

Title 251 WAC

HIGHER EDUCATION PERSONNEL BOARD

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DISPOSITION OF CHAPTERS FORMERLY CODIFIED IN THIS TITLE

Chapter 251-16

EFFECT ON EXISTING RULES—RIGHT TO APPEAL

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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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 Repealed by Order 61, filed 8/30/77, effective 10/1/77.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

Chapter 251-01 WAC

DEFINITIONS

WAC

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- 251-01-015 Affirmative action.
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251-01-010	Administrative employees. [Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-010, filed 4/22/86.] Repealed by 92-05-034, filed 2/11/92, effective 4/1/92. Statutory Authority: RCW 28B.16.100.
251-01-155	Executive employees. [Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-155, filed 4/22/86.] Repealed by 92-05-034, filed 2/11/92, effective 4/1/92. Statutory Authority: RCW 28B.16.100.
251-01-320	Professional employees. [Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-320, filed 4/22/86.] Repealed by 92-05-034, filed 2/11/92, effective 4/1/92. Statutory Authority: RCW 28B.16.100.
251-01-455	Union shop representation fee. [Statutory Authority: RCW 28B.16.100. 86-09-078 (Order 147), § 251-01-455, filed 4/22/86.] Repealed by 88-18-018 (Order 172), filed 8/29/88, effective 10/1/88. Statutory Authority: RCW 28B.16.100.

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

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

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

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

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

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

WAC 251-01-025 Allocation. The assignment of an individual position to an appropriate class on the basis of the

kind, difficulty, and responsibility of the work of the position.

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

WAC 251-01-028 Anniversary date. The most recent date of hire into state service which is used in determining if vacation leave in excess of two hundred forty hours is to be extinguished.

[Statutory Authority: RCW 28B.16.100. 88-13-018 (Order 169), § 251-01-028, filed 6/6/88, effective 8/1/88.]

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

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

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

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

WAC 251-01-040 Availability. An estimate, based on the best data available, of the number of women, racial/ethnic minorities, persons in the protected age category, Vietnam-era and disabled veterans, and persons of disability who have the skills and abilities required for employment in a particular job group as determined from an analysis of relevant data. The determination of the availability of protected group members shall be based on consideration of the following factors:

- (1) The protected group population of the relevant labor market.
- (2) The size of the protected group unemployment force in the relevant labor market.
- (3) The percentage of the protected group work force as compared with the total work force in the relevant labor market.
- (4) The general availability of protected group members having requisite skills in the relevant labor market.
- (5) The availability of protected group members having requisite skills in an area in which the institution can reasonably recruit.
- (6) The availability of promotable and transferable protected group members within the institution.
- (7) The existence of training institutions capable of training persons in the requisite skills.
- (8) The degree of training which the institution is reasonably able to undertake as a means of making all job classes available to protected group members.

The availability estimates shall be based upon an analysis of the factors determined to be relevant to the particular job class/category.

[Statutory Authority: RCW 28B.16.100. 87-16-045 (Order 158), § 251-01-040, filed 7/29/87, effective 9/1/87; 86-09-078 (Order 147), § 251-01-040, filed 4/22/86.]

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

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

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

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

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

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

WAC 251-01-057 Child care emergency. A situation causing an employee's inability to report for or continue scheduled work because of emergency child care requirements ("child" as identified in WAC 251-01-172), such as unexpected absence of regular care provider, unexpected closure of child's school, or unexpected need to pick up child at school earlier than normal.

[Statutory Authority: RCW 28B.16.100. 88-13-019 (Order 168), § 251-01-057, filed 6/6/88; 87-14-051 (Order 156), § 251-01-057, filed 7/1/87, effective 8/1/87.]

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

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

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

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

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

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

WAC 251-01-072 Comparable worth adjustment indicator. A decimal suffix attached to the standard range which identifies the comparable worth entitlement group for a class.

[Statutory Authority: RCW 28B.16.100. 87-20-024 (Order 160), § 251-01-072, filed 9/30/87.]

WAC 251-01-075 Competitive service. All positions in the classified service for which a competitive examination is required before appointment.

[Statutory Authority: RCW 28B.16.100. 93-01-156, § 251-01-075, filed 12/23/92, effective 2/1/93; 86-09-078 (Order 147), § 251-01-075, filed 4/22/86.]

WAC 251-01-077 Consecutive months. A span of time which begins with the effective date of a personnel action and ends on the day preceding that date any number of months later as opposed to consecutive calendar months which is a span of time beginning on the first day of the first month in the sequence and ending on the last day of the last month in the sequence.

[Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-01-077, filed 6/21/89, effective 10/1/89.]

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

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

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

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

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

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

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

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

WAC 251-01-110 Director. The director of the higher education personnel board. The director may delegate in writing his/her authority to a higher education personnel board staff member.

[Statutory Authority: RCW 28B.16.100. 87-21-089 (Order 163), § 251-01-110, filed 10/21/87; 86-09-078 (Order 147), § 251-01-110, filed 4/22/86.]

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

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

WAC 251-01-120 Eligible. An applicant for a position in the competitive service who has met the minimum qualifications for the class involved, has passed the examination, and has met all requirements for eligibility as stated in the recruitment notice; or an applicant for a position in the noncompetitive service who has met all requirements for eligibility as stated in the recruitment notice.

[Statutory Authority: RCW 28B.16.100. 93-01-156, § 251-01-120, filed 12/23/92, effective 2/1/93; 86-09-078 (Order 147), § 251-01-120, filed 4/22/86.]

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

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

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

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

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

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

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

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

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

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

WAC 251-01-147 Examination process. The process used to administer and score examinations. It ends when applicants are notified of their examination results and does

not include certification for positions or the actions of employing officials regarding certified eligibles.

[Statutory Authority: RCW 28B.16.100. 93-01-156, § 251-01-147, filed 12/23/92, effective 2/1/93.]

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

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

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

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

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

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

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

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

WAC 251-01-172 Family members. Individuals considered to be members of the family are mother, father, sister, brother, mother-in-law, father-in-law, husband, wife, grandparent, grandchild, son, daughter, stepchild, a child in the custody of and residing in the home of an employee.

[Statutory Authority: RCW 28B.16.100. 87-14-051 (Order 156), § 251-01-172, filed 7/1/87, effective 8/1/87.]

WAC 251-01-175 Final examination score. An applicant's final passing score on an examination, plus any veterans preference or other applicable credits added in accordance with WAC 251-17-150 and/or 251-18-180 (10)(b).

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-01-175, filed 12/30/87, effective 2/1/88; 86-09-078 (Order 147), § 251-01-175, filed 4/22/86.]

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

[Statutory Authority: RCW 28B.16.100. 90-14-018, § 251-01-180, filed 6/27/90, effective 8/1/90; 86-09-078 (Order 147), § 251-01-180, filed 4/22/86.]

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

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

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

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-01-190, filed 1/2/87, effective 2/1/87; 86-09-078 (Order 147), § 251-01-190, filed 4/22/86.]

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

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

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

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

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

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

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

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

WAC 251-01-215 Institutions of higher education. The University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges. For purposes of application of these rules, the term shall be considered to include the various related boards as defined in this section, unless specifically indicated to the contrary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 251-01-255 Lead. An employee who, in addition to his/her other duties, has responsibility regularly to assign, instruct and check the work of others as a significant part of his/her work responsibilities. This definition is not intended to cover professional employees who provide direction to support staff.

[Statutory Authority: RCW 28B.16.100. 88-17-108 (Order 173), § 251-01-255, filed 8/24/88, effective 10/1/88; 86-09-078 (Order 147), § 251-01-255, filed 4/22/86.]

WAC 251-01-258 Nonassociation fee. A fee which an employee who is granted nonassociation as provided in WAC 251-14-058(3) must pay to a union shop exclusive representative. This fee is equivalent to regular dues of the employee organization less any included monthly premiums for union-sponsored insurance programs.

[Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-01-258, filed 8/29/88, effective 10/1/88.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-01-300, filed 1/2/87, effective 2/1/87; 86-09-078 (Order 147), § 251-01-300, filed 4/22/86.]

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

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

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

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

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

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

WAC 251-01-325 Promotion. The appointment as a result of recruitment, examination and certification, of a

permanent employee to a position in another class having a higher salary range maximum.

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

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

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

WAC 251-01-335 Provisional appointment. Appointment made prior to establishment of an eligible list, per the provisions of WAC 251-19-030. A person so appointed is required to apply through the competitive process to be considered for the position on a permanent basis.

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-01-335, filed 12/30/87, effective 2/1/88; 86-09-078 (Order 147), § 251-01-335, filed 4/22/86.]

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

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

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

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

WAC 251-01-350 Rating guide. A document which states how ratings are assigned to applicants' experience, training, or other qualifications on each examination element.

[Statutory Authority: RCW 28B.16.100. 93-01-156, § 251-01-350, filed 12/23/92, effective 2/1/93; 86-09-078 (Order 147), § 251-01-350, filed 4/22/86.]

