

Title 391 WAC

PUBLIC EMPLOYMENT RELATIONS COMMISSION

Chapters

- 391-08** **Rules of practice and procedure--Public employment relations commission.**
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DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 391-21

COLLECTIVE BARGAINING RULES--PUBLIC EMPLOYMENT

391-21-001	Scope--Contents--Other rules. [Order 77-8, § 391-21-001, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-114	by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-003	Application to port districts. [Statutory Authority: RCW 41.58.050 and 53.18.030. 79-03-015 (Order 79-1), § 391-21-003, filed 2/16/79.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-115	Consent elections. [Order 77-8, § 391-21-114, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-100	Petition for investigation of a question concerning representation of employees--Who may file. [Order 77-8, § 391-21-100, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-116	Consent cross-checks. [Order 77-8, § 391-21-115, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-102	Petition form--Number of copies--Filing--Service. [Order 77-8, § 391-21-102, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-118	Notice of hearing. [Order 77-8, § 391-21-116, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-104	Contents of petition. [Order 77-8, § 391-21-104, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-120	Hearings--Who shall conduct. [Order 77-8, § 391-21-118, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-105	Contents of petition filed by employer. [Order 77-8, § 391-21-105, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-122	Authority of hearing officer. [Order 77-8, § 391-21-120, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-106	Supporting evidence. [Order 77-8, § 391-21-106, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-124	Hearings--Nature and scope. [Order 77-8, § 391-21-122, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-107	List of employees. [Order 77-8, § 391-21-107, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-125	Proceedings before the executive director. [Order 77-8, § 391-21-124, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-108	Amendment and withdrawal. [Order 77-8, § 391-21-108, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-126	Cross-check of records. [Order 77-8, § 391-21-125, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-110	Intervention--By incumbent representative. [Order 77-8, § 391-21-110, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-128	Notice of election. [Order 77-8, § 391-21-126, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-112	Intervention--By organization other than incumbent. [Order 77-8, § 391-21-112, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.	391-21-130	Election procedures--Disclaimers--Balloting. [Order 77-8, § 391-21-128, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-113	Showing of interest confidential. [Order 77-8, § 391-21-113, filed 12/29/77, effective 2/1/78.] Repealed	391-21-132	Challenged ballots. [Order 77-8, § 391-21-130, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
		391-21-134	Tally of ballots. [Order 77-8, § 391-21-132, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
		391-21-136	Procedure following inconclusive election. [Order 77-8, § 391-21-134, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
		391-21-137	Filing and service of objections. [Order 77-8, § 391-21-136, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
		391-21-138	Filing and service of cross-objections. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-137, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
			Procedure where no objections are filed. [Order 77-8, § 391-21-138, filed 12/29/77, effective 2/1/78.]

- Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-140 Procedure where objections are filed. [Order 77-8, § 391-21-140, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-142 Commission action. [Order 77-8, § 391-21-142, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-300 Petition for clarification of an existing bargaining unit—Who may file. [Order 77-8, § 391-21-300, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-302 Petition form—Number of copies—Filing—Service. [Order 77-8, § 391-21-302, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-304 Contents of petition. [Order 77-8, § 391-21-304, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-306 Amendment and withdrawal. [Order 77-8, § 391-21-306, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-308 Notice of hearing. [Order 77-8, § 391-21-308, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-310 Consolidation of proceedings. [Order 77-8, § 391-21-310, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-312 Hearings—Who shall conduct. [Order 77-8, § 391-21-312, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-314 Authority of hearing officer. [Order 77-8, § 391-21-314, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-316 Hearings—Nature and scope. [Order 77-8, § 391-21-316, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-318 Proceedings before the executive director. [Order 77-8, § 391-21-318, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-320 Proceedings before the commission—Petition for review. [Order 77-8, § 391-21-320, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-321 Filing and service of cross-petition for review. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-321, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-322 Commission action. [Order 77-8, § 391-21-322, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-500 Complaint charging unfair labor practices—Who may file. [Order 77-8, § 391-21-500, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-502 Form of charges—Number of copies—Filing—Service. [Order 77-8, § 391-21-502, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-504 Contents of complaint charging unfair labor practices. [Order 77-8, § 391-21-504, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-506 Amendment. [Order 77-8, § 391-21-506, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-508 Withdrawal. [Order 77-8, § 391-21-508, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-510 Initial processing by executive director. [Order 77-8, § 391-21-510, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-512 Examiner—Who may act. [Order 77-8, § 391-21-512, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-514 Authority of examiner. [Order 77-8, § 391-21-514, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-516 Notice of hearing. [Order 77-8, § 391-21-516, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-518 Answer—Filing and service. [Order 77-8, § 391-21-518, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-520 Answer—Contents and effect of failure to answer. [Order 77-8, § 391-21-520, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-522 Amendment of answer. [Order 77-8, § 391-21-522, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-524 Motion to make complaint more definite and certain. [Order 77-8, § 391-21-524, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-526 Hearings—Nature and scope. [Order 77-8, § 391-21-526, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-528 Briefs and proposed findings. [Order 77-8, § 391-21-528, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-530 Examiner decision. [Order 77-8, § 391-21-530, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-532 Withdrawal or modification of examiner decision. [Order 77-8, § 391-21-532, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-534 Petition for review of examiner decision. [Order 77-8, § 391-21-534, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-535 Filing and service of cross-petition for review. [Statutory Authority: RCW 41.56.090 and 41.58.500 [41.58.050]. 78-07-014 (Order 78-3), § 391-21-535, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-536 Commission action. [Order 77-8, § 391-21-536, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-550 Collective bargaining—Policy. [Order 77-8, § 391-21-550, filed 12/29/77, effective 2/1/78.] Repealed

- by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-556 Unfair labor practice remedies. [Order 77-8, § 391-21-556, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-700 Resolution of impasses—Request for mediation. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-700, filed 3/28/80; Order 77-8, § 391-21-700, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-702 Impasse resolution—Determination whether assistance is needed. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-702, filed 3/28/80; Order 77-8, § 391-21-702, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-706 Impasse resolution—Function of mediator. [Order 77-8, § 391-21-706, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-708 Impasse resolution—Confidential nature of function. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-708, filed 3/28/80; Order 77-8, § 391-21-708, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-712 Impasse resolution—Dispute resolution panel. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-712, filed 3/28/80; Order 77-8, § 391-21-712, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-716 Impasse resolution—Disclosure. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-716, filed 3/28/80; Order 77-8, § 391-21-716, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-718 Impasse resolution—Vacancies. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-718, filed 3/28/80; Order 77-8, § 391-21-718, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-719 Uniformed personnel—Interest arbitration. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-719, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-720 Uniformed personnel—Appointment of partisan arbitrators. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-720, filed 3/28/80; Order 77-8, § 391-21-720, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-721 Uniformed personnel—Selection of impartial arbitrator. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-721, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-722 Uniformed personnel—List of issues for arbitration. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-722, filed 3/28/80; Order 77-8, § 391-21-722, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-723 Uniformed personnel—Hearing. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-723, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-724 Uniformed personnel—Order of proceedings and evidence. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-724, filed 3/28/80; Order 77-8, § 391-21-724, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-726 Uniformed personnel—Proceedings in the absence of a party. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-726, filed 3/28/80; Order 77-8, § 391-21-726, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-728 Uniformed personnel—Closing of the hearings. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-728, filed 3/28/80; Order 77-8, § 391-21-728, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-733 Uniformed personnel—Conduct of interest arbitration proceedings. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-733, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-734 Uniformed personnel—Interpretation and application of rules. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-734, filed 3/28/80; Order 77-8, § 391-21-734, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-735 Uniformed personnel—Interest arbitration award. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-735, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-737 Uniformed personnel—Expenses of arbitration. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-737, filed 3/28/80.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-738 Uniformed personnel—Central filing of agreements. [Statutory Authority: RCW 41.56.090 and 41.58.050. 80-04-073 (Order 80-2), § 391-21-738, filed 3/28/80; Order 77-8, § 391-21-738, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-21-740 Uniformed personnel—Initiation of fact finding. [Order 77-8, § 391-21-740, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
- 391-21-742 Uniformed personnel—Selection of fact finder. [Order 77-8, § 391-21-742, filed 12/29/77, effective 2/1/78.] Repealed by RCW 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
- 391-21-744 Uniformed personnel—Fact finding recommendations. [Order 77-8, § 391-21-744, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
- 391-21-746 Uniformed personnel—Expenses of fact finding. [Order 77-8, § 391-21-746, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.

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391-21-748	Uniformed personnel—Parties' responsibility after fact finding. [Order 77-8, § 391-21-748, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-750	Uniformed personnel—Interest arbitration. [Order 77-8, § 391-21-750, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-752	Uniformed personnel—Appointment of partisan arbitrators. [Order 77-8, § 391-21-752, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-754	Uniformed personnel—Selection of arbitrators. [Order 77-8, § 391-21-754, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-756	Uniformed personnel—Conduct of interest arbitration proceedings. [Order 77-8, § 391-21-756, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-758	Impasse arbitration—Interest arbitration award. [Order 77-8, § 391-21-758, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-760	Uniformed personnel—Expenses of arbitration. [Order 77-8, § 391-21-760, filed 12/29/77, effective 2/1/78.] Repealed by 80-04-073 (Order 80-2), filed 3/28/80. Statutory Authority: RCW 41.56.090 and 41.58.050.
391-21-800	Grievance arbitration—Who may file. [Order 77-8, § 391-21-800, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-802	Grievance arbitration—Filing—Service. [Order 77-8, § 391-21-802, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-804	Grievance arbitration—Contents of request. [Order 77-8, § 391-21-804, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-806	Grievance arbitration—Appointment of staff arbitrator. [Order 77-8, § 391-21-806, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-808	Grievance arbitration—Submission of arbitration panel. [Order 77-8, § 391-21-808, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-810	Grievance arbitration—Conduct of proceedings. [Order 77-8, § 391-21-810, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-812	Grievance arbitration—Award. [Order 77-8, § 391-21-812, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-814	Grievance arbitration—Expenses. [Order 77-8, § 391-21-814, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-21-900	Union security provisions. [Order 77-8, § 391-21-900, filed 12/29/77, effective 2/1/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
391-30-001	Scope—Contents—Other rules. [Order 77-6, § 391-30-001, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-100	Petition for investigation of a question concerning representation of employees—Who may file. [Order 77-6, § 391-30-100, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-102	Petition form—Number of copies—Filing—Service. [Order 77-6, § 391-30-102, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-104	Contents of petition. [Order 77-6, § 391-30-104, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-106	Supporting evidence. [Order 77-6, § 391-30-106, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-108	Amendment and withdrawal. [Order 77-6, § 391-30-108, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-110	Intervention—By incumbent representative. [Order 77-6, § 391-30-110, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-112	Intervention—By organization other than incumbent. [Order 77-6, § 391-30-112, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-113	Showing of interest confidential. [Order 77-6, § 391-30-113, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-114	Consent elections. [Order 77-6, § 391-30-114, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-116	Notice of hearing. [Order 77-6, § 391-30-116, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-118	Hearings—Who shall conduct. [Order 77-6, § 391-30-118, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-120	Authority of hearing officer. [Order 77-6, § 391-30-120, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-122	Hearings—Nature and scope. [Order 77-6, § 391-30-122, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-124	Proceedings before the executive director. [Order 77-6, § 391-30-124, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-126	Notice of election. [Order 77-6, § 391-30-126, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-128	Election procedures—Disclaimers—Balloting. [Order 77-6, § 391-30-128, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-130	Challenged ballots. [Order 77-6, § 391-30-130, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-132	Tally of ballots. [Order 77-6, § 391-30-132, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
391-30-134	Procedure following inconclusive election. [Order 77-6, § 391-30-134, filed 11/9/77.] Repealed by 81-15-

- 022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-136 Filing and service of objections to election. [Order 77-6, § 391-30-136, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-137 Filing and service of cross-objections. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-137, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-138 Procedure where no objections are filed. [Order 77-6, § 391-30-138, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-140 Procedure where objections to election are filed. [Order 77-6, § 391-30-140, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-142 Commission action. [Order 77-6, § 391-30-142, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-300 Petition for clarification of an existing bargaining unit—Who may file. [Order 77-6, § 391-30-300, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-302 Petition form—Number of copies—Filing—Service. [Order 77-6, § 391-30-302, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-304 Contents of petition. [Order 77-6, § 391-30-304, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-306 Amendment and withdrawal. [Order 77-6, § 391-30-306, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-308 Notice of hearing. [Order 77-6, § 391-30-308, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-310 Consolidation of proceedings. [Order 77-6, § 391-30-310, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-312 Hearings—Who shall conduct. [Order 77-6, § 391-30-312, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-314 Authority of hearing officer. [Order 77-6, § 391-30-314, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-316 Hearings—Nature and scope. [Order 77-6, § 391-30-316, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-318 Proceedings before the executive director. [Order 77-6, § 391-30-318, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-320 Proceedings before the commission—Petition for review. [Order 77-6, § 391-30-320, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-321 Filing and service of cross-petition for review. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-321, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-322 Commission action. [Order 77-6, § 391-30-322, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-500 Complaint charging unfair labor practices—Who may file. [Order 77-6, § 391-30-500, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-502 Complaint form—Number of copies—Filing—Service. [Order 77-6, § 391-30-502, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-504 Contents of complaint charging unfair labor practices. [Order 77-6, § 391-30-504, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-506 Amendment. [Order 77-6, § 391-30-506, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-508 Withdrawal. [Order 77-6, § 391-30-508, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-510 Initial processing by executive director. [Order 77-6, § 391-30-510, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-512 Examiner—Who may act. [Order 77-6, § 391-30-512, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-514 Authority of examiner. [Order 77-6, § 391-30-514, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-516 Notice of hearing. [Order 77-6, § 391-30-516, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-518 Answer—Filing and service. [Order 77-6, § 391-30-518, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-520 Answer—Contents and effect of failure to answer. [Order 77-6, § 391-30-520, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-522 Amendment of answer. [Order 77-6, § 391-30-522, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-524 Motion to make complaint more definite and certain. [Order 77-6, § 391-30-524, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-526 Hearings—Nature and scope. [Order 77-6, § 391-30-526, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-528 Briefs and proposed findings. [Order 77-6, § 391-30-528, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-530 Examiner decision. [Order 77-6, § 391-30-530, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-532 Withdrawal or modification of examiner decision. [Order 77-6, § 391-30-532, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-534 Petition for review of examiner decision. [Order 77-6, § 391-30-534, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-535 Filing and service of cross-petition for review. [Statutory Authority: RCW 41.58.050 and 41.59.110. 78-07-013 (Order 78-4), § 391-30-535, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-536 Commission action. [Order 77-6, § 391-30-536, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-550 Collective bargaining—Policy. [Order 77-6, § 391-30-550, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-552 Collective bargaining procedure. [Order 77-6, § 391-30-552, filed 11/9/77.] Repealed by 81-15-022

- (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-554 Determination of disputes as to scope of bargaining. [Order 77-6, § 391-30-554, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-556 Unfair labor practice remedies. [Order 77-6, § 391-30-556, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-560 Motion for temporary relief. [Order 77-6, § 391-30-560, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-700 Resolution of impasses—Request for mediation. [Order 77-6, § 391-30-700, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-702 Impasse resolution—Determination whether assistance is needed. [Order 77-6, § 391-30-702, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-704 Impasse resolution—Submission of written proposals. [Order 77-6, § 391-30-704, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-706 Impasse resolution—Function of mediator. [Order 77-6, § 391-30-706, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-708 Impasse resolution—Confidential nature of function. [Order 77-6, § 391-30-708, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-710 Impasse resolution—Fact finding. [Order 77-6, § 391-30-710, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-712 Impasse resolution—Fact finding panel. [Order 77-6, § 391-30-712, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-714 Impasse resolution—Selection of fact finder. [Order 77-6, § 391-30-714, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-716 Impasse resolution—Disclosure by fact finder. [Order 77-6, § 391-30-716, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-718 Impasse resolution—Vacancies as fact finder. [Order 77-6, § 391-30-718, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-720 Impasse resolution—List of issues for fact finding. [Order 77-6, § 391-30-720, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-722 Impasse resolution—Fact finding hearing. [Order 77-6, § 391-30-722, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-724 Impasse resolution—Order of fact finding proceedings and evidence. [Order 77-6, § 391-30-724, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-726 Impasse resolution—Fact finding in the absence of a party. [Order 77-6, § 391-30-726, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-728 Impasse resolution—Closing of fact finding hearings. [Order 77-6, § 391-30-728, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-730 Impasse resolution—Findings of fact and recommendations. [Order 77-6, § 391-30-730, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-732 Impasse resolution—Expenses of fact finding. [Order 77-6, § 391-30-732, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-734 Impasse resolution—Interpretation and application of fact finding rules. [Order 77-6, § 391-30-734, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-736 Impasse resolution—Parties' responsibility after fact finding. [Order 77-6, § 391-30-736, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-738 Impasse resolution—Central filing of agreements. [Order 77-6, § 391-30-738, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.
- 391-30-900 Union security provisions. [Order 77-6, § 391-30-900, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: 41.58.050.

Chapter 391-50

COLLECTIVE BARGAINING RULES—COMMUNITY COLLEGES

- 391-50-001 Scope—Contents—Other rules. [Order 77-6, § 391-50-001, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-100 Petition for investigation of question concerning representation of employees—Who may file—Timeliness. [Order 77-6, § 391-50-100, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-102 Petition form—Number of copies—Filing—Service. [Order 77-6, § 391-50-102, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-104 Contents of petition. [Order 77-6, § 391-50-104, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-105 Contents of petition filed by employer. [Order 77-6, § 391-50-105, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-106 Supporting evidence. [Order 77-6, § 391-50-106, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-108 Amendment and withdrawal. [Order 77-6, § 391-50-108, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-110 Intervention—By incumbent representative. [Order 77-6, § 391-50-110, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-112 Intervention—By organization other than incumbent. [Order 77-6, § 391-50-112, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-113 Showing of interest confidential. [Order 77-6, § 391-50-113, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-114 Consent elections. [Order 77-6, § 391-50-114, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-116 Notice of hearing. [Order 77-6, § 391-50-116, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-118 Hearings—Who shall conduct. [Order 77-6, § 391-50-118, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.

