, filed 4/22/86.]

**WAC 251-01-165 Exempt position.** A position properly designated as exempt from the application of these rules as provided in WAC 251-04-040. (Also see separate definitions of "administrative assistant exemption," "executive head exemption," "research exemption," "counseling exemption," "extension and/or continuing education exemption," "graphic arts or publication exemption," and "principal assistant exemption.")

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-165, filed 4/22/86.]

**WAC 251-01-170 Extension and/or continuing education exemption.** Individuals considered exempt in this category are responsible for originating and developing formal education programs for the general public, usually involving close contact with faculty and staff or training or consulting with specific groups in the community to enable them to provide specialized training and/or services to the community.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-170, filed 4/22/86.]

**WAC 251-01-175 Final examination score.** An applicant's final passing score on an examination, plus any veterans preference or other applicable credits added in accordance with WAC 251-18-130 and/or 251-18-180 (10)(b).

[Title 251 WAC—p 4]

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-175, filed 4/22/86.]

**WAC 251-01-180 Fringe benefits.** As used in the conduct of salary surveys, the term shall include but not be limited to compensation for leave time, including vacation, civil, and personal leave; employer retirement contributions; health insurance payments, including life, accident, and health insurance, workmen's compensation, and sick leave; and stock options, bonuses, and purchase discounts where appropriate.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-180, filed 4/22/86.]

**WAC 251-01-185 Full-time employment.** Work consisting of forty hours per week.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-185, filed 4/22/86.]

**WAC 251-01-190 Goals.** (Hiring and/or promotion). The projected number of hires and/or promotions needed to correct identified areas of under-utilization.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-190, filed 4/22/86.]

**WAC 251-01-195 Graphic arts or publication exemption.** Individuals qualifying for exemption under this category will be involved in performing selected graphic arts or publication activities requiring prescribed academic preparation or special training. Positions of this type are those which use special visual techniques, require original design and layout and/or can be distinguished from positions associated with the standard editorial functions.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-195, filed 4/22/86.]

**WAC 251-01-200 Grievance.** A dispute filed in accordance with a grievance procedure of a signed collective bargaining agreement.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-200, filed 4/22/86.]

**WAC 251-01-205 Hearing examiner.** An individual appointed by the board to preside over, conduct and make recommended decisions including findings of fact and conclusions of law in all cases of employee appeals to the board.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-205, filed 4/22/86.]

**WAC 251-01-210 Institutional examination.** An examination developed to meet unique requirements of a single institution.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-210, filed 4/22/86.]

**WAC 251-01-215 Institutions of higher education.** The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state

community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-215, filed 4/22/86.]

**WAC 251-01-220 Job analysis.** Any systematic procedure for gathering, documenting and analyzing information about the job content and requirements for a class or position in a class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-220, filed 4/22/86.]

**WAC 251-01-225 Job categories.** Those groupings required in equal employment opportunity reports to federal agencies.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-225, filed 4/22/86.]

**WAC 251-01-230 Job group.** For affirmative action goal-setting purposes, a group of jobs having similar content, wage rates and opportunities. An EEO job category may consist of one or more job groups.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-230, filed 4/22/86.]

**WAC 251-01-235 Lateral movement.** Appointment of an employee to a position in another class which has the same salary range maximum as the employee's current class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-235, filed 4/22/86.]

**WAC 251-01-240 Layoff.** Any of the following management initiated actions caused by lack of funds or lack of work:

- (1) Separation from service to an institution;
- (2) Separation from service within a class;
- (3) Reduction in the work year; and/or
- (4) Reduction in the number of work hours.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-240, filed 4/22/86.]

**WAC 251-01-245 Layoff seniority.** The total amount of service an employee earns as a result of unbroken classified employment and statutory allowance.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-245, filed 4/22/86.]

**WAC 251-01-250 Layoff unit.** A clearly identified structure within an institution, which is approved by the director, and within which employment/layoff options are determined in accordance with the reduction in force procedure.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-250, filed 4/22/86.]

**WAC 251-01-255 Lead.** An employee who performs the same duties as other employees in his/her

work group and in addition regularly assigns, instructs and checks the work of the employees.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-255, filed 4/22/86.]

**WAC 251-01-260 Noncompetitive service.** All positions in the classified service for which a competitive examination is not required.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-260, filed 4/22/86.]

**WAC 251-01-265 Organizational unit.** A clearly identified structure, or substructure of persons employed to achieve a common goal or function under the direction of a single official. An organizational unit may consist of either an administrative entity or a geographically separated activity.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-265, filed 4/22/86.]

**WAC 251-01-270 Part-time employment.** Work of twenty or more hours per week but less than full time employment with an understanding of continuing employment for six months or more.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-270, filed 4/22/86.]

**WAC 251-01-275 Periodic increment date (P.I.D.).** The date upon which an employee is scheduled to move to a higher salary step within the range for his/her current class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-275, filed 4/22/86.]

**WAC 251-01-280 Permanent employee.** An employee who has successfully completed a probationary period at the institution within the current period of employment or trial service period resulting from promotion, transfer, lateral movement, or voluntary demotion from another institution, related board or state agency.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-280, filed 4/22/86.]

**WAC 251-01-285 Person of disability.** Any person with physical, mental or sensory impairments that would impede that individual in obtaining and maintaining permanent employment and promotional opportunities. The impairments must be material rather than slight, static and permanent in that they are seldom fully corrected by medical replacement, therapy, or surgical means.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-285, filed 4/22/86.]

**WAC 251-01-290 Personnel officer.** The principal employee in each institution/related board responsible for administrative and technical personnel activities of the classified service.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-290, filed 4/22/86.]

**WAC 251-01-295 P.I.D.** Commonly used abbreviation for periodic increment date.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-295, filed 4/22/86.]

**WAC 251-01-300 Position.** A set of duties and responsibilities normally utilizing the full or part time employment of one employee.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-300, filed 4/22/86.]

**WAC 251-01-305 Principal assistant exemption.** Individuals qualifying for exemption under this category function as second-in-command in importance levels. The individual may perform many of the functions of his/her superior in the superior's absence, or alternatively may have major administrative or program responsibilities. Reporting relationships will not be below that of the executive head. In some institutions an executive head may have more than one principal assistant as determined by the higher education personnel board.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-305, filed 4/22/86.]

**WAC 251-01-310 Probationary period.** The initial six-month period of employment in a class following appointment from an eligible list of a nonpermanent employee. However, upon prior approval by the board, the probationary period for selected classes may be established for a period in excess of six months but not to exceed twelve months.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-310, filed 4/22/86.]

**WAC 251-01-315 Probationary reappointment.** Appointment of a probationary employee from an eligible list to a position in a different class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-315, filed 4/22/86.]

**WAC 251-01-320 Professional employees.** Personnel whose responsibilities require them to spend at least 80% of their work hours as follows:

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

(2) Must consistently exercise discretion and judgment; and

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

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

For persons whose salaries exceed \$1083 per month, the 80% limitation does not apply if the primary duty consists of work requiring knowledge of an advanced

type in a field of science or learning which requires consistent exercise of discretion and judgment.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-320, filed 4/22/86.]

**WAC 251-01-325 Promotion.** The appointment as a result of recruitment, examination and certification, of a permanent employee to a position in another class having a higher salary range maximum.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-325, filed 4/22/86.]

**WAC 251-01-330 Protected groups.** For affirmative action purposes means racial/ethnic minorities (Black, Asian/Pacific Islander, Hispanic, Native American Indian), women, persons in the protected age class, persons of disability, Vietnam-era and disabled veterans.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-330, filed 4/22/86.]

**WAC 251-01-335 Provisional appointment.** Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-18-300. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-335, filed 4/22/86.]

**WAC 251-01-340 Public records.** Any writing containing information relating to conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by any state or local agency regardless of physical form or characteristics.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-340, filed 4/22/86.]

**WAC 251-01-345 Rating factor.** An element, duty, responsibility, skill, ability, or other specific aspect of performance which is rated as part of the annual performance evaluation.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-345, filed 4/22/86.]

**WAC 251-01-350 Rating guide.** A written document which outlines the way in which ratings are assigned to applicants' experience, training, or other qualifications on each job element in an examination. It specifies the range of ratings to be given for each job element and gives examples of the experience, training, or other qualifications that will be used to assign ratings.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-350, filed 4/22/86.]

**WAC 251-01-355 Reallocation.** The assignment of a position by the personnel officer to a different class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-355, filed 4/22/86.]

**WAC 251-01-360 Reassignment.** A management initiated movement of a classified employee from one position to another in the same class.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-360, filed 4/22/86.]

**WAC 251-01-365 Related boards.** The state board for community college education, the council for post-secondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-365, filed 4/22/86.]

**WAC 251-01-370 Research exemption.** Individuals in research-exempt positions spend the majority of their time in one or more of the following activities: Identification and definition of research problems, design of approaches or hypotheses and methodology to be used, design of specific phases of research projects, analysis of results, development of conclusion and hypothesis, presentation of research results in publishable form.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-370, filed 4/22/86.]

**WAC 251-01-375 Resignation.** A voluntary termination of employment.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-375, filed 4/22/86.]

**WAC 251-01-380 Reversion.** The return of a permanent employee from trial service to the most recent class in which permanent status was achieved at the institution.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-380, filed 4/22/86.]

**WAC 251-01-385 Specific position elements.** Knowledges, skills, and abilities which a job analysis indicates to be significant for performing the duties of a specific position in a class but which are not significant for the class in general.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-385, filed 4/22/86.]

**WAC 251-01-390 Specific position requirements.** Specific position elements which are essential job elements.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-390, filed 4/22/86.]

**WAC 251-01-395 Supervisor.** Any individual having authority, in the interest of the employer, to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them or adjust their grievances, or effectively to recommend such action if in connection with the foregoing the exercise of such authority is not

of a merely routine or clerical nature, but requires the use of independent judgment.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-395, filed 4/22/86.]

**WAC 251-01-400 Supplemental certification.** A process by which eligible members of protected groups can be referred to employing officials for the filling of position vacancies in job classes/categories where it has been determined that under-utilization exists.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-400, filed 4/22/86.]

**WAC 251-01-405 Suspension.** An enforced absence without pay for disciplinary purposes.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-405, filed 4/22/86.]

**WAC 251-01-410 System examination.** An examination developed to meet the requirements of all institutions in the HEPB system and approved by the director for use by all such institutions.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-410, filed 4/22/86.]

**WAC 251-01-415 Temporary appointment.** (1) Work performed in the absence of an employee on leave for:

(a) Less than ninety consecutive calendar days (WAC 251-18-350(4));

(b) Ninety or more consecutive calendar days (WAC 251-18-350(2)); or

(2) Formal assignment of the duties and responsibilities of a higher level class for a period of less than ninety consecutive calendar days; or

(3) Performance of extra work required at a work load peak, a special project, or a cyclic work load which does not exceed one hundred seventy-nine consecutive calendar days.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-415, filed 4/22/86.]

**WAC 251-01-420 Timetables.** Established time periods during which identified areas of under-utilization will be corrected.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-420, filed 4/22/86.]

**WAC 251-01-425 Training.** Formal and systematic learning activities intended to provide employees with the knowledge and skills necessary to become proficient or qualified in a particular field.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-425, filed 4/22/86.]

**WAC 251-01-430 Transfer.** An employee initiated change from one classified position to another in the same class without a break in service.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-430, filed 4/22/86.]

**WAC 251-01-435 Trial service.** The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-18-330(6).

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-435, filed 4/22/86.]

**WAC 251-01-440 Underutilization.** Having fewer racial/ethnic minorities, women, persons in the protected age category, Vietnam-era and disabled veterans, or persons of disability in a particular job group than would reasonably be expected by their availability.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-440, filed 4/22/86.]

**WAC 251-01-445 Union shop.** A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to become members of an employee organization.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-445, filed 4/22/86.]

**WAC 251-01-450 Union shop representative.** An employee organization which is the exclusive representative of a bargaining unit that has been certified by the director as the union shop representative following an election wherein a majority of employees in the bargaining unit voted in favor of requiring membership in the employee organization as a condition of employment.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-450, filed 4/22/86.]

**WAC 251-01-455 Union shop representation fee.** Employees who are granted a nonassociation right based on religious tenets or teachings of a church or religious body of which they are members, must pay a representation fee to the union shop representative. Such fee is equivalent to the regular dues of the employee organization minus any monthly premiums for union sponsored insurance programs.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-455, filed 4/22/86.]

**WAC 251-01-460 Writing.** Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

[Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-460, filed 4/22/86.]

[Title 251 WAC—p 8]

## Chapter 251-04 WAC GENERAL PROVISIONS

WAC	
251-04-010	Purpose.
251-04-030	Scope.
251-04-040	Exemptions.
251-04-050	Higher education personnel board.
251-04-060	Director.
251-04-070	Personnel officers.
251-04-100	Computation of time.
251-04-105	Method and completion of service.
251-04-110	Filing with board.
251-04-150	State Environmental Policy Act.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-04-005	State Environmental Policy Act. [Order 56, § 251-04-005, filed 1/14/77, effective 2/14/77.] Repealed by Order 63, filed 11/22/77.
251-04-020	Definitions. [Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-04-020, filed 2/28/86, effective 4/1/86; 86-03-081 (Order 143), § 251-04-020, filed 1/22/86, effective 3/1/86; 85-20-049 (Order 136), § 251-04-020, filed 9/25/85; 85-16-038 (Order 134), § 251-04-020, filed 7/31/85, effective 9/1/85; 85-04-019 (Order 123), § 251-04-020, filed 1/30/85; 84-22-021 (Order 121), § 251-04-020, filed 10/31/84, effective 12/1/84; 84-16-067 (Order 119), § 251-04-020, filed 7/31/84; 84-10-058 (Order 116), § 251-04-020, filed 5/2/84; 84-06-035 (Order 112), § 251-04-020, filed 3/2/84; 84-02-042 (Order 110), § 251-04-020, filed 12/30/83, effective 2/1/84; 83-10-029 (Order 105), § 251-04-020, filed 4/29/83, effective 6/1/83; 83-07-056 (Order 104), § 251-04-020, filed 3/22/83, effective 4/25/83; 82-16-002 (Order 98), § 251-04-020, filed 7/22/82, effective 9/1/82; 82-04-069 (Order 93), § 251-04-020, filed 2/3/82; 81-24-019 (Order 92), § 251-04-020, filed 11/24/81, effective 1/1/82; 81-15-003 (Order 88), § 251-04-020, filed 7/2/81; 80-08-073 (Order 84), § 251-04-020, filed 7/2/80; 78-06-068 (Order 68), § 251-04-020, filed 5/25/78, effective 7/1/78; Order 63, § 251-04-020, filed 11/22/77; Order 61, § 251-04-020, filed 8/30/77, effective 10/1/77; Order 52, § 251-04-020, filed 2/26/76, effective 3/29/76; Order 51, § 251-04-020, filed 1/20/76; Order 46, § 251-04-020, filed 9/19/76; Order 37, § 251-04-020, filed 10/15/74; Order 25, § 251-04-020, filed 7/17/73; Order 21, § 251-04-020, filed 5/24/73; Order 19, § 251-04-020, filed 12/20/72; Order 12, § 251-04-020, filed 5/23/72, effective 6/25/72; Order 8, § 251-04-020, filed 6/17/71, effective 7/19/71; Order 4, § 251-04-020, filed 2/19/71; Order 3, § 251-04-020, filed 1/15/71; Order 2, § 251-04-020, filed 3/12/70; Order 1, § 251-04-020, filed 9/15/69.] Repealed by 86-09-078 (Order 147), filed 4/22/86. Statutory Authority: RCW 28B.16.100. Later promulgation, see chapter 251-01 WAC.
251-04-045	Exempt conversion appeals. [Permanent and Emergency Order 50, § 251-04-045, filed 1/20/76.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

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



the state higher education institutions which is based on merit principles and scientific methods.

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

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

(b) Providing equitable and adequate compensation;

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

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

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

(f) Assuring that employees are protected against coercion for partisan political purposes.

[Order 61, § 251-04-010, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-010, filed 9/15/69.]

**WAC 251-04-030 Scope.** The provisions of these rules shall apply to all personnel of the higher education institutions/related boards except those exempted under the provisions of WAC 251-04-040.

[Order 61, § 251-04-030, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-030, filed 9/15/69.]

**WAC 251-04-040 Exemptions.** The following classifications, positions, and employees of higher education institutions/related boards are hereby exempted from coverage of this chapter.

(1) Members of the governing board of each institution/related board; all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

(2) Students employed by the institution at which they are enrolled (or related board) and who either:

(a) Work five hundred sixteen hours or less in any six consecutive months, exclusive of hours worked in a temporary position(s) during the summer and other breaks in the academic year, provided such employment does not:

(i) Take the place of a classified employee laid off due to lack of funds or lack of work; or

(ii) Fill a position currently or formerly occupied by a classified employee during the current or prior calendar or fiscal year, whichever is longer;

(b) Provided further that the hour limitation shall not apply to student employees who were hired before July 20, 1984, with an understanding of working more than the stated number of hours monthly, and also with an understanding of such employment continuing for the duration of their education. However, this exception shall apply only to students who are continuously enrolled and shall not extend beyond September 1, 1988. Students covered by this exception shall be identified to the director;

(c) Are employed in a position directly related to their major field of study to provide training opportunity; or

(d) Are elected or appointed to a student body office or student organization position such as student officers or student news staff members.

(3) Students participating in a documented and approved programmed internship which consists of an academic component and work experience.

(4) Students employed through the state or federal work/study programs.

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

(6) Nonclassified employees filling positions identified in subsections (1)(a) and (3) of the definition of "temporary appointment" in WAC 251-04-020.

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

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

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

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

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

(12) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to

a position of similar nature and salary, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment.

(13) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-18-420.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-04-040, filed 7/31/84; 82-16-002 (Order 98), § 251-04-040, filed 7/22/82, effective 9/1/82; 82-04-069 (Order 93), § 251-04-040, filed 2/3/82; 78-10-090 (Order 70), § 251-04-040, filed 9/29/78, effective 11/1/78; Order 64, § 251-04-040, filed 12/23/77, effective 1/23/78; Order 63, § 251-04-040, filed 11/22/77, effective 12/22/77; Order 61, § 251-04-040, filed 8/30/77, effective 10/1/77; Order 10, § 251-04-040, filed 12/16/71; Order 4, § 251-04-040, filed 2/19/71; Order 1, § 251-04-040, filed 9/15/69.]

**WAC 251-04-050 Higher education personnel board.** (1) The higher education personnel board is composed of three members appointed by the governor, subject to confirmation by the senate. Each odd-numbered year the governor shall appoint a member for a six-year term. Persons so appointed shall have clearly demonstrated an interest and belief in the merit principle, shall not hold any other employment with the state, shall not have been an officer of a political party for a period of one year immediately prior to such appointment, and shall not be or become a candidate for partisan elective public office during the term to which they are appointed.

(2) Each member of the board is eligible to receive compensation in an amount not to exceed one hundred dollars for each day during which the member attends an official meeting of the board or performs statutorily prescribed duties approved by the chairperson of the board. The members of the board may receive any number of daily payments for official meetings of the board actually attended. Members of the board shall also be reimbursed for necessary travel and other expenses incurred in the discharge of their official duties on the same basis as is provided for state officers and employees generally, in accordance with RCW 43.03.050 and 43.03.060.

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

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board.

Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

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

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

(7) It shall be the duty of the board to promulgate rules and regulations providing for employee participation in the development and administration of personnel policies. To assure this right, personnel policies, rules, classification and pay plans, and amendments thereto, shall be acted on only after the board has given twenty calendar days' notice to, and considered proposals from employee representatives and institutions/related boards affected. In matters involving the various state community colleges, notice shall also be given to the state board for community college education. Complete and current compilations of all rules and regulations of the board in printed, mimeographed, or multigraphed form shall be available from the board without charge.

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for the dismissal, suspension, or demotion of an employee, and appeals therefrom; certification of names for vacancies, including promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists; examination for all positions in the competitive and noncompetitive service; appointments; probationary periods of six to twelve months and rejections therein depending on the job requirements of the class; transfers; sick leaves and vacations; hours of work; layoffs when necessary and subsequent reemployment according to seniority; determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees; certification and decertification of exclusive bargaining representatives; agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the

right to strike or refuse to perform his/her official duties; adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position; allocation and reallocation of positions within the classification plans; adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC; training programs including in-service, promotional, and supervisory; increment increases within the series of steps for each pay grade; and veteran's preference as provided by existing statutes.

(9) After consultation with institution heads, employee organizations, and other interested parties, the board shall develop standardized employee performance evaluation procedures and forms which shall be used by institutions of higher education for the appraisal of employee job performance at least annually. These procedures shall include means whereby individual institutions may supplement the standardized evaluation process with special performance factors peculiar to specific organizational needs. This evaluation procedure shall place primary emphasis on recording how well the employee has contributed to efficiency, effectiveness, and economy in fulfilling institution and job objectives.

[Statutory Authority: RCW 28B.16.100. 86-09-077 (Order 149), § 251-04-050, filed 4/22/86, effective 6/1/86. Statutory Authority: Chapter 28B.16 RCW. 85-20-048 (Order 135), § 251-04-050, filed 9/25/85, effective 11/1/85. Statutory Authority: RCW 28B.16.100. 84-12-047 (Order 117), § 251-04-050, filed 6/1/84; 82-16-002 (Order 98), § 251-04-050, filed 7/22/82, effective 9/1/82; Order 61, § 251-04-050, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-050, filed 9/15/69.]

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

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

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

(3) The director shall take any action necessary to ensure and enforce compliance with the higher education personnel law and these rules.

[Order 61, § 251-04-060, filed 8/30/77, effective 10/1/77; Order 51, § 251-04-060, filed 1/20/76; Order 1, § 251-04-060, filed 9/15/69.]

**WAC 251-04-070 Personnel officers.** (1) Each higher education institution/related board shall designate an officer who shall perform duties as personnel officer. The personnel officer shall direct, supervise, and manage administrative and technical personnel activities for the classified service consistent with policies established by the institution/related board and in accordance with the provisions of the higher education personnel act and the rules and regulations approved and promulgated thereunder. Institutions may undertake jointly with one another to appoint a person qualified to perform the duties of personnel officer, provide staff and financial support and may engage consultants to assist in the performance of specific projects.