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

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

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

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

WAC 251-01-365 Related boards. The state board for community college education, the council for postsecondary education, the higher education personnel board, and such other boards, councils and commissions related to higher education as may be established. For purposes of

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application of these rules, the term "institution" shall be considered to include these related boards, unless specifically indicated to the contrary.

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

WAC 251-01-367 Representation fee. A fee in lieu of regular dues which an employee may pay to a union shop exclusive representative. The fee shall constitute an employee's proportionate fair share of the direct costs of negotiating and administering the collective bargaining agreement and of settling grievances, appeals, and disputes, and also the expenses of activities or undertakings normally or reasonably employed to implement or effectuate the duties of the organization as exclusive representative. This fee shall not include the cost of political or ideological activities, or any other activity of the organization, unrelated to the organization's duties as exclusive representative.

[Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-01-367, filed 8/29/88, effective 10/1/88.]

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

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

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

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

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

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

WAC 251-01-382 Salary range. A sequence of minimum, intervening, and maximum dollar amounts designated by the board as the monthly compensation for a class. Salary ranges are identified in the classification/compensation plan by either a whole number (standard range) or a whole number with a decimal suffix (comparable worth adjustment indicator).

[Statutory Authority: RCW 28B.16.100. 87-20-024 (Order 160), § 251-01-382, filed 9/30/87.]

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

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

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

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

WAC 251-01-392 Standard range. A salary range identified by a whole number.

[Statutory Authority: RCW 28B.16.100. 87-20-024 (Order 160), § 251-01-392, filed 9/30/87.]

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

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

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

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-01-400, filed 1/2/87, effective 2/1/87; 86-09-078 (Order 147), § 251-01-400, filed 4/22/86.]

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

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

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

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

WAC 251-01-415 Temporary appointment. (1) Work performed in the absence of an employee on leave for more than six consecutive months in accordance with WAC 251-19-120(2); or

(2) Performance of work which does not exceed one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, in accordance with WAC 251-04-040(5); or

(3) Formal assignment of the duties and responsibilities of a higher level class for a period of less than six consecutive months.

[Statutory Authority: RCW 28B.16.100, 28B.16.040(2) and 70.24.300. 90-01-007, § 251-01-415, filed 12/7/89, effective 1/7/90. Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-01-415, filed 6/21/89, effective 10/1/89; 88-02-017 (Order 164), § 251-01-415, filed 12/30/87, effective 2/1/88; 86-09-078 (Order 147), § 251-01-415, filed 4/22/86.]

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

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

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

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

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

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

WAC 251-01-435 Trial service. The initial period of employment following promotion, transfer, demotion, or lateral movement into a class in which the employee has not held permanent status at the institution or related board, beginning with the effective date of the change and continuing for six months, unless interrupted as provided in these rules or extended as provided in WAC 251-19-060(6).

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-01-435, filed 12/30/87, effective 2/1/88; 86-09-078 (Order 147), § 251-01-435, filed 4/22/86.]

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

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

WAC 251-01-445 Union shop. A union membership provision which, as a condition of employment, requires all employees within a bargaining unit to pay monthly or other periodic dues to an employee organization, or to pay a representation fee or nonassociation fee.

[Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-01-445, filed 8/29/88, effective 10/1/88; 86-09-078 (Order 147), § 251-01-445, filed 4/22/86.]

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

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

WAC 251-01-460 Writing. Handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation

including letters, words, pictures, sounds; or symbols or combination thereof and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums and other documents.

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

Chapter 251-04 WAC GENERAL PROVISIONS

WAC

251-04-010	Purpose.
251-04-030	Scope.
251-04-040	Exemptions.
251-04-050	Higher education personnel board.
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251-04-070	Personnel officers.
251-04-100	Computation of time.
251-04-105	Method and completion of service.
251-04-110	Filing with board.
251-04-150	State Environmental Policy Act.
251-04-160	Federal preemption—Fair Labor Standards Act.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

WAC 251-04-010 Purpose. (1) The interests of state higher education institutions and the employees of those institutions will be furthered by the enactment of a system of

personnel administration designed specifically to meet particular needs in connection with employer-employee relations. The general purpose of this chapter is to establish a system of personnel administration for the state higher education institutions which is based on merit principles and scientific methods.

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

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

(b) Providing equitable and adequate compensation;

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

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

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

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

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

WAC 251-04-030 Scope. The provisions of these rules shall apply to all personnel of the higher education institutions/related boards except those exempted under the provisions of WAC 251-04-040. These rules and the compensation and classification plans adopted hereunder shall continue to apply as before and shall not be used interchangeably with those adopted by the former state personnel board. Further, these rules and compensation and classification plans shall continue to apply as before until such time as the Washington personnel resources board has had adequate time to review and consider changes to the existing rules and plans.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-04-030, filed 9/22/93, effective 10/23/93; Order 61, § 251-04-030, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-030, filed 9/15/69.]

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

(1) Members of the governing board of each institution/related board; all presidents, vice-presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairs; academic personnel; executive heads of major administrative or academic divisions employed by institutions of higher education; principal assistants to executive heads of major administrative or academic divisions; other managerial or professional employees in an institution or related board having substantial responsibility for directing or controlling program operations and accountable for allocation of resources and program

results, or for the formulation of institutional policy, or for carrying out personnel administration or labor relations functions, legislative relations, public information, development, senior computer systems and network programming, or internal audits and investigations; and any employee of a community college district whose place of work is one which is physically located outside the state of Washington and who is employed pursuant to RCW 28B.50.092 and assigned to an educational program operating outside of the state of Washington.

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

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

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

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

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

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

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

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

(5) Persons employed to work one thousand fifty hours or less in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later. Such an appointment may be subject to remedial action in accordance with WAC 251-12-600, if the number of hours worked exceeds one thousand fifty hours in any twelve consecutive month period from the original date of hire or October 1, 1989, whichever is later, exclusive of overtime or work time as described in subsection (2) of this section.

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

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

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

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

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

(11) Any classified employee having civil service status in a classified position who accepts an appointment in an exempt position shall have the right of reversion to the highest class of position previously held, or to a position of similar nature and salary. Application for return to classified service must be made not later than thirty calendar days following the conclusion of the exempt appointment. A person occupying an exempt position who is terminated from the position for gross misconduct or malfeasance does not have the right of reversion to a classified position as provided for in this section.

(12) When action is taken to convert an exempt position to classified status, the effect upon the incumbent of such position shall be as provided in WAC 251-19-160.

[Statutory Authority: Chapter 41.06 RCW and 41.06.150. 94-16-049, § 251-04-040, filed 7/27/94, effective 9/1/94. Statutory Authority: RCW 41.06.040 and 41.06.150. 94-02-031, § 251-04-040, filed 12/29/93, effective 2/1/94; 93-19-147 (Order 432), § 251-04-040, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 90-17-037, § 251-04-040, filed 8/10/90, effective 10/1/90; 90-06-023, § 251-04-040, filed 2/28/90, effective 4/1/90. Statutory Authority: RCW 28B.16.100, 28B.16.040(2) and 70.24.300. 90-01-007, § 251-04-040, filed 12/7/89, effective 1/7/90. Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-04-040, filed 6/21/89, effective 10/1/89; 88-15-023 (Order 170), § 251-04-040, filed 7/12/88; 88-02-017 (Order 164), § 251-04-040, filed 12/30/87, effective 2/1/88; 87-02-036 (Order 154), § 251-04-040, filed 1/2/87, effective 2/1/87; 84-16-067 (Order 119), § 251-04-040, filed 7/31/84; 82-16-002 (Order 98), § 251-04-040, filed 7/22/82, effective 9/1/82; 82-04-069 (Order 93), § 251-04-040, filed 2/3/82; 78-10-090 (Order 70), § 251-04-040, filed 9/29/78, effective 11/1/78; Order 64, § 251-04-040, filed 12/23/77, effective 1/23/78; Order 63, § 251-04-040, filed 11/22/77, effective 12/22/77; Order 61, § 251-04-040, filed 8/30/77, effective 10/1/77; Order 10, § 251-04-040, filed 12/16/71; Order 4, § 251-04-040, filed 2/19/71; Order 1, § 251-04-040, filed 9/15/69.]

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

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

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

(4) In the necessary conduct of its work, the board shall meet monthly unless there is no pending business requiring board action. Meetings shall be held on campuses of the various state institutions of higher education. Meetings may be called by the chairman of the board, or a majority of the members of the board. Hearings may be conducted by a hearing officer duly appointed by the board. An official notice of the calling of a hearing shall be filed with the director and all members of the board shall be notified.