- 391-50-120 Authority of hearing officer. [Order 77-6, § 391-50-120, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-122 Hearings—Nature and scope. [Order 77-6, § 391-50-122, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-124 Proceedings before the executive director. [Order 77-6, § 391-50-124, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-126 Notice of election. [Order 77-6, § 391-50-126, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-128 Election procedures—Disclaimers—Balloting. [Order 77-6, § 391-50-128, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-130 Challenged ballots. [Order 77-6, § 391-50-130, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-132 Tally of ballots. [Order 77-6, § 391-50-132, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-134 Procedure following inconclusive election. [Order 77-6, § 391-50-134, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-136 Filing and service of objections to election. [Order 77-6, § 391-50-136, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-137 Filing and service of cross-objections. [Statutory Authority: RCW 28B.52.080 and 41.58.050. 78-07-012 (Order 78-5), § 391-50-137, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-138 Procedure where no objections are filed. [Order 77-6, § 391-50-138, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-140 Procedure where objections to election are filed. [Order 77-6, § 391-50-140, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-142 Commission action. [Order 77-6, § 391-50-142, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-300 Petition for clarification of an existing bargaining unit—Who may file. [Order 77-6, § 391-50-300, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-302 Petition form—Number of copies—Filing—Service. [Order 77-6, § 391-50-302, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-304 Contents of petition. [Order 77-6, § 391-50-304, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-306 Amendment and withdrawal. [Order 77-6, § 391-50-306, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-308 Notice of hearing. [Order 77-6, § 391-50-308, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-310 Consolidation of proceedings. [Order 77-6, § 391-50-310, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-312 Hearings—Who shall conduct. [Order 77-6, § 391-50-312, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-314 Authority of hearing officer. [Order 77-6, § 391-50-314, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-316 Hearings—Nature and scope. [Order 77-6, § 391-50-316, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-318 Proceedings before the executive director. [Order 77-6, § 391-50-318, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-320 Proceedings before the commission—Petition for review. [Order 77-6, § 391-50-320, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-321 Filing and service of cross-petition for review. [Statutory Authority: RCW 28B.52.080 and 41.58.050. 78-07-012 (Order 78-5), § 391-50-321, filed 6/15/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-322 Commission action. [Order 77-6, § 391-50-322, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-700 Resolution of impasses—Request for mediation. [Order 77-6, § 391-50-700, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-702 Impasse resolution—Determination whether assistance is needed. [Order 77-6, § 391-50-702, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-706 Impasse resolution—Function of mediator. [Order 77-6, § 391-50-706, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-708 Impasse resolution—Confidential nature of function. [Order 77-6, § 391-50-708, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-710 Impasse resolution—Fact finding. [Order 77-6, § 391-50-710, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-712 Impasse resolution—Fact finding panel. [Order 77-6, § 391-50-712, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-714 Impasse resolution—Selection of fact finder. [Order 77-6, § 391-50-714, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-716 Impasse resolution—Disclosure by fact finder. [Order 77-6, § 391-50-716, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-718 Impasse resolution—Vacancies as fact finder. [Order 77-6, § 391-50-718, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-720 Impasse resolution—List of issues for fact finding. [Order 77-6, § 391-50-720, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-722 Impasse resolution—Fact finding hearing. [Order 77-6, § 391-50-722, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-724 Impasse resolution—Order of fact finding proceedings and evidence. [Order 77-6, § 391-50-724, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.

- 391-50-728 Impasse resolution—Closing of fact finding hearings. [Order 77-6, § 391-50-728, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-730 Impasse resolution—Findings of fact and recommendations. [Order 77-6, § 391-50-730, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-732 Impasse resolution—Expenses of fact findings. [Order 77-6, § 391-50-732, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-50-734 Impasse resolution—Interpretation and application of fact finding rules. [Order 77-6, § 391-50-734, filed 11/9/77.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.

Chapter 391-70

COLLECTIVE BARGAINING RULES—MARINE EMPLOYEES

- 391-70-010 Scope—Contents—Other rules. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-010, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-020 Special rules. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-020, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-030 Modifications and exceptions. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-030, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-040 Address for communications. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-040, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-050 Office hours. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-050, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-070 Definitions. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-070, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-080 Informal procedure. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-080, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-090 Formal procedure. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-090, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-105 Formal notices—Number of copies—Filing—Service. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-105, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-110 Intervention. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-110, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-120 Appearances. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-120, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-140 Voluntary settlement. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-140, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-170 Hearings. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-170, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-220 Order of procedure. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-220, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-245 Inspection of conditions. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-245, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-260 Briefs. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-260, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.
- 391-70-300 Compliance with orders—Notification to commission. [Statutory Authority: RCW 41.58.050 and 47.64.040. 79-01-016 (Order 78-8), § 391-70-300, filed 12/14/78.] Repealed by 81-15-022 (Order 81-02), filed 7/10/81. Statutory Authority: RCW 41.58.050.

Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

Chapter 391-08 WAC

RULES OF PRACTICE AND PROCEDURE— PUBLIC EMPLOYMENT RELATIONS COMMISSION

WAC

- 391-08-001 Application and scope of chapter 391-08 WAC.
- 391-08-003 Policy—Construction—Waiver.
- 391-08-007 Definitions.
- 391-08-010 Appearance and practice before agency—Who may appear.
- 391-08-020 Appearance and practice before agency—Standards of conduct.
- 391-08-030 Appearance and practice before agency—Appearance by former employee of agency or former member of attorney general's staff.
- 391-08-040 Appearance and practice before agency—Former employee as witness.
- 391-08-100 Service of process—Computation of time.
- 391-08-120 Service of process—Filing and service of papers.
- 391-08-180 Service of process—Continuances.
- 391-08-230 Summary judgment.
- 391-08-300 Subpoenas—Discovery—Form.
- 391-08-310 Subpoenas—Issuance to parties.
- 391-08-315 Interpreters.
- 391-08-610 Agency decisions—Service.
- 391-08-630 Agency structure—Substitution for executive director.
- 391-08-800 Agency records—Public access.
- 391-08-810 Agency records—Confidentiality.
- 391-08-820 Agency offices.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 391-08-103 Service of process—Additional time after service by mail. [Order 77-1, § 391-08-103, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority:

- RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-105 Service of process—Extension of time. [Order 77-1, § 391-08-105, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-110 Service of process—By whom served. [Order 77-1, § 391-08-110, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-130 Service of process—Method of service. [Order 77-1, § 391-08-130, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-140 Service of process—Completion of service on parties. [Order 77-1, § 391-08-140, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-150 Service of process—Filing with agency. [Order 77-1, § 391-08-150, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-160 Service of process—Opportunity for hearing. [Order 77-1, § 391-08-160, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.
- 391-08-170 Service of process—Notice of hearing. [Order 77-1, § 391-08-170, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-200 Definition of issues—Before hearing. [Order 77-1, § 391-08-200, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-210 Definition of issues—Prehearing conference. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-210, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-210, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.
- 391-08-220 Definition of issues—Record of action taken during prehearing conference. [Order 77-1, § 391-08-220, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-320 Subpoenas—Service. [Order 77-1, § 391-08-320, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-330 Subpoenas—Fees. [Order 77-1, § 391-08-330, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-340 Subpoenas—Proof of service. [Order 77-1, § 391-08-340, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-350 Subpoenas—Quashing. [Order 77-1, § 391-08-350, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-360 Subpoenas—Enforcement. [Order 77-1, § 391-08-360, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-370 Subpoenas—Geographical scope. [Order 77-1, § 391-08-370, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-400 Evidence—Examination of witnesses. [Order 77-1, § 391-08-400, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-410 Evidence—Application of rules of evidence. [Order 77-1, § 391-08-410, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-420 Evidence—Objections and rulings. [Order 77-1, § 391-08-420, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-450 Evidence—Stipulations and admissions of record. [Order 77-1, § 391-08-450, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-460 Evidence—Submission of documentary evidence. [Order 77-1, § 391-08-460, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-470 Evidence—Excerpts from documentary evidence. [Order 77-1, § 391-08-470, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-490 Evidence—Refusal of witness to answer. [Order 77-1, § 391-08-490, filed 1/27/77.] Repealed by 83-24-031 (Order 83-01), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-08-500 Declaratory rulings authorized. [Order 77-1, § 391-08-500, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-510 Declaratory rulings—Petition. [Order 77-1, § 391-08-510, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-600 Agency decisions—Form and content. [Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-600, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-600, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 35.05.461 [34.05.461], 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150.

- 391-08-900 Petitions for rule making—Who may petition. [Order 77-1, § 391-08-900, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-910 Petitions for rule making—Form. [Order 77-1, § 391-08-910, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-920 Petitions for rule making—Agency must consider. [Order 77-1, § 391-08-920, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.
- 391-08-930 Petitions for rule making—Notice of disposition. [Order 77-1, § 391-08-930, filed 1/27/77.] Repealed by 90-06-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 34.05, 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW.

Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-08-001 Application and scope of chapter 391-08 WAC. Chapter 391-08 WAC has been added to the Washington Administrative Code by the public employment relations commission pursuant to the authority of section 12, chapter 288, Laws of 1975 1st ex. sess. (RCW 41.59.110); sections 14 and 20, chapter 296, Laws of 1975 1st ex. sess. (RCW 28B.52.080 and 41.56.040); and section 3, chapter 5, Laws of 1975 2nd ex. sess. (RCW 41.58.050), to promulgate comprehensive and uniform rules for practice and procedure before the agency. The provisions of chapter 1-08 WAC shall not be applicable to proceedings before the agency. This chapter sets forth general rules applicable to all types of proceedings before the agency, and should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapters 391-25, 391-35, 391-45 and 391-95, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070, 391-25-090, 391-35-050, 391-45-050, and 391-95-110;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-110, which is supplanted by WAC 391-08-120;

(d) WAC 10-08-120, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(e) WAC 10-08-140, to the extent that it is further limited by WAC 391-08-040 and 391-08-310;

(f) WAC 10-08-150, which is supplanted by WAC 391-08-315;

(g) WAC 10-08-211, which is supplanted by WAC 391-25-390, 391-25-590, 391-35-210, 391-35-230,

391-45-350, 391-45-370, 391-95-270, and 391-95-280; and

(h) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, 391-25-270, 391-35-070, 391-35-140, 391-45-070, 391-45-090, 391-45-260, and 391-95-200.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

In the event of a conflict between general rule in this chapter and a special rule in another chapter applicable to a particular proceeding, the special rule shall govern.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-001, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-045 (Order 80-4), § 391-08-001, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-001, filed 1/27/77.]

WAC 391-08-003 Policy—Construction—Waiver.

The policy of the state being primarily to promote peace in labor relations, these rules and all other rules adopted by the agency shall be liberally construed to effectuate the purposes and provisions of the statutes administered by the agency, and nothing in any rule shall be construed to prevent the commission and its authorized agents from using their best efforts to adjust any labor dispute. The commission and its authorized agents may waive any requirement of the rules unless a party shows that it would be prejudiced by such a waiver.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.58.005(1). 90-06-070, § 391-08-003, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-003, filed 1/27/77.]

WAC 391-08-007 Definitions. As used in Title 391 WAC:

(1) "Agency" means the public employment relations commission, its officers and agents;

(2) "Commission" means the public employment relations commission;

(3) "Executive director" means the officer of that title appointed by the commission pursuant to RCW 41.58.015(2);

(4) "Labor dispute" means any controversy concerning terms or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(5) "Presiding officer" means an agency official(s), examiner, hearing officer or other person authorized to act on behalf of the agency.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-007, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080, 83-24-031 (Order 83-01), § 391-08-007, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040, 80-14-045 (Order 80-4), § 391-08-007, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-007, filed 1/27/77.]

WAC 391-08-010 Appearance and practice before agency--Who may appear. No person may appear in a representative capacity before the agency or its designated hearing officer 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 our state law;

(3) A bona fide officer, employee or other authorized representative of: (a) Any employer subject to the jurisdiction of the agency, or (b) any labor or employee organization.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-010, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-010, filed 1/27/77.]

WAC 391-08-020 Appearance and practice before agency--Standards of conduct. Misconduct at any hearing conducted by the commission or a member of its staff shall be ground for summary exclusion from the hearing. Misconduct of an aggravated character, when engaged in by an attorney or other person acting in a representative capacity pursuant to WAC 391-08-010, shall be ground for suspension or disbarment by the commission after due notice and hearing.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-020, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-020, filed 1/27/77.]

WAC 391-08-030 Appearance and practice before agency--Appearance by former employee of agency or former member of attorney general's staff. No former member of the commission, former employee of the agency or former member of the attorney general's staff shall, at any time after severing his employment with the

agency or with the attorney general, appear in a representative capacity on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-030, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-030, filed 1/27/77.]

WAC 391-08-040 Appearance and practice before agency--Former employee as witness. Except upon the express written consent of the commission, no former member of the commission, former employee of the agency or former member of the attorney general's staff shall, at any time after severing his employment with the agency or with the attorney general, appear as a witness on behalf of any party in connection with any case or proceeding which was pending before the agency during the time of his employment with the agency.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-040, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-040, filed 1/27/77.]

WAC 391-08-100 Service of process--Computation of time. In computing any period of time prescribed or allowed by any applicable statute or rule, the day of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor a holiday. When the period of time prescribed or allowed is less than seven days, intermediate Saturdays, Sundays and holidays shall be excluded in the computation.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-100, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080, 83-24-031 (Order 83-01), § 391-08-100, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-100, filed 1/27/77.]

WAC 391-08-120 Service of process--Filing and service of papers. (1) All notices, pleadings, and other papers filed with the agency or the presiding officer shall be served upon all counsel and representatives of record and upon parties not represented by counsel or upon their agents designated by them or by law.

(2) Service shall be made personally or, unless otherwise provided by law, by first class, registered, or certified mail, by telegraph; by electronic telefacsimile transmission and same-day mailing of copies; or by commercial parcel delivery company.

(3) Service by mail shall be regarded as completed upon deposit in the United States mail properly stamped and addressed. Service by telegraph shall be regarded as completed when deposited with a telegraph company properly addressed and with charges prepaid. Service by electronic telefacsimile transmission shall be regarded as completed upon production by the telefacsimile device of confirmation of transmission. Service by commercial

parcel delivery shall be regarded as completed upon delivery to the parcel delivery company with charges prepaid.

(4) Papers required to be filed with the agency or with the presiding officer shall be deemed filed upon actual receipt during office hours at:

(a) The Olympia office of the commission for any papers required to be filed with the commission, the executive director, or the agency generally; or

(b) The office of the presiding officer or the Olympia office of the commission for any papers required to be filed with the presiding officer.

(5) Where proof of service is required by statute or rule, filing the papers with the presiding officer, together with one of the following shall constitute proof of service:

(a) An acknowledgement of service.

(b) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by delivering a copy thereof in person to (names).

(c) A certificate that the person signing the certificate did on the date of the certificate serve the papers upon all parties of record in the proceeding by:

(i) Mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent; or

(ii) Telegraphing a copy thereof, properly addressed with charges prepaid, to each party to the proceeding or to his or her attorney or authorized agent; or

(iii) Transmitting a copy thereof by electronic telefacsimile device, and on the same day mailing a copy, to each party to the proceeding or his or her attorney or authorized agent; or

(iv) Depositing a copy thereof, properly addressed with charges prepaid, with a commercial parcel delivery company.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-120, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-053 (Order 88-01), § 391-08-120, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-120, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-120, filed 1/27/77.]

WAC 391-08-180 Service of process--Continuances. (1) Postponements, continuances, extensions of time, and adjournments may be ordered by the presiding officer on his or her own motion or may be granted on timely request of any party, with notice to all other parties, showing good and sufficient cause therefor.

(2) A request for a continuance made prior to the hearing date may be oral or in writing and shall state that the party seeking the continuance has notified all other parties of the request and that either all other parties agree to the continuance or that all parties do not agree to the continuance. If all parties do not agree to the continuance, the presiding officer shall promptly schedule a prehearing conference to receive argument and to rule on the request.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-180, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-180, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-045 (Order 80-4), § 391-08-180, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-180, filed 1/27/77.]

WAC 391-08-230 Summary judgment. A summary judgment may be issued if the pleadings and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that one of the parties is entitled to a judgment as a matter of law. Motions for summary judgment made in advance of a hearing shall be filed with the agency and served on all other parties to the proceeding.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. 90-06-070, § 391-08-230, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-08-230, filed 1/6/81.]

WAC 391-08-300 Subpoenas--Discovery--Form.

(1) Every subpoena shall state the name of the agency as: State of Washington, public employment relations commission; and shall state the title of the proceeding and case number.

(2) The power of subpoena shall be limited to compelling the testimony of witnesses and production of documents or other tangible evidence at hearings conducted by the agency.

(3) Pursuant to the authority delegated to the agency by RCW 34.05.446(2), discovery shall not be available in proceedings before the agency.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. 90-06-070, § 391-08-300, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-300, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-300, filed 1/27/77.]

WAC 391-08-310 Subpoenas--Issuance to parties.

Subpoenas requiring the attendance and testimony of witnesses or the production of evidence shall be issued *ex parte* to any party to a case: *Provided, however,* That no subpoena shall be issued or given effect to require the attendance and testimony of, or the production of evidence by, any member of the commission or any member of the agency staff in any proceeding before the agency. The commission or its hearing officer or examiner shall issue subpoenas upon the application of counsel or other representative authorized to practice before the agency, and may condition the issuance of subpoenas to parties not so represented upon a showing of general relevance and reasonable scope of the testimony or evidence sought. Attorneys may act under the authority conferred by RCW 34.05.446(1).