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

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

- (a) Appointment, promotion, and transfer of employees.
- (b) Dismissal, suspension, or demotion of employees.
- (c) Examinations for all positions in the competitive and noncompetitive service.
- (d) Probationary periods of six to twelve months and retention and rejections therein.
- (e) Sick leaves and vacations.
- (f) Hours of work.
- (g) Layoffs when necessary and subsequent reemployment.
- (h) Allocation and reallocation of positions within the classification plans.
- (i) Training programs.
- (j) Maintenance of personnel records.

[Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-04-070, filed 7/22/82, effective 9/1/82; Order 61, § 251-04-070, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-070, filed 9/15/69.]

**WAC 251-04-100 Computation of time.** Periods of notice or periods of time within which acts are to be completed, as prescribed or allowed by these rules or by order of the board, shall be computed by excluding the first and including the last day unless specifically provided in these rules to the contrary. If the last day is a Saturday, Sunday or holiday, the act must be completed

on the next business day, unless a period of notice is being computed and such Saturday, Sunday or holiday is a regularly scheduled workday for the employee.

[Order 61, § 251-04-100, filed 8/30/77, effective 10/1/77.]

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

[Order 61, § 251-04-105, filed 8/30/77, effective 10/1/77.]

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

[Order 61, § 251-04-110, filed 8/30/77, effective 10/1/77.]

**WAC 251-04-150 State Environmental Policy Act.** Pursuant to RCW 43.21C.120 and the State Environmental Policy Act guidelines, chapter 197-10 WAC, the higher education personnel board has reviewed its authorized activities and has found them all to be exempt under the provisions of chapter 197-10 WAC.

[Order 61, § 251-04-150, filed 8/30/77, effective 10/1/77.]

## Chapter 251-05 WAC PUBLIC RECORDS

### WAC

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

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-05-020	Definitions. [Order 21, § 251-05-020, filed 5/24/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-020.
------------	--

**WAC 251-05-010 Purpose.** The purpose of this chapter shall be to insure compliance by the higher education personnel board with the provisions of RCW 42.17.250 through 42.17.340.

[Order 61, § 251-05-010, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-010, filed 5/24/73.]

**WAC 251-05-030 HEPB—Location—Organization—Jurisdiction.** (1) The higher education personnel board is quartered at 1202 Black Lake Boulevard, Olympia, Washington 98504.

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

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

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

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

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

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

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

(3) All classified employees of the twenty-eight higher education institutions and three related boards are under the jurisdiction of the higher education personnel board.

[Order 61, § 251-05-030, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-030, filed 5/24/73.]

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

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

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

(4) Informal work sessions with interested parties are conducted by staff as necessary to insure maximum representation from employee organizations and institutions before proposals are made to the board.

[Order 61, § 251-05-040, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-040, filed 5/24/73.]

**WAC 251-05-050 Office hours.** Public records shall be available for inspection and copying during the customary office hours of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding designated holidays.

[Order 61, § 251-05-050, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-050, filed 5/24/73.]

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

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

(a) Rules – Title 251 WAC;

- (b) Twenty-day notice and minutes of meetings – regular and special;
- (c) Board orders;
- (d) Findings, conclusions and order of hearing examiners;
- (e) Annual director's report;
- (f) Higher education personnel board budget;
- (g) Higher education personnel board revolving fund data;
- (h) Staff administrative procedures manual;
- (i) Higher education personnel board classification and compensation plan;
- (j) Documents filed with the board as required by Title 251 WAC or board order, i.e., reduction in force procedure, holiday schedule, collective bargaining agreement, etc.

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

(4) Copies of the records will be made available at actual cost to the agency.

[Order 61, § 251-05-060, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-060, filed 5/24/73.]

**WAC 251-05-070 Exemptions—Public records.** (1) The agency, through its designated public records officer, reserves the right to determine that a public record requested in accordance with these rules is exempt under the provisions of RCW 42.17.310.

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

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption authorizing withholding the record and a brief explanation of how the exemption applies to the record withheld will be included.

[Order 61, § 251-05-070, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-070, filed 5/24/73.]

**WAC 251-05-080 Appeal—Denial of public records request.** (1) Any person who objects to the denial of a request for a public record may petition the director for prompt review of the public records officer's decision by making a written request for review. The request shall specifically refer to the written statement by the public records officer which constituted or accompanied the denial.

(2) The director will review the denial and shall render a final decision within two business days following the original denial.

[Order 61, § 251-05-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-080, filed 5/24/73.]

(1986 Ed.)

## Chapter 251-06 WAC CLASSIFICATION

### WAC

251-06-010	Classification plan—Preparation.
251-06-020	Classification plan—Adoption.
251-06-030	Interpretation of specifications.
251-06-050	Position allocation—Reallocation.
251-06-060	Position review.
251-06-065	Effective date—Allocation—Reallocation.
251-06-070	Allocation appeal—Higher education personnel board.
251-06-080	Position reallocation—Effect on incumbent.
251-06-090	Probationary period—Duration.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

**WAC 251-06-010 Classification plan—Preparation.** The director shall prepare and may revise for board approval a comprehensive classification plan for all positions after investigation and in consultation with personnel officers, employee representatives, and other interested parties, and after analysis of the duties and responsibilities of positions within each class including relevant supporting data. When complete, the plan will include, for each class, a specification including an appropriate title, a description of duties and responsibilities, and the minimum requirements of training, experience and other qualifications, and identification of the classes which require a probationary period of more than six months.

[Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-06-010, filed 7/22/82, effective 9/1/82; Order 61, § 251-06-010, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-010, filed 9/15/69.]

**WAC 251-06-020 Classification plan—Adoption.** The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

[Order 61, § 251-06-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-020, filed 9/15/69.]

**WAC 251-06-030 Interpretation of specifications.** The definitions in class specifications are descriptive. They are intended to indicate the kinds of positions that are allocated to the classes as determined by their duties and responsibilities and are to be used as a guide for the

[Title 251 WAC—p 13]

appointing authority in assigning, directing, and controlling the work of employees. The use of a particular expression or illustration of duties shall not exclude others which are consistent with the overall class concept but are not mentioned in the specification.

[Order 61, § 251-06-030, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-030, filed 9/15/69.]

**WAC 251-06-050 Position allocation--Reallocation.** (1) The personnel officer shall allocate or reallocate each classified position to the appropriate class in the classification plan. In determining the class to which the position should be allocated, specifications describing each class shall be considered as a whole. Consideration should be given to the general duties, specific tasks, responsibilities, and relationships to other classes as a composite description of the kind of employment that the class is intended to embrace. The personnel officer shall allocate the employee's position to the class which best describes the overall duties and responsibilities.

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

[Statutory Authority: RCW 28B.16.100. 79-06-076 (Order 74), § 251-06-050, filed 5/30/79, effective 7/1/79; Order 61, § 251-06-050, filed 8/30/77, effective 10/1/77; Order 10, § 251-06-050, filed 12/16/71; Order 1, § 251-06-050, filed 9/15/69.]

**WAC 251-06-060 Position review.** (1) Whenever an employee feels that his/her position is not allocated to the proper class, the employee or his/her representative may request a position review by the personnel officer, provided:

(a) The request must be in writing and describe the work assigned and performed which is alleged to be outside the class specification, and

(b) Six months must have elapsed since the date of the employee's last request for a review of this position as provided in this section.

(2) The personnel officer will investigate the position and issue a written response to the employee or employee representative within sixty calendar days of receipt of the request. The response must include a notice to the employee that an appeal, as provided in WAC 251-06-070, may be exercised within thirty calendar days of service of the response or the effective date of the action, whichever is later. In addition the response must include either:

(a) Notification of the reason(s) the position does not warrant reallocation when the reallocation request is not approved; or

(b) Notification of the class and salary assigned when the position is reallocated. Subsequent action taken during the thirty-day appeal period which changes either

the specified class or salary will constitute a new response, and written notice of such action must be given to the employee or employee representative.

[Statutory Authority: RCW 28B.16.100. 80-02-111 (Order 83), § 251-06-060, filed 1/28/80; 79-06-076 (Order 74), § 251-06-060, filed 5/30/79, effective 7/1/79; 78-05-060 (Order 67), § 251-06-060, filed 4/27/78, effective 6/1/78; Order 61, § 251-06-060, filed 8/30/77, effective 10/1/77; Order 10, § 251-06-060, filed 12/16/71.]

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

(2) The effective date of reallocations resulting from an employee or employee representative request for position review will be established as of the date that the request is filed with the personnel officer as required per WAC 251-06-060(1).

[Order 61, § 251-06-065, filed 8/30/77, effective 10/1/77.]

**WAC 251-06-070 Allocation appeal--Higher education personnel board.** (1) The employee or employee representative may file a written appeal with the board under provisions of WAC 251-06-050 or 251-06-060 when:

(a) The response required in WAC 251-06-060(2) is not issued to the employee or employee representative within the required sixty calendar day period following receipt of the employee request; or

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

(c) The employee disagrees with the results of a position review conducted by the personnel officer. The written appeal should include information which will assist the board in determining the proper allocation of the position.

(2) Allocation appeals will be processed under the procedure provided in WAC 251-12-075 (1) or (2).

[Statutory Authority: RCW 28B.16.100. 82-04-069 (Order 93), § 251-06-070, filed 2/3/82; 79-12-088 (Order 81), § 251-06-070, filed 12/3/79; 78-06-068 (Order 68), § 251-06-070, filed 5/25/78, effective 7/1/78; Order 63, § 251-06-070, filed 11/22/77; Order 61, § 251-06-070, filed 8/30/77, effective 10/1/77; Order 37, § 251-06-070, filed 10/15/74; Order 10, § 251-06-070, filed 12/16/71.]

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

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

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

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

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

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

(c) Demote with the position;

(d) In addition, the employee may make him/herself available for appointment on or before the effective date of the reallocation via the institution's transfer/lateral movement/voluntary demotion procedure.

(3) Establishment of salary and periodic increment following reallocation shall be as provided in WAC 251-08-100 and 251-08-112.

[Statutory Authority: RCW 28B.16.100. 78-10-090 (Order 70), § 251-06-080, filed 9/29/78, effective 11/1/78; Order 61, § 251-06-080, filed 8/30/77, effective 10/1/77; Order 44, § 251-06-080, filed 6/25/75; Order 10, § 251-06-080, filed 12/16/71.]

**WAC 251-06-090 Probationary period—Duration.**

(1) The probationary period for all classes in the HEPB classification plan will be six months, unless the board approves a longer probationary period for the class.

(2) The director will prepare and revise for board adoption on a class-by-class basis any probationary periods which exceed six months. Procedures for requesting extended probationary periods will be developed by the director.

(3) Classes with longer probationary periods will be identified in the HEPB classification plan.

(4) When the probationary period for a class is approved for longer than six months, the longer period shall apply only to eligibles appointed after the effective date of the board's action.

[Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-06-090, filed 7/22/82, effective 9/1/82.]

**Chapter 251-08 WAC  
COMPENSATION**

**WAC**

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

251-08-150	Salary—Conversion of exempt position.
251-08-160	Payroll certification.

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

251-08-010	Compensation plans. [Order 1, § 251-08-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-005 and 251-08-007.
251-08-020	Compensation plans—Adoption. [Order 29, § 251-08-020, filed 1/22/74; Order 1, § 251-08-020, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-031.
251-08-030	Compensation plans—Approval. [Order 1, § 251-08-030, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-051.
251-08-050	Compensation plans—Periodic review. [Order 1, § 251-08-050, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-08-021.
251-08-091	Periodic increment withheld—Management employees. [Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-08-091, filed 7/31/84.] Repealed by 85-20-049 (Order 136), filed 9/25/85. Statutory Authority: RCW 28B.16.100.
251-08-111	Salary—Periodic increment—Exception. [Order 21, § 251-08-111, filed 5/24/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
251-08-140	Salary—Overtime records. [Order 1, § 251-08-140, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

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

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

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

(2) Regular salary increment increases based upon length of service for all employees whose performance is such as to permit them to retain job status in the classified service.

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

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

(5) Such other provisions as are appropriate in the establishment and maintenance of compensation equity in relation to prevailing practices found in Washington state private industries and other governmental units.

[Order 61, § 251-08-005, filed 8/30/77, effective 10/1/77.]

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

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

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

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

(3) Such supplemental compensation plans and provisions as are necessary to implement approved compensation practices as provided in chapter 251-09 WAC and/or such area wage variances as may be approved by the board for each member institution.

[Order 63, § 251-08-007, filed 11/22/77; Order 61, § 251-08-007, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-021 Compensation plans--Salary survey.** (1) For purposes of reflecting in salary schedules and in the compensation plans the prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, the director shall undertake salary and fringe benefit surveys for the board with the assistance of the various personnel officers and on a joint basis with the department of personnel, with one such survey to be conducted each year prior to the convening of each regular session of the state legislature.

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

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

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

(3) Salary and fringe benefit surveys shall be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of financial management, employee organizations, the standing committees for appropriations in the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions. This comprehensive plan shall include, but not be limited to, the following:

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

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

(i) Encompasses the interrelationships among the various elements of the survey sample including sources of salary and fringe benefit data by organization type, size, and regional location;

(ii) Is representative of private and public employment in this state;

(iii) Ensures that, wherever practical, data from smaller, private firms are included and proportionally weighted in the survey sample; and

(iv) Indicates the methodology to be used in application of survey data to job classes used by state government;

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

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

(5) Any interim or special surveys conducted shall conform when possible to the statistical techniques and principles developed for regular periodic surveys.

[Order 61, § 251-08-021, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-031 Compensation plans--Adoption.**

(1) The proposed compensation plans shall be submitted by the director to the board for adoption, revision, or rejection.

(2) Twenty calendar days prior to open hearings on the plans, the director shall circulate notice of the hearing to enable affected employees, employee representatives, institutions, and related boards to present their views either orally or in writing. The notice shall state the date, time, and place of the hearing, and shall include a copy of the proposed plans or revisions or reference thereto.

[Order 61, § 251-08-031, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-040 Compensation plans--Submission to governor.**

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

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

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

(b) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on



prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

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

(i) Those salary ranges which do not substantially conform to the prevailing rates developed from the salary and fringe benefit survey distinctly marked and an explanation of the reason for the deviation included; and

(ii) Those higher education personnel board classes which are substantially the same as classes being used by the department of personnel clearly marked to show the commonality of the classes between the two jurisdictions;

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

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

[Order 61, § 251-08-040, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-040, filed 9/15/69.]

**WAC 251-08-051 Compensation plans--Implementation.** Implementation of the results of salary and fringe benefit surveys shall be subject to approval as to availability of funds by the director of the office of financial management and after consultation with the chief financial officer of each institution for that institution, or in the case of the various community colleges, by the chief financial officer of the state board for community college education.

[Order 61, § 251-08-051, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-060 Compensation plans--Additional salary survey.** Upon the establishment of new classes, redefinition of existing classes, realignment or reorganization of duties and responsibilities, recruitment difficulties, employee or appointing authority salary protests, or whenever the board or director find it necessary in the administration of the plans, the director shall conduct additional salary surveys. Such findings and recommendations shall be presented by the director for consideration by the board.

[Order 61, § 251-08-060, filed 8/30/77, effective 10/1/77; Order 35, § 251-08-060, filed 7/23/74; Order 1, § 251-08-060, filed 9/15/69.]

(1986 Ed.)

**WAC 251-08-070 Salary--Limits.** The basic compensation rate for all employees shall be within the salary range assigned to the class, unless a different rate is permitted by these rules or by the board because of special circumstances.

[Order 61, § 251-08-070, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-070, filed 9/15/69.]

**WAC 251-08-080 Salary--Entrance.** The entrance salary for any nonpermanent employee of the institution shall be the minimum salary step of the range unless the personnel officer authorizes a higher entrance salary step.

[Order 61, § 251-08-080, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-080, filed 1/22/74; Order 1, § 251-08-080, filed 9/15/69.]

**WAC 251-08-090 Salary--Periodic increment.** (1) Employees whose performance permits them to retain job status in the classified service shall receive periodic increments within the steps of the salary range. The salary of each employee shall be increased two steps on the periodic increment date and annually thereafter on the periodic increment date, not to exceed the maximum step of the range.

(2) When the periodic increment date falls on the same effective date as another salary action, the periodic increment shall be applied prior to, and in addition to, any other action resulting in a salary increase or decrease.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-08-090, filed 9/25/85; 84-16-067 (Order 119), § 251-08-090, filed 7/31/84; Order 61, § 251-08-090, filed 8/30/77, effective 10/1/77; Order 18, § 251-08-090, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-090, filed 9/15/69.]

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

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

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

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

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

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

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

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

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

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

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-180 and 251-18-381;

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

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

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

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

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

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-18-420.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-08-100, filed 7/31/85, effective 9/1/85; 83-10-029 (Order 105), § 251-08-100, filed 4/29/83, effective 6/1/83; 78-06-068 (Order 68), § 251-08-100, filed 5/25/78, effective 7/1/78; Order 64, § 251-08-100, filed 12/23/77; Order 61, § 251-08-100, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-100, filed 1/22/74; Order 21, § 251-08-100, filed 5/24/73; Order 18, § 251-08-100, filed 10/25/72, effective 7/1/73.]

**WAC 251-08-110 Salary--Promotion.** An employee who is promoted shall be paid at the salary step which represents at least a two step increase over the salary received immediately prior to the promotion as determined by the personnel officer, provided such increase is not less than the first step of the new range; and does not exceed the top step of the new range.

[Order 61, § 251-08-110, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-110, filed 1/22/74; Order 21, § 251-08-110, filed 5/24/73; Order 18, § 251-08-110, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-110, filed 9/15/69.]

**WAC 251-08-112 Salary--Reallocation.** (1) An employee occupying a position that is reallocated to a class with a higher salary range maximum shall receive

an increase in the same manner as is provided for promotion in WAC 251-08-110. The periodic increment date shall be established as provided in WAC 251-08-100.

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

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

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

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

(c) A reallocation which results from the board's abolishment of a class will be effective the date of the board's action.

[Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-08-112, filed 5/25/78, effective 7/1/78; Order 61, § 251-08-112, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-115 Salary--Layoff, reversion, demotion.**

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

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

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

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

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

(6) For disciplinary demotion, the salary shall be lowered step-for-step. The personnel officer may, however, authorize exceptions to this provision.

[Order 61, § 251-08-115, filed 8/30/77, effective 10/1/77.]

**WAC 251-08-120 Salary--Survey implementation.** When adjustment in salary range is based on implementation of a salary survey and there is no change in class

concept, duties and responsibilities, the salary shall be adjusted to the same step in new range as held in previous range, except for those instances when the new range has a different number of salary steps, in which case the director shall determine the proper salary adjustments.

[Order 61, § 251-08-120, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-120, filed 9/15/69.]

**WAC 251-08-130 Salary--Part-time.** Part-time employment shall be compensated on the same pro rata basis as the appointment bears to a full-time appointment.

[Order 61, § 251-08-130, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-130, filed 9/15/69.]

**WAC 251-08-150 Salary--Conversion of exempt position.** The incumbent of an exempt position converted to classified status per the provisions of WAC 251-18-420 shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

[Order 64, § 251-08-150, filed 12/23/77.]

**WAC 251-08-160 Payroll certification.** A disbursing officer shall not pay any employee holding a position covered by the higher education personnel law unless the employment is in accordance with chapter 28B.16 RCW and the provisions of these rules. The board and the institutions of higher education including the state board for community college education which shall act for the various community colleges shall jointly establish procedures for the certification of payrolls.

[Statutory Authority: RCW 28B.16.100 and 28B.16.190. 79-03-030 (Order 72), § 251-08-160, filed 2/27/79, effective 4/2/79.]

## Chapter 251-09 WAC HOURS OF WORK--PREMIUM PAY

### WAC

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

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

(2) Nothing in these rules shall preclude the assignment of overtime outside of normally scheduled shifts. Overtime worked is compensated per WAC 251-09-030.

[Order 62, § 251-09-010, filed 8/30/77, effective 10/1/77.]

(1986 Ed.)

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

(1) **Scheduled work periods**, within which there are three work schedules:

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

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

(c) **Emergency response fire officer work schedule.** Institutions which operate an emergency response fire department may establish work week schedules for emergency response personnel which provide for a daily work shift of twenty-four hours. The weekly schedule shall provide for at least forty-eight hours, but not more than fifty-six hours, as required to meet operational requirements. Emergency response personnel assigned to twenty-four hour schedules shall be subject to the following conditions:

(i) All rules in chapter 251-22 WAC shall apply.

(ii) Changes to the established work schedule shall be made as provided in WAC 251-09-025.

(iii) Shift differential shall not be paid.

(iv) Overtime shall be paid for work performed in excess of the scheduled daily work shift or the scheduled work week. The overtime compensation shall be as provided in WAC 251-09-030 (2) and (3).

(v) Holidays shall be as provided in WAC 251-22-040 and 251-22-045. When assigned to work on a designated holiday, emergency response personnel shall receive their regular daily pay plus eight hours of holiday pay. Compensation for the eight hours of holiday time shall be at the rate of time and one-half.

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

(3) **Excepted work period.** The excepted work period designation applies to classes and positions which meet the HEPB definitions of executive, administrative, or professional employees and are assigned to salary ranges twenty-three and above. Qualifying classes will be approved by the director. Each personnel officer will be

responsible for determining the positions designated "excepted" at his/her institution. The personnel officer will develop a procedure for verifying "excepted" positions which will be available for review by the director.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-09-020, filed 9/23/83, effective 10/24/83; 79-12-088 (Order 81), § 251-09-020, filed 12/3/79; Order 62, § 251-09-020, filed 8/30/77, effective 10/1/77.]

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

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

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

(b) Because of emergency conditions; or

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

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

(i) There is no work; or

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

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

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

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

(b) Because of emergency conditions; or

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

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

(3) Overtime worked shall be computed on the employee's base rate plus shift premium where applicable.

[Order 62, § 251-09-025, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-030 Overtime.** (1) Any one of the following constitutes overtime:

(a) Work in excess of the daily work shift for full-time employees assigned to scheduled work period positions;

(b) Work in excess of forty hours in one work week for employees assigned to scheduled or nonscheduled work period positions; or

(c) For hospital personnel assigned to a fourteen-day schedule, work in excess of eight hours in a twenty-four hour period or eighty hours in a fourteen-day period.