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

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

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

(8) The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(a) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(b) Certification of names for vacancies, including promotions, with the number of names equal to six more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists;

(c) Examination for all positions in the competitive and noncompetitive service;

(d) Appointments;

(e) Probationary periods of six to twelve months and rejections therein depending on the job requirements of the class;

(f) Transfers;

(g) Sick leaves and vacations;

(h) Hours of work;

(i) Layoffs when necessary and subsequent reemployment according to seniority;

(j) Determination of appropriate bargaining units within any institution or related board: *Provided*, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees and the desires of the employees;

(k) Certification and decertification of exclusive bargaining representatives;

(l) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution/related board may lawfully exercise discretion; written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: *Provided*, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his/her official duties;

(m) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position: In adopting these revisions the board shall comply with SSB 6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW;

(n) Allocation and reallocation of positions within the classification plans;

(o) Adoption and revision of salary schedules and compensation plans as provided in chapter 251-08 WAC;

(p) Training programs including in-service, promotional, and supervisory;

(q) Increment increases within the series of steps for each pay grade; and

(r) Veteran's preference as provided by existing statutes.

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

[Statutory Authority: RCW 41.06.150. 96-11-063, § 251-04-050, filed 5/10/96, effective 6/6/96; 95-19-055, § 251-04-050, filed 9/15/95, effective 10/16/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-04-050, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 86-09-077 (Order 149), § 251-04-050, filed 4/22/86, effective 6/1/86. Statutory Authority: Chapter 28B.16 RCW. 85-20-048 (Order 135), § 251-04-050, filed 9/25/85, effective 11/1/85. Statutory Authority: RCW 28B.16.100. 84-12-047 (Order 117), § 251-04-050, filed 6/1/84; 82-16-002 (Order 98), § 251-04-050, filed 7/22/82, effective 9/1/82; Order 61, § 251-04-050, filed 8/30/77, effective 10/1/77; Order 1, § 251-04-050, filed 9/15/69.]

WAC 251-04-060 Director. (1) The personnel director appointed by the governor shall be the chief staff officer for the board. In preparing matters for consideration by the board and in coordinating the implementation of the board's rules and regulations, the director shall work in conjunction with the campus personnel officers and their staffs at each institution of higher education, and in the case of community colleges, with the state board for community

and technical colleges. When necessary, the director may request the creation of task forces drawn from the four-year institutions of higher education, and representatives of the various state community colleges through the state board for community and technical colleges, for the accomplishment of any projects undertaken by the board. The director may employ necessary personnel for the board, and the board may appoint and compensate hearing officers to hear and conduct appeals. The board shall establish an office for the conduct of its business.

(2) The director shall periodically and at such other times as may be necessary, audit and review the personnel administration and management at each institution and related board.

All relevant files and records of appointing authorities and personnel officers shall be made available to the director at any time.

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

(4) The director of personnel may delegate to the personnel officer of any higher education institution or related board the director's authority to perform administrative and technical activities if such authority is requested. When an institution or related board requests a delegation of the director's authority, the requesting person shall concurrently send a copy of the request to any affected exclusive representative. After an authority has been delegated, if an employee or the employee's exclusive representative files a written complaint with the director regarding a delegated authority, the director shall conduct a timely investigation. If the director of personnel determines that an institution or related board is not appropriately performing delegated activities, the director may withdraw the authority to perform such activities. Delegation of the director's authority is separate from the statutory local administration in RCW 41.06.520.

[Statutory Authority: RCW 41.06.150, 95-19-099, § 251-04-060, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100, 92-20-043, § 251-04-060, filed 9/30/92, effective 11/1/92; Order 61, § 251-04-060, filed 8/30/77, effective 10/1/77; Order 51, § 251-04-060, filed 1/20/76; Order 1, § 251-04-060, filed 9/15/69.]

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

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

(3) Rules adopted by the higher education personnel board shall provide for local administration and management

by the higher education institutions/related boards, subject to periodic audit and review by the board, of the following:

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

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

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

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

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

[Statutory Authority: Chapter 41.06 RCW and RCW 41.06.150, 94-20-025, § 251-04-105, filed 9/26/94, effective 11/1/94. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250, 89-22-020, § 251-04-105, filed 10/24/89, effective 12/1/89; Order 61, § 251-04-105, filed 8/30/77, effective 10/1/77.]

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

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250, 89-22-020, § 251-04-110, filed 10/24/89, effective 12/1/89; Order 61, § 251-04-110, filed 8/30/77, effective 10/1/77.]

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

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

WAC 251-04-160 Federal preemption—Fair Labor Standards Act. Institutions shall comply with higher education personnel board rules (Title 251 WAC) unless doing so would cause them to violate the Fair Labor Standards Act (29 U.S.C. 201 et seq.).

[Statutory Authority: Chapter 28B.16 RCW. 91-13-011, § 251-04-160, filed 6/7/91, effective 6/7/91.]

**Chapter 251-05 WAC
PUBLIC RECORDS**

WAC

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

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

251-05-020	Definitions. [Order 21, § 251-05-020, filed 5/24/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-020.
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WAC 251-05-010 Purpose. The purpose of this chapter shall be to insure compliance by the higher education personnel board with the provisions of RCW 42.17.250 through 42.17.340.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WAC 251-05-060 Records—Availability—Copies.

(1) Copies of all public records as defined in WAC 251-01-340 and identified in current indexes maintained in the office of the director of the higher education personnel board, shall be available upon written request. Response to such requests will be made in the order received.

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

(a) Rules - Title 251 WAC;

(b) Twenty-day notice and minutes of meetings - regular and special;

(c) Board orders;

(d) Findings, conclusions and order of hearing examiners;

(e) Annual director's report;

(f) Higher education personnel board budget;

(g) Higher education personnel board revolving fund data;

(h) Staff administrative procedures manual;

(i) Higher education personnel board classification and compensation plan;

(j) Documents filed with the board as required by Title 251 WAC or board order, i.e., reduction in force procedure, holiday schedule, collective bargaining agreement, etc.

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

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

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-05-060, filed 1/2/87, effective 2/1/87; Order 61, § 251-05-060, filed 8/30/77, effective 10/1/77; Order 21, § 251-05-060, filed 5/24/73.]

WAC 251-05-070 Exemptions—Public records. (1)

The agency, through its designated public records officer, reserves the right to determine that a public record requested in accordance with these rules is exempt under the provisions of RCW 42.17.310.

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

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

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

WAC 251-05-080 Appeal—Denial of public records request. (1)

Any person who objects to the denial of a request for a public record may petition the director for prompt review of the public records officer's decision by making a written request for review. The request shall specifically refer to the written statement by the public records officer which constituted or accompanied the denial.

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

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

Chapter 251-06 WAC CLASSIFICATION

WAC

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

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

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

WAC 251-06-010 Classification plan—Preparation.

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

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

WAC 251-06-020 Classification plan—Adoption.

(1) The proposed classification plan and any subsequent proposed revisions thereto shall be submitted to the board by the director for adoption, revision or rejection. After twenty calendar days' notice to and consideration of proposals from employee representatives, institutions, and related boards, the board shall hold open hearings on the plan. The plan shall become effective as determined by the board.

(2) In adopting these revisions the board shall comply with Senate Bill S6767 of 1996, RCW 41.06.150(15), and chapter 43.88 RCW. Thereafter, class titles so established shall be used in all personnel and financial records of an institution and in all recruitment and examination procedures.

[Statutory Authority: RCW 41.06.150. 96-11-063, § 251-06-020, filed 5/10/96, effective 6/6/96; 95-19-055, § 251-06-020, filed 9/15/95, effective 10/16/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-06-020, filed 9/22/93, effective 10/23/93; Order 61, § 251-06-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-06-020, filed 9/15/69.]

WAC 251-06-030 Interpretation of specifications.

The definitions in class specifications are descriptive. They are intended to indicate the kinds of positions that are allocated to the classes as determined by their duties and responsibilities and are to be used as a guide for the appointing authority in assigning, directing, and controlling the work of employees. The use of a particular expression or illustration of duties shall not exclude others which are consistent with the overall class concept but are not mentioned in the specification.

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

WAC 251-06-050 Position allocation—Reallocation.

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

position to the class which best describes the overall duties and responsibilities.

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

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

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

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

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

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

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

(b) Notification of the class and salary assigned when the position is reallocated. Subsequent action taken during the thirty-day appeal period which changes either the specified class or salary will constitute a new response, and written notice of such action must be given to the employee or employee representative.

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

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

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

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

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

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

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

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

(2) The director shall investigate and issue a determination. Within thirty calendar days of the date of service of the director's determination, the employee, employee representative or institution may file written exceptions with the personnel appeals board as provided in Title 358 WAC.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-06-070, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 28B.16.100. 90-02-052, § 251-06-070, filed 12/29/89, effective 2/1/90; 82-04-069 (Order 93), § 251-06-070, filed 2/3/82; 79-12-088 (Order 81), § 251-06-070, filed 12/3/79; 78-06-068 (Order 68), § 251-06-070, filed 5/25/78, effective 7/1/78; Order 63, § 251-06-070, filed 11/22/77; Order 61, § 251-06-070, filed 8/30/77, effective 10/1/77; Order 37, § 251-06-070, filed 10/15/74; Order 10, § 251-06-070, filed 12/16/71.]