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. 90-06-070, § 391-08-310, filed

3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-310, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-310, filed 1/27/77.]

WAC 391-08-315 Interpreters. (1) An "impaired person" is any person who is a hearing impaired person or a limited-English-speaking person.

(2) A "hearing impaired person" is a person who, because of a hearing impairment or speech defects, cannot readily understand or communicate in spoken language; and includes persons who are deaf, deaf and blind, or hard of hearing.

(3) A "limited-English-speaking person" is a person who, because of a non-English-speaking cultural background cannot readily speak or understand the English language.

(4) A "qualified interpreter" is a person who is qualified to act as interpreter under chapter 2.42 RCW as now or hereafter enacted.

(5) An "intermediary interpreter" is a person who is qualified to act under chapter 2.42 RCW as now or hereafter enacted.

(6) When an impaired person is a party to an adjudicative proceeding under chapter 391-25, 391-35, 391-45 or 391-95 WAC, the presiding officer shall, in the absence of a written waiver signed by the impaired person, require the appointment of a qualified interpreter to assist the impaired person throughout the proceedings. The right to a qualified interpreter may not be waived except when:

(a) The impaired person requests a waiver through the use of a qualified interpreter;

(b) The representative, if any, of the impaired person consents; and

(c) The presiding officer determines that the waiver has been made knowingly, voluntarily, and intelligently.

(7) Waiver of a qualified interpreter shall not preclude the impaired person from claiming his or her right to a qualified interpreter at a later time during the proceedings.

(8) The presiding officer shall make a preliminary determination that an interpreter is able in the particular proceeding to interpret accurately all communication to and from the impaired person. This determination shall be based upon the testimony or stated needs of the impaired person, the interpreter's education, certifications, and experience in interpreting adjudicative proceedings, and the interpreter's understanding of the basic vocabulary and procedure involved in the proceeding, and the interpreter's impartiality. The parties or their representatives may question the interpreter as to his or her qualifications and impartiality.

(9) If at any time during the proceeding, in the opinion of the impaired person, the presiding officer or a qualified observer, the interpreter does not provide accurate and effective communication with the impaired person, the presiding officer shall require the appointment of another qualified interpreter.

(10) If the communication mode or language of a hearing impaired person is not readily interpretable, the

interpreter or hearing impaired person shall notify the presiding officer, who shall require the appointment of an intermediary interpreter to assist the qualified interpreter.

(11) The mode of interpretation shall be as permitted by chapter 2.42 RCW or WAC 10-08-150, as now or hereafter amended.

(12) A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any communication the interpreter interprets under circumstances where the communication is privileged by law. A qualified interpreter shall not, without the written consent of the parties to the communication, be examined as to any information the interpreter obtains while interpreting pertaining to any proceeding then pending.

(13) The presiding officer shall explain to the impaired party that a written decision or order will be issued in English, and that the party may contact the interpreter for a translation of the decision. If the party has a right to review of the order or decision, the presiding officer shall orally inform him or her during the hearing of the right and the time limits to request review.

(14) At the hearing, the interpreter for a limited-English-speaking party shall provide to the presiding officer the interpreter's telephone number written in the primary language of the impaired party. A copy of such telephone number shall be attached to the decision or mailed to the impaired party. A copy of the decision or order shall also be mailed to the interpreter for use in translation.

(15) In any proceeding involving a hearing impaired person, the presiding officer may order that the testimony of the hearing impaired person and the interpretation of the proceeding by the qualified interpreter be visually recorded for use as the official transcript of that portion of the proceedings. Where simultaneous translation is used for interpreting statements of limited-English-speaking persons, the foreign language statements shall be recorded simultaneously with the English language statements by means of a separate tape recorder.

(16) A qualified interpreter appointed under this section is entitled to a reasonable fee for services, including waiting time and reimbursement for actual necessary travel expenses.

(17) The costs of providing the interpreter shall be borne by the impaired party or by the party who calls the impaired person as a witness, unless the impaired party is indigent under the standards applied in criminal proceedings in the superior court for Thurston County and thus unable to pay for the interpreter, in which case the cost shall be borne as an administrative cost by the commission.

(18) The cost of providing the interpreter may be a taxable cost of any proceeding in which costs are taxed.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100, 41.59.150 and chapter 2.42 RCW. 90-06-070, § 391-08-315, filed 3/7/90, effective 4/7/90.]

WAC 391-08-610 Agency decisions--Service. Every final order issued by the agency shall be served on each party or upon the agency designated by the party or by law to receive service of such papers; and a copy shall be furnished to any counsel or person appearing for a party in a representative capacity.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045(3), 28B.52.060, 41.56.060, 41.56.122(1), 41.56.170, 41.59.080, 41.59.100 and 41.59.150. 90-06-070, § 391-08-610, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-031 (Order 83-01), § 391-08-610, filed 12/1/83, effective 1/1/84; Order 77-1, § 391-08-610, filed 1/27/77.]

WAC 391-08-630 Agency structure--Substitution for executive director. (1) The public employment relations commission and its staff maintain an impartial role in all proceedings pending before the agency.

(2) The commission consists of three citizen members appointed by the governor with the advice and consent of the senate, pursuant to RCW 41.58.010. The members of the commission serve on a part-time basis only. All of the members of the commission represent the interests of the public. The commission reserves to itself a policy-making and appellate-review function.

(3) The executive director appointed by the commission pursuant to RCW 41.58.015(2) is the full-time agency head, with authority to act in administrative and personnel matters. Authority is also delegated to the executive director to make substantive decisions in certain types of cases, subject in adjudicative proceedings to the right of the parties to appeal to the commission.

(4) The commission's professional staff is appointed pursuant to RCW 41.58.015(3). A "multifunctional" staffing pattern is used, whereby individual members of the commission's professional staff are assigned from time to time to conduct any or all of the types of dispute resolution services provided by the agency. Authority is delegated to members of the professional staff to make decisions as "examiner" under chapters 391-45 and 391-95 WAC. The executive director may delegate authority to members of the professional staff to make decisions in certain situations under chapters 391-25 and 391-35 WAC.

(5) In the event the executive director disqualifies himself or herself from participation in a decision the most senior (in terms of length of service with this agency) member of the agency's mediation staff, who has not been directly involved in the particular circumstances shall make decisions and rulings otherwise required of the executive director.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.58.010 and 41.58.015. 90-06-070, § 391-08-630, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-08-630, filed 9/16/85.]

WAC 391-08-800 Agency records--Public access. The agency will maintain for public inspection: (1) An index to all proceedings filed with and processed by the agency; (2) a docket for each proceeding filed with and processed by the agency showing the actions taken on and the final resolution of each such proceeding; (3) a

schedule of hearing dates assigned in particular cases; and (4) the files for all proceedings, including all documents filed with the agency in the particular case, except materials held in confidence as provided in WAC 391-08-810.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090 and 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08, 53.18 and 42.17 RCW. 90-06-070, § 391-08-800, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-800, filed 1/27/77.]

WAC 391-08-810 Agency records--Confidentiality. The agency, in order to protect the privacy of individual employees and in order to respect the confidential nature of the mediation process, shall not permit the disclosure to any person of (1) evidence filed as a showing of interest in support of a representation petition or motion for intervention, or (2) notes and memoranda made by any member of the commission or its staff as a recording of communication made or received while acting in the capacity of a mediator between the parties to a labor dispute.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.060, 41.56.070, 41.56.100, 41.56.440, 41.58.020, 41.59.120 and 49.08.010. 90-06-070, § 391-08-810, filed 3/7/90, effective 4/7/90; Order 77-1, § 391-08-810, filed 1/27/77.]

WAC 391-08-820 Agency offices. (1) The agency maintains its principal office in the city of Olympia, Washington at 603 Evergreen Plaza, 711 Capitol Way, Olympia, Washington 98504. The mailing address of the Olympia office is: 603 Evergreen Plaza, FJ-61, Olympia, Washington 98504.

(2) The agency maintains a branch office at West 55 Mission, Suite 1, Spokane, Washington 99201.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-070, § 391-08-820, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-045 (Order 80-4), § 391-08-820, filed 9/30/80, effective 11/1/80; Order 77-1, § 391-08-820, filed 1/27/77.]

Chapter 391-25 WAC REPRESENTATION CASE RULES

WAC

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391-25-610	Procedure where no objections are filed.
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391-25-650	Briefs and written arguments on objections.
391-25-670	Commission action on objections.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-25-330	Authority of hearing officer. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-330, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-032 (Order 83-02), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
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Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-25-001 Scope—Contents—Other rules. This chapter governs proceedings before the public employment relations commission on petitions for investigation of questions concerning representation of employees. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-25 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-25-070;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-25-390 and 391-25-590; and

(d) WAC 10-08-230, which is supplanted by WAC 391-25-150, 391-25-220, 391-25-230, 391-25-250, and 391-25-270.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-072, § 391-25-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-001, filed 9/30/80, effective 11/1/80.]

WAC 391-25-002 Sequence and numbering of rules—Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-072, § 391-25-002, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-032 (Order 83-02), § 391-25-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-002, filed 9/30/80, effective 11/1/80.]

WAC 391-25-010 Petition for investigation of a question concerning representation of employees—Who

may file. A petition for investigation of a question concerning representation of employees, hereinafter referred to as a "petition," may be filed by any employee, group of employees, employee organization, employer or their agents.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.040. 90-06-072, § 391-25-010, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-010, filed 9/30/80, effective 11/1/80.]

WAC 391-25-012 Special provision--Educational employees. A petition may be filed under chapter 41.59 RCW only by an employee organization or its agents (RCW 41.59.070(1)), or by employees, one of whom shall be designated as agent (RCW 41.59.070(4)).

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.59.070 (1) and (4). 90-06-072, § 391-25-012, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-012, filed 9/30/80, effective 11/1/80.]

WAC 391-25-030 Petition--Time for filing. In order to be timely filed:

(1) Where there is a valid written and signed collective bargaining agreement in effect covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed during the period not more than ninety nor less than sixty days prior to the expiration date of the collective bargaining agreement, or after the expiration thereof.

(2) Where a certification has been issued by the agency covering an appropriate bargaining unit which includes any or all of the employees to be affected by the petition, a petition must be filed not less than twelve months following the date of the certification.

(3) Where neither subsections (1) nor (2) of this section are applicable, a petition may be filed at any time.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-030, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-030, filed 9/30/80, effective 11/1/80.]

WAC 391-25-050 Petition form--Number of copies--Filing--Service. Each petition shall be prepared on a form furnished by the commission or on a facsimile thereof. The original and three copies of the petition shall be filed with the agency at its Olympia office. The party filing the petition shall serve a copy on the employer and on each employee organization named in the petition as having an interest in the proceedings.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070 and 41.59.070. 90-06-072, § 391-25-050, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-050, filed 9/30/80, effective 11/1/80.]

WAC 391-25-070 Contents of petition. Each petition shall contain:

(1) The name and address of the employer and, if known, the name, address and telephone number of the

employer's principal representative in matters concerning relationships between the employer and its employees.

(2) A description of the bargaining unit which the petitioner claims to be appropriate, specifying inclusions and exclusions, and, if known, the approximate number of employees in such bargaining unit.

(3) The names and, if known, the addresses and telephone numbers of the principal representatives of any organizations which may claim to represent any of the employees in the bargaining unit which the petitioner claims to be appropriate.

(4) A statement that: (a) The employer declines, after having been requested to do so, to recognize the petitioner as the exclusive representative of the employees in the bargaining unit which the petitioner claims to be appropriate, or (b) the employees in the bargaining unit which the petitioner claims to be appropriate wish to change their exclusive bargaining representative, or (c) the employees in the bargaining unit do not wish to be represented by an employee organization.

(5) Any other relevant facts.

(6) The name, address and affiliation, if any, of the petitioner and the name, address and telephone number of the principal representative, if any, of the petitioner.

(7) The signature and, if any, the title of the petitioner or its representative.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070 and 41.59.080. 90-06-072, § 391-25-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-070, filed 9/30/80, effective 11/1/80.]

WAC 391-25-090 Contents of petition filed by employer. Each petition filed by an employer shall contain all of the information required by WAC 391-25-070, except for that required by WAC 391-25-070(4), and shall conform to the following additional requirements:

(1) Each petition filed by an employer shall contain a statement that the employer has been presented with a demand by an organization seeking recognition as the exclusive representative of the employees in the bargaining unit described in the petition.

(2) WAC 391-25-110 shall not be applicable to such petitions.

(3) Where the status of an incumbent exclusive bargaining representative is questioned, the employer shall attach such affidavits and other documentation as may be available to it to demonstrate the existence of a good faith doubt concerning the representation of its employees. To constitute a basis for a good faith doubt under this paragraph, signature documents provided to the employer by employees must be in a form which would qualify as supporting evidence under WAC 391-25-110 if filed by the employees directly with the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.040. 90-06-072, § 391-25-090, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-090, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-090, filed 9/30/80, effective 11/1/80.]

WAC 391-25-092 Special provision--Educational employees. WAC 391-25-090 is inapplicable to petitions filed under chapter 41.59 RCW. See WAC 391-25-012.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.59.070 (1) and (4). 90-06-072, § 391-25-092, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-092, filed 9/30/80, effective 11/1/80.]

WAC 391-25-110 Supporting evidence. The original petition shall be accompanied by a showing of interest indicating that the petitioner has the support of not less than thirty percent of the employees in the bargaining unit which the petitioner claims to be appropriate. The showing of interest must be timely filed under the same standards applicable to the petition, and must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the petition or the filing of such evidence with the agency, whichever is later.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-110, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-110, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-25-110, filed 1/6/81.]

WAC 391-25-130 List of employees. The employer shall submit to the commission a list containing the names and last known addresses of all of the employees in the bargaining unit described in the petition. Following administrative determination that the petition is supported by a sufficient showing of interest, the employer shall, upon request, provide a copy of the list of names and addresses to the petitioner. Following granting of a motion for intervention, the employer shall, upon request, provide a copy of the list of names and addresses to the intervenor.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-130, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-130, filed 9/30/80, effective 11/1/80.]

WAC 391-25-140 Notice to employees. The employer shall post a notice to employees, in the form specified by the commission, advising of the existence of proceedings under this chapter. The agency shall furnish the employer with copies of such notice, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.050. 90-06-072, § 391-25-140, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-140, filed 5/31/88.]

WAC 391-25-150 Amendment and withdrawal. Any petition may be amended or withdrawn by the petitioner

under such conditions as the executive director or the commission may impose.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.56.070. 90-06-072, § 391-25-150, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-150, filed 9/30/80, effective 11/1/80.]

WAC 391-25-170 Intervention--By incumbent representative. An organization which demonstrates that it has been the exclusive representative of all or any part of the bargaining unit involved in proceedings under this chapter during the year preceding the filing of the petition may, by motion, intervene in the proceedings and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and to have its name listed as a choice on the ballot in any election. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-170, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-170, filed 9/30/80, effective 11/1/80.]

WAC 391-25-190 Intervention--By organization other than incumbent. An organization not covered by WAC 391-25-170 may, by motion, intervene in proceedings under this chapter and, upon granting of its motion for intervention, shall be entitled to participate in the proceedings and have its name listed as a choice on the ballot in any election. The motion for intervention shall be supported by a showing of interest indicating that the intervenor has the support of not less than ten percent of the employees in the bargaining unit which the petitioner claims to be appropriate or of not less than thirty percent of the employees in whatever different bargaining unit the intervenor claims to be appropriate. The showing of interest must consist of individual authorization cards or letters signed and dated by employees in the bargaining unit claimed appropriate. Such authorization cards shall not be valid unless signed and dated during the ninety-day period preceding the filing of the motion for intervention or the filing of such evidence with the agency, whichever is later. The showing of interest shall be made confidentially to the agency at or before the time the motion for intervention is made: *Provided, however,* That a motion for intervention may be granted conditionally subject to the subsequent furnishing of a showing of interest under such conditions as the agency may impose to avoid undue delay of the proceedings. No motion for intervention shall be considered if made after the close of the hearing on the petition or more than seven days after the filing and posting of an election agreement or cross-check agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-190, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-

25-190, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56-.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-25-190, filed 1/6/81.]

WAC 391-25-210 Showing of interest confidential. The question of whether a showing of interest requirement for a petition or for intervention has been satisfied is a matter for administrative determination by the agency and may not be litigated at any hearing. The agency shall not disclose the identities of employees whose authorization cards or letters are filed in support of a petition or motion for intervention. In order to preserve the confidentiality of the showing of interest and the right of employees freely to express their views on the selection of a bargaining representative, the agency shall not honor any attempt to withdraw or diminish a showing of interest.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59-.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-210, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41-.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-210, filed 9/30/80, effective 11/1/80.]

WAC 391-25-220 Prehearing conferences. The commission routinely conducts prehearing conferences to discuss with the parties all contested issues of law and fact which may arise in representation cases. The parties are encouraged to reach binding stipulations on all issues during the course of the prehearing conference. Such stipulations are embodied in election agreements, cross-check agreements, and/or supplemental agreements provided for in this chapter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59-.110, 28B.52.073 and 41.56.040. 90-06-072, § 391-25-220, filed 3/7/90, effective 4/7/90.]

WAC 391-25-230 Election agreements. Where an employer and all other parties agree on a representation election, they may file an election agreement with the executive director. Such election agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The names and addresses of all other parties participating in the election agreement and the names, addresses and telephone numbers of their principal representatives.

(3) A description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions, and the number of employees in such unit.