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

(3) Employees assigned to scheduled or nonscheduled work period positions shall receive monetary payment as compensation for overtime worked; however, at the employee's request compensatory time off at one and one-half times the overtime hours worked may be granted in lieu of monetary payment, except that agricultural employees shall receive compensatory time off or monetary payment at the option of the institution. The accumulation of unused compensatory time that exceeds two hundred forty hours (four hundred eighty for employees engaged in public safety or emergency response activity) must be paid in cash.

(4) If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment. Upon termination of employment, an employee will be paid for any unused compensatory time in accordance with the Fair Labor Standards Act.

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

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

(7) For purposes of computing overtime compensation, holidays or leave with pay during the employee's regular work schedule shall be considered as time worked.

[Statutory Authority: RCW 28B.16.100. 86-12-006 (Order 151), § 251-09-030, filed 5/22/86, effective 7/1/86; 79-06-076 (Order 74), § 251-09-030, filed 5/30/79, effective 7/1/79; 78-06-068 (Order 68), § 251-09-030, filed 5/25/78, effective 7/1/78; Order 62, § 251-09-030, filed 8/30/77, effective 10/1/77.]

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

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

(b) When classified employees working less than a full-time schedule work on a designated holiday, they shall receive their regular holiday pay on the same pay

rata basis that their monthly schedule bears to a full-time schedule, plus premium pay at time and one-half for all hours worked on such holiday. Compensatory time off may be granted by the institution in lieu of monetary payment.

(2) Classified employees occupying excepted work period positions normally do not qualify for holiday premium pay.

[Order 62, § 251-09-035, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-040 Shift differential.** (1) Shift differential for employees assigned to a shift in which a majority of time worked daily or weekly is between 5:00 p.m. and 7:00 a.m. shall be \$ .50 per hour or \$87.00 per month.

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

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

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

(5) Shift differential shall not apply to police officers where salaries are correlated with a rotating shift in accordance with local prevailing rate practice.

[Statutory Authority: RCW 28B.16.100. 85-14-045 (Order 129), § 251-09-040, filed 6/28/85; Order 62, § 251-09-040, filed 8/30/77, effective 10/1/77.]

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

[Order 62, § 251-09-060, filed 8/30/77, effective 10/1/77.]

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

[Order 62, § 251-09-070, filed 8/30/77, effective 10/1/77.]

(1986 Ed.)

**WAC 251-09-080 Standby pay.** Compensation for a scheduled or nonscheduled work period employee required to restrict off-duty activities to be available for duty will be approved by the higher education personnel board and will be included in the individual institution compensation plan.

[Order 62, § 251-09-080, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-090 Special pay.** The board or the director may approve special pay due to unique working conditions, employment problems such as recruitment and/or retention, or when special use requirements are necessary to maintain effective operation of the institution. Actions approved by the director are subject to confirmation by the board.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-09-090, filed 9/23/83, effective 10/24/83; 80-02-111 (Order 83), § 251-09-090, filed 1/28/80; 78-06-068 (Order 68), § 251-09-090, filed 5/25/78, effective 7/1/78; Order 62, § 251-09-090, filed 8/30/77, effective 10/1/77.]

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

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

(2) Such provisions are found to be in accordance with prevailing practices in the industry and/or local community in which the institution is located.

[Order 62, § 251-09-100, filed 8/30/77, effective 10/1/77.]

**WAC 251-09-110 Rest periods.** Employees shall receive not less than a ten minute rest period for each four hours of work. Each eight hour shift shall include two rest periods, even though the shift is unequally divided.

[Order 62, § 251-09-110, filed 8/30/77, effective 10/1/77.]

## Chapter 251-10 WAC SEPARATION--DISCIPLINE

WAC	
251-10-020	Resignation.
251-10-025	Layoff seniority—General provisions.
251-10-030	Layoff.
251-10-034	Layoff rights—Interlocal Cooperation Act.
251-10-035	Layoff—Special employment programs.
251-10-045	Layoff—Veterans retention preference.
251-10-055	Layoff lists—Institution-wide.
251-10-060	Layoff lists—State-wide.
251-10-105	Notice of unsatisfactory work.
251-10-110	Demotion, suspension, reduction, separation, dismissal—Cause for.
251-10-111	Removal from supervisory positions.
251-10-112	Medical examination—Current employee.
251-10-120	Dismissal/separation—Grounds for—Notice.
251-10-130	Suspension—Grounds for—Duration—Notice.
251-10-140	Immediate dismissal.
251-10-150	Reduction, demotion—Procedure.
251-10-160	Withdrawal or amendment of charges—Time limitation.
251-10-170	Dismissal—Union shop—Notice—Recision.
251-10-180	Presumption of resignation—Unauthorized absence.

251-10-190 Probationary period—Rejection.  
 251-10-195 Trial service reversion.

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

251-10-010 Separation. [Order 1, § 251-10-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

251-10-031 Layoff—Equal layoff seniority. [Statutory Authority: RCW 28B.16.100, 82-16-002 (Order 98), § 251-10-031, filed 7/22/82, effective 9/1/82.] Repealed by 85-20-049 (Order 136), filed 9/25/85. Statutory Authority: RCW 28B.16.100.

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

251-10-050 Veterans retention preference. [Order 8, § 251-10-050, filed 6/17/71, effective 7/19/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.

**WAC 251-10-020 Resignation.** Any employee may resign from service and should present, at least fourteen calendar days in advance of the effective date, his/her resignation in writing to the appointing authority or employing official. With the approval of the appointing authority or employing official, an employee may withdraw a resignation.

[Order 61, § 251-10-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-10-020, filed 9/15/69.]

**WAC 251-10-025 Layoff seniority—General provisions.** (1) Layoff seniority is used to determine which employee(s) will be affected by a layoff.

(2) Layoff seniority is the number of calendar days an employee has been continuously employed in the classified service.

(3) Layoff seniority is based on the earliest date of continuous classified service. For the purposes of layoff seniority, classified service of less than full time shall be considered full-time service.

(4) Authorized leave of absence without pay shall not constitute a break in service; however, the time spent on such leave shall not be included in computing seniority except where required by statute or as stated in subsection (5) of this section.

(5) Leave of absence without pay scheduled for cyclic year positions does not constitute a break in service and shall be included when calculating layoff seniority for employees in cyclic year positions.

(6) Permanent employees who are veterans or their unmarried widows/widowers as identified in WAC 251-10-045 shall have added to their unbroken service the veteran's active military service to a maximum of five years' credit.

(7) Participation of current state employees in the state internship program pursuant to WAC 251-25-050(1) shall be included in calculating an employee's layoff seniority.

[Statutory Authority: RCW 28B.16.100, 86-14-041 (Order 152), § 251-10-025, filed 6/26/86, effective 8/1/86; 85-04-019 (Order 123), § 251-10-025, filed 1/30/85.]

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

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

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

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

(3) A permanent status employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in WAC 251-10-030 (5) and (6). The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate institution-wide layoff list(s).

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

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

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

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

The employee may exercise either option WAC 251-10-030 (5)(a) or (5)(b) provided that the employee being replaced is the least senior in a comparable position in the class and has less layoff seniority than the employee replacing him/her. A vacant position, if available, should be considered to be the position in the class held by the least senior person. The employee may elect to have access to less-than-comparable positions by so notifying the personnel officer in writing.

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

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

(i) At the same level or lower than the class from which the employee is being laid off; and

(ii) Vacant or held by a provisional, temporary, or probationary employee; and

(iii) In a class for which the employee being laid off meets the minimum qualifications and can pass the appropriate qualifying examination.

(b) The employee will be required to indicate within three working days his/her interest in a specific class(es)

so that the personnel officer may schedule the appropriate examination(s).

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

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

(7) In order to be offered a layoff option or return from layoff to a position for which specific position requirements have been documented in accordance with WAC 251-18-255(1), the employee must demonstrate a satisfactory level of knowledge, skill, or ability on the specific position requirements.

(8) In a layoff action involving a position for which a particular sex is a bona fide occupational requirement, as approved by the Washington state human rights commission, the most senior employee meeting the occupational requirements may be retained in the position over more senior employees in such class who do not meet the occupational requirement.

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

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

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

(c) Advise each employee in writing of the specific layoff list(s) upon which he/she may be placed as required per WAC 251-10-055 and 251-10-035;

(d) Provide information about the process by which the employee may make application for state-wide layoff lists, as required per WAC 251-10-060(7);

(e) Advise each employee in writing of the right to appeal his/her layoff to the board per WAC 251-12-080.

(10) Layoff actions for employees of special employment programs as identified in WAC 251-18-410 shall be administered as provided in WAC 251-10-035.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-10-030, filed 7/31/85, effective 9/1/85; 82-07-074 (Order 94), § 251-10-030, filed 3/23/82; 79-07-096 (Order 76), § 251-10-030, filed 6/29/79, effective 8/1/79. Statutory Authority: RCW 28B.16.100. 79-03-029 (Order 71), § 251-10-030, filed 2/27/79, effective 4/2/79; Order 61, § 251-10-030, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-030, filed 6/25/75; Order 41, § 251-10-030, filed 3/17/75; Order 35, § 251-10-030, filed 7/23/74; Order 32, § 251-10-030, filed 3/19/74; Order 8, § 251-10-030, filed 6/17/71, effective 7/19/71; Order 4, § 251-10-030, filed 2/19/71; Order 1, § 251-10-030, filed 9/15/69.]

**WAC 251-10-034 Layoff rights--Interlocal Cooperation Act.** Classified personnel who leave their positions to accept employment with an administrative body established for higher education under the Interlocal Cooperation Act (chapter 39.34 RCW) will, in the event of layoff from that administrative body, retain layoff rights earned at the former institution.

[Statutory Authority: RCW 28B.16.100. 79-08-120 (Order 78), § 251-10-034, filed 7/31/79.]

(1986 Ed.)

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

(2) An appointing authority may separate or reduce the number of working hours or the work year of a special employment program employee without prejudice because of lack of funds or lack of work, or when an incumbent must be separated due to the salary or longevity requirements of Public Law 95-524.

(3) A permanent status special employment program employee scheduled for layoff shall receive written notice of any available options in lieu of layoff as provided in subsection (5) of this section. Employment options are limited to positions within the special employment program layoff unit and/or program for which the employee qualifies. The employee shall be given no less than three working days to select an option, if available, or to elect to be laid off and/or be placed on the appropriate special employment program layoff list(s).

(4) The appointing authority must provide the employee at least fifteen calendar days written notice beyond the date of selection of an option or the completion of the option period, whichever is sooner. The notice shall inform the employee of his/her right to appeal the layoff action to the board per WAC 251-12-080.

(5) Within the special employment program layoff unit, a permanent status employee scheduled for layoff shall be offered the following:

(a) Except as provided in subsection (5)(b) of this section, employees who are being laid off shall be offered options within the layoff unit and placement on special employment program layoff lists in class(es) with the same or lower salary range maximum that are:

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

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

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

(b) Employees who are being laid off due to the expiration of the maximum allowable period of subsidized employment as provided in Public Law 95-524 shall not be afforded layoff options but shall be placed on the special employment program layoff list(s) for which they are eligible.

(6) The provisions of WAC 251-10-030 (7) and (8) relative to specific position and bona fide occupational requirements shall apply to special employment program layoff actions.

(7) The names of employees scheduled for layoff or actually laid off from service within a class shall be placed on the special employment program layoff list as provided in WAC 251-18-180.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-10-035, filed 7/31/85, effective 9/1/85; 82-19-067 (Order 102), § 251-10-035, filed 9/20/82, effective 10/25/82; 79-07-096 (Order 76), § 251-10-035, filed 6/29/79, effective 8/1/79; Order 61, § 251-

10-035, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-035, filed 6/25/75.]

**WAC 251-10-045 Layoff--Veterans retention preference.** (1) For the purpose of this section veteran means any permanent employee who has one or more years in active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge is given.

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

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

(4) For the purpose of this rule "veteran" does not include any person who as a veteran retired with twenty or more years' active military service and has military retirement pay in excess of five hundred dollars per month.

[Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-10-045, filed 3/30/84, effective 5/1/84; 82-16-002 (Order 98), § 251-10-045, filed 7/22/82, effective 9/1/82; Order 61, § 251-10-045, filed 8/30/77, effective 10/1/77.]

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

(1) The names of persons identified in subsection (6) of this section, permanent and probationary employees who are scheduled for layoff, who have been laid off from service within a class or service to the institution, or who have accepted a lower option in lieu of layoff shall be placed on the institution-wide layoff list(s) for those class(es) in which they have held permanent status, probationary (if within the same class series as the list), or trial service appointment status within the current period of employment at the institution provided that:

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

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

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

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

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

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

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

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

(a) Acceptance of a layoff option or appointment from a layoff list shall cause removal from the list(s) for all classes with the same or lower salary range maximum; except that, unless the employee so requests, he/she may not be removed via this procedure from the layoff list for the class from which laid off.

(b) Retirement, resignation, or dismissal from the institution shall cause removal from the list(s).

(c) Declination of appointment to three positions on shifts for which the employee has formally indicated availability.

(6) In addition to persons identified in subsection (1) of this section, institution-wide layoff lists shall also contain the names of former employees of the institution/related board who have not successfully completed a trial service period resulting from movement identified in WAC 251-18-347. Such employees shall only have access to the list for the class in which they held permanent status prior to moving via WAC 251-18-347.

[Statutory Authority: RCW 28B.16.100. 85-20-050 (Order 137), § 251-10-055, filed 9/25/85, effective 11/1/85; 84-08-032 (Order 113), § 251-10-055, filed 3/30/84, effective 5/1/84; 82-19-067 (Order 102), § 251-10-055, filed 9/20/82, effective 10/25/82; 81-15-003 (Order 88), § 251-10-055, filed 7/2/81; 78-06-068 (Order 68), § 251-10-055, filed 5/25/78, effective 7/1/78; Order 61, § 251-10-055, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-060 Layoff lists--State-wide.** (1) A permanent employee of any institution of higher education, related board, or state agency who is on layoff status or is scheduled for layoff shall, upon his/her request, be placed on the state-wide layoff list(s) at any higher education institutions or related boards: *Provided, That:*

(a) The employee must demonstrate the ability to meet the minimum qualifications and pass the qualifying examination; and

(b) The list must be for:

(i) Class(es) in which he/she has held permanent status; or

(ii) Lower class(es) in the same class series; or for

(iii) Equivalent classes under the jurisdiction of the state department of personnel; and

(c) The option must be exercised by the affected employee within thirty calendar days of the effective date of layoff.

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

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

(b) Employees of other state agencies.

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

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

(5) Employees appointed from this list shall be required to serve a probationary period of six months. Termination during the probationary period shall not



affect the employees' status on state-wide layoff lists upon which they previously have been placed.

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

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

(8) Certification from the state-wide layoff list shall be as provided in WAC 251-18-240.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-10-060, filed 9/23/83, effective 10/24/83; 82-16-002 (Order 98), § 251-10-060, filed 7/22/82, effective 9/1/82; 78-10-090 (Order 70), § 251-10-060, filed 9/29/78, effective 11/1/78; Order 61, § 251-10-060, filed 8/30/77, effective 10/1/77; Order 32, § 251-10-060, filed 3/19/74.]

**WAC 251-10-105 Notice of unsatisfactory work.** Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

[Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-105, filed 2/28/86, effective 4/1/86.]

**WAC 251-10-110 Demotion, suspension, reduction, separation, dismissal--Cause for.** (1) Appointing authorities may demote, suspend, reduce in salary, separate or dismiss an employee under their jurisdiction for just cause. Examples of activities which may result in such action are, but are not limited to: Neglect of duty, inefficiency, incompetence, insubordination, malfeasance, gross misconduct, physical or mental incapacity, willful violation of the published institution or related board or higher education personnel board rules or regulations, mistreatment or abuse of fellow workers or members of the public, conflict of interest, excessive absenteeism, etc.

(2) Appointing authorities shall dismiss any employee under their jurisdiction whose performance is so inadequate as to be just cause for dismissal as described in subsection (1) of this section.

[Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-110, filed 2/28/86, effective 4/1/86; 82-10-006 (Order 95), § 251-10-110, filed 4/26/82, effective 6/1/82; 81-18-039 (Order 90), § 251-10-110, filed 8/28/81, effective 10/1/81; Order 61, § 251-10-110, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-111 Removal from supervisory positions.** Appointing authorities shall remove from supervisory positions those supervisors who, in violation of WAC 251-10-110(2), have tolerated the continued employment of employees under their supervision whose

performance has warranted termination from state employment.

[Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-111, filed 2/28/86, effective 4/1/86.]

**WAC 251-10-112 Medical examination--Current employee.** A medical examination and/or doctor's certificate may be required where a question arises concerning the fitness of a current employee to perform the duties of his/her position. Cost of the medical examination and/or doctor's certificate should be borne by the employer; provided that such costs shall not be borne by the employer under the circumstances described in WAC 251-22-111(2).

[Statutory Authority: RCW 28B.16.100. 85-04-019 (Order 123), § 251-10-112, filed 1/30/85.]

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

[Statutory Authority: RCW 28B.16.100. 85-06-017 (Order 125), § 251-10-120, filed 2/25/85, effective 4/1/85; 83-10-029 (Order 105), § 251-10-120, filed 4/29/83, effective 6/1/83; Order 61, § 251-10-120, filed 8/30/77, effective 10/1/77.]

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

[Order 61, § 251-10-130, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-140 Immediate dismissal.** When the appointing authority determines that a permanent employee is to be dismissed for cause as provided in WAC

251-10-110 and the circumstances are such that retention of the employee in an active duty status may result in damage to state property or may be injurious to the employee, fellow workers, or the client public, the employee may be dismissed immediately. The employee must be notified in writing as provided in WAC 251-10-120, but the fifteen calendar days notice requirement does not apply. The notification must state the cause for the dismissal and in addition the necessity for the immediacy of the action.

[Statutory Authority: RCW 28B.16.100. 84-12-047 (Order 117), § 251-10-140, filed 6/1/84; 83-20-020 (Order 108), § 251-10-140, filed 9/23/83, effective 10/24/83; 82-16-002 (Order 98), § 251-10-140, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-10-140, filed 5/25/78, effective 7/1/78; Order 61, § 251-10-140, filed 8/30/77, effective 10/1/77.]

#### **WAC 251-10-150 Reduction, demotion--Procedure.**

Appointing authorities may reduce the salary of a permanent employee within the range or may demote an employee to a class at a lesser pay range for which he/she meets the minimum qualifications. Specific charges in writing for either of these actions shall be furnished to the employee at least fifteen calendar days prior to the effective date of the action.

[Order 61, § 251-10-150, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-160 Withdrawal or amendment of charges--Time limitation.** Appointing authorities may withdraw or amend demotion, suspension, reduction in salary, or dismissal actions, but not after an appeal of the action has been heard by the board.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-10-160, filed 7/31/84; Order 61, § 251-10-160, filed 8/30/77, effective 10/1/77.]

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

[Order 61, § 251-10-170, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-180 Presumption of resignation--Unauthorized absence.** An employee may be presumed to have resigned his/her position when there has been an absence without authorized leave from the job for a period of three consecutive working days. Thereafter, a notice acknowledging the presumption of resignation shall be sent by certified mail to the last known address of the employee with a copy to the director. Within seven calendar days after the date of service, the employee may petition the appointing authority in writing

for reinstatement upon proof that the absence was involuntary or unavoidable. If a permanent employee petitions within the seven calendar days and is not reinstated, notification shall be given advising of the right to appeal to the higher education personnel board per the provision of WAC 251-12-075.

[Order 61, § 251-10-180, filed 8/30/77, effective 10/1/77.]

#### **WAC 251-10-190 Probationary period--Rejection.**

An appointing authority may reject an employee who has not completed a probationary period. Written notice of the action must be given to the employee at least one workday (eight hours) prior to the effective date of the action. Written notice should be given directly to the employee. If the employee is unavailable, notification shall be by certified mail. Service of papers shall be as provided in WAC 251-04-105. A probationary employee may not appeal rejection to the board.

[Order 61, § 251-10-190, filed 8/30/77, effective 10/1/77.]

**WAC 251-10-195 Trial service reversion.** An employee, prior to completing a trial service period, may be reverted by an employing official for failure to perform satisfactorily in the class. When such reversion becomes necessary, the written notice and employee rights upon reversion will be as provided in WAC 251-18-330(2). Trial service reversion is not appealable to the board when the conditions of WAC 251-18-330(3) have been satisfied.

[Order 61, § 251-10-195, filed 8/30/77, effective 10/1/77.]

## **Chapter 251-12 WAC APPEALS**

### **WAC**

251-12-071	Appeals from allocation.
251-12-072	Appeals from eligibility determinations.
251-12-073	Appeals from exempt status.
251-12-075	Appeals from alleged violations of HEPB law or rules.
251-12-080	Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissal.
251-12-085	Hearing examiners.
251-12-090	Appeals receipt--Procedure.
251-12-100	Hearings before the board.
251-12-110	Appearance and practice before the board.
251-12-120	Standards of ethical conduct.
251-12-140	Service of papers.
251-12-170	Subpoenas--Form.
251-12-180	Subpoenas--Issuance to parties.
251-12-190	Subpoenas--Service of subpoena.
251-12-200	Subpoenas--Witness fees.
251-12-210	Subpoenas--Proof of service.
251-12-220	Subpoenas--Quashing.
251-12-230	Discovery--Depositions--Interrogatories.
251-12-240	Burden of proof.
251-12-250	Findings of fact--Conclusions of law--Filing procedure.
251-12-260	Restoration of rights.
251-12-270	Superior court appeals--Grounds--Notice requirements.
251-12-290	Superior court appeals--Preparation of record--Time limitations--Cost.
251-12-300	Superior court appeals--Consideration of record.
251-12-500	Relief from effect of board's order.
251-12-600	Remedial action.