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

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

(b) When reallocation will require immediate changes in the duties of the position, it will be filled in accord with chapters 251-17 and 251-18 WAC. The incumbent will be given an opportunity to compete for the position. If the employee is not selected, or chooses not to compete, subsection (2)(a), (b), and (d) of this section will apply.

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

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

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

(c) Demote with the position;

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

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

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-06-080, filed 12/30/87, effective 2/1/88; 78-10-090 (Order 70), § 251-06-080, filed 9/29/78, effective 11/1/78; Order 61, § 251-06-080, filed 8/30/77, effective 10/1/77; Order 44, § 251-06-080, filed 6/25/75; Order 10, § 251-06-080, filed 12/16/71.]

WAC 251-06-090 Probationary period—Duration.

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

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

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

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

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

Chapter 251-07 WAC PERSONNEL FILES

WAC

251-07-010	Classified employee files—General provisions.
251-07-020	Personnel files—Responsibility for.
251-07-030	Adverse materials.
251-07-040	Access.
251-07-050	Destruction or retention of information.
251-07-060	Employee rebuttal.
251-07-100	Temporary appointment records.

WAC 251-07-010 Classified employee files—General provisions. Each institution shall maintain an official file of each classified employee, showing a record of employment and such other information required for business and legal purposes. The burden of demonstrating the institution's business or legal need to know rests with the institution.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-010, filed 4/1/87, effective 5/1/87.]

WAC 251-07-020 Personnel files—Responsibility for. The personnel officer of each institution is responsible for local administration and management of official classified employee personnel files.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-020, filed 4/1/87, effective 5/1/87.]

WAC 251-07-030 Adverse materials. Employees shall be provided a copy of all adverse material placed in the official file at the time the material is included in the file.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-030, filed 4/1/87, effective 5/1/87.]

[Title 251 WAC—page 16]

WAC 251-07-040 Access. Upon written request of an employee, the institution shall permit that employee to inspect any or all of his/her own official personnel file. The institution shall also permit the above inspection privilege to an employee's representative upon written authorization by the represented employee. Each institution shall make such file available within a reasonable period of time after the employee or his/her representative requests the file. Copies will be provided in accordance with the institution procedure.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-040, filed 4/1/87, effective 5/1/87.]

WAC 251-07-050 Destruction or retention of information. (1) Information shall be retained as long as it has a reasonable bearing on the employee's job performance or upon the efficient and effective management of the institution except as provided in WAC 251-20-040(5).

Adverse material or information related to employee misconduct or alleged misconduct which is determined to be false and all such information in situations where the employee has been fully exonerated of wrong doing shall be promptly destroyed.

(2) Notwithstanding subsection (1) of this section, an institution may retain information relating to employee misconduct or alleged misconduct, if:

(a) The employee requests that the information be retained; or

(b) The information is related to pending legal action or legal actions may reasonably be expected to result.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-050, filed 4/1/87, effective 5/1/87.]

WAC 251-07-060 Employee rebuttal. The employee shall have the right to have placed in his/her own personnel file a statement of rebuttal or correction of information contained in the file within a reasonable period of time after the employee becomes aware that the information has been placed in the file.

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-07-060, filed 4/1/87, effective 5/1/87.]

WAC 251-07-100 Temporary appointment records. Each institution shall maintain information for temporary employees as specified in WAC 251-19-122. At least quarterly each institution shall produce a record which shows the cumulative hours worked for each temporary employee. This record shall be kept on file in the personnel office and shall be made available to the higher education personnel board staff upon request.

[Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-07-100, filed 6/21/89, effective 10/1/89.]

Chapter 251-08 WAC COMPENSATION

WAC

251-08-005	Compensation plans—General.
251-08-007	Compensation plans—Content.
251-08-021	Compensation plans—Salary survey.
251-08-031	Compensation plans—Adoption.
251-08-040	Compensation plans—Submission to governor.

- 251-08-051 Compensation plans—Implementation.
- 251-08-060 Compensation plans—Additional salary survey.
- 251-08-070 Salary—Limits.
- 251-08-080 Salary—Entrance.
- 251-08-090 Salary—Periodic increment.
- 251-08-100 Periodic increment date.
- 251-08-110 Salary—Promotion.
- 251-08-112 Salary—Reallocation.
- 251-08-115 Salary—Layoff, reversion, demotion.
- 251-08-120 Salary—Survey implementation.
- 251-08-130 Salary—Part time.
- 251-08-150 Salary—Conversion of exempt position.
- 251-08-160 Payroll certification.

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

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

WAC 251-08-005 Compensation plans—General.

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

- (1) Full compensation to each employee for all work assigned and performed.
- (2) Regular salary increment increases based upon length of service for all employees whose performance is such as to permit them to retain job status in the classified service.
- (3) Assignment of each class to a salary range reflecting prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, provided funds are available as defined in WAC 251-08-051.
- (4) The rates in the salary schedules or plans to be increased if necessary to attain comparable worth.
- (5) Equal pay for similar duties, responsibilities, and qualifications among classes as determined by the salary survey process.
- (6) Such other provisions as are appropriate in the establishment and maintenance of compensation equity in

relation to prevailing practices found in Washington state private industries and other governmental units.

[Statutory Authority: RCW 41.06.150. 95-19-055, § 251-08-005, filed 9/15/95, effective 10/16/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-08-005, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-08-005, filed 4/1/87, effective 5/1/87; Order 61, § 251-08-005, filed 8/30/77, effective 10/1/77.]

WAC 251-08-007 Compensation plans—Content.

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

- (1) Salary schedules (grids) including regular increment step increases within salary ranges.
- (2) Classification schemas assigning each class to a salary range of an approved salary schedule.
- (3) Such supplemental compensation plans and provisions as are necessary to implement approved compensation practices as provided in chapter 251-09 WAC and/or such area wage variances as may be approved by the board for each member institution.

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

WAC 251-08-021 Compensation plans—Salary survey.

(1) For purposes of reflecting in salary schedules and in the compensation plans the prevailing rates in other public employment and in private employment in this state or in the locality in which the institution is located, the director shall undertake salary and fringe benefit surveys for the board with the assistance of the various personnel officers and on a joint basis with the department of personnel, with a comprehensive survey to be conducted in the year prior to the convening of every other regular session of the state legislature. A trend survey will be conducted in the year prior to the convening of each regular session of the state legislature for which a comprehensive survey is not conducted.

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

- (a) Adjustments of state salaries to prevailing rates in Washington state private industries and other governmental units shall be determined by comparisons of weighted averages of salaries, including weighted averages of salaries from out-of-state sources when necessary to obtain statistically valid salary surveys; and
- (b) Determination of state salary changes from prevailing rate data collected in salary surveys shall be based on occupational group averages containing related job classes where appropriate rather than on comparison of survey data to individual state job classes.

(3) Salary and fringe benefit surveys shall be undertaken in a manner consistent with statistically accurate sampling techniques. For this purpose, a comprehensive salary and fringe benefit survey plan shall be submitted to the director of the office of financial management, employee organizations, the standing committees for appropriations in the senate and house of representatives, and to the legislative budget committee six months before the beginning of each periodic survey required before regular legislative sessions.

This comprehensive plan shall include, but not be limited to, the following:

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-08-021, filed 4/1/87, effective 5/1/87; Order 61, § 251-08-021, filed 8/30/77, effective 10/1/77.]

WAC 251-08-031 Compensation plans—Adoption.

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

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

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

WAC 251-08-040 Compensation plans—Submission to governor. (1) The results of each comprehensive and trend salary and fringe benefit survey as adopted by the board shall be forwarded by the board with recommended salary adjustments to the governor and the director of the office of financial management for their use in preparing

budgets to be submitted to the succeeding legislature. Such recommendation shall be advisory only. A copy of the data and supporting documentation shall be furnished by the board to the standing committees for appropriations of the senate and house of representatives.

(2) In the case of comprehensive salary and fringe benefit surveys, the board shall furnish the following supplementary data in support of its recommended salary schedule:

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

(b) An additional total dollar figure which reflects the impact of recommended increases or decreases to state salaries based on other factors rather than directly on prevailing rate data obtained through the survey process and which is categorized to indicate the sources of the requests for deviation from prevailing rates and the reasons for the changes;

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-08-040, filed 4/1/87, effective 5/1/87; Order 61, § 251-08-040, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-040, filed 9/15/69.]

WAC 251-08-051 Compensation plans—Implementation. Implementation of the results of salary and fringe benefit surveys shall be subject to approval as to availability of funds by the director of the office of financial management and after consultation with the chief financial officer of

each institution for that institution, or in the case of the various community colleges, by the chief financial officer of the state board for community college education.