(4) A statement by all parties that: (a) No organization is known which is or may be entitled to intervene as an incumbent representative, or (b) the incumbent representative is a party to the election agreement, or (c) the incumbent representative has abandoned the unit as evidenced by documentation attached to the election agreement.

(5) A statement by all parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that all parties agree that

a question concerning representation exists; that a hearing is waived; and that the agency is requested to proceed to conduct an election and certify the results.

(6) A list, attached to the election agreement as an appendix, containing the names of the employees eligible to vote in the election and the eligibility cut off date for the election. If the parties request that the election be conducted by mail ballot, the list shall include the last known address of each of the employees eligible to vote. If no eligibility cut off date is specified by the parties, the eligibility cut off date shall be the date on which the election agreement is filed.

(7) The suggestions of the parties as to the location, the day or days of the week and the time or times of day for the conduct of the election, or that the election be conducted by mail ballot.

(8) The signatures and, if any, the titles of all parties or their representatives.

The original and one copy of the election agreement shall be filed with the agency at its Olympia office, and copies shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The election agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of an election agreement conforming to the foregoing requirements and seeking an election in an appropriate bargaining unit, the executive director shall proceed to conduct an election. Objections to the election by a party to the election agreement shall be limited to matters relating to specific conduct affecting the results of the election.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59-.110, 41.56.060, 41.56.070, 41.59.070 and 41.59.080. 90-06-072, § 391-25-230, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-230, filed 9/30/80, effective 11/1/80.]

WAC 391-25-250 Cross-check agreements. Where only one organization is seeking certification as the representative of unrepresented employees, the employer and the organization may file a cross-check agreement with the executive director. Such cross-check agreement shall contain:

(1) The name and address of the employer and the name, address and telephone number of its principal representative.

(2) The name and address of the organization and the name, address and telephone number of its principal representative.

(3) The description of the bargaining unit agreed to be appropriate, specifying inclusions and exclusions and the number of employees in such unit.

(4) A statement by the parties that no other organization is known which claims to represent any of the employees in the bargaining unit; that the parties agree that a question concerning representation exists; that a hearing is waived; and that the agency is requested to

conduct and certify the results of a cross-check of individually signed and dated authorization cards or membership records submitted by the organization against the employment records of the employer.

(5) A list, attached to the cross-check agreement as an appendix, containing the names of the employees in the bargaining unit.

(6) The suggestions of the parties as to the time and place where the records to be cross-checked can be made available to the agency.

(7) The agreement of the parties to be bound by the results of the cross-check.

(8) The signatures and, if any, the titles of the representatives of the parties.

The original and one copy of the cross-check agreement shall be filed with the agency at its Olympia office, and copies thereof shall be posted by the employer in conspicuous places on the employer's premises where notices to affected employees are usually posted. The cross-check agreement shall remain posted for at least seven days after it is filed with the agency (ten days after it is deposited in the United States mail addressed to the agency).

Upon the filing of a cross-check agreement conforming to the foregoing requirements and seeking a cross-check in an appropriate bargaining unit, the executive director shall proceed with the cross-check of records. The cross-check may be conducted at any time following the execution of a cross-check agreement; but no certification shall be issued until seven days have elapsed following the filing and posting of the cross-check agreement. Where a motion for intervention is timely filed and granted, no certification shall be issued on the basis of the cross-check.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070 and 41.58.050. 90-06-072, § 391-25-250, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-250, filed 9/30/80, effective 11/1/80.]

WAC 391-25-252 Special provision—Educational employees. WAC 391-25-250 is inapplicable to petitions filed under chapter 41.59 RCW.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.59.070 (1) and (4). 90-06-072, § 391-25-252, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-252, filed 9/30/80, effective 11/1/80.]

WAC 391-25-253 Special provision—Academic employees. WAC 391-25-250 is inapplicable to petitions filed under chapter 28B.52 RCW.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 28B.52.030. 90-06-072, § 391-25-253, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-253, filed 9/30/80, effective 11/1/80.]

WAC 391-25-270 Supplemental agreements. Where the parties are able to agree generally on the matters to be set forth in an election agreement under WAC 391-25-230 or a cross-check agreement under WAC 391-

25-250, but are unable to agree on limited issues concerning the definition of the bargaining unit or employee eligibility, they may expedite the determination of the question concerning representation while reserving their disagreement for subsequent determination by filing a supplemental agreement under this rule together with an agreement under WAC 391-25-230 or 391-25-250. Such supplemental agreement shall contain:

(1) The names of all parties to the election agreement or cross-check agreement and the case number of the proceedings.

(2) Identification of the employees or classifications as to which a dispute exists, together with the identification of the position taken by each party on the dispute.

(3) A statement by all parties requesting that employees affected by the supplemental agreement be permitted to vote by challenged ballot or be challenged for purposes of a cross-check, subject to a subsequent determination of the dispute; and that the certification of the results of the election or cross-check not be withheld pending the determination of the dispute unless the challenges are sufficient in number to affect the outcome.

(4) The signatures and, if any, the titles, of the representatives of the parties.

The original and one copy of the supplemental agreement shall be filed with the agency together with the agreement filed under WAC 391-25-230 or 391-25-250, and shall be posted with such agreement.

Upon the filing of a supplemental agreement, the executive director shall proceed with the determination of the question concerning representation. If the challenges are sufficient in number to affect the outcome, they shall be determined prior to the issuance of a certification. Otherwise, a conditional certification shall be issued which shall be amended upon final disposition of the issues framed in the supplemental agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070 and 41.59.080. 90-06-072, § 391-25-270, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-270, filed 9/30/80, effective 11/1/80.]

WAC 391-25-290 Notice of hearing. After a petition has been filed, if it appears to the executive director that there is reasonable cause to believe that a question concerning representation exists, there shall be issued and served on the employer and on all organizations listed in the petition and on any organization having theretofore intervened, a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.040. 90-06-072, § 391-25-290, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-290, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-290, filed 9/30/80, effective 11/1/80.]

WAC 391-25-299 Special provision--Private sector employees. The commission lacks authority to proceed in representation disputes under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless an agreement is filed under WAC 391-25-230 or 391-25-250. WAC 391-25-290 through 391-25-390 shall not be applicable to proceedings under chapter 49.08 RCW except for hearings and issues submitted under WAC 391-25-270.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapter 49.08 RCW. 90-06-072, § 391-25-299, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-299, filed 9/30/80, effective 11/1/80.]

WAC 391-25-310 Hearings--Who shall conduct. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015. 90-06-072, § 391-25-310, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-310, filed 9/30/80, effective 11/1/80.]

WAC 391-25-350 Hearings--Nature and scope. Hearings shall be public and shall be limited to matters concerning the determination of the existence of a question concerning representation, the appropriate bargaining unit and questions of eligibility. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a clear and complete factual record upon which the commission and the executive director may discharge their duties under the pertinent statutes and these rules.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015. 90-06-072, § 391-25-350, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-350, filed 9/30/80, effective 11/1/80.]

WAC 391-25-370 Blocking charges--Suspension of proceedings--Request to proceed. (1) Where representation proceedings have been commenced under this chapter and:

- (a) A complaint charging unfair labor practices is filed under the provisions of chapter 391-45 WAC; and
- (b) It appears that the facts as alleged may constitute an unfair labor practice; and

(c) Such unfair labor practice could improperly affect the outcome of a representation election; the executive director may suspend the representation proceedings under this chapter pending the resolution of the unfair labor practice case.

(2) The complainant(s) in the unfair labor practice case may file a request to proceed, in writing, with the

executive director. Such request to proceed shall identify, by case number, the representation proceedings for which it is made, shall request that those representation proceedings be continued notwithstanding the pending unfair labor practice case, and shall acknowledge that the commission will not entertain objections based on conduct alleged in the unfair labor practice case. Upon the filing of a request to proceed conforming to the foregoing requirements the executive director shall resume the processing of the representation petition and shall summarily dismiss any objections filed in conflict with the request to proceed.

(3) Where a complaint charging unfair labor practices is filed after the filing of an election agreement or issuance of a direction of election, the executive director shall proceed with the determination of the question concerning representation, subject to the right of any party to file objections as provided in WAC 391-25-590.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-370, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-370, filed 9/30/80, effective 11/1/80.]

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

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

(2) An order of dismissal shall be subject to review by the commission on its own motion or at the request of any party made within twenty days following the date of the order. Briefs or written arguments shall be submitted as provided in WAC 391-25-650. Unless the matter is transferred to the commission for review, an order of dismissal issued by the executive director shall have the same force and effect as if issued by the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070 and 41.59.080. 90-06-072, § 391-25-390, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-390, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-25-390, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-390, filed 9/30/80, effective 11/1/80.]

WAC 391-25-391 Special provision--Public employees. Where only one organization is seeking certification as the representative of unrepresented employees, and the showing of interest submitted in support of the petition indicates that such organization has been authorized by a substantial majority of the employees to act as their representative for the purposes of collective bargaining, and the executive director finds that the conduct of an election would unnecessarily and unduly delay the determination of the question concerning representation with little likelihood of altering the outcome, the executive director may issue a direction of cross-check. The direction of cross-check and any accompanying rulings shall not be subject to review by the commission except upon objections timely filed under WAC 391-25-590.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.060. 90-06-072, § 391-25-391, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-391, filed 9/30/80, effective 11/1/80.]

WAC 391-25-410 Cross-check of records. Where a cross-check of records is to be conducted to determine a question concerning representation, the organization shall submit to the agency original individual cards or letters signed and dated by employees in the bargaining unit not more than ninety days prior to the filing of the petition and indicating that such employees authorize the named organization to represent them for the purposes of collective bargaining, or shall submit to the agency membership records maintained by the organization as a part of its business records containing the names of employees and indicating those employees currently members in good standing. The employer shall make available to the agency original employment records maintained as a part of its business records containing the names and signatures of the employees in the bargaining unit. Prior to the commencement of the cross-check, the organization may file a request that the question concerning representation be determined by a representation election and such requests shall be honored. Where the organization files a disclaimer or a request for election after the commencement of the cross-check, the cross-check shall be terminated and the organization shall not seek to be certified in the bargaining unit for a period of at least one year thereafter. All cross-checks shall be by actual comparison of records submitted by the parties. The agency shall not disclose the names of employees giving representation authorization in favor of or appearing on the membership rolls of the organization. Upon the conclusion of the comparison of records, the agency officer conducting the cross-check shall prepare and furnish to the parties a tally sheet containing the number of employees in the bargaining unit, the number of employee records examined and the number of employee records counted as valid evidence of representation.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.060. 90-06-072, § 391-25-410, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050,

41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-410, filed 9/30/80, effective 11/1/80.]

WAC 391-25-412 Special provision--Educational employees. WAC 391-25-410 is inapplicable to petitions filed under chapter 41.59 RCW.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.59.070. 90-06-072, § 391-25-412, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-412, filed 9/30/80, effective 11/1/80.]

WAC 391-25-413 Special provision--Academic employees. WAC 391-25-410 is inapplicable to petitions filed under chapter 28B.52 RCW.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 28B.52.030. 90-06-072, § 391-25-413, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-413, filed 9/30/80, effective 11/1/80.]

WAC 391-25-430 Notice of election. When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

- (1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.
- (2) The date(s), hours and polling place(s) for the election.
- (3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election.
- (4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices of the election shall be posted for at least seven days prior to the opening of the polls. In computing such period, the day of posting shall be counted, but the day on which the polls are opened shall not be counted. The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice may constitute grounds for setting aside an election upon objections properly filed.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070 and 41.59.070. 90-06-072, § 391-25-430, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-430, filed 9/30/80, effective 11/1/80.]

WAC 391-25-450 Disclaimers. An organization may file a disclaimer and have its name removed from the ballot: *Provided, however,* That if such a disclaimer is filed after the issuance of a notice of election, the organization filing the disclaimer shall not seek to be certified in that bargaining unit for a period of at least one year thereafter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-450, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-450, filed 9/30/80, effective 11/1/80.]

WAC 391-25-470 Electioneering. (1) Employers and organizations are prohibited from making election

speeches on the employer's time to massed assemblies of employees:

(a) Within twenty-four hours before the scheduled time for the opening of the polls for an election conducted under "in person" voting procedures; or

(b) Within the period beginning with the issuance of ballots to employees for an election conducted under "mail ballot" voting procedures and the tally of ballots.

(2) There shall be no electioneering at or about the polling place during the hours of voting.

Violations of this rule shall be grounds for setting aside an election upon objections properly filed.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.070. 90-06-072, § 391-25-470, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-054 (Order 88-02), § 391-25-470, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-470, filed 9/30/80, effective 11/1/80.]

WAC 391-25-490 Election procedures--Balloting. All elections shall be by secret ballot. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots. Absentee balloting shall not be allowed. The agency may conduct elections by mail ballot when it appears that an election by "in person" procedures would result in undue delay, or would effectively deprive some eligible employees of their opportunity to vote. If mail balloting is used, the notice required by these rules shall be mailed to each eligible voter and no less than ten days shall be provided between the date on which ballot materials are mailed to eligible employees and the deadline for return of the ballots. Each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe: *Provided, however,* That no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.070. 90-06-072, § 391-25-490, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-490, filed 9/30/80, effective 11/1/80.]

WAC 391-25-510 Challenged ballots. Any observer or the election officer may challenge, for good cause, the eligibility of any person seeking to cast a ballot in the election. No person shall be denied the right to cast a challenged ballot. The election officer shall not have authority to resolve challenges at the polls, and the ballot of the challenged voter shall be placed in a sealed envelope identifying the voter and the observer or election officer challenging the eligibility of the voter. The ballot shall not be opened until the challenge is resolved. Any party may withdraw a challenge previously made and, unless the eligibility of the voter is challenged by another party or by the election officer, the challenge shall thereby be resolved. If the challenged ballots are insufficient in number to affect the results of the election, they shall be impounded and no ruling shall be made thereon. If the challenged ballots are sufficient in number to affect the results of the election, the election officer shall,

after the close of the polls, ascertain the position of each party as to each challenged ballot and shall include such information in his report. If challenges raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. The rules relating to the conduct of hearings on petitions shall govern hearings on challenges, except that the scope of the hearing shall be limited to matters relevant to the disposition of the challenged ballots. The executive director shall have authority to rule on all challenges except those made by a party to preserve an objection to a ruling previously made by the executive director as to the eligibility of the challenged voter. If challenges of a type excepted from the authority of the executive director are sufficient in number to affect the results of the election, the matter shall be transferred to the commission for its determination under the provisions of WAC 391-25-670.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.040. 90-06-072, § 391-25-510, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-510, filed 9/30/80, effective 11/1/80.]

WAC 391-25-530 Votes needed to determine election. (1) Unit determination elections shall be decided by a majority of those eligible to vote in the election.

(2) Representation elections shall be decided by a majority of those voting. Where there are only two choices on the ballot, a tie vote shall result in a certification of no representative.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-530, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-530, filed 9/30/80, effective 11/1/80.]

WAC 391-25-531 Special provision--Public employees. Where there are three or more choices on the ballot, representation elections shall be decided by a majority of those eligible to vote in the election.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.070. 90-06-072, § 391-25-531, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-531, filed 9/30/80, effective 11/1/80.]

WAC 391-25-550 Tally sheet. Upon closing the polls, the election officer shall prepare and furnish to each of the parties a tally of the votes cast on unchallenged ballots and the number of challenged ballots. After the subsequent resolution of challenged ballots affecting the results of the election, a revised tally shall be issued and furnished to the parties. The tally shall indicate whether the results of the election were conclusive or inconclusive.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-550, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-550, filed 9/30/80, effective 11/1/80.]

WAC 391-25-570 Procedure following inconclusive election. In any election in which there are more than two choices on the ballot, if none of the choices receives the number of votes necessary to determine the election, a run-off election shall be held providing for selection between the two choices receiving the largest numbers of valid ballots cast in the inconclusive election. Any organization to be excluded from a run-off election may file objections to specific conduct affecting the results of the inconclusive election. Where the choice of "no representative" is to be excluded from a run-off election, the employer or decertification petitioner may file objections to specific conduct affecting the results of the inconclusive election. Such objections shall be resolved prior to the conduct of a run-off election. All run-off elections shall be determined as provided in WAC 391-25-530.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-570, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-570, filed 9/30/80, effective 11/1/80.]

WAC 391-25-590 Filing and service of objections. Within seven days after the tally has been served under WAC 391-25-410 or under WAC 391-25-550, any party may file objections with the commission. Objections may consist of:

(1) Designation of specific conduct improperly affecting the results of the election, by violation of these rules, by the use of deceptive campaign practices improperly involving the commission and its processes, by the use of forged documents, or by coercion or intimidation of or threat of reprisal or promise of reward to eligible voters, and/or

(2) Designation of one or more previous rulings or directions in the matter which the objecting party desires to have reviewed by the commission.

Objections shall contain, in separate numbered paragraphs, statements of the specific conduct, if any, alleged to have improperly affected the results of the election and, in separate numbered paragraphs, the specific rulings or directions, if any, which the party filing the objections desires to have reviewed. The original and three copies of the objections shall be filed with the commission at its Olympia office, and the party filing the objections shall serve a copy on each of the other parties to the proceedings. Objections must be timely filed, whether or not challenged ballots are sufficient in number to affect the results of the election.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.070 and 41.59.070. 90-06-072, § 391-25-590, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-590, filed 9/30/80, effective 11/1/80.]

WAC 391-25-610 Procedure where no objections are filed. If no objections are filed within the time set forth above, and if any challenged ballots are insufficient in number to affect the determination of the question concerning representation, and if no run-off election

is to be held, the executive director shall forthwith certify the results of the proceedings, with the same force and effect as if issued by the commission. The proceedings will thereupon be closed.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070 and 41.59.070. 90-06-072, § 391-25-610, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-610, filed 9/30/80, effective 11/1/80.]