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 251-12-010 Demotion—Suspension—Reduction—Dismissal—Causes. [Order 21, § 251-12-010, filed 5/24/73; Order 1, § 251-12-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-110.
- 251-12-015 Dismissal—Union shop requirement—Notice—Recision of dismissal. [Order 25, § 251-12-015, filed 7/17/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-170.
- 251-12-020 Reduction—Demotion—Procedure. [Order 1, § 251-12-020, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-150.
- 251-12-030 Suspension—Grounds for—Duration—Notice. [Order 1, § 251-12-030, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-130.
- 251-12-040 Dismissal—Grounds for—Notice. [Order 1, § 251-12-040, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-120.
- 251-12-045 Probationary period—Rejection. [Order 17, § 251-12-045, filed 10/16/72, effective 11/20/72.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-190.
- 251-12-050 Suspension—Concurrently—Notice. [Order 1, § 251-12-050, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-140.
- 251-12-060 Unauthorized absence—Presumption of resignation—Notice. [Order 21, § 251-12-060, filed 5/24/73; Order 1, § 251-12-060, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-180.
- 251-12-070 Demotion, suspension—Reduction—Dismissal—Withdrawal of charges by appointing authority—Time limitation. [Order 1, § 251-12-070, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-160.
- 251-12-095 Appeals—Limitations. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-12-095, filed 5/25/78, effective 7/1/78.] Repealed by 80-15-026 (Order 85), filed 10/8/80. Statutory Authority: RCW 28B.16.100.
- 251-12-130 Computation of time. [Order 1, § 251-12-130, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-100.
- 251-12-150 Method and completion of service. [Order 1, § 251-12-150, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-105.
- 251-12-160 Filing with board. [Order 1, § 251-12-160, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-110.
- 251-12-280 Grounds—Notice requirements. [Order 1, § 251-12-280, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-270.
- 251-12-285 Superior court appeals—Statement of facts—Preparation. [Order 61, § 251-12-285, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-285, filed 2/22/74.] Repealed by 83-10-029 (Order 105), filed 4/29/83, effective 6/1/83. Statutory Authority: RCW 28B.16.100.
- 251-12-501 Appeals—Relief from indirect effect of board's order. [Order 29, § 251-12-501, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-502 Written notice by director. [Order 29, § 251-12-502, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-503 Request for review by board. [Order 29, § 251-12-503, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-504 Board ruling on review. [Order 29, § 251-12-504, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.

**WAC 251-12-071 Appeals from allocation.** Any employee or employee representative desiring to appeal the allocation of his/her position may do so in accord with the provisions of WAC 251-06-070.

[Order 61, § 251-12-071, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-072 Appeals from eligibility determinations.** An applicant may appeal the following actions in accord with the provisions of WAC 251-18-145:

- (1) Rejection of his/her application; or
- (2) The results of the institutional examination review process; or
- (3) The conduct of the selection process and/or his/her examination results; or
- (4) Failure to restore his/her name to an eligible list following the institutional review process; or
- (5) Removal of his/her name from an eligible list for reasons other than those specified in WAC 251-18-200(2).

[Statutory Authority: RCW 28B.16.100. 84-24-032 (Order 122), § 251-12-072, filed 11/30/84, effective 1/1/85; Order 61, § 251-12-072, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-073 Appeals from exempt status.** As indicated in WAC 251-04-040(11), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-12-073, filed 7/31/85, effective 9/1/85; Order 61, § 251-12-073, filed 8/30/77, effective 10/1/77.]

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

- (1) The case may be handled in the same manner as appeals from demotion, suspension, layoff, reduction or dismissal, as provided in WAC 251-12-080 through 251-12-260; or
- (2) The director may investigate the case and based upon that investigation issue a determination. Within

thirty calendar days of the date of service either party may file written exceptions with the board detailing the specific items of the determination to which exception is taken. A hearing on the exceptions will be scheduled before the board which may limit argument to the exceptions or may rehear the case in its entirety; or

(3) Both parties to the appeal may be requested to submit evidence upon which the board may take action without a hearing.

[Order 61, § 251-12-075, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-080 Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissal.** Any permanent employee who is demoted, suspended, laid off, reduced in salary, separated or dismissed, may appeal such action. Appeals must be in writing and must be filed in the office of the director within thirty calendar days after the effective date of the action appealed.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-12-080, filed 7/31/84; 82-10-006 (Order 95), § 251-12-080, filed 4/26/82, effective 6/1/82; Order 61, § 251-12-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-12-080, filed 5/24/73; Order 1, § 251-12-080, filed 9/15/69.]

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

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

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

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

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

[Order 61, § 251-12-085, filed 8/30/77, effective 10/1/77.]

**WAC 251-12-090 Appeals receipt--Procedure.** The director shall forward the written notice of appeal to the

board or hearing examiner and the institution concerned and shall aid in arranging an appeal hearing as soon as possible. The hearing shall be conducted within thirty calendar days after receipt of the appeal by the director.

[Order 61, § 251-12-090, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-090, filed 9/15/69.]

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

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

(3) The board shall prepare an official record of the hearing, including all testimony, recorded manually or by mechanical device, and exhibits; but it shall not be required to transcribe such record unless requested by the employee, who shall be furnished with a complete transcript upon payment of a reasonable charge therefor. Payment of the cost of a transcript used on appeal shall await determination of the appeal, and shall be made by the employing institution if the employee prevails.

[Statutory Authority: RCW 28B.16.100. 83-10-029 (Order 105), § 251-12-100, filed 4/29/83, effective 6/1/83; Order 61, § 251-12-100, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-100, filed 9/15/69.]

**WAC 251-12-110 Appearance and practice before the board.** Appellants shall have the right to represent themselves in all types of hearings before the board. In addition appellants or institutions may be represented by a party of their choosing, except that no person may represent an appellant or institution in hearings of demotion, reduction in salary, suspension, separation, dismissal, layoff, or refusal to reinstate after presumption of resignation other than the following:

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

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

(3) Authorized legal interns, when accompanied by their qualified supervising attorney.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-12-110, filed 7/31/84; 80-16-009 (Order 86), § 251-12-110, filed 10/27/80, effective 12/1/80; Order 61, § 251-12-110, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-110, filed 9/15/69.]

**WAC 251-12-120 Standards of ethical conduct.** All persons appearing in proceedings before the board in a representative capacity shall conform to the standards of ethical conduct required of attorneys before the courts of Washington. If any such person does not conform to these standards, the board may decline to permit him/her to appear in a representative capacity in proceedings before the board.

[Order 61, § 251-12-120, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-120, filed 9/15/69.]

**WAC 251-12-140 Service of papers.** In matters of appeal the board shall cause to be served all orders, notices, and other papers issued by it. Every other paper shall be served by the party filing the notice, document or paper. All notices, documents, or papers served by either the board or any other party shall be served upon all counsel of record at the time of such filing and upon parties not represented by counsel.

[Order 61, § 251-12-140, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-140, filed 9/15/69.]

**WAC 251-12-170 Subpoenas--Form.** Every subpoena shall name the board and the title of the proceeding, if any, and shall command the person to whom it is directed to attend and give testimony or produce designated books, documents, or records under his/her control at a specified time and place, and shall as nearly as practicable follow the form required in superior court.

[Order 61, § 251-12-170, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-170, filed 10/15/71; Order 1, § 251-12-170, filed 9/15/69.]

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

[Order 61, § 251-12-180, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-180, filed 6/18/74; Order 9, § 251-12-180, filed 10/15/71; Order 1, § 251-12-180, filed 9/15/69.]

**WAC 251-12-190 Subpoenas--Service of subpoena.** Service of subpoena shall be made by delivering a copy of the subpoena a reasonable period ahead of time to

such person and by tendering, on demand, the fees for one day's attendance and the mileage allowed by law.

[Order 61, § 251-12-190, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-190, filed 9/15/69.]

**WAC 251-12-200 Subpoenas--Witness fees.** Witnesses summoned before the board shall be paid the same fees and mileage paid to witnesses in the superior court of the state of Washington by the party at whose instance they appear. The board shall be responsible only for paying the witness fees of witnesses subpoenaed by it.

[Order 61, § 251-12-200, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-200, filed 10/15/71; Order 1, § 251-12-200, filed 9/15/69.]

**WAC 251-12-210 Subpoenas--Proof of service.** The person serving the subpoena shall make proof of service by filing the original subpoena. If such service has not been acknowledged by the witness, such person shall make an affidavit of service. Failure to make proof of service does not affect the validity of the service.

[Order 61, § 251-12-210, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-210, filed 9/15/69.]

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

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

(2) Condition denial of the motion upon just and reasonable conditions.

[Order 61, § 251-12-220, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-220, filed 6/18/74; Order 1, § 251-12-220, filed 9/15/69.]

**WAC 251-12-230 Discovery--Depositions--Interrogatories.** Attorneys of record for a party to a hearing may use discovery procedures in a manner consistent with the civil rules for the superior courts of the state of Washington, or the members of the board, the director, or a hearing examiner may issue orders for discovery upon petition of the party desiring discovery. Any motions, challenges or objections concerning discovery shall be ruled upon by the board or the hearing examiner assigned to the hearing.

[Order 61, § 251-12-230, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-230, filed 6/18/74; Order 1, § 251-12-230, filed 9/15/69.]

**WAC 251-12-240 Burden of proof.** (1) At any hearing on appeal from a layoff, demotion, suspension, reduction in salary, separation (except for voluntary resignation or retirement), or dismissal the institution shall have the burden of proof.

(2) At any hearing on appeal from an allocation, the burden of proof shall rest with the appellant.

(3) At any hearing on exceptions to a hearing examiner's recommended decision per the provisions of WAC 251-12-085 or to a director's determination per the provisions of WAC 251-12-075, 251-12-600, or 251-

18-115, the party filing the exceptions shall have the burden of proof.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-12-240, filed 7/31/84; 81-18-039 (Order 90), § 251-12-240, filed 8/28/81, effective 10/1/81; 78-06-068 (Order 68), § 251-12-240, filed 5/25/78, effective 7/1/78; Order 61, § 251-12-240, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-240, filed 9/15/69.]

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

[Order 61, § 251-12-250, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-250, filed 9/15/69.]

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

(2) In instances of immediate dismissal as provided in WAC 251-10-140 where the institution is unable to justify under appeal the immediacy of the dismissal but the dismissal action itself is upheld, the employee's entitlement to recovery shall not exceed the fifteen calendar day period which would have served as the notice period had the dismissal been processed as provided in WAC 251-10-120. In instances where the board does not uphold the dismissal action but deems a suspension to have been warranted, the employee may be reinstated and a suspension ordered of up to fifteen calendar days.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-12-260, filed 9/23/83, effective 10/24/83; Order 61, § 251-12-260, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-260, filed 9/15/69.]

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

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

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

(c) Materially affected by unlawful procedure.

(d) Based on violation of any constitutional provision.

(e) Arbitrary or capricious.

(2) Such grounds shall be stated in written notice of appeal filed with the superior court, with copies thereof served on the director or a member of the board and on the adverse party, all within the time stated.

[Order 61, § 251-12-270, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-270, filed 9/15/69.]

**WAC 251-12-290 Superior court appeals--Preparation of record--Time limitations--Cost.** Within thirty calendar days after service of the notice of appeal to the superior court, or within such further time as the superior court may allow, the board shall transmit to the court a certified record, with exhibits, of the hearing; but by stipulation between the employing institution and the employee the record may be shortened, and either party unreasonably refusing to stipulate to such limitation may be ordered by the court to pay the additional cost involved. The superior court may require or permit subsequent corrections or additions to the record.

[Order 61, § 251-12-290, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-290, filed 2/22/74; Order 1, § 251-12-290, filed 9/15/69.]

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

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

(3) Appeal shall be available to the supreme court from the order of the superior court as in other civil cases.

[Order 61, § 251-12-300, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-300, filed 2/22/74; Order 1, § 251-12-300, filed 9/15/69.]

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

(a) Permanent status when qualified by examination;

(b) Salary maintenance or adjustment;

(c) Seniority as appropriate;

(d) Accrual of benefits.

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

(3) The director shall notify interested parties in writing of any recommended action and such order shall be

binding unless a request for review is received by the higher education personnel board as provided in subsection (4) below.

(4) Request for board review of the action of the director must be made in writing by the employee, his/her representative, or the institution within fifteen calendar days of the mailing of such notice and must contain the reasons for such review. Within thirty calendar days of receipt of the notice the board will issue its ruling either affirming or modifying the director's action. The board's order shall be final and binding.

[Order 61, § 251-12-500, filed 8/30/77, effective 10/1/77; Order 29, § 251-12-500, filed 1/22/74.]

**WAC 251-12-600 Remedial action.** When it has been determined that an individual has served six consecutive months in an institution in a position subject to the civil service but whose appointment by the institution has not been in accordance with the provisions of these rules, and the employee was not a party to the willful disregard of the rules, the director may take such appropriate action as to confer permanent status, set provision for salary maintenance, establish appropriate seniority, determine accrual of benefits, and such other actions as may be determined appropriate pursuant to the best standards of personnel administration. The order of the director shall be final and binding unless exceptions to the order, as provided in WAC 251-12-085 (1) through (5), are filed with the board within thirty calendar days of the date of service of the order. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

[Statutory Authority: RCW 28B.16.100. 81-24-019 (Order 92) § 251-12-600, filed 11/24/81, effective 1/1/82; 79-03-029 (Order 71), § 251-12-600, filed 2/27/79, effective 4/2/79; Order 61, § 251-12-600, filed 8/30/77, effective 10/1/77.]

## Chapter 251-14 WAC COLLECTIVE BARGAINING

WAC	Purpose.
251-14-005	Employee rights.
251-14-010	Employee organization filing requirements.
251-14-020	Determination of bargaining unit.
251-14-030	Election standards and procedures.
251-14-035	Election and certification of exclusive representative.
251-14-040	Disclaimer of interest petition—Decertification as exclusive representative.
251-14-042	Petition for decertification of exclusive representative.
251-14-050	Union shop representative election.
251-14-052	Union shop representative decertification election.
251-14-054	Employee listings.
251-14-056	Election validity—Objections.
251-14-057	Union shop requirements.
251-14-058	Contents of written agreements.
251-14-060	Unfair labor practices—Management—Employee organizations.
251-14-070	Unfair labor practices—Powers of board—Procedure.
251-14-080	Investigation of and disposition of unfair labor practice charges.
251-14-082	Unfair labor practice notice and complaint—Procedure.
251-14-083	Amendment of complaint or answer—Unfair labor practice.
251-14-085	

(1986 Ed.)

251-14-086	Hearings and investigation—Unfair labor practice.
251-14-087	Enforcement—Unfair labor practice.
251-14-090	Unfair labor practice—Hearings.
251-14-100	Mediation—Collective bargaining impasse—Grievance disputes.
251-14-110	Arbitration—Collective bargaining impasse—Grievance disputes.
251-14-120	Request for mediation and arbitration.

**WAC 251-14-005 Purpose.** The general purpose of this chapter is to establish rules designed specifically to provide for a sound labor relations policy covering employer-employee relations in higher education institutions. Determination of exclusive representatives and union shop provisions shall be decided, to the maximum extent practical, by providing the fullest opportunity for each affected employee to participate through the election process.

[Order 61, § 251-14-005, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-005, filed 5/23/75; Order 25, § 251-14-005, filed 7/17/73.]

**WAC 251-14-010 Employee rights.** Classified employees shall have, and shall be protected in the exercise of the right to form, join, and/or assist any employee organization, or to refrain therefrom, (except as provided in WAC 251-14-058) and to do so freely and without fear of penalty or reprisal.

[Order 61, § 251-14-010, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-010, filed 7/17/73; Order 2, § 251-14-010, filed 3/12/70; Order 1, § 251-14-010, filed 9/15/69.]

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

[Order 61, § 251-14-020, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-020, filed 5/23/75; Order 2, § 251-14-020, filed 3/12/70; Order 1, § 251-14-020, filed 9/15/69.]

**WAC 251-14-030 Determination of bargaining unit.** (1) Determination, alteration, modification or combination of appropriate bargaining units shall be made by the board upon petition from the appointing authority, an employee organization or upon the board's own motion, after twenty calendar days' notice has been given to the appointing authority and to affected employees and their representatives.

[Title 251 WAC—p 31]

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

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

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

(c) Extent of organization among the employees.

(d) Desires of the employees.

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

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

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

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

(5) At the hearing on a petition, the board shall make an oral determination. Within thirty calendar days of the hearing, the board shall also enter an appropriate order containing findings of fact and conclusions of law reflecting its oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

(6) Bargaining units normally shall not include both supervisory and nonsupervisory employees.

[Statutory Authority: RCW 28B.16.100, 82-10-006 (Order 95), § 251-14-030, filed 4/26/82, effective 6/1/82; Order 61, § 251-14-030, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-030, filed 2/26/76; Order 2, § 251-14-030, filed 3/12/70.]

**WAC 251-14-035 Election standards and procedures.** The director or designee shall establish the standards and procedures for the conduct of elections.

[Order 61, § 251-14-035, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-035, filed 5/23/75; Order 25, § 251-14-035, filed 7/17/73.]

**WAC 251-14-040 Election and certification of exclusive representative.** (1) The director shall certify an employee organization as exclusive representative of the employees of a bargaining unit when such organization shows proof that it represents a majority of such employees at the close of the last preceding payroll period and such proof is not contested by the appointing authority, the director, or any other interested party. Prior to certification, the director shall give ten calendar days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining

unit. Such notice shall inform all other interested parties that an election may be requested as herein provided and that the proof of majority representation may be contested within ten calendar days. The ten calendar day period shall begin three days after the director's notice is mailed, and a request for an election or notice of a contest of proof of majority representation shall be deemed timely if postmarked within the ten-day period. The institution personnel officer or designee shall have responsibility for posting copies of the notice in conspicuous places in the work area of the employees included in the bargaining unit. The director shall determine whether the proof of representation is satisfactory, and if it is not satisfactory shall require that an election be held.

The director will require that an election be held when not less than thirty percent of the employees in a bargaining unit petition for an election during the ten calendar day notice period: *Provided, however,* That unless another employee organization shows proof of at least thirty percent representation, such an election shall be limited to the issue as to whether or not the employees desire certification of the petitioning employee organization as exclusive representative.

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

(3) The director or designee, at a pre-election conference, shall review with interested employee organizations and the appointing authority or designee the standards and procedures for the conduct of the election, shall inform all affected employees of the conditions set forth therein, and shall distribute sample ballots. The ballot shall contain the name of the requesting employee organization and the name of any other employee organization showing satisfactory proof of at least ten percent representation within the unit, and shall provide a choice for any employee within the unit to designate that he/she does not desire to be represented by an exclusive representative. All employees on the active payroll and employed within the bargaining unit at the time of election are eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot. Absentee ballots may be requested prior to date of election, but will be counted only if received by the director



or designee no later than two regular working days following the closing date of election. Where more than one organization is on the ballot and none receives a majority of all votes cast in such election, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second largest number of votes.

(4) Election signs and banners shall not be permitted in the area in which the balloting takes place, nor shall any person in the area discuss the advantages or disadvantages of representation by any organization whether on the ballot or otherwise, nor shall any person in that area engage in any other form of electioneering.

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

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

(7) Another exclusive representative election shall not be held concerning the same bargaining unit until the lapse of at least twelve months from the date of the last previous exclusive representative election.

[Statutory Authority: RCW 28B.16.100. 82-10-006 (Order 95), § 251-14-040, filed 4/26/82, effective 6/1/82; 78-07-072 (Order 69), § 251-14-040, filed 6/30/78, effective 8/1/78; Order 61, § 251-14-040, filed 8/30/77, effective 10/1/77; Order 44, § 251-14-040, filed 6/25/75; Order 25, § 251-14-040, filed 7/17/73; Order 2, § 251-14-040, filed 3/12/70.]

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

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

(3) Prior to decertification, the director shall give ten calendar days notice to the affected employees. The notice shall be posted by the institution in the work areas of the employees affected. Such notice shall inform the

employees that decertification by a disclaimer of interest petition may be contested within the ten calendar days and an election requested.

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

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

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

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

(6) Another disclaimer of interest petition shall not be filed by the same employee organization concerning the same bargaining unit for at least twelve months from the date of the last filing.

[Order 61, § 251-14-042, filed 8/30/77, effective 10/1/77; Order 37, § 251-14-042, filed 10/15/74.]

**WAC 251-14-050 Petition for decertification of exclusive representative.** (1) Upon petition to the director by not less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by a secret vote of the employees, providing twelve months have elapsed since the last certification and between one hundred twenty and ninety calendar days or less remain before the termination date of any existing collective bargaining agreement covering the employees of the unit. The termination date of a contract stands by itself exclusive of any automatic renewal or extension provision in the contract. Upon granting a request for an election, the director shall give written notice thereof and allow ten calendar days for other employee organizations desiring to have their names placed on the ballot to show satisfactory proof of at least ten percent representation of employees on the active payroll who were employed within the bargaining unit at the close of the payroll period immediately preceding the date of notice of election. The ten calendar day period shall begin three days after the director's notice is mailed, and a request by an employee organization to be placed on the ballot shall be deemed timely if postmarked within the ten calendar day period. The ballot will contain the name of the employee organization which is currently certified as the exclusive representative and any other employee organization that has shown satisfactory proof of at least ten percent representation of the employees in the bargaining unit. Such an election shall be conducted in accordance with WAC 251-14-040 (3) and (4). Another exclusive representative decertification election shall not be held concerning the same bargaining unit for at least twelve months from the date of the last previous exclusive representative decertification election.

(2) When the board, pursuant to WAC 251-14-030, combines existing bargaining units into one new unit, the combination shall effect an automatic decertification of

the affected exclusive representatives except in those instances where the same employee organization is certified as the exclusive representative for all of the existing bargaining units that are being combined into one new unit.

[Statutory Authority: RCW 28B.16.100. 86-09-076 (Order 148), § 251-14-050, filed 4/22/86, effective 6/1/86; Order 61, § 251-14-050, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-050, filed 2/26/76; Order 25, § 251-14-050, filed 7/17/73; Order 2, § 251-14-050, filed 3/12/70.]

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

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

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

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

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

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

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

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

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

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

[Order 61, § 251-14-052, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-052, filed 7/17/73.]

**WAC 251-14-054 Union shop representative decertification election.** (1) The director shall, upon petition of thirty percent of the members of a bargaining unit, order an election to determine if a majority of employees in such bargaining unit wish to rescind membership in

the employee organization as a condition of employment, providing twelve months have lapsed since the original election which established the union shop representative. Such election shall be conducted in accordance with WAC 251-14-052 (2), (3), (4), (5), (6), (7), and (8).