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

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

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

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

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

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

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

WAC 251-08-090 Salary—Periodic increment. (1) Employees whose performance permits them to retain job status in the classified service shall receive periodic increments within the steps of the salary range. The salary of each employee shall be increased two steps on the periodic increment date and annually thereafter on the periodic increment date, not to exceed the maximum step of the range. An exception to the two step movement on the periodic increment date are those employees who occupy classes included in the higher education personnel board locality special pay plan per WAC 251-09-090 which applies only to University of Washington hospitals. The salary of each employee under this plan shall be increased as specified in the higher education personnel board hospital special pay plan.

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

[Statutory Authority: RCW 41.06.150. 95-19-055, § 251-08-090, filed 9/15/95, effective 10/16/95. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-08-090, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 91-16-054, § 251-08-090, filed 8/1/91, effective 9/1/91; 85-20-049 (Order 136), § 251-08-090, filed 9/25/85; 84-16-067 (Order 119), § 251-08-090, filed 7/31/84; Order 61, § 251-08-090, filed 8/30/77, effective 10/1/77; Order 18, § 251-08-090, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-090, filed 9/15/69.]

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

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

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

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

(a) Upon completion of six months in the class for those appointed at the first step in the salary range; or

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

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

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

(b) Upon reappointment of a probationary employee during the probationary period, the former periodic increment date will be eliminated and a new date established as provided in subsection (2) of this section;

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

(d) When a leave of absence without pay exceeds ten working days in any calendar month, or exceeds ten consecutive working days, the date will be extended by one month, except as provided by WAC 251-22-165(5), 251-22-180, and 251-19-130;

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

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

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

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

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

(5) The periodic increment date for incumbents of exempt positions which are converted to classified status shall be established as provided in WAC 251-19-160.

[Statutory Authority: RCW 28B.16.100. 88-15-023 (Order 170), § 251-08-100, filed 7/12/88; 88-02-017 (Order 164), § 251-08-100, filed 12/30/87, effective 2/1/88; 87-14-051 (Order 156), § 251-08-100, filed 7/1/87, effective 8/1/87; 85-16-038 (Order 134), § 251-08-100, filed 7/31/85, effective 9/1/85; 83-10-029 (Order 105), § 251-08-100, filed 4/29/83, effective 6/1/83; 78-06-068 (Order 68), § 251-08-100, filed 5/25/78, effective 7/1/78; Order 64, § 251-08-100, filed 12/23/77; Order 61, § 251-08-100, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-100, filed 1/22/74; Order 21, § 251-08-100, filed 5/24/73; Order 18, § 251-08-100, filed 10/25/72, effective 7/1/73.]

WAC 251-08-110 Salary—Promotion. An employee who is promoted shall be paid at the salary step which represents a two-step increase over the salary received immediately prior to the promotion. If the two-step pay increase falls between two steps of the new range, the increase shall be rounded up to the next higher step of the new range. The personnel officer may authorize more than a two-step increase. All promotional increases must be within the salary range for the class.

[Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-08-110, filed 3/23/89, effective 5/1/89; 87-20-024 (Order 160), § 251-08-110, filed 9/30/87; Order 61, § 251-08-110, filed 8/30/77, effective 10/1/77; Order 29, § 251-08-110, filed 1/22/74; Order 21, § 251-08-110, filed 5/24/73; Order 18, § 251-08-110, filed 10/25/72, effective 7/1/73; Order 1, § 251-08-110, filed 9/15/69.]

WAC 251-08-112 Salary—Reallocation. (1) An employee occupying a position that is reallocated to an existing class with a higher salary range maximum shall receive an increase in the same manner as is provided for promotion in WAC 251-08-110. The periodic increment date shall be established as provided in WAC 251-08-100.

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

(3) When reallocation is necessary because the board has created, abolished, or modified a class, the incumbent will remain in the position and therefore will not be afforded layoff rights. Employees will be affected as follows:

(a) An employee occupying a position reallocated to a class with a lower salary range maximum will retain his/her salary as of the date preceding the effective date of the board's action and will be allowed to achieve the salary maximum of the former class. The employee will lose the right to such salary maintenance if he/she subsequently voluntarily demotes, promotes, or moves to another class;

(b) An employee occupying a position reallocated to a class with a higher salary range maximum will have his/her salary adjusted to the same step in the new range as was held in the previous range. The periodic increment date of the affected employee will remain unchanged;

(c) Reallocations due to the board's creation, abolishment, or modification of a class become effective on the effective date of the board's action.

[Statutory Authority: Chapter 28B.16 RCW. 91-13-011, § 251-08-112, filed 6/7/91, effective 6/7/91. Statutory Authority: RCW 28B.16.100. 91-10-003, § 251-08-112, filed 4/18/91, effective 6/1/91; 88-02-027 (Order 166), § 251-08-112, filed 12/31/87, effective 2/1/88; 87-20-024 (Order 160), § 251-08-112, filed 9/30/87; 78-06-068 (Order 68), § 251-08-112, filed 5/25/78, effective 7/1/78; Order 61, § 251-08-112, filed 8/30/77, effective 10/1/77.]

WAC 251-08-115 Salary—Layoff, reversion, demotion. (1) When an employee who has been separated returns from the institution-wide layoff list to the same class occupied immediately prior to layoff, the employee shall return to the same salary step held at time of layoff, unless the employee is currently employed by the institution and to do so would cause him/her to suffer a reduction in salary.

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

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

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

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

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

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

WAC 251-08-120 Salary—Survey implementation. When adjustment in salary range is based on implementation of a salary survey and there is no change in class concept, duties and responsibilities, the salary shall be adjusted to the same step in new range as held in previous range, except for those instances when the new range has a different number of salary steps, in which case the director shall determine the proper salary adjustments.

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

WAC 251-08-130 Salary—Part time. Part-time employment shall be compensated on the same pro rata basis as the appointment bears to a full-time appointment unless otherwise adjusted per WAC 251-09-090.

[Statutory Authority: RCW 28B.16.100. 90-02-053, § 251-08-130, filed 12/29/89, effective 2/1/90; Order 61, § 251-08-130, filed 8/30/77, effective 10/1/77; Order 1, § 251-08-130, filed 9/15/69.]

WAC 251-08-150 Salary—Conversion of exempt position. The incumbent of an exempt position converted to classified status per the provisions of WAC 251-19-160 shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-08-150, filed 12/30/87, effective 2/1/88; Order 64, § 251-08-150, filed 12/23/77.]

WAC 251-08-160 Payroll certification. A disbursing officer shall not pay any employee holding a position covered by the higher education personnel law unless the employment is in accordance with chapter 28B.16 RCW and the provisions of these rules. The board and the institutions

of higher education including the state board for community college education which shall act for the various community colleges shall jointly establish procedures for the certification of payrolls.

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

**Chapter 251-09 WAC
HOURS OF WORK—PREMIUM PAY**

WAC

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

(2) Nothing in these rules shall preclude the assignment of overtime outside of normally scheduled shifts. Overtime worked is compensated per WAC 251-09-030 unless otherwise adjusted per WAC 251-09-090.

[Statutory Authority: RCW 28B.16.100. 90-02-053, § 251-09-010, filed 12/29/89, effective 2/1/90; Order 62, § 251-09-010, filed 8/30/77, effective 10/1/77.]

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

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

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

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

(c) **Emergency response fire officer work schedule.** Institutions which operate an emergency response fire

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

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

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

(iii) Shift differential shall not be paid.

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

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

(2) **Nonscheduled work period.** The nonscheduled work period designation applies to those positions for which the hours cannot be scheduled but which work a forty hour week and do not meet any of the other work period designations. The personnel officer shall designate positions as nonscheduled in accordance with the institution's procedure approved by the director unless approval has been delegated to the personnel officer under WAC 251-04-060(4).

(3) **Excepted work period.** The excepted work period designation applies to classes and positions which meet the Fair Labor Standards Act definitions of executive, administrative, or professional employees. Each personnel officer will be responsible for determining the positions designated "excepted" at his/her institution.

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-09-020, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 91-16-054, § 251-09-020, filed 8/1/91, effective 9/1/91; 83-20-020 (Order 108), § 251-09-020, filed 9/23/83, effective 10/24/83; 79-12-088 (Order 81), § 251-09-020, filed 12/3/79; Order 62, § 251-09-020, filed 8/30/77, effective 10/1/77.]

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

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

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

(b) Because of emergency conditions; or

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

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

(i) There is no work; or

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

or

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

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

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

(b) Because of emergency conditions; or

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

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

[Statutory Authority: RCW 28B.16.100. 92-05-034, § 251-09-025, filed 2/11/92, effective 4/1/92; Order 62, § 251-09-025, filed 8/30/77, effective 10/1/77.]

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

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

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

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

(2) Overtime worked by employees assigned to scheduled or nonscheduled work period positions shall be compensated at a rate of one and one-half times the employee's base rate plus any additional payment(s) required to be included by the Fair Labor Standards Act, such as shift differential, and other applicable state/federal law.

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

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

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

(6) Employees assigned to excepted work period positions normally do not qualify for overtime pay. Under

circumstances in which the employee is directed to work an excessive amount of overtime, the personnel officer may authorize additional compensation in cash or time off not to exceed one and one-half times the employee's regular rate. The employee may petition the personnel officer for compensation of the directed overtime.