WAC 391-25-630 Procedure where objections are filed. (1) Objections to conduct improperly affecting the results of an election shall be referred to the executive director for investigation. If the objections raise material questions of fact which cannot be resolved without a hearing, there shall be issued and served on each of the parties a notice of hearing before a hearing officer. Hearings on objections to conduct affecting the results of an election may be consolidated with hearings on challenged ballots in the same proceeding. The rules relating to the conduct of hearings on petitions shall govern hearings on objections, except that the scope of the hearing shall be limited to matters relevant to the disposition of the objections.

(2) Objections to prior rulings and/or directions in the matter shall be referred directly to the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.56.040 and 41.59.110. 90-06-072, § 391-25-630, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-630, filed 9/30/80, effective 11/1/80.]

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

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

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

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

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

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

The original and three copies of any brief or written argument shall be filed with the commission at its Olympia office and a copy shall be served on each of the other parties. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070 and 41.59.070. 90-06-072, § 391-25-650, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-25-650, filed 9/16/85. Statutory Authority:

RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-650, filed 9/30/80, effective 11/1/80.]

WAC 391-25-670 Commission action on objections. In all cases where objections have been filed, the entire record in the proceedings shall be transferred to the commission. The commission may request the parties to appear before it to make oral argument as to certain of the issues or all of the issues in the matter. The commission shall determine the objections and any challenged ballots referred to the commission pursuant to WAC 391-25-510, and shall issue appropriate orders.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.070. 90-06-072, § 391-25-670, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-046 (Order 80-5), § 391-25-670, filed 9/30/80, effective 11/1/80.]

Chapter 391-35 WAC

UNIT CLARIFICATION CASE RULES

WAC

391-35-001	Scope—Contents—Other rules.
391-35-002	Sequence and numbering of rules—Special provisions.
391-35-010	Petition for clarification of an existing bargaining unit—Who may file.
391-35-020	Petition—Time for filing.
391-35-030	Petition form—Number of copies—Filing—Service.
391-35-050	Contents of petition.
391-35-070	Amendment and withdrawal.
391-35-080	Prehearing conferences.
391-35-090	Notice of hearing.
391-35-099	Special provision—Private sector employees.
391-35-110	Consolidation of proceedings.
391-35-130	Hearings—Who shall conduct.
391-35-170	Hearings—Nature and scope.
391-35-190	Proceedings before the executive director.
391-35-210	Proceedings before the commission—Petition for review.
391-35-230	Filing and service of cross-petition for review.
391-35-250	Commission action.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-35-150	Authority of hearing officer. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-150, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-033 (Order 83-03), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
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Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-35-001 Scope—Contents—Other rules. This chapter governs proceedings before the public employment relations commission on petitions for clarification of existing bargaining units. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-35 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-35-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-35-210 and 391-35-230; and

(d) WAC 10-08-230, which is supplanted by WAC 391-35-070 and 391-35-140.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-073, § 391-35-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-001, filed 9/30/80, effective 11/1/80.]

WAC 391-35-002 Sequence and numbering of rules—Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations—academic faculties of

community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-073, § 391-35-002, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-033 (Order 83-03), § 391-35-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-002, filed 9/30/80, effective 11/1/80.]

WAC 391-35-010 Petition for clarification of an existing bargaining unit--Who may file. In the absence of a question concerning representation, a petition for clarification of an existing bargaining unit may be filed by the employer, the exclusive representative or their agents, or by the parties jointly.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-073, § 391-35-010, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-010, filed 9/30/80, effective 11/1/80.]

WAC 391-35-020 Petition--Time for filing. (1) Disputes concerning status as a "confidential employee" may be filed at any time.

(2) Except as provided in subsection (1) of this section, where there is a valid written and signed collective bargaining agreement in effect, a petition for clarification of the covered bargaining unit will be considered timely only if:

(a) The petitioner can demonstrate, by specific evidence, substantial changed circumstances during the term of the collective bargaining agreement which warrant a modification of the bargaining unit by inclusion or exclusion of a position or class; or

(b) The petitioner can demonstrate that, although it signed the current collective bargaining agreement covering the position or class at issue in the unit clarification proceedings, (i) it put the other party on notice during negotiations that it would contest the inclusion or exclusion of the position or class via the unit clarification procedure, and (ii) it filed the petition for clarification of the existing bargaining unit prior to signing the current collective bargaining agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-073, § 391-35-020, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-061 (Order 88-03), § 391-35-020, filed 5/31/88.]

WAC 391-35-030 Petition form--Number of copies--Filing--Service. Each petition for clarification of an existing bargaining unit shall be prepared on a form furnished by the commission or shall be prepared in conformance with WAC 391-35-050. The original and three copies of the petition shall be filed with the agency at its Olympia office. If the petition is filed other than as

a jointly filed petition, the party filing the petition shall serve a copy on the other party to the collective bargaining relationship in which the disagreement arises.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-030, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-030, filed 9/30/80, effective 11/1/80.]

WAC 391-35-050 Contents of petition. Each petition for clarification of an existing bargaining unit shall contain:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative.

(3) The description of the existing bargaining unit, specifying inclusions and exclusions and the number of employees in such bargaining unit.

(4) Identification of the proceeding in which any certification of representatives was issued or the date of the recognition agreement, and the history of any modifications of the bargaining unit subsequent thereto.

(5) A description of the proposed clarification, including the position(s), classification(s) or group(s) in issue, the number of employees in each such position, classification or group, the present bargaining unit inclusion or exclusion status of each such position, classification or group and identification of the party proposing that the present status be changed.

(6) The names and addresses of any other employee organizations claiming to represent any employees affected by the proposed clarification(s), and brief description(s) of the contracts, if any, covering such employees.

(7) A statement of the reasons for the proposed clarification.

(8) Any other relevant facts.

(9) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-050, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-050, filed 9/30/80, effective 11/1/80.]

WAC 391-35-070 Amendment and withdrawal. Any petition may be amended or withdrawn by the petitioner(s) under such conditions as the executive director or the commission may impose.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-070, filed 9/30/80, effective 11/1/80.]

WAC 391-35-080 Prehearing conferences. The hearing officer has discretion to conduct a prehearing conference to discuss with the parties all issues of law, fact, and procedure which may arise in unit clarification

cases. The parties are encouraged to reach binding stipulations on such matters during the course of the pre-hearing conference.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073 and 41.56.040. 90-06-073, § 391-35-080, filed 3/7/90, effective 4/7/90.]

WAC 391-35-090 Notice of hearing. After a petition for clarification of an existing bargaining unit has been filed, if it appears to the executive director that a disagreement exists which might appropriately be the subject of an order clarifying an existing bargaining unit, there shall be issued and served on the employer and on the exclusive representative a notice of hearing before a hearing officer at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-090, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-090, filed 9/30/80, effective 11/1/80.]

WAC 391-35-099 Special provision--Private sector employees. The commission lacks authority to proceed in unit clarification proceedings under chapter 49.08 RCW absent the agreement of all parties. The executive director shall not proceed in such matters unless a written agreement is filed by the parties to submit their dispute for arbitration by the commission under chapter 49.08 RCW and these rules.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapter 49.08 RCW. 90-06-073, § 391-35-099, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-099, filed 9/30/80, effective 11/1/80.]

WAC 391-35-110 Consolidation of proceedings. If a proceeding initiated by a petition for clarification under WAC 391-35-010 is pending at the same time as a proceeding involving all or any part of the same bargaining unit initiated by a petition for investigation of a question concerning representation filed pursuant to WAC 391-25-010, the proceedings shall be consolidated and all issues concerning the description of the bargaining unit shall be resolved in the consolidated proceedings.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. 90-06-073, § 391-35-110, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-110, filed 9/30/80, effective 11/1/80.]

WAC 391-35-130 Hearings--Who shall conduct. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as a hearing officer. At any time, a hearing officer may be substituted for the hearing officer previously presiding.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.56.070, 41.59.070, 41.59.080 and 53.18.015. 90-

06-073, § 391-35-130, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-130, filed 9/30/80, effective 11/1/80.]

WAC 391-35-170 Hearings--Nature and scope. Hearings shall be public and shall be limited to matters concerning the determination of the petition for clarification of an existing bargaining unit. During the course of the hearing, the hearing officer may, upon motion by any party, or upon his or her own motion, sequester witnesses. It shall be the duty of the hearing officer to inquire fully into all matters in issue and to obtain a full and complete factual record upon which the commission or the executive director may discharge their duties under the pertinent statutes and these rules.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060, 41.59.080 and 53.18.015. 90-06-073, § 391-35-170, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-170, filed 9/30/80, effective 11/1/80.]

WAC 391-35-190 Proceedings before the executive director. The executive director may proceed forthwith upon the record, after submission of briefs or after hearing, as may be appropriate. The executive director shall determine the status of each position, classification or group of employees over which there is a disagreement and issue an order clarifying bargaining unit, dismiss the petition or make other disposition of the matter. Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to the hearing officer to decide those issues.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-190, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-35-190, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-190, filed 9/30/80, effective 11/1/80.]

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

the issues. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-210, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-35-210, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-210, filed 9/30/80, effective 11/1/80.]

WAC 391-35-230 Filing and service of cross-petition for review. Where a petition for review has been timely filed under WAC 391-35-210, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-230, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-230, filed 9/30/80, effective 11/1/80.]

WAC 391-35-250 Commission action. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the status of each position, classification or group covered by the petition for review, and shall issue appropriate orders.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.56.060 and 41.59.080. 90-06-073, § 391-35-250, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-047 (Order 80-6), § 391-35-250, filed 9/30/80, effective 11/1/80.]

Chapter 391-45 WAC

UNFAIR LABOR PRACTICE CASE RULES

WAC

- 391-45-001 Scope—Contents—Other rules.
- 391-45-002 Sequence and numbering of rules—Special provisions.
- 391-45-010 Complaint charging unfair labor practices—Who may file.
- 391-45-019 Special provision—Private sector employees.
- 391-45-030 Form—Number of copies—Filing—Service.
- 391-45-050 Contents of complaint charging unfair labor practices.
- 391-45-070 Amendment.
- 391-45-090 Withdrawal.
- 391-45-110 Initial processing by executive director.
- 391-45-130 Examiner—Who may act.
- 391-45-170 Notice of right to answer.
- 391-45-190 Answer—Filing and service.
- 391-45-210 Answer—Contents and effect of failure to answer.
- 391-45-230 Amendment of answer.
- 391-45-250 Motion to make complaint more definite and certain.
- 391-45-260 Settlement conference.
- 391-45-270 Hearings—Nature and scope.

- 391-45-290 Briefs and proposed findings.
- 391-45-310 Examiner decision.
- 391-45-330 Withdrawal or modification of examiner decision.
- 391-45-350 Petition for review of examiner decision.
- 391-45-370 Filing and service of cross-petition for review.
- 391-45-390 Commission action.
- 391-45-410 Unfair labor practice remedies.
- 391-45-430 Motion for temporary relief.
- 391-45-431 Special provision—Public employees.
- 391-45-550 Collective bargaining—Policy.
- 391-45-552 Special provision—Educational employees.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 391-45-013 Special provision—Academic employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-013, filed 9/30/80, effective 11/1/80.] Repealed by 88-12-056 (Order 88-05), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.
- 391-45-150 Authority of examiner. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-150, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-034 (Order 83-04), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-45-171 Special provision—Public employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-171, filed 9/30/80, effective 11/1/80.] Repealed by 86-11-054 (Order 86-01), filed 5/20/86. Statutory Authority: RCW 34.04.033 [34.04.022], 41.58.050, 41.56.090 and 41.59.110.

Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-45-001 Scope—Contents—Other rules.

This chapter governs proceedings before the public employment relations commission on complaints charging unfair labor practices. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-45-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-45-350 and 391-45-370; and

(d) WAC 10-08-230, which is supplanted by WAC 391-45-070, 391-45-090, and 391-45-260.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-35 WAC, which contains rules relating to petitions for clarification of existing bargaining units.

(5) Chapter 391-55 WAC, which contains rules relating to resolution of impasses occurring in collective bargaining.

(6) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(7) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW. 90-06-074, § 391-45-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-001, filed 9/30/80, effective 11/1/80.]

WAC 391-45-002 Sequence and numbering of rules--Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (Port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (Professional negotiations—academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (Private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW. 90-06-074, § 391-45-002, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-034 (Order 83-04), § 391-45-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-002, filed 9/30/80, effective 11/1/80.]

WAC 391-45-010 Complaint charging unfair labor practices--Who may file. A complaint charging that any person has engaged in or is engaging in an unfair labor practice, hereinafter referred to as a "complaint" may be filed by any employee, group of employees, employee organization, employer or their agents.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.065, 41.56.040, 41.58.040, 41.59.060 and 53.18.015. 90-06-074, § 391-45-010, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-010, filed 9/30/80, effective 11/1/80.]

WAC 391-45-019 Special provision--Private sector employees. The provisions of chapter 391-45 WAC are inapplicable to private sector collective bargaining under chapter 49.08 RCW.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 49.08.020. 90-06-074, § 391-45-019, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-019, filed 9/30/80, effective 11/1/80.]

WAC 391-45-030 Form--Number of copies--Filing--Service. Charges shall be in writing, in the form of a complaint of unfair labor practices. The original and three copies shall be filed with the agency at its Olympia office. The party filing the complaint shall serve a copy on each party named as a respondent.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-030, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-030, filed 9/30/80, effective 11/1/80.]

WAC 391-45-050 Contents of complaint charging unfair labor practices. Each complaint shall contain, in separate numbered paragraphs:

(1) The name and address of the party filing the complaint, hereinafter referred to as the complainant, and the name, address and telephone number of its principal representative.

(2) The name(s) and address(es) of the person(s) charged with engaging in, or having engaged in, unfair labor practices, hereinafter referred to as the respondent(s), and, if known, the names, addresses and telephone numbers of the principal representatives of the respondent(s).

(3) Clear and concise statements of the facts constituting the alleged unfair labor practices, including times, dates, places and participants in occurrences.

(4) A listing of the sections of the Revised Code of Washington (RCW) alleged to have been violated.

(5) A statement of the relief sought by the complainant.

(6) The signature and, if any, the title of the person filing the complaint.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-050, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-050, filed 9/30/80, effective 11/1/80.]

WAC 391-45-070 Amendment. Any complaint may be amended upon motion made by the complainant to the executive director or the examiner prior to the transfer of the case to the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.140, 41.56.150, 41.56.170, 41.59.140 and 53.18.015. 90-06-074, § 391-45-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-070, filed 9/30/80, effective 11/1/80.]

WAC 391-45-090 Withdrawal. Any complaint may be withdrawn by the complainant under such conditions as the executive director or the commission may impose.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015. 90-06-074, § 391-45-090, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-090, filed 9/30/80, effective 11/1/80.]

WAC 391-45-110 Initial processing by executive director. The executive director shall determine whether the facts as alleged may constitute an unfair labor practice within the meaning of the applicable statute. If it is determined that the facts as alleged do not, as a matter of law, constitute a violation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall cause the contents of the charge to be issued and served as a complaint of unfair labor practices, shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-45-350.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.140, 41.56.150, 41.59.140 and 53.18.015. 90-06-074, § 391-45-110, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-110, filed 9/30/80, effective 11/1/80.]

WAC 391-45-130 Examiner--Who may act. The examiner may be a member of the agency staff or any other individual designated by the commission or executive director. Upon notice to all parties, an examiner may be substituted for the examiner previously presiding.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.160, 41.56.170 and 53.18.015. 90-06-074, § 391-45-130, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-130, filed 9/30/80, effective 11/1/80.]

WAC 391-45-170 Notice of right to answer. The examiner shall issue and cause to be served on the parties a notice of hearing at a time and place specified therein. Attached to the notice of hearing shall be a copy of the complaint as approved by the executive director under WAC 391-45-110. The notice of hearing shall specify the date for the filing of an answer, which shall be not less than ten days prior to the date set for hearing. Any such notice of hearing may be amended or withdrawn before the close of the hearing.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-170, filed 3/7/90, effective 4/7/90. Statutory Authority:

RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-170, filed 9/30/80, effective 11/1/80.]

WAC 391-45-190 Answer--Filing and service. The respondent(s) shall, on or before the date specified therefor in the notice of hearing, file with the examiner the original and three copies of its answer to the complaint, and shall serve a copy on the complainant.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-190, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-190, filed 9/30/80, effective 11/1/80.]

WAC 391-45-210 Answer--Contents and effect of failure to answer. An answer filed by a respondent shall specifically admit, deny or explain each of the facts alleged in the complaint, unless the respondent is without knowledge, in which case the respondent shall so state, such statement operating as a denial. The failure of a respondent to file an answer or the failure to specifically deny or explain in the answer a fact alleged in the complaint shall, except for good cause shown, be deemed to be an admission that the fact is true as alleged in the complaint, and as a waiver of the respondent of a hearing as to the facts so admitted.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-210, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-210, filed 9/30/80, effective 11/1/80.]

WAC 391-45-230 Amendment of answer. The respondent may amend its answer at any time prior to the hearing. During the hearing or subsequent thereto, it may amend its answer in any case where the complaint has been amended, within such period as may be fixed by the examiner or the commission. Whether or not the complaint has been amended, the answer may, in the discretion of the examiner or the commission, be amended upon motion under such terms and within such period as may be fixed by the examiner or the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-230, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-230, filed 9/30/80, effective 11/1/80.]

WAC 391-45-250 Motion to make complaint more definite and certain. If a complaint is alleged by a respondent to be so indefinite as to hamper the respondent in the preparation of its answer, such respondent may, on or before the date specified for the filing of an answer, file a motion requesting an order directing that the complaint be made more definite and certain. Such motion shall be filed with the examiner and served by the moving party on the complainant and on any other parties. The filing of such motion will extend the time during which the respondent must file and serve an answer

until such date as the executive director or examiner may set. The examiner may require the complainant to file and serve a statement supplying information necessary to make the complaint definite and certain.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-250, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-250, filed 9/30/80, effective 11/1/80.]