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

(3) The director will issue a notice of union shop representative decertification, which will nullify the requirement of membership in an employee organization or the payment of a representation fee as a condition of employment when a majority of the employees in the bargaining unit vote to rescind membership in an employee organization as a condition of employment.

[Order 61, § 251-14-054, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-054, filed 7/17/73.]

**WAC 251-14-056 Employee listings.** When elections are requested per the provisions of WAC 251-14-040, 251-14-050, 251-14-052 and 251-14-054, institutions shall, upon request from a petitioning party and/or an affected employee organization, provide copies of a current listing indicating names, mailing addresses, classes and work locations of all employees eligible to vote in the election.

[Order 61, § 251-14-056, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-056, filed 5/23/75; Order 25, § 251-14-056, filed 7/17/73.]

**WAC 251-14-057 Election validity--Objections.** (1) The director, an appointing authority or designee, any employee of the bargaining unit, and/or any employee organization whose name appeared on the ballot as a choice, may question the validity of an election by objecting to the administration of the election or to improper conduct which may have affected the results of the election conducted under the provisions of chapter 251-14 WAC.

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

(3) The director or designee will investigate the objections. Where the investigation reveals that the objections have merit, the director may set aside the results of the election and order a new election.

[Order 61, § 251-14-057, filed 8/30/77, effective 10/1/77; Order 44, § 251-14-057, filed 6/25/75.]

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

within thirty calendar days of the beginning of their employment within the bargaining unit or within thirty calendar days of the date of the union shop representative election, whichever is later.

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

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

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

(5) When an employee has qualified for nonassociation with an employee organization on religious grounds, the employee may designate which of the programs of the employee organization are in harmony with the employee's conscience and may then designate that the union shop representation fee shall go to such programs.

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

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

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

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

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

(11) Payroll deductions for employee organization dues and/or union shop representation fees may be provided by the institution upon written authorization from the employee.

[Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-14-058, filed 7/22/82, effective 9/1/82; Order 61, § 251-14-058, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-058, filed 7/17/73.]

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

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

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

(3) Written agreements may contain provisions for payroll deduction of employee organization dues and/or union shop representation fees upon written authorization from the employee. Any employee may cancel his/her payroll deduction of employee organization dues by filing a written notice with the appointing authority or designee and the employee organization thirty calendar days prior to the effective date of such cancellation.

(4) Written agreements shall be for a minimum of one year in duration and shall not exceed three years. Automatic renewal or extension provisions may extend the term of a contract for only one year at a time. An automatic renewal or extension provision in a contract cannot act as a bar to a request for an exclusive representative decertification election per WAC 251-14-050(1).

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

(6) Institutions shall file signed written agreements with the director. Provisions of such agreements shall not prevail if in conflict with the higher education personnel board rules, the higher education personnel law or other applicable law.

[Statutory Authority: RCW 28B.16.100. 86-09-076 (Order 148), § 251-14-060, filed 4/22/86, effective 6/1/86; Order 61, § 251-14-060, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-060, filed 2/26/76; Order 42, § 251-14-060, filed 5/23/75; Order 25, § 251-14-060, filed 7/17/73; Order 2, § 251-14-060, filed 3/12/70.]

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

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

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

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

(d) To refuse to engage in collective bargaining.

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

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

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

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

(d) To refuse to engage in collective bargaining.

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

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

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

(a) The name and address of the institution.

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

(c) A clear and concise statement of the facts constituting the alleged unfair labor practice(s), including times, dates, places, and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-080, filed 6/26/86, effective 8/1/86; 78-05-060 (Order 67), § 251-14-080, filed 4/27/78, effective 6/1/78; Order 61, § 251-14-080, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-080, filed 2/26/76; Order 2, § 251-14-080, filed 3/12/70.]

**WAC 251-14-082 Investigation of and disposition of unfair labor practice charges.** (1) Upon receipt of a properly completed unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules. If it is found that the charge(s) is frivolous or substantially without merit, the director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor. Dismissal of the charge is appealable to the higher education personnel board.

(2) If a charge does not contain all of the information required by WAC 251-14-080, the director or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-082, filed 6/26/86, effective 8/1/86.]

**WAC 251-14-083 Unfair labor practice notice and complaint--Procedure.** (1) Whenever a charge has been made concerning any unfair labor practice, the board or its designee shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the board or its designee at a place therein fixed to be held not less than seven calendar days after the serving of said complaint. Any such complaint may be amended by the board or its designee any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five calendar days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint.

(2) In the discretion of the board or its designee, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the board or its designee shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

(3) The charging party shall prosecute the complaint and shall have the burden of proof.

(4) The hearing shall be limited to the issues and questions of fact raised by the complaint and answer of the parties.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-083, filed 6/26/86, effective 8/1/86.]

**WAC 251-14-085 Amendment of complaint or answer--Unfair labor practice.** The higher education personnel board may allow a complaint or answer to be amended at any time before the close of the hearing, upon motion of the party concerned, for good cause

shown and upon such terms as the higher education personnel board may deem appropriate under the circumstances. Timeliness in making the motion shall be a factor in determining whether it will be granted.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-085, filed 6/26/86, effective 8/1/86.]

**WAC 251-14-086 Hearings and investigation--Unfair labor practice.** For the purpose of all hearings and investigations, which, in the opinion of the board or its designee are necessary and proper for the exercise of the powers vested in it by this act, the board or its designee shall at all reasonable times have access to for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or list of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board or its designee. The board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-086, filed 6/26/86, effective 8/1/86.]

**WAC 251-14-087 Enforcement--Unfair labor practice.** The board or its designee whose final decision is appealable to the board, or any party to the proceedings, thirty days after the board or its designee has entered its findings of fact, shall have power to petition the superior court of the state, within the county wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-087, filed 6/26/86, effective 8/1/86.]

**WAC 251-14-090 Unfair labor practice--Hearings.** Complaints charging unfair labor practices shall be filed in writing with the board. The board shall hold a hearing in the same manner as provided for appeals from

demotions, suspensions, reductions, layoffs, and dismissals, and any decision of the board shall be binding unless reversed or modified by a court of law.

[Statutory Authority: RCW 28B.16.100. 80-15-026 (Order 85), § 251-14-090, filed 10/8/80; Order 61, § 251-14-090, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-090, filed 2/26/76; Order 2, § 251-14-090, filed 3/12/70.]

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

(2) When an unresolved grievance dispute has been referred to the director pursuant to the mediation provision of a grievance procedure in a signed agreement, the director or designee shall confer with both parties in an effort to resolve the dispute.

[Order 61, § 251-14-100, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-100, filed 2/26/76; Order 2, § 251-14-100, filed 3/12/70.]

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

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

(3) The board shall hold such hearings which may be conducted in the same manner as provided for appeals from layoffs, demotion, suspensions, reductions and dismissals, and the decision of the board shall be final and binding.

[Order 61, § 251-14-110, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-110, filed 2/26/76; Order 2, § 251-14-110, filed 3/12/70.]

**WAC 251-14-120 Requests for mediation and arbitration.** Mediation and arbitration requests per WAC 251-14-100(2) and 251-14-110(2) shall not be allowed if the same charges are pending before the board for processing per WAC 251-12-090 or 251-14-090.

[Statutory Authority: 28B.16.100. 80-15-026 (Order 85), § 251-14-120, filed 10/8/80.]

## Chapter 251-18 WAC

### EMPLOYMENT--APPOINTMENT

#### WAC

251-18-010	Examination--Requirement--Responsibilities.
251-18-011	Promotional organizational units--Establishment.
251-18-012	Eligible list--Related list.
251-18-015	Noncompetitive service.
251-18-020	Recruitment notice--Publicity--Duration.
251-18-035	Recruitment notices--Required content.
251-18-041	Application materials--Distribution to applicants.
251-18-050	Examinations--Employee release time.

- 251-18-060 Examination—Eligibility.  
 251-18-070 Application forms—Acceptance.  
 251-18-075 Examination administration.  
 251-18-095 Examinations—Evaluation of.  
 251-18-110 Application—Disqualification—Rejection.  
 251-18-120 Applicants—Anonymity.  
 251-18-130 Veterans preference.  
 251-18-140 Examination results—Notification—Institutional review.  
 251-18-145 Examination—Eligibility—Right of appeal.  
 251-18-160 Examination—Medical.  
 251-18-165 Examinations—Records requirements.  
 251-18-176 Modification of minimum qualifications.  
 251-18-180 Eligible lists—Definition—Composition.  
 251-18-185 Eligible lists—Tied scores—Certification.  
 251-18-190 Eligible lists—Duration.  
 251-18-200 Eligible lists—Removal of name—Notification.  
 251-18-240 Certification—Method.  
 251-18-255 Certification—Specific position requirements.  
 251-18-260 Certification—Incomplete.  
 251-18-265 Certification—Concurrent.  
 251-18-270 Certification—Interview of eligibles.  
 251-18-280 Certification—Selection—Actions required.  
 251-18-285 Certification—Error—Correction.  
 251-18-290 Returning employee provisions—Layoff.  
 251-18-291 Returning employee provisions—Reemployment.  
 251-18-300 Appointment—Provisional.  
 251-18-310 Appointment—Emergency.  
 251-18-320 Appointment—Probationary.  
 251-18-330 Trial service period.  
 251-18-335 Appointment—Alternate.  
 251-18-340 Appointment—Permanent status.  
 251-18-345 Reassignment.  
 251-18-346 Transfer—Lateral movement—Voluntary demotion.  
 251-18-347 Permanent classified employee movement between institutions/related boards or state agencies.  
 251-18-350 Appointment—Temporary.  
 251-18-381 Appointment—Cyclic year position.  
 251-18-400 Apprenticeship programs.  
 251-18-410 Special employment programs.  
 251-18-420 Appointment—Conversion of exempt position.
- 251-18-115 Examination—Eligibility—Right of appeal or review. [Statutory Authority: RCW 28B.16.100. 79-12-088 (Order 81), § 251-18-115, filed 12/3/79; 78-02-094 (Order 65), § 251-18-115, filed 1/30/78; Order 61, § 251-18-115, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-150 Reexamination—Procedure. [Order 61, § 251-18-150, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-150, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-155 Examination—Records requirement. [Order 61, § 251-18-155, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-155, filed 7/23/74.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-170 Eligible lists—Establishment. [Order 61, § 251-18-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-170, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-175 Eligible list—Related list. [Order 61, § 251-18-175, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-181 Eligible lists—Combined. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-18-181, filed 5/25/78, effective 7/1/78; 78-02-094 (Order 65), § 251-18-181, filed 1/30/78; Order 61, § 251-18-181, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-210 Notification of removal of name. [Order 37, § 251-18-210, filed 10/15/74; Order 3, § 251-18-210, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-220 Related eligible lists. [Order 3, § 251-18-220, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-230 Certification—Request for. [Statutory Authority: RCW 28B.16.100. 78-02-094 (Order 65), § 251-18-230, filed 1/30/78; Order 61, § 251-18-230, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-230, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-235 Temporary conversion list. [Order 32, § 251-18-235, filed 3/19/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-250 Certification—Selective. [Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-18-250, filed 7/22/82, effective 9/1/82; 80-08-073 (Order 84), § 251-18-250, filed 7/2/80; Order 63, § 251-18-250, filed 11/22/77; Order 61, § 251-18-250, filed 8/30/77, effective 10/1/77; Order 19, § 251-18-250, filed 12/20/72; Order 3, § 251-18-250, filed 1/15/71.] Repealed by 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86. Statutory Authority: RCW 28B.16.100.  
 251-18-360 Modification of minimum qualifications. [Order 35, § 251-18-360, filed 7/23/74; Order 3, § 251-18-360, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-370 Concurrent certification. [Order 3, § 251-18-370, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-380 Appointment—Instructional year. [Statutory Authority: RCW 28B.16.100. 79-03-029 (Order 71), § 251-18-380, filed 2/27/79; Order 61, § 251-18-380, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-380, filed 5/24/73; Order 12, § 251-18-380, filed 5/23/72, effective 6/25/72.] Repealed by 83-10-029 (Order 105), filed 4/29/83, effective 6/1/83. Statutory Authority: RCW 28B.16.100.  
 251-18-390 Corrective employment programs. [Statutory Authority: RCW 28B.16.100. 80-08-073 (Order 84), § 251-

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

- 251-18-025 Examination notice—Exception—Training. [Order 61, § 251-18-025, filed 8/30/77, effective 10/1/77.] Repealed by 84-18-060 (Order 120), filed 9/5/84. Statutory Authority: RCW 28B.16.100.  
 251-18-030 Examination notice—Content. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-18-030, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-030, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-030, filed 9/19/75; Order 3, § 251-18-030, filed 1/15/71.] Repealed by 84-18-060 (Order 120), filed 9/5/84. Statutory Authority: RCW 28B.16.100.  
 251-18-040 Recruitment notice—Duration. [Order 3, § 251-18-040, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-045 Eligible list modification—Training. [Order 36, § 251-18-045, filed 8/20/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-080 Application—Acceptance. [Order 61, § 251-18-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-080, filed 5/24/73; Order 3, § 251-18-080, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.  
 251-18-090 Application—Freedom from bias. [Order 3, § 251-18-090, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.  
 251-18-100 Application—Admission to examination. [Order 61, § 251-18-100, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-100, filed 9/19/75; Order 3, § 251-18-100, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.

18-390, filed 7/2/80; Order 61, § 251-18-390, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-390, filed 3/18/77, effective 4/18/77; Order 40, § 251-18-390, filed 1/23/75; Order 39, § 251-18-390, filed 12/24/74; Order 37, § 251-18-390, filed 10/15/74; Order 35, § 251-18-390, filed 7/23/74; Order 19, § 251-18-390, filed 12/20/72.] Repealed by 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86. Statutory Authority: RCW 28B.16.100.

**WAC 251-18-010 Examination—Requirement—Responsibilities.** (1) Appointment to positions in the classified service shall be made according to merit and suitability ascertained for each class by an appropriate examination.

(2) All job elements included in examinations developed or modified subsequent to January 1, 1986, shall be justified by documented job analysis.

(3) Personnel officers shall assist in conducting and/or conduct job analyses at their institutions.

(4) Job analysis methods shall meet professional standards and be approved by the director before they are used to develop examinations.

(5) System examinations shall be developed by the director with the assistance of the personnel officers and made available for the use of all institutions. The director shall periodically distribute an approved system job element examination list showing all current system examinations.

(6) Personnel officers shall use only the current versions of the examinations shown on the approved system job element examination list unless approval has been given by the director for examination modifications or the use of institutional examinations.

(7) Personnel officers may develop modifications to system examinations and/or institutional examinations to meet requirements which are unique to their institutions.

(8) Institutional examinations and modifications to system examinations shall be:

(a) Approved by the director before they are used;

(b) Used by institutions other than the developing institution only with the approval of the director.

(9) The personnel officer is responsible for determining when to open eligible lists and conduct examinations.

[Statutory Authority: RCW 28B.16.100. 85-21-031 (Order 139), § 251-18-010, filed 10/10/85; 85-16-038 (Order 134), § 251-18-010, filed 7/31/85, effective 9/1/85; 84-10-056 (Order 115), § 251-18-010, filed 5/2/84; Order 61, § 251-18-010, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-010, filed 9/19/75; Order 33, § 251-18-010, filed 6/18/74; Order 3, § 251-18-010, filed 1/15/71.]

**WAC 251-18-011 Promotional organizational units—Establishment.** The personnel officer shall establish promotional organizational units based upon administrative unit and/or geographical location. Such units must be approved by the director.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-011, filed 5/2/84.]

**WAC 251-18-012 Eligible list—Related list.** (1) Should a vacancy occur in a class for which there is no existing eligible list, it shall be the responsibility of the personnel officer to recruit and develop an eligible list.

(1986 Ed.)

(2) If it is impractical to recruit in order to establish an eligible list for a class, the personnel officer may:

(a) Substitute an eligible list for a related class if he/she deems the classes to be sufficiently similar.

(b) Request the use of an eligible list established for the class at another institution.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-012, filed 5/2/84.]

**WAC 251-18-015 Noncompetitive service.** (1) All classes at an institution shall be considered to be in the competitive service unless a class has been specifically approved by the director to be in the noncompetitive service at that institution.

(2) For a class to be considered for approval for the noncompetitive service, the personnel officer must comply with the procedures established by the director and approved by the board for granting such approval.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-015, filed 5/2/84.]

**WAC 251-18-020 Recruitment notice—Publicity—Duration.** (1) Notice of examinations to establish eligible lists shall be made via public display, including institutional posting, of recruitment notices and such other publicity as the personnel officer deems to be warranted.

(2) Recruitment notices may be opened with or without specified closing dates:

(a) A recruitment notice with a specified closing date must allow for an application period of at least seven calendar days from the date of opening the notice, unless the personnel officer authorizes a shorter application period for an open competitive or noncompetitive recruitment notice.

(b) A recruitment notice without a specified closing date must state that the application period may be closed upon three calendar days prior notice. Public notice of at least three calendar days must be given prior to closing such a recruitment notice.

(3) The personnel officer shall develop and utilize a procedure by which employees who have formally indicated an interest in promotion are made aware of promotional opportunities.

(4) The personnel officer may extend the application period for a recruitment notice as required by giving public notice in the same manner as the original notice.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-020, filed 5/2/84; 79-03-029 (Order 71), § 251-18-020, filed 2/27/79; Order 61, § 251-18-020, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-020, filed 9/19/75; Order 35, § 251-18-020, filed 7/23/74; Order 3, § 251-18-020, filed 1/15/71.]

**WAC 251-18-035 Recruitment notices—Required content.** Official institutional recruitment notices (not to include media or other supplemental publicity) shall contain the following information:

(1) For promotional examinations, a statement that the examination is open only to organizational unit and/or institution-wide promotional applicants.

(2) The title of the HEPB classification for which the list is open.

(3) The salary range for the class.

[Title 251 WAC—p 39]

(4) Any conditions of employment for the class or position(s).

(5) The closing date of the recruitment notice, i.e., the specific date and time by which applications must be received by the personnel officer.

(6) When the recruitment notice is to be widely distributed, a statement of the specific locations at which corrected or extended recruitment notices will be displayed.

(7) A brief description of the duties of the class and, if applicable, the duties of the specific position(s).

(8) The minimum qualifications of the classification, if any.

(9) When applicable, a statement regarding the use of a combined list per WAC 251-18-180(10).

(10) When applicable, a statement that supplemental certification may be utilized in accordance with an approved affirmative action program, as provided in WAC 251-23-060.

(11) When applicable, a statement that certification for specific position requirements per WAC 251-18-255 may be utilized.

(12) When applicable per WAC 251-18-060(3), the minimum number of most highly qualified applicants who will be admitted to each phase of the examination other than the screening or other initial phase, provided that at least this number of applicants pass the initial phase(s) of the examination.

(13) For classes in the approved noncompetitive service of the institution:

(a) That applicants will be placed on the list(s) in the order in which they complete making proper application for the class.

(b) The number of applicants who will be placed on the eligible list(s).

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-18-035, filed 2/28/86, effective 4/1/86; 85-21-031 (Order 139), § 251-18-035, filed 10/10/85; 85-16-038 (Order 134), § 251-18-035, filed 7/31/85, effective 9/1/85.]

**WAC 251-18-041 Application materials--Distribution to applicants.** The following materials shall be provided to job applicants when they apply for a specific recruitment:

(1) The institution's application form as prescribed in WAC 251-18-070(1).

(2) The institution's examination information for job applicants document which explains the HEPB job element examination system and the examination process at that institution.

(3)(a) The supplemental application for the class or position when it is the screening phase of the examination or (b) a brief statement of the examination elements for the class or position if the screening phase of the examination is not a supplemental application.

[Statutory Authority: RCW 28B.16.100. 86-03-081 (Order 143), § 251-18-041, filed 1/22/86, effective 3/1/86; 85-16-038 (Order 134), § 251-18-041, filed 7/31/85, effective 9/1/85.]

**WAC 251-18-050 Examinations--Employee release time.** Current employee applicants shall suffer no loss in

regular salary as a result of participating in examinations which are conducted for their employing institution during their regularly scheduled working hours.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-050, filed 5/2/84; Order 61, § 251-18-050, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-050, filed 9/19/75; Order 33, § 251-18-050, filed 6/18/74; Order 3, § 251-18-050, filed 1/15/71.]

**WAC 251-18-060 Examination--Eligibility.** (1) Open-competitive examinations shall be open to all persons who apply according to the provisions of these rules and meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to those current permanent employees of the classified service at the institution who apply according to the provisions of these rules and meet the minimum qualifications for the class. The personnel officer may open promotional examinations on either an organizational unit or institution-wide basis, whichever the personnel officer determines to be in the interest of the service.

(3) When the number of qualified applicants for a class in the competitive service is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may limit the applications to be admitted to the intermediate and/or final phase(s) of the examination to those most qualified, based on an assessment of qualifications in the initial and/or intermediate phase(s) of the examination. Such limitation must be specified in the recruitment notice. If no such limitation is specified, all applicants who pass the entire examination shall be placed on the eligible list for the class.

(4) The personnel officer may add members of underutilized groups to all eligible lists, except layoff lists, at anytime in accordance with the institution's affirmative action program as provided in WAC 251-23-040 (7)(b), provided such persons pass the examination for the class.

(5) The personnel officer may add employees who complete institution-approved training programs to the appropriate eligible list at any time, provided such employees meet the minimum qualifications and pass the examination for the class.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-18-060, filed 2/28/86, effective 4/1/86; 84-12-047 (Order 117), § 251-18-060, filed 6/1/84; Order 61, § 251-18-060, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-060, filed 9/19/75; Order 38, § 251-18-060, filed 11/18/74; Order 3, § 251-18-060, filed 1/15/71.]

**WAC 251-18-070 Application forms--Acceptance.**

(1) Application forms shall be prescribed by the personnel officer in compliance with applicable state and/or federal law.

(2) Applications shall be filed in accordance with the times specified in the recruitment notice.

(3) All required application materials, including supplemental applications, must be submitted by the specified time in order for an application to be considered.