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

[Statutory Authority: RCW 28B.16.100. 92-05-034, § 251-09-030, filed 2/11/92, effective 4/1/92; 86-12-006 (Order 151), § 251-09-030, filed 5/22/86, effective 7/1/86; 79-06-076 (Order 74), § 251-09-030, filed 5/30/79, effective 7/1/79; 78-06-068 (Order 68), § 251-09-030, filed 5/25/78, effective 7/1/78; Order 62, § 251-09-030, filed 8/30/77, effective 10/1/77.]

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

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

(b) When classified employees working less than a full-time schedule work on a designated holiday, they shall receive their regular holiday pay on the same pro rata basis that their monthly schedule bears to a full-time schedule, plus premium pay at time and one-half for all hours worked on such holiday. Compensatory time off may be granted by the institution in lieu of monetary payment.

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

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

WAC 251-09-040 Shift differential. (1) Shift differential for employees assigned to a shift in which a majority of time worked daily or weekly is between 5:00 p.m. and 7:00 a.m. shall be \$.50 per hour or \$87.00 per month unless otherwise adjusted per WAC 251-09-090.

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 90-02-053, § 251-09-040, filed 12/29/89, effective 2/1/90; 85-14-045 (Order 129), § 251-09-040, filed 6/28/85; Order 62, § 251-09-040, filed 8/30/77, effective 10/1/77.]

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

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

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

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

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

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

WAC 251-09-090 Special pay—Purpose. (1) The board or the director may adopt special pay salaries and/or compensation practices which are locally competitive to alleviate or prevent recruitment and/or retention problems, to maintain effective operations of an institution, or to address other unique working conditions.

(2) Actions approved by the director are subject to confirmation by the board.

(3) Requests may be initiated by institutions, employees, or employee representatives.

(4) Except when the board specifies otherwise, special pay ranges will remain in effect until the system-wide pay range for the class equals or exceeds the special pay range.

[Statutory Authority: RCW 28B.16.100. 90-10-044, § 251-09-090, filed 4/27/90, effective 6/1/90; 83-20-020 (Order 108), § 251-09-090, filed 9/23/83, effective 10/24/83; 80-02-111 (Order 83), § 251-09-090, filed 1/28/80; 78-06-068 (Order 68), § 251-09-090, filed 5/25/78, effective 7/1/78; Order 62, § 251-09-090, filed 8/30/77, effective 10/1/77.]

WAC 251-09-092 Special pay—Categories. Special pay requests may be made under one or more of the following categories:

(1) When a unique configuration of work requires skills, duties, or working conditions beyond those typically required of comparable positions;

(2) To alleviate employment problems such as recruitment and/or retention;

(3) When failure to grant special pay could result in retention problems which would seriously jeopardize the effective operation of the institution; or

(4) To prevent salary inversion or compression problems with other classes in the same or related series which have been granted special pay.

[Statutory Authority: RCW 28B.16.100. 90-10-044, § 251-09-092, filed 4/27/90, effective 6/1/90.]

WAC 251-09-094 Special pay—Requirements. It is the responsibility of the requesting party to provide board staff with information necessary to make recommendation to the board. Information to be provided shall include:

(1) Data supporting the pay practice in the locality of the institution for which the request is being made; and

(2) Rationale supporting the request; and

(3) When applicable, data showing recruitment/retention difficulty.

[Statutory Authority: RCW 28B.16.100. 90-10-044, § 251-09-094, filed 4/27/90, effective 6/1/90.]

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

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

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

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

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

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

Chapter 251-10 WAC

RESIGNATION—LAYOFF—SEPARATION

WAC

251-10-020	Resignation—Withdrawals.
251-10-025	Layoff seniority—General provisions.
251-10-030	Layoff.
251-10-034	Layoff rights—Interlocal Cooperation Act.
251-10-035	Layoff—Special employment programs.
251-10-045	Layoff—Veterans retention preference.
251-10-055	Layoff lists—Institution-wide.
251-10-060	Layoff lists—State-wide.
251-10-061	Layoff list—State-wide—Additional certification.
251-10-070	Separation.
251-10-080	Reasonable accommodation—Reemployment.
251-10-090	Reasonable accommodation reemployment— Probationary period.
251-10-112	Medical examination—Current employee.

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

- 251-10-010 Separation. [Order 1, § 251-10-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-10-031 Layoff—Equal layoff seniority. [Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-10-031, filed 7/22/82, effective 9/1/82.] Repealed by 85-20-049 (Order 136), filed 9/25/85. Statutory Authority: RCW 28B.16.100.
- 251-10-040 Layoff lists. [Order 29, § 251-10-040, filed 1/22/74; Order 8, § 251-10-040, filed 6/17/71, effective 7/19/71; Order 4, § 251-10-040, filed 2/19/71; Order 1, § 251-10-040, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-10-050 Veterans retention preference. [Order 8, § 251-10-050, filed 6/17/71, effective 7/19/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-10-105 Notice of unsatisfactory work. [Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-105, filed 2/28/86, effective 4/1/86.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-108 Preseparation or predisciplinary notice. [Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-10-108, filed 4/1/87, effective 5/1/87.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-110 Demotion, suspension, reduction, separation, dismissal—Cause for. [Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-110, filed 2/28/86, effective 4/1/86; 82-10-006 (Order 95), § 251-10-110, filed 4/26/82, effective 6/1/82; 81-18-039 (Order 90), § 251-10-110, filed 8/28/81, effective 10/1/81; Order 61, § 251-10-110, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-111 Removal from supervisory positions. [Statutory Authority: RCW 28B.16.100. 86-06-033 (Order 144), § 251-10-111, filed 2/28/86, effective 4/1/86.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-120 Dismissal/separation—Grounds for—Notice. [Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-10-120, filed 4/1/87, effective 5/1/87; 85-06-017 (Order 125), § 251-10-120, filed 2/25/85, effective 4/1/85; 83-10-029 (Order 105), § 251-10-120, filed 4/29/83, effective 6/1/83; Order 61, § 251-10-120, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-130 Suspension—Grounds for—Duration—Notice. [Order 61, § 251-10-130, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-140 Immediate dismissal. [Statutory Authority: RCW 28B.16.100. 87-08-056 (Order 155), § 251-10-140, filed 4/1/87, effective 5/1/87; 84-12-047 (Order 117), § 251-10-140, filed 6/1/84; 83-20-020 (Order 108), § 251-10-140, filed 9/23/83, effective 10/24/83; 82-16-002 (Order 98), § 251-10-140, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-10-140, filed 5/25/78, effective 7/1/78; Order 61, § 251-10-140, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-150 Reduction, demotion—Procedure. [Order 61, § 251-10-150, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-160 Withdrawal or amendment of charges—Time limitation. [Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-10-160, filed 7/31/84; Order 61, § 251-10-160, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-170 Dismissal—Union shop—Notice—Recision. [Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-10-170, filed 8/29/88, effective 10/1/88; Order 61, § 251-10-170, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-180 Presumption of resignation—Unauthorized absence. [Order 61, § 251-10-180, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-190 Probationary period—Rejection. [Order 61, § 251-10-190, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.
- 251-10-195 Trial service reversion. [Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-10-195, filed 12/30/87, effective 2/1/88; 87-02-036 (Order 154), § 251-10-195, filed 1/2/87, effective 2/1/87; Order 61, § 251-10-195, filed 8/30/77, effective 10/1/77.] Repealed by 88-22-057 (Order 174), filed 11/1/88. Statutory Authority: RCW 28B.16.100.

WAC 251-10-020 Resignation—Withdrawals. (1)

Any employee may resign from service and should present, at least fourteen calendar days in advance of the effective date, his/her resignation either orally or in writing to the employing official.

(2) A permanent employee has the right to withdraw his/her resignation provided that written notice of the withdrawal is received by the institution within seventy-two hours excluding Sundays and holidays after submitting the resignation.

(3) An employing official may permit withdrawal of a resignation at any time.

[Statutory Authority: RCW 28B.16.100. 87-16-045 (Order 158), § 251-10-020, filed 7/29/87, effective 9/1/87; Order 61, § 251-10-020, filed 8/30/77, effective 10/1/77; Order 1, § 251-10-020, filed 9/15/69.]

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

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

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

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

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

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

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

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

WAC 251-10-030 Layoff. (1) An appointing authority may layoff or reduce the number of working hours or the work year of an employee without prejudice because of lack of funds or lack of work and/or for good faith reorganization for efficiency purposes.

(2) Each institution shall develop for approval by the director a layoff procedure based upon layoff seniority as defined in WAC 251-01-245, to include as a minimum:

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

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

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

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

(5) Within the layoff unit, a permanent status employee scheduled for layoff shall be offered employment options to position(s):

(a) For which he/she meets any specific position requirements;

(b) Which are comparable, as determined by the personnel officer; and

(c) Which are in:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) Layoff actions for employees of special employment programs as identified in WAC 251-19-150 shall be administered as provided in WAC 251-10-035.

[Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW. 96-13-078, § 251-10-030, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 28B.16.100. 93-01-155, § 251-10-030, filed 12/23/92, effective 2/1/93; 88-22-057 (Order 174), § 251-10-030, filed 11/1/88; 88-02-017 (Order 164), § 251-10-030, filed 12/30/87, effective 2/1/88; 87-02-036 (Order 154), § 251-10-030, filed 1/2/87, effective 2/1/87; 85-16-038 (Order 134), § 251-10-030, filed 7/31/85, effective 9/1/85; 82-07-074 (Order 94), § 251-10-030, filed 3/23/82; 79-07-096 (Order 76), § 251-10-030, filed 6/29/79, effective 8/1/79; 79-03-029 (Order 71), § 251-10-030, filed 2/27/79, effective 4/2/79; Order 61, § 251-10-030, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-030, filed 6/25/75; Order 41, § 251-10-030, filed 3/17/75; Order 35, § 251-10-030, filed 7/23/74; Order 32, § 251-10-030, filed 3/19/74; Order 8, § 251-10-030, filed 6/17/71, effective 7/19/71; Order 4, § 251-10-030, filed 2/19/71; Order 1, § 251-10-030, filed 9/15/69.]

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

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

WAC 251-10-035 Layoff—Special employment programs. (1) Institutions participating in special employment programs qualifying under the conditions identified in WAC 251-19-150 shall establish a special employment program layoff unit.

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

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

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

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

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

- (i) Class(es) in which the employee has held permanent status;
- (ii) Lower class(es) in the same class series for which the employee is qualified.

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-10-035, filed 11/1/88; 88-02-017 (Order 164), § 251-10-035, filed 12/30/87, effective 2/1/88; 85-16-038 (Order 134), § 251-10-035, filed 7/31/85, effective 9/1/85; 82-19-067 (Order 102), § 251-10-035, filed 9/20/82, effective 10/25/82; 79-07-096 (Order 76), § 251-10-035, filed 6/29/79,

effective 8/1/79; Order 61, § 251-10-035, filed 8/30/77, effective 10/1/77; Order 44, § 251-10-035, filed 6/25/75.]

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

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

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

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

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

WAC 251-10-055 Layoff lists—Institution-wide. (1) The names of persons identified in subsection (6) of this section, permanent and probationary employees who are scheduled for layoff, who have been laid off from service within a class or service to the institution, or who have accepted a lower option in lieu of layoff shall be placed on the institution-wide layoff list(s) for those class(es) in which they have held permanent status, probationary (if within the same class series as the list), or trial service appointment status within the current period of employment at the institution provided that:

- (a) The employee has requested placement on the list;
- (b) The employee has not been rejected, reverted, demoted or dismissed from such class(es); and
- (c) The class has the same or lower salary range maximum as the class from which laid off.

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

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

(3) Layoff lists shall be institution-wide with eligibles ranked according to layoff seniority as defined in WAC 251-01-245.

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

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

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

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

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

(6) In addition to persons identified in subsection (1) of this section, institution-wide layoff lists shall also contain the names of former employees of the institution/related board who have not successfully completed a trial service period resulting from movement identified in WAC 251-19-110. Such employees shall only have access to the list for the class in which they held permanent status prior to moving via WAC 251-19-110.

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-10-055, filed 12/30/87, effective 2/1/88; 87-02-036 (Order 154), § 251-10-055, filed 1/2/87, effective 2/1/87; 85-20-050 (Order 137), § 251-10-055, filed 9/25/85, effective 11/1/85; 84-08-032 (Order 113), § 251-10-055, filed 3/30/84, effective 5/1/84; 82-19-067 (Order 102), § 251-10-055, filed 9/20/82, effective 10/25/82; 81-15-003 (Order 88), § 251-10-055, filed 7/2/81; 78-06-068 (Order 68), § 251-10-055, filed 5/25/78, effective 7/1/78; Order 61, § 251-10-055, filed 8/30/77, effective 10/1/77.]

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

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

(b) The list must be for:

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

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

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

(iv) Class(es) at the same or lower level as the class from which laid off and in which permanent status has not been held; and

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

(2) Employees shall be ranked by their total layoff seniority as measured by their last period of unbroken service in the classified service of the state. The list shall consist of two categories, provided that, employees who have held permanent status in the class or in higher level classes in the series shall be certified prior to employees who have not held permanent status, and certification within each category shall be in order of:

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

(b) Employees of other state agencies.

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

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

(5) Employees appointed from this list shall be required to serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the institution-wide layoff list at the institution/related board from which he/she came or the corresponding state agency department of personnel register. Failure to satisfactorily complete the trial service period shall not affect the employees' status on other state-wide layoff lists upon which they previously have been placed.

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

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

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

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-10-060, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-10-060, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-10-060, filed 9/23/83, effective 10/24/83; 82-16-002 (Order 98), § 251-10-060, filed 7/22/82, effective 9/1/82; 78-10-090 (Order 70), § 251-10-060, filed 9/29/78, effective 11/1/78; Order 61, § 251-10-060, filed 8/30/77, effective 10/1/77; Order 32, § 251-10-060, filed 3/19/74.]

WAC 251-10-061 Layoff list—State-wide—Additional certification. When the certification process per WAC 251-18-240 does not provide the names of at least three eligibles from the state-wide layoff list, the personnel officer shall certify from the state-wide layoff list up to three additional eligibles, provided that all higher lists have been exhausted. Such additional certification(s) shall be made in strict order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the state-wide layoff list.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-10-061, filed 9/14/93, effective 10/1/93.]

WAC 251-10-070 Separation. (1) An employee unable to adequately perform the work of the employee's position or class due to mental, sensory, or physical incapacity may be separated from service after the institution has made good faith efforts to reasonably accommodate the employee's disability (such as, but not limited to, assessing other positions and/or classes for which the employee may be qualified and assisting in the employment/application process).

(2) A written document which includes the requirements established in WAC 251-10-080 informing the employee of the option to apply for return to employment will be provided prior to separation.

(3) A permanent employee being separated due to disability shall receive a pre-separation notice and meet the requirements as outlined in WAC 251-11-020.

(4) As provided in WAC 251-12-080, a separated employee may appeal his/her separation.

[Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-10-070, filed 3/23/89, effective 5/1/89.]

WAC 251-10-080 Reasonable accommodation—Reemployment. Each institution shall provide the access to reemployment provided in this section for former permanent classified employees of the institution who have submitted a written request to the personnel officer for reemployment within three years of separation pursuant to WAC 251-10-070. The provisions outlined in this section are requirements of either the former employee or the institution but need not necessarily be performed in the order listed.

(1) To be eligible for reemployment the former employee must:

(a) Complete and submit an application(s) for reemployment;

(b) Submit to the personnel officer a physician's statement affirming the former employee's fitness to return to work and specifying any work restrictions due to a physical, sensory, or mental disability of the individual;

(i) The physician's statement must directly reference the duties specified in the job description for the position(s) or class(es) for which the former employee may be qualified;

(ii) If the physician's statement provides inadequate information, the former employee will obtain the necessary clarification from the physician or will provide a release to the institution to communicate directly with the physician regarding the disabling condition as it relates to employment. Such information will be obtained at the former employee's expense;

(iii) The employer may require that the former employee be examined by a physician of the employer's choice and at the employer's expense.

(c) Meet the minimum qualifications and pass the examination for the class(es).

(2) The institution will provide assistance, such as the following, to the individual seeking reemployment under this section:

(a) Assessment of job classes for which the former employee is qualified;

(b) Assistance regarding the employment/application process;

(c) Placement on appropriate eligible lists through the competitive process per WAC 251-17-090 (2) and (4);

(d) Access to institution staff training programs relevant to job categories for which the former employee might become qualified.

[Statutory Authority: RCW 28B.16.100. 92-01-031, § 251-10-080, filed 12/6/91, effective 2/1/92; 89-08-003 (Order 176), § 251-10-080, filed 3/23/89, effective 5/1/89.]

WAC 251-10-090 Reasonable accommodation reemployment—Probationary period. Former permanent employees returning from separation as set forth in WAC 251-10-070 will serve a probationary period upon appointment.

(1) Upon successful completion of the probationary period, the time between separation and reemployment will be treated as leave without pay and will not be considered a break in service.

(2) If an employee is separated during the probationary period for reasons related to the disability:

(a) The former employee will be restored to the eligible list for other positions within that class and the provisions provided in WAC 251-10-080 will apply;

(b) The former employee will continue to be certified for open positions for other classes for which the individual is already on an eligible list; and

(c) The former employee may also apply for other classes for which the individual is qualified and the provisions provided in WAC 251-10-080 will apply.

[Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-10-090, filed 3/23/89, effective 5/1/89.]