WAC 391-45-260 Settlement conference. (1) Prior to hearing, the parties may be requested to participate in a settlement conference conducted by a member of the commission staff other than the assigned examiner. During the course of a settlement conference, the parties will be encouraged, on factual and legal grounds including precedent on the particular subject, to resolve the unfair labor practice dispute. Participation in the settlement conference is voluntary, and the refusal of a party to participate shall not prejudice the nonparticipating party in any manner.

(2) Whether or not a "settlement conference" has been held, the examiner may hold a "prehearing conference" to deal with procedural matters related to the hearing.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.160, 41.59.150 and 53.18.015. 90-06-074, § 391-45-260, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-056 (Order 88-05), § 391-45-260, filed 5/31/88.]

WAC 391-45-270 Hearings--Nature and scope. Hearings shall be public and shall be adversary in nature, limited to matters concerning the unfair labor practices alleged in the complaint. The complainant shall prosecute its own complaint and shall have the burden of proof. During the course of the hearing, the examiner may, upon motion by any party, or on his or her own motion, sequester witnesses. It shall be the duty of the examiner to inquire fully into the facts as to whether the respondent has engaged in or is engaging in an unfair labor practice so as to obtain a clear and complete factual record on which the examiner and commission may discharge their duties under these rules: *Provided, however,* That such duty of the examiner shall not be construed as authorizing or requiring the examiner to undertake the responsibilities of the complainant with respect to the prosecution of its complaint or of the respondent with respect to the presentation of its defense.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.170, 41.59.150 and 53.18.015. 90-06-074, § 391-45-270, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-270, filed 9/30/80, effective 11/1/80.]

WAC 391-45-290 Briefs and proposed findings. Any party shall be entitled, upon request made before the close of the hearing, to file a brief or proposed findings of fact, conclusions of law and order, or both, at

such time as may be fixed by the examiner. The examiner may direct the filing of briefs when he or she deems such filing warranted by the nature of the proceeding or of particular issues therein.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-290, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-290, filed 9/30/80, effective 11/1/80.]

WAC 391-45-310 Examiner decision. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-310, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-310, filed 9/30/80, effective 11/1/80.]

WAC 391-45-330 Withdrawal or modification of examiner decision. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: *Provided, however,* That this section shall be inoperative after the filing of a petition for review with the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-330, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-330, filed 9/30/80, effective 11/1/80.]

WAC 391-45-350 Petition for review of examiner decision. The examiner's findings of fact, conclusions of law and order shall be subject to review by the commission on its own motion, or at the request of any party made within twenty days following the date of the order issued by the examiner. The original and three copies of the petition for review shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on each of the other parties to the proceeding. Such petition for review shall contain, in separate numbered paragraphs, statements of the specific findings, conclusions, orders or rulings on which the party filing the petition seeks review by the commission. A petition for review shall have attached to it any appeal brief or written argument which the party filing the petition for review desires to have considered by the commission. Other parties to the proceeding shall have fourteen days following the date on which they are served with a copy of such petition for review and accompanying brief or written argument to file a responsive brief or written argument. The commission, the

executive director or his designee may, for good cause, grant any party an extension of the time for filing of its brief or written argument. If a party presents an issue which requires study of a statute, rule, regulation, or finding of fact, the party should set out the material portions of the text verbatim or include them by facsimile copy in the text or in an appendix to the brief. In the event no timely petition for review is filed, and no action is taken by the commission on its own motion within thirty days following the examiner's final order, the findings of fact, conclusions of law and order of the examiner shall automatically become the findings of fact, conclusions of law and order of the commission and shall have the same force and effect as if issued by the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-350, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-45-350, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-350, filed 9/30/80, effective 11/1/80.]

WAC 391-45-370 Filing and service of cross-petition for review. Where a petition for review has been timely filed under WAC 391-45-350, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadlines for the submission of briefs or written arguments shall be extended by seven days.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-370, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-370, filed 9/30/80, effective 11/1/80.]

WAC 391-45-390 Commission action. On its own motion, or on the filing of a petition for review, the entire record in the proceeding shall be transferred to the commission, and thereafter all motions and arguments shall be directed to the commission. The commission may request the parties to appear before it to make oral arguments as to certain of the issues or all of the issues in the matter. The commission shall, on the basis of the record and any briefs or arguments submitted to it on review, determine the matter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. 90-06-074, § 391-45-390, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-390, filed 9/30/80, effective 11/1/80.]

WAC 391-45-410 Unfair labor practice remedies. If an unfair labor practice is found to have been committed, the commission or its examiner shall issue a remedial order. In calculating back pay orders, the following shall apply:

(1) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any earnings such employee may have received during the period of the violation in substitution for the terminated employment, calculated on a quarterly basis.

(2) Individuals reinstated to employment with back pay shall have deducted from any amount due an amount equal to any unemployment compensation benefits such employee may have received during the period of the violation, and the employer shall provide evidence to the commission that such amount has been repaid to the Washington state department of employment security as a credit to the benefit record of the employee.

(3) Money amounts due shall be subject to interest at the rate which would accrue on a civil judgment of the Washington state courts, from the date of the violation to the date of payment.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.160, 41.59.150 and 53.18.015. 90-06-074, § 391-45-410, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-410, filed 9/30/80, effective 11/1/80.]

WAC 391-45-430 Motion for temporary relief. In addition to the remedies available under WAC 391-45-410, any complainant in an unfair labor practice proceeding may file a motion requesting that the commission seek appropriate temporary relief through the superior court, and all such motions shall be processed as provided in this section.

(1) The complainant shall, at the time its complaint is filed or as soon thereafter as facts giving rise to the request for temporary relief become known, provide written notice to the executive director of its intent to make a motion for temporary relief and shall, at the same time, serve a copy of such notice on each of the other parties to the proceedings.

(2) Upon the filing of a notice of intent to make a motion for temporary relief, the executive director shall expedite the processing of the matter under WAC 391-45-110.

(3) After the determination of the executive director that the complaint states a cause of action, any complainant desiring temporary relief may file with the executive director a motion for temporary relief together with affidavits as to the risk of irreparable harm and the adequacy of legal remedies, and shall serve a copy of such motion and affidavits on all other parties to the proceedings. The other parties shall have seven calendar days thereafter to file and serve counter-affidavits.

(4) The executive director shall forward all such motions and affidavits to the commission, which shall determine whether an injunction pendente lite should be sought. In making such determination, the commission shall adhere to the following policy:

"The name and authority of the public employment relations commission shall not be invoked in connection with a request for temporary relief prior to the completion of administrative proceedings under

WAC 391-45-010, et seq., unless it appears that one or more of the allegations in the complaint of unfair labor practices is of such a nature that, if sustained, the complainant would have no fair or adequate remedy and the complainant would suffer irreparable harm unless the status quo be preserved pending the completion of administrative proceedings."

(a) If the commission concludes that temporary relief should be sought, the executive director, acting in the name and on behalf of the commission and with the assistance of the attorney general, shall petition the superior court of the county in which the main office of the employer is located or wherein the person who is alleged to be engaging in unfair labor practices resides or transacts business for an injunction pendente lite.

(b) Whenever temporary relief has been procured, the complaint which has been the basis for such temporary relief shall be heard expeditiously and the case shall be given priority over all other cases except cases of like character.

(c) If the commission concludes that temporary relief should not be sought prior to the conclusion of administrative proceedings in the matter, such determination shall not bar renewal of the request for temporary relief following the completion of administrative proceedings in which unfair labor practice violations have been found to exist.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073 and 41.59.150. 90-06-074, § 391-45-430, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-430, filed 9/30/80, effective 11/1/80.]

WAC 391-45-431 Special provision--Public employees. WAC 391-45-430 is inapplicable to complaints filed under chapter 41.56 RCW. Provision for judicial relief is made by RCW 41.56.190.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and 41.56.190. 90-06-074, § 391-45-431, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-431, filed 9/30/80, effective 11/1/80.]

WAC 391-45-550 Collective bargaining--Policy. It is the policy of the commission to promote bilateral collective bargaining negotiations between employers and the exclusive representatives of their employees. Such parties are encouraged to engage in free and open exchange of proposals and positions on all matters coming into the dispute between them. The commission deems the determination as to whether a particular subject is mandatory or nonmandatory to be a question of law and fact to be determined by the commission, and which is not subject to waiver by the parties by their action or inaction. It is the policy of the commission that a party which engages in collective bargaining with respect to any particular issue does not and cannot thereby confer the status of a mandatory subject on a nonmandatory subject.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.030(4), 41.59.020(2) and 53.18.015. 90-06-

074, § 391-45-550, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-048 (Order 80-7), § 391-45-550, filed 9/30/80, effective 11/1/80.]

WAC 391-45-552 Special provision--Educational employees. The obligation to bargain in good faith imposed upon an employer and the exclusive representative of its employees, respectively, by RCW 41.59.020(2) and 41.59.140 (1)(e) or (2)(c) includes:

(1) The obligation to submit, as to each subject for bargaining advanced by the party, a written statement of the language proposed for incorporation in or deletion from the collective bargaining agreement between the parties, together with a written or oral explanation or justification of such proposals.

(2) The obligation to submit, as to each subject for bargaining advanced by the other party, at least one written response thereto, together with a written or oral explanation of such response: *Provided, however,* That a party which asserts in a written response that a subject for bargaining advanced by the other party is not a mandatory subject for collective bargaining may thereafter refuse to make further proposals as to such subject or subjects for bargaining.

(3) The obligation to receive proposals from the other party as to all subjects for bargaining in dispute between the parties and, until a legal impasse has been reached, to refrain from demanding the removal of any such subject from the bargaining table on the basis that it is not a mandatory subject for collective bargaining.

(4) The obligation to exhaust the mediation and fact finding procedure established pursuant to RCW 41.59.120 before implementing all or any part of a final offer in negotiations, except as provided in RCW 41.59.930.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 41.59.120 and 41.59.120. 90-06-074, § 391-45-552, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-45-552, filed 1/6/81.]

Chapter 391-55 WAC IMPASSE RESOLUTION RULES

WAC

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- 391-55-450 State patrol personnel—Responsibility of parties after fact finding.
- 391-55-455 State patrol personnel—Expenses of fact finding.
- 391-55-515 Marine employees—Conduct of interest arbitration proceedings. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-515, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-520 Marine employees—Submission of issues for arbitration. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-520, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-525 Marine employees—Hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-525, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-530 Marine employees—Order of proceedings and evidence. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-530, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-535 Marine employees—Arbitration in the absence of a party. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-535, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-540 Marine employees—Closing of hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-540, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-545 Marine employees—Interest arbitration award. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-545, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-560 Marine employees—Central filing of agreements. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-560, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 391-55-033 Special provision—Academic employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-033, filed 9/30/80, effective 11/1/80.] Repealed by 88-12-055 (Order 88-08), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.
- 391-55-500 Marine employees—Interest arbitration. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-500, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-55-505 Marine employees—Referral for mediation. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-505, filed 9/30/80, effective 11/1/80.] Repealed by 88-12-055 (Order 88-08), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.
- 391-55-510 Marine employees—Intervention and consolidation of proceedings. [Statutory Authority: RCW 28B.52.080,

- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-510, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-515, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-520, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-530, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-535, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-540, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-545, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-560, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-035 (Order 83-05), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-55-001 Scope--Contents--Other rules. This chapter governs proceedings before the public employment relations commission relating to the resolution of impasses occurring in collective bargaining. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement.

(6) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-001, filed 9/30/80, effective 11/1/80.]

WAC 391-55-002 Sequence and numbering of rules--Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. Special provisions required for conformity with a particular statute are set forth in separate rules numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW, port employees (Employment relations--Collective bargaining and arbitration), are set forth in WAC sections numbered one digit greater than the general rule on that subject matter and in subchapters of rules as follows:

(a) Special provisions relating to interest arbitration for uniformed personnel within the meaning of RCW 41.56.030(7) are set forth beginning with WAC 391-55-200; and

(b) Special provisions relating to fact finding for state patrol personnel within the meaning of RCW 41.56.020 are set forth beginning with WAC 391-55-400.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter and in a subchapter of rules beginning with WAC 391-55-300.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-002, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080,

41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-002, filed 9/30/80, effective 11/1/80.]

WAC 391-55-010 Resolution of impasses--Request for mediation. A request for mediation may be made in writing or by telephone, but shall be confirmed in writing if made by telephone. The party or parties requesting mediation shall provide the following information to the agency:

(1) The name and address of the employer and the name, address and telephone number of the employer's principal representative in the negotiations;

(2) The name and address of the employee organization and the name, address and telephone number of the employee organization's principal representative in the negotiations;

(3) The name and address of the association or other organization, if any, filing the request on behalf of the employer or exclusive representative seeking mediation;

(4) A clear and concise statement of the disputed issues and the parties' positions in relation thereto;

(5) A description of the size and composition of the bargaining unit involved;

(6) The expiration date of any collective bargaining agreement then in effect or recently expired;

(7) Any other relevant information; and

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

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-010, filed 9/30/80, effective 11/1/80.]

WAC 391-55-030 Impasse resolution--Assignment of mediator. Upon filing of a request for mediation, the executive director shall appoint a mediator from the list of qualified persons maintained by the commission for that purpose. If the parties have stipulated the names of one or more persons who are acceptable to both parties as mediator, then the executive director shall consider their desires.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-030, filed 9/30/80, effective 11/1/80.]

WAC 391-55-032 Special provision--Educational employees. Upon filing of a unilateral request for mediation, the executive director shall determine the position of the party other than the party making the request, and shall determine whether the assistance of the agency is needed. In making such determination the executive director shall determine whether the parties have exchanged and considered the proposals of one another and whether the intervention of the agency will have a beneficial impact on the negotiating process. Prior to making such determination, the executive director or a member of the agency staff may make an on-site investigation and may engage in conciliation under the general authority of the commission under RCW 41.58.020(1). If it appears that the assistance of the agency is needed, the executive director shall appoint a mediator from the list of qualified persons maintained

by the commission for that purpose. If the parties have stipulated the names of one or more persons who are acceptable to both parties as mediator, then the executive director shall consider their desires.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-032, filed 9/30/80, effective 11/1/80.]

WAC 391-55-050 Impasse resolution--Submission of written proposals. Parties requesting the mediation services of the agency are encouraged to file with the assigned mediator, in advance of scheduled meetings, copies of their latest written proposals on each issue in dispute.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-050, filed 9/30/80, effective 11/1/80.]

WAC 391-55-070 Impasse resolution--Function of mediator. The mediator shall meet with the parties or their representatives, or both, either jointly or separately, and shall take such steps as the mediator deems appropriate in order to aid the parties in voluntarily resolving their differences and effecting an agreement.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-070, filed 9/30/80, effective 11/1/80.]

WAC 391-55-071 Special provision--State patrol personnel. In the case of mediation involving state patrol personnel as defined in RCW 41.56.020, the mediator shall not consider wage or wage-related matters.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-071, filed 5/31/88.]

WAC 391-55-090 Impasse resolution--Confidential nature of function. Information disclosed by the parties to the mediator in confidence during the course of mediation shall not be divulged by the mediator. Mediation meetings shall be of an executive, private or nonpublic nature.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-090, filed 9/30/80, effective 11/1/80.]

WAC 391-55-110 Impasse resolution--Dispute resolution panel. The commission shall establish and maintain a panel of individuals qualified to serve in an impartial capacity in the resolution of labor disputes.

(1) Applicants for membership on the dispute resolution panel must demonstrate minimum background and experience equal to the minimum qualifications for the working level positions on the professional staff of the commission: A master's degree in labor relations, personnel management or industrial relations or closely allied field, and experience equivalent to two years of full-time work with major assignments in collective bargaining, contract administration or related work as a union, management or government official, mediator, arbitrator or educator in the above areas. A law degree may be

substituted for the master's degree. Additional qualifying experience may be substituted, year for year, for education.

(2) Applicants for membership on the dispute resolution panel must furnish letters of recommendation from: (a) At least one attorney, consultant or labor relations director representing management; (b) at least one attorney, union officer or business agent representing labor; and (c) at least one impartial arbitrator, mediator or labor relations administrative agency official. Such letters of recommendation must support the acceptability of the applicant as an impartial in the resolution of labor disputes.

(3) Applicants for membership on the dispute resolution panel must file, in the form specified by the executive director, information on their background, qualifications, professional certifications and affiliations. All information submitted shall be subject to administrative verification.

(4) Applications of persons appearing to be qualified for membership on the panel shall be forwarded to the commission for consideration and action. The commission shall review each application submitted to it, together with the supporting letters of recommendation, and shall notify the applicant of the determination made. Upon initial application or at any subsequent time as it may appear to the commission that the applicant or member of the dispute resolution panel has failed or refused to comply with applicable statutes, rules and ethical standards, the application shall be rejected or the member shall be removed from the dispute resolution panel. A member shall also be removed from the panel if he or she has ceased accepting appointments as an impartial in the resolution of labor disputes.

(5) Persons referred from the dispute resolution panel must be impartial. No active member of the dispute resolution panel may serve in any capacity as an advocate or representative for either labor or management in labor relations matters. Any member of the panel who intends to engage in advocacy work shall so notify the executive director and shall be placed on inactive status on the panel while such advocacy work continues.

(6) Upon request of the parties, the executive director shall make a list of members of the dispute resolution panel available to parties for their use in selecting a neutral chairman for an interest arbitration panel, a grievance arbitrator, a fact finder or an ad hoc interest arbitrator. The parties may use any method agreed upon for selecting an impartial from the list provided by the executive director. In the absence of agreement on any other method, they shall alternately strike names from the list, with the order of striking determined by lot.