(4) When an application is rejected for failure to meet the requirements of subsection (3) of this section, the provisions of WAC 251-18-110(2) shall apply.



(5) The personnel officer may require proof of age, education, experience, veterans preference, and/or other claims relevant to the qualifications of an applicant.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-070, filed 5/2/84; 78-02-094 (Order 65), § 251-18-070, filed 1/30/78; Order 61, § 251-18-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-070, filed 1/15/71.]

**WAC 251-18-075 Examination administration.** (1) Personnel officers shall administer examinations in accordance with the administration instructions developed for each system or institutional examination.

(2) The personnel officer is responsible for maintaining the security of all confidential examination materials, including test booklets, answer sheets, scoring keys, and rating guides. The personnel officer shall notify the director immediately if there is a suspected breach of examination security.

(3) Personnel officers shall develop institutional procedures for the reexamination of applicants at their institutions. Such procedures shall be approved by the director before they are used.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-075, filed 7/31/85, effective 9/1/85.]

**WAC 251-18-095 Examinations--Evaluation of.** (1) The director shall specify the rating and/or scoring systems to be used to evaluate examinations, including the ratings, scores and/or percentiles required to pass an examination.

(2) Personnel officers shall evaluate examinations in accordance with the rating guides and rating/scoring instructions developed for each system and institutional examination.

(3) Rating guides shall be used to evaluate all job elements included in system and institutional examinations.

(4) Personnel officers shall develop rating guides for all examinations for which system rating guides are not available.

(5) Personnel officers shall assure that raters of examinations, including supplemental applications, performance tests and oral boards, shall have an adequate knowledge of the work required by the specific class or position.

(6) The personnel officer is responsible for the accuracy of the total examination ratings given by the raters of examinations and may disqualify a rater for good and sufficient reason(s). The personnel officer shall disqualify any rater who was biased, did not follow either the content or the intent of the rating guide, or did not possess the required technical knowledge to evaluate the examination.

(7) Applicants must obtain ratings of "satisfactory ability" or higher on all of the essential job elements in an examination in order to pass that examination.

(8) Applicants must pass the final phase of an examination in order to be placed on an eligible list.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-095, filed 7/31/85, effective 9/1/85.]

(1986 Ed.)

**WAC 251-18-110 Application--Disqualification--Rejection.** (1) The personnel officer may reject an application at any time during the examination process for good and sufficient reason(s).

(2) Whenever the personnel officer rejects an application, the applicant shall be given a written statement including:

(a) The specific reason(s) for the rejection; and

(b) Notification of the right of review per WAC 251-18-140 (1)(b); and

(c) His/her right of appeal per WAC 251-18-145 (1)(a).

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-110, filed 5/2/84; 78-02-094 (Order 65), § 251-18-110, filed 1/30/78; Order 61, § 251-18-110, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-110, filed 11/18/74; Order 4, § 251-18-110, filed 2/19/71.]

**WAC 251-18-120 Applicants--Anonymity.** When practical, the identity of persons taking a written examination shall be concealed from the examiners.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-120, filed 5/2/84; Order 61, § 251-18-120, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-120, filed 1/15/71.]

**WAC 251-18-130 Veterans preference.** (1) Veterans who claim veterans preference and meet the criteria specified in subsections (2) through (4) of this section shall have added to their final passing scores:

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

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

(c) Five percent of the final passing score for a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be limited to the first promotional examination following return from military service.

(2) Veterans preference must be claimed within eight years of the date of release from active service.

(3) The term "veteran" as used in these rules shall include every person who has received an honorable discharge or received a discharge for physical reasons with an honorable record and:

(a) Has served in any branch of the armed forces of the United States between World War I and World War II or during any period of war; or

(b) Has served in any branch of the armed forces of the United States and received the armed forces expeditionary medal, or Marine Corps and Navy expeditionary medal, for opposed action on foreign soil.

(4) A "period of war" includes World War I, World War II, the Korean conflict, the Viet Nam era, and the period beginning on the date of any future declaration of war by the congress and ending on the date prescribed

[Title 251 WAC--p 41]

by presidential proclamation or concurrent resolution of the congress. The "Viet Nam era" means the period beginning August 5, 1964, and ending on May 7, 1975.

[Statutory Authority: RCW 28B.16.100. 84-24-032 (Order 122), § 251-18-130, filed 11/30/84, effective 1/1/85; 84-12-047 (Order 117), § 251-18-130, filed 6/1/84; 78-10-090 (Order 70), § 251-18-130, filed 9/29/78, effective 11/1/78; Order 61, § 251-18-130, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-130, filed 7/23/74; Order 3, § 251-18-130, filed 1/15/71.]

**WAC 251-18-140 Examination results--Notification--Institutional review.** (1) The personnel officer shall:

(a) Provide each applicant with written notice of his/her final status in the examination process, normally within fifteen calendar days after the eligible list is established; and

(b) Inform each applicant that within fifteen calendar days of service of his/her notice, he/she may request a review of the action by the personnel officer; and

(c) Inform each applicant of his/her appeal rights per WAC 251-18-145 (1)(c).

(2) Applicants' final status in the examination process shall consist of one of the following:

(a) Application was rejected for good and sufficient reason in accordance with WAC 251-18-110.

(b) Applicant failed the screening or intermediate phase(s) of the examination.

(c) Applicant was not among the most highly qualified applicants to be admitted to subsequent phase(s) of the examination.

(d) Applicant failed the final phase of the examination.

(e) Applicant was placed on the appropriate eligible list in accordance with WAC 251-18-180.

(3) Within thirty calendar days after receiving a request for review as provided in subsection (1)(b) of this section, the personnel officer will provide the applicant with written notice of the results of the review and of appeal rights as provided in WAC 251-18-145 (1)(b).

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-140, filed 7/31/85, effective 9/1/85; 84-10-056 (Order 115), § 251-18-140, filed 5/2/84; 78-06-068 (Order 68), § 251-18-140, filed 5/25/78, effective 7/1/78; 78-02-094 (Order 65), § 251-18-140, filed 1/30/78; Order 61, § 251-18-140, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-140, filed 7/23/74; Order 21, § 251-18-140, filed 5/24/73; Order 3, § 251-18-140, filed 1/15/71.]

**WAC 251-18-145 Examination--Eligibility--Right of appeal.** (1) A person shall have the right to appeal the following to the higher education personnel board as provided in subsection (2) of this section:

(a) Rejection of his/her application; or

(b) The results of the institutional examination review process per WAC 251-18-140 (1)(b); or

(c) The conduct of the selection process and/or his/her examination results; or

(d) Failure to restore his/her name to an eligible list following the institutional review process per WAC 251-18-200(4); or

(e) Removal of his/her name from an eligible list for reasons other than those specified in WAC 251-18-200(2).

(2) Any employee or employee representative may appeal an alleged failure to follow the provisions of WAC 251-18-010 (1) through (8) in accordance with WAC 251-12-075.

(3) Such appeal must be in writing and filed in the office of the director within thirty calendar days after either service of the results of the institutional review or the effective date of the action appealed. The director shall forward the written notice of appeal to the board which shall determine that one of the following actions be taken:

(a) The case may be handled in the same manner as appeals from demotion, suspension, layoff, reduction, or dismissal, as provided in WAC 251-12-080 through 251-12-260, except for WAC 251-12-110; or

(b) The director may investigate the case and issue a determination.

(i) When the appellant is a classified employee, within thirty calendar days of the date of service of the determination to the appellant and the institution, either party may file written exceptions with the board detailing the specific items of the determination to which exception is taken. A hearing on the exceptions will be scheduled before the board which may limit argument to the exceptions or may rehear the case in its entirety;

(ii) When the appellant is not a classified employee, the director's determination shall be final and binding; or

(c) Both parties to the appeal may be requested to submit evidence upon which the board may take action without a hearing.

[Statutory Authority: RCW 28B.16.100. 85-20-050 (Order 137), § 251-18-145, filed 9/25/85, effective 11/1/85; 84-10-056 (Order 115), § 251-18-145, filed 5/2/84.]

**WAC 251-18-160 Examination--Medical.** Eligibles for employment or promotion shall take a medical examination if prescribed for the position to which appointment is sought. All eligibles must conform with medical regulations for state employment established by the Washington state board of health.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-160, filed 5/2/84; 78-06-068 (Order 68), § 251-18-160, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-160, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-160, filed 1/15/71.]

**WAC 251-18-165 Examinations--Records requirements.** (1) The personnel officer shall maintain selection records as required by applicable federal, state, and local laws and institutional policies.

(2) The director shall maintain records of all current approvals given with regard to the selection process at each institution.

(3) Personnel officers shall maintain written records of all current approvals given with regard to the selection process at their institutions.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-165, filed 7/31/85, effective 9/1/85.]

**WAC 251-18-176 Modification of minimum qualifications.** (1) When a vacancy exists and active and reasonable recruiting efforts fail to establish an eligible list

for the class, the personnel officer may request that the director modify the minimum qualifications. If satisfied that reasonable effort has been made to recruit at the established minimum qualifications the director may modify the minimum qualifications for that recruiting cycle on a one-time basis. On approval, the personnel officer shall initiate recruiting at the reduced minimum qualifications.

(2) In order to make a reasonable accommodation for a handicapped person as defined in WAC 251-04-020, the personnel officer may request that the director waive the minimum qualifications for the purpose of admitting the employee or applicant to the examination.

(3) Action of the director pursuant to this section will be reported to the board at the next regular meeting.

[Statutory Authority: RCW 28B.16.100. 80-08-073 (Order 84), § 251-18-176, filed 7/2/80; 78-06-068 (Order 68), § 251-18-176, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-176, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-180 Eligible lists--Definition--Composition.** Eligible lists shall be established by class as follows:

(1) **Institution-wide layoff lists** shall contain the names of:

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

(b) Former permanent employees of the institution who (i) have transferred, promoted, voluntarily demoted or laterally moved to positions at other institutions/related boards, and (ii) have not successfully completed their trial service periods at the institution to which they moved, ranked in order of layoff seniority.

(2) **Organizational unit promotional lists** shall contain the names of all permanent employees of the organizational unit for which the list is established who have passed the examination for the class, ranked in order of their final examination scores.

(3) **Institution-wide promotional lists** shall contain the names of all permanent employees of the institution who have passed the examination for the class, ranked in order of their final examination scores.

(4) **Special employment program layoff lists** shall contain the names of permanent employees of the institution laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035 ranked in order of layoff seniority.

(5) **State-wide layoff lists** shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060, ranked in order of layoff seniority as provided in WAC 251-10-060(2).

(6) **Interinstitutional employee lists** shall contain the names of permanent employees of an institution or related board other than the one at which he/she is applying, who have passed the examination for the class, ranked in order of their final examination scores.

(7) **Intersystem employee lists** shall contain the names of permanent employees under the jurisdiction of chapter 41.06 RCW who have passed the examination for the class, ranked in order of their final examination scores.

(8) **Open competitive lists** shall contain the names of all other applicants who have passed the examination for the class, ranked in order of their final examination scores.

(9) **Noncompetitive lists** shall be established per WAC 251-18-015 and shall contain the names of applicants who meet the minimum qualifications and have passed the noncompetitive examination, if any, for the class, ranked by priority in time of filing application.

(10) For positions which meet the HEPB definitions of administrative, executive or professional employees, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide layoff list, and the open competitive list into a single eligible list:

(a) The combined list option must be specified in the recruitment notice for a class in order for the personnel officer to combine lists for positions in the class;

(b) The combined list shall contain the names of eligibles ranked in order of their final examination scores. Permanent employees of the institution shall have a five percent credit added to their final passing scores.

[Statutory Authority: RCW 28B.16.100. 86-03-081 (Order 143), § 251-18-180, filed 1/22/86, effective 3/1/86; 84-16-067 (Order 119), § 251-18-180, filed 7/31/84; 84-10-056 (Order 115), § 251-18-180, filed 5/2/84; 84-08-032 (Order 113), § 251-18-180, filed 3/30/84, effective 5/1/84; 84-02-042 (Order 110), § 251-18-180, filed 12/30/83, effective 2/1/84; Order 61, § 251-18-180, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-180, filed 9/19/75; Order 44, § 251-18-180, filed 6/25/75; Order 32, § 251-18-180, filed 3/19/74; Order 21, § 251-18-180, filed 5/24/73; Order 12, § 251-18-180, filed 5/23/72, effective 6/25/72; Order 8, § 251-18-180, filed 6/17/71, effective 7/19/71; Order 6, § 251-18-180, filed 4/21/71, effective 5/25/71; Order 4, § 251-18-180, filed 2/19/71.]

**WAC 251-18-185 Eligible lists--Tied scores--Certification.** When certification of all eligibles with the same final examination score would result in a certification of more than the number of eligibles specified in WAC 251-18-240(1), the personnel officer will certify the required number of eligibles from the tied score group using ranks determined by:

(1) Random assignment; or

(2) The documented qualifications of the eligibles for the particular position for which certification is being made; or

(3) A combination of subsections (1) and (2) of this section.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-185, filed 7/31/85, effective 9/1/85; Order 61, § 251-18-185, filed 8/30/77, effective 10/1/77; 85-16-038 (Order 134), § 251-18-185, filed 7/31/85, effective 9/1/85; Order 21, § 251-18-185, filed 5/24/73.]

**WAC 251-18-190 Eligible lists--Duration.** (1) The duration of eligibility on a list begins the date the name is placed on the list and ends as follows:

(a) After two years on an institution-wide layoff list;

(b) After one year on an organizational unit or institution-wide promotional list, special employment program layoff list, interinstitutional employee list, intersystem employee list, or state-wide layoff list;

(c) After six months on an open competitive or non-competitive list.

(2) Prior to the original expiration date of a name on an institution-wide layoff list, an organizational unit promotional list, an institution-wide promotional list, a special employment program layoff list, an interinstitutional employee list, or an intersystem employee list, the eligible shall be notified of the expiration and given the opportunity to extend eligibility for one additional year by written request to the personnel officer.

(3) The personnel officer may extend an entire eligible list for the following periods:

(a) Six months for open competitive and noncompetitive lists;

(b) One year for all other lists.

(4) The personnel officer shall cancel the entire eligible list when the class or examination has been changed to the degree that the list would be invalid. All affected eligibles shall be notified of the cancellation.

[Statutory Authority: RCW 28B.16.100. 85-04-019 (Order 123), § 251-18-190, filed 1/30/85; 84-10-056 (Order 115), § 251-18-190, filed 5/2/84; Order 61, § 251-18-190, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-190, filed 3/19/74; Order 21, § 251-18-190, filed 5/24/73; Order 4, § 251-18-190, filed 2/19/71.]

**WAC 251-18-200 Eligible lists--Removal of name--Notification.** (1) The personnel officer may remove a name from an eligible list for good and sufficient reason.

(2) Notification of the removal of a name according to subsection (1) of this section is not required where the person has:

(a) Requested removal from the list in writing;

(b) Failed to respond to a written inquiry within ten calendar days or to a telegraphed inquiry within three calendar days relative to availability for appointment;

(c) Failed to notify the personnel office of a change of address;

(d) Been removed from a state-wide layoff list, an interinstitutional employee list, an intersystem employee list, an open-competitive or noncompetitive list due to expiration of eligibility; or

(e) Been removed from an eligible list due to expiration of an extension of eligibility in accordance with WAC 251-18-190(2).

(3) In all other cases, the affected person shall be notified of the specific reasons for removal from the eligible list and advised of the right to request a review by the personnel officer per subsection (4) of this section.

(4) A person whose name has been removed from an eligible list for reasons other than those listed in subsection (2) of this section may request in writing within ten calendar days of notification that the personnel officer restore the name to the list for the duration of eligibility.

(5) Within ten calendar days after receiving a request per subsection (4) of this section, the personnel officer will provide the person with written notification of the decision to:

(a) Restore the name to the eligible list; or

(b) Refuse to restore the name to the eligible list. In this case, the person shall also be advised of the right of appeal per WAC 251-18-145 (1)(d).

[Statutory Authority: RCW 28B.16.100. 85-04-019 (Order 123), § 251-18-200, filed 1/30/85; 84-10-056 (Order 115), § 251-18-200, filed 5/2/84; 79-03-029 (Order 71), § 251-18-200, filed 2/27/79; Order 61, § 251-18-200, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-200, filed 1/15/71.]

**WAC 251-18-240 Certification--Method.** (1) Upon receipt of a personnel request, the personnel officer shall provide the following number of names to the employing official in writing:

(a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification.

(b) When there are no names on the institution-wide layoff list for the class, four more names than there are vacancies to be filled by the certification and, as provided in WAC 251-23-060, up to three additional names of eligibles who meet the applicable affirmative action criteria.

(2) Names shall be certified in strict order of standing on the eligible list(s).

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

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180(10):

(i) Institution-wide layoff list;

(ii) Organizational unit promotional list;

(iii) Institution-wide promotional list;

(iv) Special employment program layoff list;

(v) State-wide layoff list;

(vi) Interinstitutional employee list;

(vii) Intersystem employee list;

(viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

(i) Institution-wide layoff list;

(ii) Combined eligible list.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-18-240, filed 2/28/86, effective 4/1/86; 85-16-038 (Order 134), § 251-18-240, filed 7/31/85, effective 9/1/85; 84-16-067 (Order 119), § 251-18-240, filed 7/31/84; 84-10-056 (Order 115), § 251-18-240, filed 5/2/84; 82-16-002 (Order 98), § 251-18-240, filed 7/22/82, effective 9/1/82; 78-02-094 (Order 65), § 251-18-240, filed 1/30/78; Order 61, § 251-18-240, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-240, filed 3/18/77, effective 4/18/77; Order 44, § 251-18-240, filed 6/25/75; Order 41, § 251-18-240, filed 3/17/75; Order 39, § 251-18-240, filed 12/24/74; Order 32, § 251-18-240, filed 3/19/74; Order 21, § 251-18-240, filed 5/24/73; Order 14, § 251-18-240, filed 6/18/72; Order 4, § 251-18-240, filed 2/19/71.]

**WAC 251-18-255 Certification--Specific position requirements.** (1) All specific position requirements shall be justified by a job analysis in accordance with WAC 251-18-010(2).

(2) When specific position requirements have been documented for a position, only the names of eligibles who have demonstrated a satisfactory level of knowledge, skill or ability on such specific position requirements shall be certified for that position.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-255, filed 7/31/85, effective 9/1/85.]

**WAC 251-18-260 Certification--Incomplete.** When the number of names available for certification for a given vacancy is fewer than five, the employing official may make an appointment from the certification or decline to do so.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-260, filed 5/2/84; 82-16-002 (Order 98), § 251-18-260, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-18-260, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-260, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-260, filed 1/15/71.]

**WAC 251-18-265 Certification--Concurrent.** When more than one employing official submits a personnel request for certification for a class concurrently, the same names from the appropriate eligible list(s) will be certified to each official as required by WAC 251-18-240.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-265, filed 5/2/84; 82-16-002 (Order 98), § 251-18-265, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-265, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-270 Certification--Interview of eligibles.** The employing official shall interview each eligible certified prior to making an appointment, except when the eligible waives the interview.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-270, filed 5/2/84; Order 61, § 251-18-270, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-270, filed 11/18/74; Order 3, § 251-18-270, filed 1/15/71.]

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

- (a) Eligible was interviewed and considered but not appointed;
- (b) Eligible waived consideration for the position;
- (c) Eligible could not be contacted, provided he/she had been given at least two working days to respond to notice of certification;
- (d) Eligible failed to appear for the interview; or
- (e) Eligible was appointed to the position.

(2) When the number of certified eligibles available is reduced to less than four more than there are positions to be filled, upon request from the employing official the personnel officer may provide a replacement name for each eligible who has waived consideration, been determined to be unavailable, or did not appear for the scheduled interview.

[Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-18-280, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-280, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-280, filed 5/24/73; Order 4, § 251-18-280, filed 2/19/71.]

**WAC 251-18-285 Certification--Error--Correction.** When an error is made in the certification of names for a vacancy, the director or the personnel officer may invalidate a probationary or trial service appointment when the appointed eligible(s) would not be among those certified to the position upon correction of the error.

[Statutory Authority: RCW 28B.16.100. 85-10-056 (Order 126), § 251-18-285, filed 5/1/85, effective 6/1/85.]

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

- (1) Assumption of appointment status, salary step as provided in WAC 251-08-115 and seniority held at the time of layoff;
- (2) Sick leave accrued at the time of layoff;
- (3) Periodic increment date extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff.

[Order 61, § 251-18-290, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-290, filed 5/24/73; Order 3, § 251-18-290, filed 1/15/71.]

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

- (1) Credited with unused sick leave accrued if reemployed within three years of termination;
- (2) Given a new periodic increment date in accordance with WAC 251-08-100(2);
- (3) Required to serve a probationary period.

[Order 63, § 251-18-291, filed 11/22/77; Order 61, § 251-18-291, filed 8/30/77, effective 10/1/77.]

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

The personnel officer shall immediately begin recruiting to establish a list of eligibles for the class.

[Order 61, § 251-18-300, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-300, filed 1/15/71.]

**WAC 251-18-310 Appointment--Emergency.** An employing official may request that the personnel officer authorize a thirty calendar day emergency appointment, without regard to other provisions of these rules governing appointment, whenever the personnel officer determines that an emergency exists and there is an

inadequate eligible list from which an appointment can be made. The period of emergency appointment shall not constitute part of a probationary period. Emergency appointments shall be reported in writing to the director at the time of appointment, and may be extended for another thirty calendar day period only upon prior approval of the director.

[Order 61, § 251-18-310, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-310, filed 1/15/71.]

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

- (a) Open-competitive or noncompetitive list.
- (b) Institution-wide layoff list - when the employee was in probationary status at the time of layoff.
- (c) State-wide layoff list.
- (d) Combined eligible list as provided in WAC 251-18-180(10) and 251-18-240 (3)(b)(ii) when the person appointed is neither a permanent employee of the institution nor an employee moving pursuant to WAC 251-18-347.

(2) The probationary period will continue for the length of time as determined under WAC 251-06-090, unless interrupted as provided in these rules. All positions in a class shall require the same probationary period. In the event an employee is on leave without pay for more than ten work days during the probationary period, the completion date of the probationary period shall be extended by an amount of time equal to the period of leave without pay.

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

- (a) The employee shall begin a probationary period in the new class;
- (b) The salary in the new class shall be established as provided in WAC 251-08-080;
- (c) The former periodic increment date shall be abolished and a new periodic increment date established in the same manner as provided in WAC 251-08-100(2).

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-18-320, filed 7/31/84; 84-08-032 (Order 113), § 251-18-320, filed 3/30/84, effective 5/1/84; 82-16-002 (Order 98), § 251-18-320, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-320, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-320, filed 3/19/74; Order 3, § 251-18-320, filed 1/15/71.]

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

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

(2) A trial service period of six months shall be required upon employee movement as specified in WAC 251-18-347.

(3) The trial service period provides the employing official an opportunity to observe and evaluate the new employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

(a) With preemptive rights to the former position in which permanent status was last held, or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion or employee movement as specified in WAC 251-18-347). The personnel officer shall determine which position to preempt. However, if the employee was in a trial service appointment in another class prior to the current trial service period, the personnel officer may provide the employee the opportunity to complete the first interrupted trial service period.

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

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

(4) Reversion from trial service must be preceded by:

- (a) Written notice detailing deficiencies in performance, which shall include the specific changes required; and
- (b) A reasonable opportunity to overcome identified deficiencies.

(5) An employee who is reverted may appeal to the board regarding:

- (a) Whether the employer complied with the requirements of WAC 251-18-330 (4)(a) and (b); and
- (b) Whether the claimed deficiencies existed at the time of reversion.

(6) The board may uphold the reversion action, extend the trial service period, overturn the reversion, grant permanent status or order such other actions as may be determined appropriate pursuant to the best standards of personnel administration.

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

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

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

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

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

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged.

[Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-18-330, filed 3/30/84, effective 5/1/84; 81-22-065 (Order 91), § 251-18-330, filed 11/4/81; 81-15-003 (Order 88), § 251-18-330, filed 7/2/81; 78-02-094 (Order 65), § 251-18-330, filed 1/30/78; Order 61, § 251-18-330, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-330, filed 1/15/71.]

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

Application of this rule shall be appealable under the same provisions as WAC 251-12-080 et seq.

[Order 61, § 251-18-335, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-335, filed 6/25/75.]

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

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

(2) Demotion, either voluntary or involuntary, when made to a class in which the employee has held permanent status during the current period of employment at the institution.

(3) Transfer within a class at the institution.

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

(5) Conversion, per the provisions of WAC 251-18-420, of the incumbent of an exempt position which is converted to classified status, provided the incumbent has been employed for at least six months in the exempt position.

[Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-18-340, filed 3/30/84, effective 5/1/84; 82-16-002 (Order 98), § 251-18-340, filed 7/22/82, effective 9/1/82; 78-02-094 (Order 65), § 251-18-340, filed 1/30/78; Order 64, § 251-18-340, filed 12/23/77; Order 61, § 251-18-340, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-340, filed 1/15/71.]

**WAC 251-18-345 Reassignment.** The appointing authority may reassign an employee to a different position within the same class. Such reassignment shall not result in a change in salary or periodic increment date.

[Order 61, § 251-18-345, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-345, filed 5/24/73.]

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

(a) The action is by employee request; or

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

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

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

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

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

(b) For transfer within class or lateral movement, the salary and periodic increment date shall remain unchanged.

[Order 61, § 251-18-346, filed 8/30/77, effective 10/1/77.]

**WAC 251-18-347 Permanent classified employee movement between institutions/related boards or state agencies.** Permanent classified employees desiring to promote, transfer, laterally move, or voluntarily demote to positions at other institutions/related boards or state agencies will:

(1) Have the responsibility for communicating their desires in writing to potential receiving institutions/related boards or the department of personnel.

(2) Be required to pass the examination for the class administered by the receiving institution/related board or department of personnel.

(3) Have their names placed on the appropriate eligible list as provided in WAC 251-18-180 or corresponding department of personnel register.

(4) Be certified to employing official(s) as provided in WAC 251-18-240 or corresponding department of personnel rule.

(5) Serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the institution-wide layoff list at the institution/related board from which he/she came or corresponding department of personnel register.

(6) Be unable to bump if laid off during such trial service period even though layoff seniority will move with employee to the new position.

(7) Retain vacation and sick leave balances. Vacation leave accrual rates shall be determined by appropriate higher education personnel board or department of personnel rules.

(8) Retain their former periodic increment date except upon promotion in accordance with WAC 251-08-100 (3)(a).

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-18-347, filed 7/31/84; 84-02-042 (Order 110), § 251-18-347, filed 12/30/83, effective 2/1/84.]

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

(2) Temporary appointment to perform work in the absence of an employee on leave for ninety or more consecutive calendar days shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this subsection are covered by chapter 28B.16 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the one hundred seventy-nine consecutive calendar day limitation identified in WAC 251-04-020(3) and subsection (5) of this section.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than ninety consecutive calendar days. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-04-020 (1)(a), (2), and (3) may be made without regard to the rules governing appointment.

(5) Upon prior approval of the director, a temporary appointment to a position identified in WAC 251-04-020 (1)(a) may be extended beyond the eighty-ninth day, however the total period of appointment shall not exceed one hundred seventy-nine consecutive calendar days.

(6) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-04-020 (1)(a), (2), and (3), shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

(7) At the conclusion of a temporary appointment of less than one hundred eighty consecutive calendar days, a permanent employee shall have the right to revert to his/her former position.

(8) Each institution shall file with the director a procedure which indicates their system for controlling and monitoring exempt positions as identified in RCW 28B.16.040(2).

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-18-350, filed 7/31/84; 82-04-069 (Order 93), § 251-18-350,

filed 2/3/82; Order 61, § 251-18-350, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-350, filed 5/24/73; Order 3, § 251-18-350, filed 1/15/71.]

**WAC 251-18-381 Appointment—Cyclic year position.** (1) Cyclic year positions are to be filled in accord with chapter 251-18 WAC.

(2) At least fifteen calendar days before the start of each annual cycle, incumbents of cyclic year positions will be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Such leave without pay shall not constitute a break in service and shall not be deducted from the employees' length of service in granting periodic increments except as provided in WAC 251-08-100 (3)(f), nor in computing the employees' vacation leave accrual rate.

(3) When additional work is required of a cyclic year position during a period for which the position was scheduled for leave without pay, the temporary work will be offered to the incumbent. The incumbent will be allowed at least three working days in which to accept or decline the offer.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-18-381, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-18-381, filed 4/29/83, effective 6/1/83.]

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

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

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

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

(5) Graduates from the apprenticeship program will be assigned to the mid-step of the journey scale and will remain until twelve months elapse before moving to the top step. Movement from the apprenticeship program into the journey class does not require competition and a trial service appointment is not required.



[Order 61, § 251-18-400, filed 8/30/77, effective 10/1/77; Order 41, § 251-18-400, filed 3/17/75.]

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

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

(2) Positions created for special employment programs are included in the regular classified service of an institution. Participants have the rights and benefits of classified employees, except as precluded by WAC 251-10-035 or higher statutory authority. The primary distinction is that each institution shall establish a separate layoff unit to include all special employment programs. When special employment program positions are abolished or when an incumbent must be separated due to the salary or longevity mandates of Public Law 95-524, layoffs will occur as provided in WAC 251-10-035.

[Statutory Authority: RCW 18B.16.100 [28B.16.100]. 79-07-096 (Order 76), § 251-18-410, filed 6/29/79, effective 8/1/79; Order 61, § 251-18-410, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-410, filed 6/25/75.]

**WAC 251-18-420 Appointment--Conversion of exempt position.** (1) Incumbents of positions which are converted from exempt to classified service for the following reasons may be placed within the classified service as provided in subsections (2) through (9) of this section:

(a) When it has been determined that the exempt position does not meet the criteria for exemption per WAC 251-04-040 (1), (8), (9), or (10) and thus is inappropriately exempt;

(b) When an organizational realignment has caused the exempt position to become inappropriately exempt by no longer meeting the criteria for exemption per WAC 251-04-040 (1), (8), (9), or (10); or

(c) When an institution elects to convert a position which has been exempt per the provisions of WAC 251-04-040(10).

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

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

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

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

(6) The periodic increment date shall be established based on the date of conversion to the classified service

or the date of last salary increase, whichever is sooner. Those employees at or above the top step of the new range shall not be assigned a P.I.D.

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

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

(9) Layoff seniority for the incumbent shall be established based upon unbroken service at the institution.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-420, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-18-420, filed 9/23/83, effective 10/24/83; 79-03-029 (Order 71), § 251-18-420, filed 2/27/79; Order 64, § 251-18-420, filed 12/23/77.]

## Chapter 251-20 WAC

### EMPLOYEE PERFORMANCE EVALUATION

#### WAC

251-20-010	Employee performance evaluation—Authority, purpose, use.
251-20-020	Employee performance evaluation—Forms.
251-20-030	Method of evaluation.
251-20-040	Employee performance evaluation—Procedure.
251-20-050	Employee performance evaluation—Appeal.
251-20-060	Employee performance evaluation—Responsibility.

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

251-20-045	Annual performance evaluation—Distribution of ratings—Management employees. [Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-20-045, filed 7/31/84.] Repealed by 85-20-049 (Order 136), filed 9/25/85. Statutory Authority: RCW 28B.16.100.
------------	---

**WAC 251-20-010 Employee performance evaluation—Authority, purpose, use.** (1) The rules contained in this chapter follow from the authority of the higher education personnel law, chapter 28B.16 RCW, which requires that standardized employee performance evaluation procedures and forms be used by institutions of higher education for the appraisal of employee job performance at least annually.

(2) Supervisors will conduct annual performance evaluations to record and inform employees regarding how well they have contributed to the fulfillment of institution and job objectives.

(3) Performance evaluation shall not be used to initiate personnel actions such as transfers, promotion, or discipline.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-20-010, filed 9/25/85; 84-16-067 (Order 119), § 251-20-010, filed 7/31/84; 78-06-068 (Order 68), § 251-20-010, filed 5/25/78, effective 7/1/78.]

**WAC 251-20-020 Employee performance evaluation—Forms.** (1) Standardized performance evaluation forms approved by the board shall be used to record employee evaluations. The forms shall contain standard

"rating factors" and shall provide for one or more "optional factors" developed by the institution, which reflect organizational requirements and specific job-related aspects of performance.

(2) The approved forms shall accommodate the provisions of WAC 251-20-040.

(3) The approved forms may be supplemented with other forms and/or information used by an institution to support the ratings recorded on the approved forms.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-20-020, filed 7/31/84; 78-06-068 (Order 68), § 251-20-020, filed 5/25/78, effective 7/1/78.]

**WAC 251-20-030 Method of evaluation.** (1) Employee performance is to be rated for each "rating factor" on the approved form on the basis of performance expectations determined by the supervisor.

(2) Upon appointment to a position, the employee's supervisor will provide the employee with a copy of the following:

(a) The specification for the class.

(b) The employee's specific position duties and responsibilities which relate to the specification.

(3) Written performance expectations for each of the rating factors shall be provided to the employee in sufficient time to allow the employee to meet the work expectations (normally within thirty calendar days after appointment to an existing position and within ninety calendar days after appointment to a newly created or significantly modified position).

(4) The supervisor's performance expectations shall remain in effect for future evaluations unless action is taken to modify them and the employee has been provided with a copy of them.

(5) Each "rating factor" will be rated and recorded in one of the rating categories on the approved evaluation form.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-20-030, filed 9/25/85; 84-16-067 (Order 119), § 251-20-030, filed 7/31/84; 81-15-021 (Order 89), § 251-20-030, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-030, filed 5/25/78, effective 7/1/78.]

**WAC 251-20-040 Employee performance evaluation—Procedure.** (1) Each employee shall be evaluated at least annually by his/her immediate supervisor. The evaluation process shall use the form(s) as provided in WAC 251-20-020 and shall be in accord with the provisions of this chapter.

(2) Prior to review by the second level of supervision, the employee shall be provided an opportunity to comment on the evaluation and to discuss his/her comments and the final evaluation with the supervisor.

(3) The evaluation shall be reviewed by the employee's second level of supervision (or management designee as determined by the institution).

(4) A copy of the completed annual evaluation form will be provided to the employee upon request.

(5) Performance evaluations shall be retained in the employee's file for no more than three years.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-20-040, filed 9/25/85; 84-16-067 (Order 119), § 251-20-040,

filed 7/31/84; 81-15-021 (Order 89), § 251-20-040, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-040, filed 5/25/78, effective 7/1/78.]

**WAC 251-20-050 Employee performance evaluation—Appeal.** An appeal against action under this chapter shall be restricted to allegations of irregularities in the use of the approved form and/or the procedures outlined in WAC 251-20-010, 251-20-020, 251-20-030, and 251-20-040, as provided in WAC 251-12-075.

[Statutory Authority: RCW 28B.16.100. 85-22-022 (Order 141), § 251-20-050, filed 10/30/85, effective 12/1/85; 84-16-067 (Order 119), § 251-20-050, filed 7/31/84; 81-15-021 (Order 89), § 251-20-050, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-050, filed 5/25/78, effective 7/1/78.]

**WAC 251-20-060 Employee performance evaluation—Responsibility.** The personnel officer shall be responsible for establishing and administering the employee performance evaluation system for the institution.

[Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-20-060, filed 5/25/78, effective 7/1/78.]

## Chapter 251-22 WAC HOLIDAYS—LEAVE

### WAC

251-22-040	Holidays.
251-22-045	Personal holiday.
251-22-048	Leave—Procedures.
251-22-050	Leave—Authorization.
251-22-053	Leave—Accrual date.
251-22-056	Leave—Alternate work schedule employees.
251-22-059	Leave—Change of employment.
251-22-060	Vacation leave—Accrual.
251-22-070	Vacation leave—Use.
251-22-080	Vacation leave—Accumulation—Excess.
251-22-090	Vacation leave—Cash payment.
251-22-100	Sick leave—Accrual.
251-22-110	Sick leave—Use.
251-22-111	Sick leave—Reporting—Verification.
251-22-112	Bereavement leave.
251-22-115	Maternity leave.
251-22-124	Sick leave—Compensation for.
251-22-125	Sick leave—Former employees.
251-22-165	Workmen's compensation—Leave.
251-22-170	Military training leave.
251-22-180	Military leave without pay.
251-22-190	Civil duty leave.
251-22-200	Leave of absence without pay.
251-22-210	Leave of absence—Duration.
251-22-220	Leave of absence—Employee rights.
251-22-240	Suspended operation.
251-22-245	Employee absence—Inclement weather.

### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-22-010	Hours of work—General. [Order 29, § 251-22-010, filed 1/22/74; Order 3, § 251-22-010, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-010.
251-22-020	Work schedules. [Order 29, § 251-22-020, filed 1/22/74; Order 3, § 251-22-020, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-020.

- 251-22-030 Rest period. [Order 3, § 251-22-030, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-110.
- 251-22-091 Vacation leave—Separation. [Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-091, filed 9/23/83, effective 10/24/83; 82-19-067 (Order 102), § 251-22-091, filed 9/20/82, effective 10/25/82.] Repealed by 84-12-047 (Order 117), filed 6/1/84. Statutory Authority: RCW 28B.16.100.
- 251-22-105 Leave accrual date. [Order 16, § 251-22-105, filed 7/27/72, effective 7/1/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-053.
- 251-22-120 Sick leave—Reporting. [Order 3, § 251-22-120, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-111.
- 251-22-130 Sick leave—Physician's certificate. [Order 3, § 251-22-130, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-22-140 Sick leave—Workmen's compensation. [Order 19, § 251-22-140, filed 12/20/72; Order 3, § 251-22-140, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-165.
- 251-22-150 Sick leave—Change of employment. [Order 3, § 251-22-150, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-059.
- 251-22-160 Sick leave—Separation—Reinstatement. [Order 32, § 251-22-160, filed 3/19/74; Order 3, § 251-22-160, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-125.
- 251-22-230 Leave—Procedures. [Order 3, § 251-22-230, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-048.

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

- (a) The first day of January (New Year's Day);
- (b) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (c) The third Monday of February (Presidents' Day);
- (d) The last Monday of May (Memorial Day);
- (e) The fourth day of July (Independence Day);
- (f) The first Monday in September (Labor Day);
- (g) The eleventh day of November, (Veteran's Day);
- (h) The fourth Thursday of November (Thanksgiving Day);
- (i) The day immediately following Thanksgiving Day; and
- (j) The twenty-fifth day of December (Christmas Day).

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

an in lieu of schedule, paid holidays shall be granted based on the approved in lieu of schedule.

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

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

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

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

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

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

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

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

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

[Statutory Authority: RCW 28B.16.100. 86-08-037 (Order 146), § 251-22-040, filed 3/26/86, effective 5/1/86; 85-16-038 (Order 134), § 251-22-040, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-22-040, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-040, filed 4/29/83, effective 6/1/83; Order 61, § 251-22-040, filed 8/30/77, effective 10/1/77; Order 60, § 251-22-040, filed 7/18/77; Order 55, § 251-22-040, filed 6/1/76; Order 42, § 251-22-040, filed 5/23/75; Order 41, § 251-22-040, filed 3/17/75; Order 29, § 251-22-040, filed 1/22/74; Order 8, § 251-22-040, filed 6/17/71, effective 7/19/71; Order 3, § 251-22-040, filed 1/15/71.]

**WAC 251-22-045 Personal holiday.** (1) Each employee may select one personal holiday each calendar year, as indicated in WAC 251-22-040(10) and the institution/related board must grant the day, provided:

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

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-045, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-045, filed 8/30/77, effective 10/1/77; Order 55, § 251-22-045, filed 6/1/76.]

**WAC 251-22-048 Leave--Procedures.** Each institution shall have on file in the personnel office complete instructions specifying the procedure for granting all leave, as outlined in these rules.

[Order 61, § 251-22-048, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-050 Leave--Authorization.** All leave must be authorized by the employing official or designee. Unauthorized absence shall be treated as absence without pay.

[Order 61, § 251-22-050, filed 8/30/77, effective 10/1/77; Order 42, § 251-22-050, filed 5/23/75; Order 3, § 251-22-050, filed 1/15/71.]

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

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

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

(3) Employees terminating on or before the fifteenth of the month shall not receive accrued leave for the month; those terminating on or after the sixteenth shall receive the full monthly accrual credit, provided they have not been on leave of absence without pay during the month in excess of ten working days.

[Order 61, § 251-22-053, filed 8/30/77, effective 10/1/77.]

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

(2) Part-time alternate work schedule employees shall accrue leave on the same pro rata basis that their monthly work schedule bears to a full time work schedule.

(3) Leave use shall be charged on an hour for hour basis; i.e., an alternate work schedule employee on a ten

hour per day work schedule would be charged ten hours of vacation or sick leave for each such day taken.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-056, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-056, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-059 Leave--Change of employment.** Unused sick and vacation leave credits of permanent status employees changing employment between higher education institutions, related boards or other state agencies shall move with the employee.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-059, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-059, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-060 Vacation leave--Accrual.** (1) Full-time employees eligible for vacation leave shall accrue vacation leave, to be credited monthly, at the following rates:

(a) During the first year of continuous state employment - 12 days (8.0 hours per month);

(b) During the 2nd year of continuous state employment - 13 days (8 hours, 40 minutes per month);

(c) During the 3rd and 4th years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment - 15 days (10 hours per month);

(e) During the 10th year of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment - 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment - 18 days (12 hours per month);

(h) During the 13th year of total state employment - 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment - 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment - 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full-time schedules shall accrue vacation leave credit on the same prorata basis that their appointment bears to a full time appointment.

(3) Per the provisions of WAC 251-18-381(2), the scheduled period of cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of vacation leave accrual for cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(4) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040(4) shall not be credited;

(c) Each contract year of full-time faculty and/or administrative exempt employment within the higher

education institutions shall be credited as a year of qualifying service;

(d) Employment in part time classified positions shall be credited as full-time service.

(5) Vacation leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of vacation leave accrual.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-22-060, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-22-060, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-060, filed 4/29/83, effective 6/1/83; 79-03-029 (Order 71), § 251-22-060, filed 2/27/79, effective 4/2/79; Order 61, § 251-22-060, filed 8/30/77, effective 10/1/77; Order 49, § 251-22-060, filed 1/16/76; Order 47, § 251-22-060, filed 11/19/75; Order 23, § 251-22-060, filed 6/20/73, effective 1/1/74; Order 16, § 251-22-060, filed 7/27/72, effective 7/1/73.]

**WAC 251-22-070 Vacation leave--Use.** (1) Vacation leave may not be taken until an employee has completed six months of continuous employment. An employee bringing an accrued balance from another state agency may use the previously accrued vacation leave during the institutional probationary or trial service period.

(2) All requests for vacation leave must be approved by the employing official or designee in advance of the effective date.

(3) Vacation leave shall be scheduled by the employing department at a time most convenient to the work of the department, the determination of which shall rest with the employing official. As far as possible, leave will be scheduled in accordance with the wishes of the employee in any amount up to the total of his/her earned leave credits.

(4) Paid vacation leave may not be used in advance of its accrual.

[Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-22-070, filed 3/30/84, effective 5/1/84; 83-20-020 (Order 108), § 251-22-070, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-070, filed 1/15/71.]

**WAC 251-22-080 Vacation leave--Accumulation--Excess.** Vacation leave credits may be accumulated to a maximum of thirty working days (240 hours). However, there are two methods which allow vacation leave to be accumulated above the maximum:

(1) If an employee's request for vacation leave is denied by the employing official, then the maximum of thirty working days' accrual shall be extended for each month that the leave is deferred, provided a statement of necessity justifying the denial is approved by the personnel officer.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of thirty days as follows:

(a) An employee may accumulate the vacation leave days between the time thirty days is accrued and his/her anniversary date of state employment.

(b) Such accumulated leave shall be used by the anniversary date and at a time convenient to the employing institution/agency. If such leave is not used prior to the

employee's anniversary date, such leave shall be automatically extinguished and considered to have never existed.

(c) Such leave credit acquired and accumulated shall never, regardless of circumstances, be deferred by the employing institution/agency by filing a statement of necessity as described in subsection (1) of this section.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-080, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-080, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-080, filed 1/15/71.]