(7) Upon appointment to the dispute resolution panel by the commission, the panel member may be placed under contract pursuant to RCW 39.29.010. Only persons listed on the panel will be compensated by the agency under personal service contract for services.

[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-110, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-110, filed 9/30/80, effective 11/1/80.]

WAC 391-55-130 Impasse resolution--Disclosure. Prior to accepting the appointment, or as soon thereafter as information giving rise to a problem of appearance of fairness becomes known, a person serving in an impartial capacity in a dispute resolution proceeding under the jurisdiction of the commission shall disclose to the parties and to the executive director any circumstances likely to create an appearance of bias or which might disqualify him or her from serving in the impartial capacity. Employment of the person or any member of his or her immediate family by any party shall be disqualifying. Each party to the proceeding shall immediately notify the executive director and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment shall be vacated.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-130, filed 9/30/80, effective 11/1/80.]

WAC 391-55-150 Impasse resolution--Vacancies. If any person serving in an impartial capacity in dispute resolution proceedings under the jurisdiction of the commission should resign, die, withdraw, refuse or be unable to serve, or should be or become disqualified to perform the duties of the office, the executive director shall declare the office vacant. The vacancy shall be filled as provided in these rules.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-150, filed 9/30/80, effective 11/1/80.]

WAC 391-55-200 Uniformed personnel--Interest arbitration. If a dispute involving uniformed personnel within the meaning of RCW 41.56.030(6) has not been settled after a reasonable period of mediation and the mediator is of the opinion that his or her further efforts will not result in an agreement, the mediator shall notify the parties of intent to recommend that the remaining issues in dispute be submitted to arbitration. If the dispute remains unresolved, the mediator shall forward his or her recommendation and a list of unresolved issues to the executive director, who shall consider the recommendation of the mediator and any statements of position filed by the parties as to the existence of an impasse warranting arbitration. The executive director may remand the matter for further mediation. If the executive director finds that the parties remain at impasse, written notice shall be given to both parties.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-200, filed 9/30/80, effective 11/1/80.]

WAC 391-55-205 Uniformed personnel--Appointment of partisan arbitrators. Within seven days following the issuance of the notice by the executive director, each party shall name one person who is available and willing to serve as its member of the arbitration panel, and shall notify the opposite party and the executive director of the name, address and telephone number of the person so designated. The members so appointed shall proceed as provided in RCW 41.56.450.

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[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-205, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-205, filed 9/30/80, effective 11/1/80.]

WAC 391-55-210 Uniformed personnel--Selection of impartial arbitrator. (1) If the appointed members agree on the selection of a neutral chairman, they shall obtain a commitment to serve, and shall notify the executive director of the identity of the neutral chairman so selected.

(2) If the appointed members agree to have the commission appoint a neutral chairman, they shall file with the executive director a written joint request. The parties and the appointed members are not entitled to influence the designation of an arbitrator under this subsection and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the neutral chairman to be appointed by the commission. Upon the filing of a request in compliance with this subsection, the executive director shall appoint a neutral chairman from the commission staff or the dispute resolution panel.

(3) If the appointed members desire to select a neutral chairman from a panel of arbitrators, they shall attempt to agree as to which of the agencies designated in RCW 41.56.450 will supply the list of arbitrators. If the choice of agency is agreed, either party or the parties jointly shall proceed forthwith to request a panel of five arbitrators. If the appointed members are unable to agree within seven days following their first meeting as to which agency is to supply the list of arbitrators, either of them may apply to the executive director for a list of five available neutral chairmen other than agency staff members and the neutral chairman shall be selected from the commission's dispute resolution panel. All request for panels under this subsection shall specify: "For interest arbitration proceedings under RCW 41.56.450." The selection of the impartial arbitrator shall be made pursuant to the rules of the agency supplying the list of arbitrators, and the parties shall notify the executive director of the identity of the arbitrator so selected.

[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-210, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-210, filed 9/30/80, effective 11/1/80.]

WAC 391-55-215 Uniformed personnel--Conduct of interest arbitration proceedings. Proceedings shall be conducted as provided in WAC 391-55-200 through 391-55-260. The neutral chairman shall interpret and apply these rules insofar as they relate to the powers and duties of the neutral chairman. Any party who proceeds with arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-215, filed 9/30/80, effective 11/1/80.]

WAC 391-55-220 Uniformed personnel--Submission of proposals for arbitration. At least seven days before the date of the hearing, each party shall submit to the members of the panel and to the other party written proposals on all of the issues it intends to submit to arbitration. Parties shall not be entitled to submit issues which were not among the issues before the mediator under WAC 391-55-070 and before the executive director under WAC 391-55-200.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-220, filed 9/30/80, effective 11/1/80.]

WAC 391-55-225 Uniformed personnel--Hearing. The arbitration panel shall promptly establish a date, time, and place for a hearing and shall provide reasonable notice thereof to the parties. For good cause shown, the neutral chairman may adjourn the hearing upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-225, filed 9/30/80, effective 11/1/80.]

WAC 391-55-230 Uniformed personnel--Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the neutral chairman. The neutral chairman shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be filed with the neutral chairman and copies shall be provided to the appointed members and to the other parties. The exhibits shall be retained by the neutral chairman until an agreement has been signed or until any judicial review proceedings have been concluded, after which they may be disposed of as agreed by the parties or as ordered by the neutral chairman.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-230, filed 9/30/80, effective 11/1/80.]

WAC 391-55-235 Uniformed personnel--Arbitration in the absence of a party. The neutral chairman may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Findings of fact and the determination of the issues in dispute shall not be made solely on the default of a party, and the neutral chairman shall require the participating party to submit such evidence as may be required for making of the findings of fact and determining the issues.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-235, filed 9/30/80, effective 11/1/80.]

WAC 391-55-240 Uniformed personnel--Closing of arbitration hearings. The neutral chairman shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and filing of briefs within agreed time limits.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-240, filed 9/30/80, effective 11/1/80.]

WAC 391-55-245 Uniformed personnel--Interest arbitration award. The determination of the neutral chairman shall be controlling, and shall not require concurrence, but may be accompanied by the concurring and/or dissenting opinions of the appointed members. Such determinations shall not be subject to review by the commission.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-245, filed 9/30/80, effective 11/1/80.]

WAC 391-55-255 Uniformed personnel--Expenses of arbitration. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member of the arbitration panel. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expense of a neutral chairman appointed pursuant to WAC 391-55-210 (1) or (3), along with any costs for lists of arbitrators and for recording of the proceedings, shall be shared equally between the parties. The fees and traveling expense of a neutral chairman appointed by the commission pursuant to WAC 391-55-210(2), along with the costs of tapes for a tape recording of the proceedings but not a transcription thereof or the services of a court reporter, shall be paid by the commission.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-255, filed 9/30/80, effective 11/1/80.]

WAC 391-55-260 Uniformed personnel--Central filing of agreements. The parties to collective bargaining agreements entered into as a result of collective bargaining pursuant to RCW 41.56.440 or 41.56.450 shall file with the executive director two complete copies of their agreement.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-260, filed 9/30/80, effective 11/1/80.]

WAC 391-55-300 Educational employees--Fact finding. If a dispute involving educational employees within the meaning of RCW 41.59.020(4) has not been settled after ten days of mediation, either party may request the appointment of a fact finder by giving written notice to the commission, the mediator, and the opposite party. The parties may, by agreement made at any time prior to the appointment of a fact finder, extend the period for mediation or place in the hands of the mediator the determination of when mediation has been exhausted so as to warrant the initiation of fact finding.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-300, filed 9/30/80, effective 11/1/80.]

WAC 391-55-310 Educational employees--Selection of fact finder. Upon the filing of a timely request for fact finding, the executive director shall furnish the parties a list of five members of the dispute resolution

panel from which the parties will be invited to exercise their right under RCW 41.59.120(5). Within seven days following receipt of the list, the parties shall meet to attempt to select a fact finder. The parties may agree to designate the mediator as fact finder. If the parties agree on a fact finder, they shall obtain a commitment to serve and shall notify the executive director of the identity of the fact finder so selected. If the parties are unable to agree on a fact finder under RCW 41.59.120(5), they shall notify the executive director, who shall designate a fact finder from the commission staff or the dispute resolution panel. The parties are not entitled to influence the designation of a fact finder and shall not, either in writing or by other communication, attempt to indicate any preference for or against any person as the fact finder to be appointed by the commission.

[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-310, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-310, filed 9/30/80, effective 11/1/80.]

WAC 391-55-315 Educational employees--Conduct of fact finding proceedings. Proceedings shall be conducted as provided in WAC 391-55-300 through 391-55-360. The fact finder shall interpret and apply these rules insofar as they relate to the powers and duties of the fact finder. Any party who proceeds with fact finding after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-315, filed 9/30/80, effective 11/1/80.]

WAC 391-55-320 Educational employees--Submission of proposals for fact finding. At least seven days before the date of the hearing, each party shall submit to the fact finder and to the other party written proposals on all of the issues it intends to submit to fact finding.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-320, filed 9/30/80, effective 11/1/80.]

WAC 391-55-325 Educational employees--Fact finding hearing. The fact finder shall establish a date, time and place for a hearing. The fact finding hearing shall be open to the public unless otherwise agreed by the parties. For good cause shown, the fact finder may adjourn the hearing upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-325, filed 9/30/80, effective 11/1/80.]

WAC 391-55-330 Educational employees--Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the fact finder. The fact finder shall be the

judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be filed with the fact finder and copies shall be provided to the other parties. The exhibits shall be retained by the fact finder until an agreement has been signed, after which they may be disposed of as agreed by the parties or as ordered by the fact finder.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-330, filed 9/30/80, effective 11/1/80.]

WAC 391-55-335 Educational employees--Fact finding in the absence of a party. The fact finder may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Fact finders shall treat any subject on which one party has taken a position that it is not a mandatory subject for bargaining in accordance with this rule. Findings of fact and recommendations shall not be made solely on the default of a party, and the fact finder shall require the participating party to submit such evidence as may be required for making of the findings of fact and recommendations.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-55-335, filed 1/6/81.]

WAC 391-55-340 Educational employees--Closing of fact finding hearings. The fact finder shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and filing of briefs within agreed time limits.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-340, filed 9/30/80, effective 11/1/80.]

WAC 391-55-345 Educational employees--Findings of fact and recommendations. The findings of fact and recommendations of the fact finder shall not be subject to review by the commission. Fact finders shall rule only on the reasonability of the proposals advanced in the context of the whole of the negotiations between the parties and shall not rule on whether or not a subject or proposal in dispute is a mandatory subject for collective bargaining.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-55-345, filed 1/6/81.]

WAC 391-55-350 Educational employees--Responsibility of parties after fact finding. Not more than seven days after the findings and recommendations have been issued, the parties shall notify the commission and each other whether they accept the recommendations of the fact finder. If the recommendations of the fact finder are rejected by one or both parties and their further efforts do not result in an agreement, either party may request mediation pursuant to chapter 41.58 RCW and, upon the concurrence of the other party, the executive director shall assign a mediator.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-350, filed 9/30/80, effective 11/1/80.]

WAC 391-55-355 Educational employees--Expenses of fact finding. Each party shall pay the expenses of presenting its own case. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expense of a fact finder appointed by the commission shall be paid by the commission.

[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-355, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-355, filed 9/30/80, effective 11/1/80.]

WAC 391-55-360 Educational employees--Central filing of agreements. The parties to collective bargaining agreements entered into as a result of collective bargaining pursuant to chapter 41.59 RCW shall file with the executive director two complete copies of their agreement.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-360, filed 9/30/80, effective 11/1/80.]

WAC 391-55-400 State patrol personnel--Fact finding. (1) If a dispute involving state patrol personnel as defined in RCW 41.56.020 is not resolved after a reasonable period of mediation, either party, upon written notice to the other party, to the mediator, and to the commission, may request that unresolved matters be submitted to a fact finder for recommendations.

(2) In the event that the executive director determines that the parties remain at impasse after a reasonable period of negotiation and mediation, and after consultation with the assigned mediator, the executive director shall initiate fact finding proceedings.

(3) The fact finder may only consider those issues that are certified by the executive director for fact finding proceedings.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-400, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-400, filed 9/30/80, effective 11/1/80.]

WAC 391-55-410 State patrol personnel--Selection of fact finder. Upon the filing of a timely request for fact finding, the executive director shall furnish the parties a list of five members of the dispute resolution panel from which the parties will be invited to exercise their right under RCW 41.56.475. Within seven days following receipt of the list, the parties shall meet to attempt to select a fact finder. If the parties agree on a fact finder, they shall obtain a commitment to serve and shall notify the executive director of the identity of the fact finder so selected. If the parties are unable to agree on a fact finder, they shall notify the executive director, who shall designate a fact finder from the dispute resolution panel. The parties are not entitled to influence the designation of a fact finder and shall not, either in writing or by other communication, attempt to indicate any

preference for or against any person as the fact finder to be appointed by the commission.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-410, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-410, filed 9/30/80, effective 11/1/80.]

WAC 391-55-415 State patrol personnel--Conduct of fact finding proceedings. Proceedings shall be conducted as provided in WAC 391-55-400 through 391-55-455. The fact finder shall interpret and apply these rules insofar as they relate to the powers and duties of the fact finder. Any party who proceeds with fact finding after knowledge that any provision or requirement of these rules has not been complied with and who fails to state its objection thereto in writing, shall be deemed to have waived its right to object.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-415, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-415, filed 9/30/80, effective 11/1/80.]

WAC 391-55-420 State patrol personnel--Submission of proposals for fact finding. At least seven days before the date of the hearing, each party shall submit to the fact finder and to the other party written proposals on all of the issues it intends to submit to fact finding.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-420, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-420, filed 9/30/80, effective 11/1/80.]

WAC 391-55-425 State patrol personnel--Fact finding hearing. The fact finder shall establish a date, time, and place for a hearing. The fact finding hearing shall be open to the public unless otherwise agreed by the parties. For good cause shown, the fact finder may adjourn the hearing upon the request of a party or upon his or her own initiative. The parties may waive oral hearing by written agreement.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-425, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-425, filed 9/30/80, effective 11/1/80.]

WAC 391-55-430 State patrol personnel--Order of proceedings and evidence. The order of presentation at the hearing shall be as agreed by the parties or as determined by the fact finder. The fact finder shall be the judge of the relevancy of the evidence. All evidence shall be taken in the presence of all parties, unless a party is absent in default or has waived its right to be present. Each documentary exhibit shall be filed with the fact finder and copies shall be provided to the other parties. The exhibits shall be retained by the fact finder until an agreement has been signed, after which they may be disposed of as agreed by the parties or as ordered by the fact finder.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-430, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-430, filed 9/30/80, effective 11/1/80.]

WAC 391-55-435 State patrol personnel—Fact finding in the absence of a party. The fact finder may proceed in the absence of any party who, after due notice, fails to be present or fails to obtain an adjournment. Fact finders shall treat any subject on which one party has taken a position that it is not a mandatory subject for bargaining in accordance with this rule. Findings of fact and recommendations shall not be made solely on the default of a party, and the fact finder shall require the participating party to submit such evidence as may be required for making of the findings of fact and recommendations.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-435, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-435, filed 9/30/80, effective 11/1/80.]

WAC 391-55-440 State patrol personnel—Closing of fact finding hearings. The fact finder shall declare the hearing closed after the parties have completed presenting their testimony and/or exhibits and filing of briefs within agreed time limits.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-440, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-440, filed 9/30/80, effective 11/1/80.]

WAC 391-55-445 State patrol personnel—Findings of fact and recommendations. The findings of fact and recommendations of the fact finder shall not be subject to review by the commission. Fact finders shall rule only on the reasonability of the proposals advanced in the context of the whole of the negotiations between the parties and shall not rule on whether or not a subject or proposal in dispute is a mandatory subject for collective bargaining.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-445, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-445, filed 9/30/80, effective 11/1/80.]

WAC 391-55-450 State patrol personnel—Responsibility of parties after fact finding. Not more than seven days after the findings and recommendations have been issued, the parties shall notify the commission and each other whether they accept the recommendations of the fact finder. If the recommendations of the fact finder are rejected by one or both parties and their further efforts do not result in an agreement, either party may request mediation pursuant to chapter 41.58 RCW and, upon the concurrence of the other party, the executive director shall assign a mediator.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-450, filed 5/31/88.]

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Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-450, filed 9/30/80, effective 11/1/80.]

WAC 391-55-455 State patrol personnel—Expenses of fact finding. Each party shall pay the expenses of presenting its own case. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expenses of a fact finder shall be paid by the parties equally.

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-055 (Order 88-08), § 391-55-455, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-035 (Order 83-05), § 391-55-455, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-049 (Order 80-8), § 391-55-455, filed 9/30/80, effective 11/1/80.]

Chapter 391-65 WAC GRIEVANCE ARBITRATION RULES

WAC

391-65-001	Scope—Contents—Other rules.
391-65-002	Sequence and numbering of rules—Special provisions.
391-65-010	Grievance arbitration—Who may file.
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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-65-074	Special provisions—Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-074, filed 9/30/80, effective 11/1/80.] Repealed by 88-12-057 (Order 88-09), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.
391-65-094	Special provision—Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-094, filed 9/30/80, effective 11/1/80.] Repealed by 88-12-057 (Order 88-09), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.
391-65-500	Marine employees—Grievance arbitration. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-500, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
391-65-510	Marine employees—Intervention and consolidation of proceedings. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-510, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
391-65-515	Marine employees—Conduct of grievance arbitration proceedings. [Statutory Authority: RCW 28B.52.080,

- 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-515, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-525 Marine employees—Hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-525, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-530 Marine employees—Order of proceedings and evidence. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-530, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-535 Marine employees—Arbitration in the absence of a party. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-535, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-540 Marine employees—Closing of hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-540, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-545 Marine employees—Examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-545, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-550 Marine employees—Petition for review of examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-550, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-555 Marine employees—Commission action. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-555, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
- 391-65-560 Marine employees—Grievance arbitration remedies. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-560, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-65-001 Scope--Contents--Other rules. This chapter governs proceedings before the public employment relations commission relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(2) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(3) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(4) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(5) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(6) Chapter 391-95 WAC, which contains rules relating to determination of union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-001, filed 9/30/80, effective 11/1/80.]