**WAC 251-22-090 Vacation leave--Cash payment.** Classified employees who have completed six continuous months of employment and who separate from service by resignation, layoff, dismissal, retirement or death are entitled to a lump sum cash payment for all unused vacation leave. In the case of voluntary resignation, an employee may be required to provide fourteen calendar days' notice to qualify for such lump sum cash payment. Vacation leave payable under WAC 251-22-080 and this section shall be computed and paid as prescribed by the office of financial management. No contributions are to be made to the department of retirement systems for lump sum payment of excess vacation leave accumulated as prescribed in WAC 251-22-080(2), nor shall such payment be reported to the department of retirement systems as compensation.

[Statutory Authority: RCW 28B.16.100. 85-22-023 (Order 142), § 251-22-090, filed 10/30/85, effective 12/1/85; 85-16-038 (Order 134), § 251-22-090, filed 7/31/85, effective 9/1/85; 84-12-047 (Order 117), § 251-22-090, filed 6/1/84; 83-20-020 (Order 108), § 251-22-090, filed 9/23/83, effective 10/24/83; 82-19-067 (Order 102), § 251-22-090, filed 9/20/82, effective 10/25/82; Order 61, § 251-22-090, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-090, filed 1/15/71.]

**WAC 251-22-100 Sick leave--Accrual.** (1) Full time classified employees shall accrue eight hours of sick leave credit for each month of completed classified service. Paid sick leave may not be used in advance of accrual.

(2) Employees working less than a full-time schedule shall accrue sick leave credit on the same prorata basis that their employment schedule bears to a full-time schedule.

(3) Sick leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

[Order 61, § 251-22-100, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-100, filed 12/24/74; Order 21, § 251-22-100, filed 5/24/73, effective 7/1/73; Order 16, § 251-22-100, filed 7/27/72, effective 7/1/73.]

**WAC 251-22-110 Sick leave--Use.** (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty

would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness in the immediate family that require the employee to provide immediate necessary care of the patient or to make arrangements for extended care. Immediate family shall be as defined in WAC 251-22-112. The personnel officer may authorize sick leave use as provided in this subsection for other than immediate family. The applicability of "emergency," "necessary care" and "extended care" shall be made by the personnel officer.

(d) Because of a death in the immediate family of the employee that requires the assistance of the employee in making arrangements for interment of the deceased.

(e) For the purpose of medical, dental, or optical appointments, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

[Order 63, § 251-22-110, filed 11/22/77; Order 61, § 251-22-110, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-110, filed 12/24/74; Order 29, § 251-22-110, filed 1/22/74; Permanent and Emergency Order 15, § 251-22-110, filed 7/14/72; Order 3, § 251-22-110, filed 1/15/71.]

**WAC 251-22-111 Sick leave--Reporting--Verification.** (1) Employees shall report illness or disability to the immediate supervisor at the beginning of any period of sick leave and daily thereafter unless prearranged.

(2) Upon returning to work, the employee may be required by the employing official to submit a written statement or medical certificate explaining the nature of the disability.

[Statutory Authority: RCW 28B.16.100. 82-10-006 (Order 95), § 251-22-111, filed 4/26/82, effective 6/1/82; 80-02-111 (Order 83), § 251-22-111, filed 1/28/80; Order 61, § 251-22-111, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-112 Bereavement leave.** Sick leave in addition to that as provided in WAC 251-22-100 shall be granted for bereavement as follows:

(1) One day of bereavement leave shall be granted for each death in the immediate family. Bereavement leave may be extended to a maximum of three days with the approval of the employing official and the personnel officer.

(2) For the purposes of this rule, the immediate family is defined as mother, father, sister, brother, mother-in-law, father-in-law, husband, wife, children, grandparents, and grandchildren.

[Order 61, § 251-22-112, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-115 Maternity leave.** Maternity leave shall be granted for the period of time that a woman is sick or temporarily disabled because of pregnancy or childbirth. Accrued sick leave may be used during the temporary disability resulting from pregnancy.

[Order 61, § 251-22-115, filed 8/30/77, effective 10/1/77; Order 29, § 251-22-115, filed 1/22/74.]

[Title 251 WAC--p 54]

**WAC 251-22-124 Sick leave--Compensation for.** (1) Employees shall be eligible to receive monetary compensation for accrued sick leave as follows:

(a) In January of each year, and at no other time, an employee whose year-end sick leave balance exceeds 480 hours may choose to convert sick leave hours earned in the previous calendar year minus those used during the year to monetary compensation.

(i) No sick leave hours may be converted which would reduce the calendar year-end balance below 480 hours.

(ii) Monetary compensation for converted hours shall be paid at the rate of 25% and shall be based upon the employee's current salary.

(iii) All converted hours will be deducted from the employee's sick leave balance.

(b) Employees who separate from state service on or after September 1, 1979, due to retirement or death shall be compensated for their unused sick leave accumulation at the rate of 25%. Compensation shall be based upon the employee's salary at the time of separation. For the purpose of this subsection, retirement shall not include "vested out-of-service" employees who leave funds on deposit with the retirement system.

(2) Compensation for unused sick leave shall not be used in computing the retirement allowance; therefore no contributions are to be made to the retirement system for such payments, nor shall such payments be reported as compensation.

(3) An employee who separates from the classified service for any reason other than retirement or death shall not be paid for accrued sick leave.

[Statutory Authority: RCW 28B.16.100. 79-10-055 (Order 80), § 251-22-124, filed 9/17/79.]

**WAC 251-22-125 Sick leave--Former employees.** (1) Former state employees who are reemployed within three years of separation shall have their former sick leave balance restored for use as provided in WAC 251-22-110.

(2) Upon subsequent retirement or death of a retired state employee who has returned to state service, only that unused sick leave accrued since the original retirement minus that taken within the same period may be compensated per the provisions of WAC 251-22-124 (1)(b); this restriction shall not apply to other returning employees.

[Statutory Authority: RCW 28B.16.100. 79-10-055 (Order 80), § 251-22-125, filed 9/17/79; Order 61, § 251-22-125, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-165 Workmen's compensation--Leave.** (1) Employees who suffer a work related injury or illness that is compensable under the state workmen's compensation law may select time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and accrued paid leave.

(2) Employees taking sick leave during a period in which they receive workmen's compensation under the industrial insurance provisions for a work related illness

or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for workmen's compensation is determined by the department of labor and industries, the institution may pay full sick leave, provided that the employee shall return any overpayment to the institution when the salary adjustment is determined.

(b) Sick leave hours charged to an employee who receives workmen's compensation, as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the institution during the claim period.

(3) During a period when an employee receives pay for vacation leave, compensatory time off or holidays and also receives workmen's compensation for time loss, he/she is entitled to both payments without any deduction for the industrial insurance payment.

(4) When an employee receives workmen's compensation payment for time loss and is on leave without pay, no deductions will be made for the industrial insurance payment.

(5) An employee who sustains an industrial injury, accident or illness, arising from employment by an institution under the jurisdiction of the higher education personnel board shall, upon written request and proof of continuing disability, be granted leave of absence without pay for up to six months without loss of layoff seniority or change in annual increment date. Leave without pay exceeding six months without loss of layoff seniority or change in annual increment date may be granted at the option of the employing institution.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-165, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-165, filed 8/30/77, effective 10/1/77.]

**WAC 251-22-170 Military training leave.** (1) Employees shall be entitled to leave with pay not to exceed fifteen calendar days in any one calendar year for active duty in the national guard; army, air, marine, or naval reserve forces of the United States for annual field training or otherwise discharging reserve obligations.

(2) Such leave shall be in addition to any vacation leave to which an employee is entitled and shall not result in any loss of benefits, privileges or pay.

(3) During military training leave, the employee shall receive the normal base pay.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service shall receive full pay for the time required to complete the examination.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-170, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-170, filed 1/15/71.]

**WAC 251-22-180 Military leave without pay.** A classified employee shall be entitled to military leave of absence without pay for service in the armed forces of the United States or the state, and to reinstatement to his/her former position or to one in the same class, with cumulative seniority and increments, upon application to

the personnel officer within ninety calendar days after the expiration of such period of military service, in accordance with RCW 73.16.030 through 73.16.061.

[Order 61, § 251-22-180, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-180, filed 1/15/71.]

**WAC 251-22-190 Civil duty leave.** Leave of absence with pay shall be granted employees to serve on jury duty, as trial witnesses, or to exercise other subpoenaed civil duties. Employees shall reimburse the institution for all compensation received for such civil duty, exclusive of expenses incurred.

[Order 61, § 251-22-190, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-190, filed 1/15/71.]

**WAC 251-22-200 Leave of absence without pay.**

(1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Maternity leave;
- (c) Educational leave;
- (d) Leave for government service in the public interest;
- (e) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 251-18-381.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

[Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-22-200, filed 7/31/85, effective 9/1/85; 84-12-047 (Order 117), § 251-22-200, filed 6/1/84; 83-20-020 (Order 108), § 251-22-200, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-200, filed 4/29/83, effective 6/1/83; 82-16-002 (Order 98), § 251-22-200, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-22-200, filed 5/25/78, effective 7/1/78; Order 61, § 251-22-200, filed 8/30/77, effective 10/1/77; Order 12, § 251-22-200, filed 5/23/72, effective 6/25/72; Order 3, § 251-22-200, filed 1/15/71.]

**WAC 251-22-210 Leave of absence—Duration.** Leave of absence without pay shall not exceed twelve months except for educational leave which may be allowed for the duration of actual attendance and leave for government service in the public interest. Leave of absence without pay may be extended for an additional

twelve months upon signed request of the employee and signed approval of the employing official or designee and the personnel officer. Additional leave of absence without pay may be approved by the personnel officer.

[Order 61, § 251-22-210, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-210, filed 1/15/71.]

**WAC 251-22-220 Leave of absence--Employee rights.** Employees returning from an authorized leave of absence shall be employed in the same position or in another position in the same class in the same geographical area and organizational unit, providing that such re-employment is not in conflict with rules relating to reduction in force.

[Order 61, § 251-22-220, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-220, filed 1/15/71.]

**WAC 251-22-240 Suspended operation.** (1) Notwithstanding the provisions of WAC 251-10-030, if the chief executive officer of the institution determines that the public health or property or safety is jeopardized and it is advisable due to emergency conditions to suspend the operation of all or any portion of the institution, the following will govern classified employees:

(a) When prior notification has not been given, employees released until further notice after reporting to work, shall receive a minimum of four hours pay for the first day. The following options shall be made available to affected employees not required to work for the balance of the closure:

- (i) Vacation leave, personal holiday; or
- (ii) Accrued compensatory time (where applicable); or
- (iii) Leave without pay; or
- (iv) Reasonable opportunity to make up work time lost as a result of the suspended operation as provided in subsection (1)(c).

(b) Employees required to work shall receive their regular rate of pay for work performed during the period of suspended operation. Overtime worked during the closure will be compensated as provided in chapter 251-09 WAC. The personnel officer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operation.

(c) Employees who lose regular work time as a result of suspended operation may request to work additional hours during the ninety-day period immediately following the suspended operation. Compensation for such additional work shall be granted on a compensatory time basis at not less than straight time nor more than time and one-half, and shall be part of the institution's suspended operations procedures. The amount of compensation earned under this section should not exceed the amount of salary lost by the employee due to suspended operation. Management directed overtime shall be compensated as provided in chapter 251-09 WAC.

(2) Each institution/related board, together with the appropriate exclusive representative(s), shall develop and file with the director, subject to approval, a procedure to

provide for staffing during periods of suspended operation. The procedure shall include identification of the manner in which employees will be notified of suspended operation by the chief executive officer.

(3) The provisions of this rule may be utilized only when an institutional procedure has been approved by the director and an official declaration of suspended operation has been made by the chief executive officer of the institution.

(4) The provisions of this section and institutional procedures adopted hereunder may not be in effect in excess of fifteen calendar days unless within the fifteen days the personnel officer requests the director's or designee's approval of an extension. Such approval is subject to confirmation by the board.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-240, filed 9/23/83, effective 10/24/83; 81-07-002 (Order 87), § 251-22-240, filed 3/6/81, effective 4/6/81; Order 61, § 251-22-240, filed 8/30/77, effective 10/1/77; Order 47, § 251-22-240, filed 11/19/75, effective 12/22/75; Order 41, § 251-22-240, filed 3/17/75.]

**WAC 251-22-245 Employee absence--Inclement weather.** (1) When an employee is absent from work due to inclement weather, the employee shall have the option of charging the absence to accrued compensatory time (where applicable), vacation leave or leave without pay.

(2) Compensation for lost work time due to inclement weather is subject to the approval of the chief executive officer of the institution.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-245, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-245, filed 8/30/77, effective 10/1/77; Order 41, § 251-22-245, filed 3/17/75.]

## Chapter 251-23 WAC AFFIRMATIVE ACTION

### WAC

251-23-010	Affirmative action—Authority.
251-23-020	Affirmative action plans—Requirements—Approval.
251-23-030	Affirmative action plans—Monitoring progress—Reporting.
251-23-040	Affirmative action plans—Content.
251-23-050	Affirmative action—Goals and timetables.
251-23-060	Affirmative action—Supplemental certification.

**WAC 251-23-010 Affirmative action—Authority.** The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.100, which provides in part, ". . . The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter . . . regarding the basis and procedures to be followed for . . ."; RCW 28B.16.100(22), which provides in part, ". . . Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables . . ."

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-010, filed 2/28/86, effective 4/1/86.]



**WAC 251-23-020 Affirmative action plans--Requirements--Approval.** (1) Each higher education institution/related board shall be required to develop and implement both an equal employment opportunity/affirmative action policy statement and an affirmative action plan.

(2) Equal employment opportunity/affirmative action policy statements and affirmative action plans shall comply with applicable state and federal laws, regulations, and guidelines, and shall require the approval of the director of the higher education personnel board and the executive secretary of the human rights commission or their designees.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-020, filed 2/28/86, effective 4/1/86.]

**WAC 251-23-030 Affirmative action plans--Monitoring progress--Reporting.** Each higher education institution/related board shall monitor progress under its affirmative action plan/program and shall submit a report to the director of the higher education personnel board, at least annually, reflecting progress against goals and timetables and containing such other information as required by the director.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-030, filed 2/28/86, effective 4/1/86.]

**WAC 251-23-040 Affirmative action plans--Content.** Each higher education institution/related board shall apply affirmative action plans/programs to increase the representation of protected group members in their workforce when it is determined that a particular group is under-utilized. Affirmative action plans/programs shall address recruitment, appointment, promotion, transfer, training and career development, and shall include but not be limited to the following:

(1) An equal employment opportunity/affirmative action policy statement.

(2) An identification of the individual responsible for implementing the affirmative action plan/program and the specific responsibilities of that individual.

(3) Provisions for internal and external communication of the affirmative action plan/program.

(4) A workforce profile by race/ethnic origin, sex, age, disability, Vietnam-era and disabled veteran status and job class/category and provisions for ascertaining the same.

(5) The development and implementation of utilization analyses, goals, and timetables based on availability.

(6) An identification of the causes of under-utilization and/or problem areas related to under-utilization.

(7) The development and implementation of specific programs for correcting the identified causes of under-utilization and/or problem areas, in order to achieve goals, such as:

(a) Provision for supplemental certification of under-utilized groups from all eligible lists, except institution-wide layoff lists, in accordance with WAC 251-23-060;

(b) Provision that, when goals exist for a class and when it is determined by the personnel officer that an

eligible list does not contain sufficient numbers of members of under-utilized protected groups, applicants who are members of such groups and who meet the minimum qualifications for the class may be admitted to the examination at any time. Those who pass the examination for the class shall be placed on the appropriate eligible list;

(c) Provision for members of protected groups to enter the employment process, but not to exclude others from it;

(d) Provision for special employee training and development programs and selective appointment of employees who are members of protected groups into the programs, in accordance with WAC 251-24-030(8).

(8) A system for monitoring and evaluating progress under the affirmative action plan/program including reports to the president/chief executive officer of the institution/related board.

(9) Supportive programs, internally and externally, which will enhance the achievement of affirmative action goals.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-040, filed 2/28/86, effective 4/1/86.]

**WAC 251-23-050 Affirmative action--Goals and timetables.** Each higher education institution/related board shall develop and implement goals and timetables for hiring and/or promoting members of protected groups into job classes/categories where it has been determined that under-utilization exists.

(1) Goals shall be established based on the relevant availability statistics and in direct relationship to the institution's/related board's workforce profile and utilization analysis.

(2) Timetables shall be developed on both a short-range (one year) and/or a long-range (three to five years) bases, whichever is determined to be appropriate for correcting identified areas of under-utilization.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-050, filed 2/28/86, effective 4/1/86.]

**WAC 251-23-060 Affirmative action--Supplemental certification.** When an institution/related board is utilizing an approved affirmative action program in accordance with WAC 251-23-020 and 251-23-040 (7)(a), and when the initial certification process does not provide the names of at least three eligibles who are members of the specific under-utilized protected group(s), the personnel officer shall certify from the eligible list up to three additional eligibles who meet the applicable affirmative action criteria. Such additional certification shall be made in strict order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the specific under-utilized protected group(s).

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-060, filed 2/28/86, effective 4/1/86.]

## Chapter 251-24 WAC

## EMPLOYEE DEVELOPMENT AND TRAINING

## WAC

251-24-010	Employee development—Authority, purpose, objective.
251-24-030	Training and development programs—Contents.
251-24-035	Training and development programs—Availability—Reporting.
251-24-040	HEPB sponsored training.
251-24-050	Training—General provisions.

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-24-020	Definitions. [Order 29, § 251-24-020, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
------------	---

**WAC 251-24-010 Employee development—Authority, purpose, objective.** (1) The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.100(1), which provides in part, ". . . the higher education personnel board shall adopt and promulgate rules and regulations consistent with the purposes and provisions of this chapter . . . regarding the basis for, and the procedures to be followed for . . . training programs including in-service, promotional and supervisory . . ."

(2) It is the board's intent that institutions will establish, conduct and report employee training and development programs. The rules in this chapter provide the guidelines for such programs.

(3) The objective of these rules is to provide opportunity for the development of the potential occupational or professional ability of each employee to make the most effective and economic use of employee resources in accomplishing institution's goals.

[Order 61, § 251-24-010, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-010, filed 1/22/74.]

**WAC 251-24-030 Training and development programs—Contents.** Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

(a) New employee orientation;

(b) Functional training, such as in accounting, data processing, office administration and job skills;

(c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training and upgrading of skills of women and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance.

[Order 61, § 251-24-030, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-030, filed 1/22/74.]

**WAC 251-24-035 Training and development programs—Availability—Reporting.** (1) Copies of the institution's plan shall be made available to employees upon request.

(2) Each institution will have on file an annual report of the achievement of the training objectives of the preceding year.

[Order 61, § 251-24-035, filed 8/30/77, effective 10/1/77.]

**WAC 251-24-040 HEPB sponsored training.** The administrative requirements of the higher education personnel system are such that periodic training programs or workshops may be required. In such cases, the higher education personnel board will sponsor the program and provide the necessary resources. To the extent possible, the board will respond to the needs of the institutions by holding training sessions in various regions of the state.

[Order 61, § 251-24-040, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-040, filed 1/22/74.]

**WAC 251-24-050 Training—General provisions.**

(1) Voluntary attendance in training courses outside of regular working hours does not constitute grounds for overtime or compensatory time off.

(2) Required attendance in courses which are outside of regular working hours and which are work related or meet an identified institution need is considered "paid time training" and constitutes time worked.

(3) Upon completion of institution approved training programs, respective eligible lists may be opened to employees who meet the minimum qualifications and desire to be examined, as provided in WAC 251-18-025.

[Order 61, § 251-24-050, filed 8/30/77, effective 10/1/77; Order 36, § 251-24-050, filed 8/20/74; Order 29, § 251-24-050, filed 1/22/74.]

## Chapter 251-25 WAC

## WASHINGTON STATE INTERNSHIP PROGRAM

## WAC

251-25-010	State internship program—Purpose.
251-25-020	State internship program—Eligibility—Duration of internship.
251-25-030	State internship program—Rights of participants.
251-25-040	State internship program—Completion of internship.
251-25-050	State internship program—Application of rules.

**WAC 251-25-010 State internship program—Purpose.** The purpose of the state internship program is to assist students and state employees in gaining valuable work experience and knowledge in various areas of state government.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-010, filed 6/26/86, effective 8/1/86.]

**WAC 251-25-020 State internship program—Eligibility—Duration of internship.** The state internship program shall consist of two individual internship programs:

(1) An undergraduate internship program for students working toward an undergraduate degree. Any state employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's department. Persons selected to participate in the undergraduate internship program shall serve internships of three to six months.

(2) An executive fellows program for students who have successfully completed at least one year of graduate-level work and have demonstrated a substantial interest in public sector management. Any state employee, whether working toward an advanced degree or not, shall be eligible for selection into the program upon the written recommendation of the head of the employee's department. Positions in this program shall be as assistants or analysts at the mid-management level or higher. Persons selected to participate in the executive fellows program shall serve internships of one to two years.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-020, filed 6/26/86, effective 8/1/86.]

**WAC 251-25-030 State internship program—Rights of participants.** (1) An employee leaving his/her position to participate in the state internship program shall:

(a) Continue to accrue layoff seniority and receive all fringe benefits as if he/she had never left the position.

(b) Have the right to return to his/her previous position or to a like position at any time during or upon completion of the internship.

(2) Participants in the undergraduate internship program who were not state employees prior to accepting a position in the program shall accrue sick leave credits commensurate with other state employees.

(3) Participants in the executive fellows program who were not state employees prior to accepting a position in the program shall accrue sick leave and vacation leave credits commensurate with other state employees.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-030, filed 6/26/86, effective 8/1/86.]

**WAC 251-25-040 State internship program—Completion of internship.** Successful completion of an internship in the undergraduate internship program or the executive fellows program shall be considered as state employment experience at the level at which the intern was placed.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-040, filed 6/26/86, effective 8/1/86.]

**WAC 251-25-050 State internship program—Application of rules.** Except for chapter 251-25 WAC and WAC 251-10-025(7), the higher education personnel board rules do not apply to positions or to the interns in the state internship program.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-050, filed 6/26/86, effective 8/1/86.]