WAC 391-65-002 Sequence and numbering of rules--Special provisions. This chapter of the Washington Administrative Code is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule, numbered as follows:

(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.

(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.

(3) Special provisions relating to chapter 28B.52 RCW (professional negotiations--academic faculties of community college districts) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 49.08 RCW (private sector employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

[Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-036 (Order 83-06), § 391-65-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080,

41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-002, filed 9/30/80, effective 11/1/80.]

WAC 391-65-010 Grievance arbitration--Who may file. Where there is an agreement to arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement may be filed by the employer, the exclusive representative or their agents or by the parties jointly.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-010, filed 9/30/80, effective 11/1/80.]

WAC 391-65-030 Grievance arbitration--Filing--Service. Each request for appointment of a grievance arbitrator shall be on a form furnished by the commission or shall be prepared by the party or parties filing the request in conformance with WAC 391-65-050. The original request shall be filed with the agency at its Olympia office. If the request is not filed jointly, the party filing the request shall serve a copy on the other party to the collective bargaining agreement under which the dispute arises.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-030, filed 9/30/80, effective 11/1/80.]

WAC 391-65-050 Grievance arbitration--Contents of request. Each request for appointment of a grievance arbitrator shall contain:

(1) The name, address and telephone number of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.

(2) The name, address and telephone number of the exclusive representative and the name, address and telephone number of its principal representative.

(3) Identification of the request as: (a) A request for appointment of a member of the agency staff as arbitrator; or (b) a request for the submission of a list of names from the dispute resolution panel created by WAC 391-55-110.

(4) A description of the grievances or issues to be submitted to arbitration and the number of employees affected thereby.

(5) The agreement of the requesting party, or the parties jointly, that there will be no strike or lockout on any matter submitted to arbitration.

(6) The agreement of the requesting party, or the parties jointly, that the arbitration award be final and binding upon the parties.

(7) The signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties).

[Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-057 (Order 88-09), § 391-65-050, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-050, filed 9/30/80, effective 11/1/80.]

WAC 391-65-070 Grievance arbitration--Appointment of staff arbitrator. The parties shall not be permitted to select a grievance arbitrator from a list of agency

staff members, or to exercise a right of rejection on appointments made by the executive director; but may jointly express a preference for appointment of a particular staff member as their arbitrator, and the executive director shall consider their desires. Upon the filing of a request by one party for the appointment of a member of the agency staff as grievance arbitrator, the executive director shall determine whether the other party to the collective bargaining agreement concurs in the appointment of a staff arbitrator. Upon concurrence or upon the filing of a joint request, the executive director shall assign a member of the agency staff as grievance arbitrator. In the absence of concurrence, the executive director shall notify the requesting party of the lack of concurrence and shall take no further action.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-070, filed 9/30/80, effective 11/1/80.]

WAC 391-65-072 Special provision--Educational employees. The agency does not appoint members of the agency staff as arbitrators in grievance arbitration proceedings under chapter 41.59 RCW.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-072, filed 9/30/80, effective 11/1/80.]

WAC 391-65-073 Special provision--Academic employees. The agency does not appoint members of the agency staff as arbitrators in grievance arbitration proceedings under chapter 28B.52 RCW.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-073, filed 9/30/80, effective 11/1/80.]

WAC 391-65-090 Grievance arbitration--Designation of panel of arbitrators. Upon the filing of a request for a panel of arbitrators, the executive director shall furnish the parties a list of names selected from the dispute resolution panel. The list shall contain five names unless a different number is specifically requested by the parties or is specified in their collective bargaining agreement. The executive director shall furnish, whenever available, biographical information, including background, qualifications and experience, on each of the arbitrators on the list supplied to the parties. If one or more of those named is unavailable to accept appointment as arbitrator or must be disqualified, a substitute name will be provided upon the joint request of the parties. If all of those named are rejected by the parties, a second list will be provided upon the joint request of the parties. All contacts and arrangements between the parties and an arbitrator selected under this rule will be the responsibility of the parties.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-090, filed 9/30/80, effective 11/1/80.]

WAC 391-65-110 Grievance arbitration--Conduct of proceedings. The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under

which the dispute arises. All such arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" adopted by the National Academy of Arbitrators, the American Arbitration Association and the Federal Mediation and Conciliation Service in effect on December 1, 1977: *Provided, however,* That arbitration matters handled by members of the agency staff shall be filed in the public files of the agency and shall not be accorded the privacy required by such code. The services of a member of the commission staff as arbitrator shall be subject to interruption for reassignment of such staff member to other functions of the agency having a higher priority.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-110, filed 9/30/80, effective 11/1/80.]

WAC 391-65-130 Grievance arbitration—Award. Any arbitrator assigned or selected under this chapter shall, after submission of the arbitration award to the parties, file a copy with the executive director.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-130, filed 9/30/80, effective 11/1/80.]

WAC 391-65-150 Grievance arbitration—Expenses. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The expenses of witnesses shall be paid by the party producing them. The fees and traveling expenses of an arbitrator selected by the parties from a panel designated by the commission and any costs for recording and/or transcription of proceedings shall be paid by the parties under the terms of their collective bargaining agreement or such other arrangements as they may agree upon. The commission shall pay the salary and traveling expenses of a staff member assigned as a grievance arbitrator, but no other expenses of the proceedings.

[Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-050 (Order 80-9), § 391-65-150, filed 9/30/80, effective 11/1/80.]

**Chapter 391-95 WAC
UNION SECURITY DISPUTE RULES**

WAC	
391-95-001	Scope—Contents—Other rules.
391-95-010	Union security—Obligation of exclusive bargaining representative.
391-95-030	Union security—Assertion of right of nonassociation.
391-95-050	Union security—Response by exclusive bargaining representative.
391-95-070	Union security—Filing of dispute with commission.
391-95-090	Union security—Petition form—Number of copies—Filing—Service.
391-95-110	Union security—Contents of petition.
391-95-130	Union security—Escrow of disputed funds by employer.
391-95-150	Union security—Initial processing by executive director.
391-95-170	Union security—Prehearing conference—Notice of hearing.

391-95-190	Union security—Hearings—Who shall conduct.
391-95-230	Hearings—Nature and scope.
391-95-250	Examiner decision.
391-95-260	Withdrawal or modification of examiner decision.
391-95-270	Proceedings before the commission—Petition for review.
391-95-280	Filing and service of cross-petition for review.
391-95-290	Commission action.
391-95-310	Implementation.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-95-210	Authority of hearing officer. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-210, filed 9/30/80, effective 11/1/80.] Repealed by 83-24-037 (Order 83-07), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.
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Reviser's note: Chapter 15, Laws of 1983 re-creates the marine employees' commission, Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-95-001 Scope—Contents—Other rules. This chapter governs proceedings before the public employment relations commission relating to union security disputes arising between employees and employee organizations certified or recognized as their bargaining representative. The provisions of this chapter should be read in conjunction with the provisions of:

(1) Chapter 10-08 WAC, which contains rules promulgated by the chief administrative law judge governing the conduct of adjudicative proceedings under chapter 391-45 WAC, except:

(a) WAC 10-08-035, which is supplanted by detailed requirements in WAC 391-95-050;

(b) WAC 10-08-050, which relates to procedures of the office of administrative hearings, and so is inapplicable to proceedings before the public employment relations commission;

(c) WAC 10-08-211, which is supplanted by WAC 391-95-270 and 391-95-280; and

(d) WAC 10-08-230, which is supplanted by WAC 391-95-200.

(2) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission.

(3) Chapter 391-25 WAC, which contains rules relating to proceedings on petitions for investigation of questions concerning representation of employees.

(4) Chapter 391-35 WAC, which contains rules relating to proceedings on petitions for clarification of an existing bargaining unit.

(5) Chapter 391-45 WAC, which contains rules relating to proceedings on complaints charging unfair labor practices.

(6) Chapter 391-55 WAC, which contains rules relating to the resolution of impasses occurring in collective bargaining.

(7) Chapter 391-65 WAC, which contains rules relating to arbitration of grievance disputes arising out of

the interpretation or application of a collective bargaining agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59 and 53.18 RCW. 90-06-075, § 391-95-001, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-001, filed 9/30/80, effective 11/1/80.]

WAC 391-95-010 Union security--Obligation of exclusive bargaining representative. An exclusive bargaining representative which desires to enforce a union security provision contained in a collective bargaining agreement negotiated under the provisions of chapter 28B.52, 41.56, or 41.59 RCW shall provide each affected employee with a copy of the collective bargaining agreement containing the union security provision and shall specifically advise each employee of his or her obligation under that agreement, including informing the employee of the amount owed, the method used to compute that amount, when such payments are to be made, and the effects of a failure to pay.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-010, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-058 (Order 88-10), § 391-95-010, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-010, filed 9/30/80, effective 11/1/80.]

WAC 391-95-030 Union security--Assertion of right of nonassociation. An employee who asserts a right of nonassociation based on bona fide religious tenets or teachings of a church or religious body of which such employee is a member shall notify the exclusive bargaining representative, in writing, of the claim of a right of nonassociation and shall, at the same time, provide the exclusive bargaining representative with the name(s) and address(es) of one or more nonreligious charitable organizations to which the employee is prepared to make alternative payments in lieu of the payments required by the union security provision.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-030, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-058 (Order 88-10), § 391-95-030, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-030, filed 9/30/80, effective 11/1/80.]

WAC 391-95-050 Union security--Response by exclusive bargaining representative. Within sixty days after it is served with written notice of a claimed right of nonassociation under WAC 391-95-030, the exclusive bargaining representative shall respond to the employee, in writing, both as to the eligibility of the employee to make alternative payments and as to the charitable organization(s) suggested by the employee. If a dispute exists concerning whether the employee is within a class of employees obligated under the terms of the union security provision, all such matters of contractual interpretation shall be resolved under such procedures as may

be available for unit clarification or resolution of disputes concerning the interpretation or application of the collective bargaining agreement.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-050, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-050, filed 9/30/80, effective 11/1/80.]

WAC 391-95-070 Union security--Filing of dispute with commission. In the event of a disagreement between an employee and his or her exclusive bargaining representative as to the eligibility of such employee to make alternative payments or as to the organization which is to receive such payments, either the employee or the exclusive bargaining representative may file with the commission a petition for a declaratory ruling on the union security obligations of the affected employee.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-070, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-070, filed 9/30/80, effective 11/1/80.]

WAC 391-95-090 Union security--Petition form--Number of copies--Filing--Service. Each petition for declaratory ruling on union security obligations shall be prepared in conformance with WAC 391-95-110. The original and three copies of the petition shall be filed with the commission at its Olympia office and the party filing the petition shall serve a copy on the other party to the dispute and on the employer.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-090, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-090, filed 9/30/80, effective 11/1/80.]

WAC 391-95-110 Union security--Contents of petition. Each petition shall be headed "In the matter of the petition of (name of petitioning party) for a declaratory ruling concerning the union security obligations of (name of affected employee) under a collective bargaining agreement between (name of employer) and (name of exclusive bargaining representative)," and shall contain:

- (1) The name and address of the employer and the name, address and telephone number of the employer's principal representative for the purposes of collective bargaining.
- (2) The name, address and affiliation, if any, of the exclusive representative, and the name, address and telephone number of its principal representative, if any.
- (3) The name, address and telephone number of the affected employee and the name, address and telephone number of his or her representative.
- (4) Statements, in additional numbered paragraphs, of the matters in dispute.
- (5) A copy, attached to the petition as an exhibit, of the union security provision under which the dispute arises.
- (6) Any other relevant facts.

(7) The signature(s) and, if any, the title(s) of the representative(s) of the petitioner(s).

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-110, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-110, filed 9/30/80, effective 11/1/80.]

WAC 391-95-130 Union security--Escrow of disputed funds by employer. Upon being served with a copy of a petition filed under WAC 391-95-070, the employer shall preserve the status quo by withholding and retaining the disputed dues for periods during the pendency of the proceedings before the commission. Said funds shall draw interest at the rate provided by commercial banks for regular passbook savings accounts. While the proceedings remain pending before the commission, the employer shall not honor or otherwise act upon any request for discharge or other action against the affected employee based on the employee's union security obligations. This provision shall be applicable to employees covered by chapter 41.56 RCW only upon the employee submitting to the employer a signed authorization for the deduction.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-130, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-95-130, filed 1/6/81.]

WAC 391-95-150 Union security--Initial processing by executive director. The matter shall be referred to the executive director who shall determine whether the facts as alleged may constitute a basis for assertion of a right of nonassociation within the meaning of the applicable statute. If it is determined that the claim does not, as a matter of law, constitute a basis for assertion of a right of nonassociation, the executive director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor; otherwise, the executive director shall assign the matter to an examiner and shall notify the parties of such assignment. An order of dismissal issued pursuant to this section shall be subject to a petition for review as provided in WAC 391-95-270.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-150, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-150, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-150, filed 9/30/80, effective 11/1/80.]

WAC 391-95-170 Union security--Prehearing conference--Notice of hearing. There shall be issued and served on each of the parties to the dispute and on the employer a notice of hearing before an examiner at a time and place fixed therein. Any such notice may be amended or withdrawn prior to the close of the hearing. The examiner has discretion to conduct a prehearing conference to discuss with the parties all contested issues

of fact, law, and procedure which may arise in union security cases. The parties are encouraged to reach binding stipulations on all remaining issues during the course of the prehearing conference.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-170, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-170, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-170, filed 9/30/80, effective 11/1/80.]

WAC 391-95-190 Union security--Hearings--Who shall conduct. Hearings may be conducted by the commission, by the executive director, by a member of the agency staff or by any other individual designated by the commission or executive director as an examiner. At any time, an examiner may be substituted for the examiner previously presiding.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-190, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-190, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-190, filed 9/30/80, effective 11/1/80.]

WAC 391-95-230 Hearings--Nature and scope. Hearings shall be public and shall be limited to matters concerning the determination of the eligibility of the employee to make alternative payments and the designation of an organization to receive such alternative payments. During the course of the hearing, the examiner may, upon motion by any party, or upon his or her own motion, sequester witnesses. The employee has the burden to make a factual showing, through testimony of witnesses and/or documentary evidence, of the legitimacy of his or her beliefs, as follows:

(1) In cases where the claim of a right of nonassociation is based on the teachings of a church or religious body, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the objection is based on a bona fide religious teaching of a church or religious body; and

(c) That the claimant employee is a member of such church or religious body.

(2) In cases where the claim of a right of nonassociation is based on personally held religious beliefs, the claimant employee must demonstrate:

(a) His or her bona fide religious objection to union membership; and

(b) That the religious nature of the objection is genuine and in good faith.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-230, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. 88-12-058 (Order 88-10), § 391-95-230, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-230, filed 9/30/80, effective 11/1/80.]

WAC 391-95-250 Examiner decision. After the close of the hearing and the filing of all briefs, the examiner shall make a decision containing findings of fact, conclusions of law, and order. The examiner shall file the original decision with the commission and shall cause a copy thereof to be served on each of the parties.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-250, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-250, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-250, filed 9/30/80, effective 11/1/80.]

WAC 391-95-260 Withdrawal or modification of examiner decision. On the examiner's own motion or on the motion of any party, the examiner may set aside, modify, change, or reverse any findings of fact, conclusions of law or order at any time within twenty days following the issuance thereof, if any mistake is discovered therein or upon grounds of newly discovered evidence which could not with reasonable diligence have been discovered and produced at the hearing: *Provided, however,* That this section shall be inoperative after the filing of a petition for review with the commission.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-260, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-260, filed 9/16/85.]

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

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-270,

filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 85-19-059 (Resolution No. 85-01), § 391-95-270, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-270, filed 9/30/80, effective 11/1/80.]

WAC 391-95-280 Filing and service of cross-petition for review. Where a petition for review has been timely filed under WAC 391-95-270, any party who has not previously filed a petition for review may, within seven days after the last date on which a petition for review may be filed, file a cross-petition for review. Such cross-petition for review shall be filed and served in the same manner as a petition for review. Upon the filing of a cross-petition for review, the deadline for the submission of briefs or written arguments shall be extended by seven days.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-280, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. 83-24-037 (Order 83-07), § 391-95-280, filed 12/1/83, effective 1/1/84.]

WAC 391-95-290 Commission action. The executive director shall transfer the entire record in the proceeding to the commission. The commission shall determine the matter.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-290, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 80-14-051 (Order 80-10), § 391-95-290, filed 9/30/80, effective 11/1/80.]

WAC 391-95-310 Implementation. Where alternative payments in lieu of payments under a union security agreement have been agreed upon by the parties or ordered by the commission, the employer shall release any funds (together with accumulated interest) held in escrow under WAC 391-95-130 to the designated charitable organization and the employee shall thereafter make payments and shall furnish written proof to the exclusive bargaining representative that such payments have been made to the designated charitable organization. Where the employee is found ineligible to make alternative payments, the employer shall release any funds (together with accumulated interest) held in escrow to the exclusive bargaining representative and shall enforce the union security provision according to its terms. The employer and the exclusive bargaining representative shall allow the affected employee a grace period of not less than thirty days following the agreement or final order of the commission to correct any arrearages.

[Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.045, 41.56.122 and 41.59.100. 90-06-075, § 391-95-310, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. 81-02-034 (Order 81-01), § 391-95-310, filed 1/6/81.]