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

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

Chapter 251-11 WAC DISCIPLINE

WAC

251-11-010	Notice of unsatisfactory work.
251-11-020	Predisciplinary notice.
251-11-030	Demotion, suspension, reduction, dismissal—Cause for.
251-11-040	Removal from supervisory positions.
251-11-050	Dismissal—Grounds for—Notice.
251-11-060	Suspension—Grounds for—Duration—Notice.
251-11-070	Immediate dismissal—Cause for.
251-11-080	Reduction, demotion—Procedure.
251-11-090	Withdrawal or amendment of charges—Time limitation.
251-11-100	Dismissal—Union shop—Notice—Recision.
251-11-110	Presumption of resignation—Unauthorized absence.
251-11-120	Probationary period—Rejection.
251-11-130	Trial service reversion.

WAC 251-11-010 Notice of unsatisfactory work. Each employee whose work is judged unsatisfactory shall be notified in writing of the areas in which the work is considered deficient. Unless the deficiency is extreme, the employee shall be given an opportunity to demonstrate improvement.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-010, filed 11/1/88.]

WAC 251-11-020 Predisciplinary notice. (1) Prior to dismissal, suspension, immediate dismissal, reduction in salary, or demotion of a permanent employee pursuant to WAC 251-11-050, 251-11-060, 251-11-070, 251-11-080, or

251-11-100, the employing institution/related board shall make reasonable efforts to give the employee:

(a) Oral or written notice of the charges against the employee;

(b) An oral or written explanation of the evidence which forms the basis for the charges;

(c) An oral or written statement of the action being contemplated by the employing official; and

(d) A reasonable opportunity for the employee to present reasons, either orally or in writing, why the proposed action should not be taken.

(2) The requirement in subsection (1)(b) of this section shall not limit the employing institution/related board from presenting a more detailed and complete case at an appeal hearing if the proposed action is taken and the employee appeals.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-020, filed 11/1/88.]

WAC 251-11-030 Demotion, suspension, reduction, dismissal—Cause for. (1) Appointing authorities may demote, suspend, reduce in salary, or dismiss an employee under their jurisdiction for just cause. Examples of activities which may result in such action are, but are not limited to: Neglect of duty, inefficiency, incompetence, insubordination, malfeasance, gross misconduct, willful violation of the published institution or related board or higher education personnel board rules or regulations, mistreatment or abuse of fellow workers or members of the public, conflict of interest, excessive absenteeism, failure to comply with union shop requirements per WAC 251-14-058, etc.

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

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-030, filed 11/1/88.]

WAC 251-11-040 Removal from supervisory positions. Appointing authorities shall remove from supervisory positions those supervisors who, in violation of WAC 251-11-030(2), have tolerated the continued employment of employees under their supervision whose performance has warranted termination from state employment.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-040, filed 11/1/88.]

WAC 251-11-050 Dismissal—Grounds for—Notice. Appointing authorities may dismiss a permanent employee for just cause as specified in WAC 251-11-030. The employee shall be provided written notice of the specified cause(s), specific charges, and the right to appeal the dismissal action to the board. The notice shall be furnished at least fifteen calendar days prior to the effective date of the action (unless the dismissal action is to be effective as provided in WAC 251-11-070) and shall be furnished directly to the employee during his/her scheduled working hours, or if this is not possible because of the absence of the employee during his/her regularly scheduled working hours, mailed by certified letter to the employee's last known address. If the notification is furnished directly to the

employee, the day it is furnished shall be counted as a day of notice. If the notification is mailed, the notice shall be considered received the same day as it is postmarked and the notice period shall be computed as provided in WAC 251-04-100.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-050, filed 11/1/88.]

WAC 251-11-060 Suspension—Grounds for—Duration—Notice. Appointing authorities may suspend an employee without pay for cause as specified in these rules for a period not exceeding fifteen calendar days as a single penalty or for a total of thirty calendar days in any calendar year as an accumulation of several penalties. The specified cause(s) as provided in WAC 251-11-030, specific charges, duration of the suspension, and notice of the right of appeal shall be furnished to the employee in writing no later than one day after the suspension takes effect. Notice to the employee shall be furnished in the manner provided in WAC 251-04-105.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-060, filed 11/1/88.]

WAC 251-11-070 Immediate dismissal—Cause for. After completion of the procedure required in WAC 251-11-020, if an appointing authority determines that a permanent employee is to be dismissed for cause as provided in WAC 251-11-030 and the circumstances are such that retention of the employee in an active duty status may result in damage to state property or may be injurious to the employee, fellow workers, or the client public, the employee may be dismissed immediately. The employee must be notified in writing as provided in WAC 251-11-050; however, the fifteen calendar days notice requirement does not apply. The notification must state the cause for the dismissal and in addition the necessity for the immediacy of the action.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-070, filed 11/1/88.]

WAC 251-11-080 Reduction, demotion—Procedure. Appointing authorities may reduce the salary of a permanent employee within the range or may demote an employee to a class at a lesser pay range for which he/she meets the minimum qualifications. Specific charges in writing for either of these actions shall be furnished to the employee at least fifteen calendar days prior to the effective date of the action.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-080, filed 11/1/88.]

WAC 251-11-090 Withdrawal or amendment of charges—Time limitation. Appointing authorities may withdraw or amend demotion, suspension, reduction in salary, or dismissal actions, but not after an appeal of the action has been heard by the board.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-090, filed 11/1/88.]

WAC 251-11-100 Dismissal—Union shop—Notice—Rescision. Appointing authorities shall dismiss an employee

who is employed within a bargaining unit that has a certified union shop representative when notified by the union shop representative of the employee's failure to comply with union shop requirements per WAC 251-14-058. The employee shall be given the opportunity to respond to the representative's notification as provided in WAC 251-11-020 before the notice of dismissal is given. If, thereafter, notice is necessary, it shall be furnished in writing to the employee at least fifteen calendar days prior to the effective date of the action. Prior to the effective date, the dismissal shall be rescinded upon the employee's presenting evidence to the appointing authority of compliance with WAC 251-14-058 or that the union shop representative has not complied with WAC 251-14-020(2) or the representation fee or nonassociation fee requirements of WAC 251-14-058.

[Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-11-100, filed 3/23/89, effective 5/1/89; 88-22-057 (Order 174), § 251-11-100, filed 11/1/88.]

WAC 251-11-110 Presumption of resignation—Unauthorized absence. An employee may be presumed to have resigned his/her position when there has been an absence without authorized leave from the job for a period of three consecutive working days. Thereafter, a notice acknowledging the presumption of resignation shall be sent by certified mail to the last known address of the employee. Within seven calendar days after the date of service, the employee may petition the appointing authority in writing for reinstatement upon proof that the absence was involuntary or unavoidable. If a permanent employee petitions within the seven calendar days and is not reinstated, notification shall be given advising of the right to appeal to the personnel appeals board as provided in Title 358 WAC.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-11-110, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-110, filed 11/1/88.]

WAC 251-11-120 Probationary period—Rejection. An appointing authority may reject an employee who has not completed a probationary period. Written notice of the action must be given to the employee at least one workday (eight hours) prior to the effective date of the action. Written notice should be given directly to the employee. If the employee is unavailable, notification shall be by certified mail. Service of papers shall be as provided in WAC 251-04-105. A probationary employee may not appeal rejection to the board.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-120, filed 11/1/88.]

WAC 251-11-130 Trial service reversion. An employee, prior to completing a trial service period, may be reverted by an employing official for failure to perform satisfactorily in the class. When such reversion becomes necessary, the written notice and employee rights upon reversion will be as provided in WAC 251-19-060(3). Trial service reversion is not appealable to the board when the conditions of WAC 251-19-060(4) have been satisfied.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-11-130, filed 11/1/88.]

Chapter 251-12 WAC APPEALS

WAC

251-12-071	Appeals from allocation.
251-12-072	Appeals from eligibility determinations.
251-12-073	Appeals from exempt status.
251-12-075	Appeals from alleged violations of higher education personnel law or rules.
251-12-076	Appeals from denial of parental leave requests.
251-12-080	Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissal.
251-12-085	Hearing examiners.
251-12-096	Declaratory orders.
251-12-097	Declaratory orders—Form.
251-12-099	Filing of prehearing statements.
251-12-100	Hearings before the board.
251-12-102	Hearings—Motion for continuance—Procedure.
251-12-103	Dismissal by the board for lack of action.
251-12-104	Prehearing procedures—Exhibits.
251-12-105	Scheduling of hearings.
251-12-106	Withdrawals—Default at hearings.
251-12-110	Appearance and practice before the board.
251-12-120	Standards of ethical conduct.
251-12-140	Service of papers.
251-12-170	Subpoenas—Form.
251-12-180	Subpoenas—Issuance to parties.
251-12-190	Subpoenas—Service of subpoena.
251-12-200	Subpoenas—Witness fees.
251-12-210	Subpoenas—Proof of service.
251-12-220	Subpoenas—Quashing.
251-12-230	Discovery—Depositions—Interrogatories.
251-12-231	Informal settlements.
251-12-232	Prehearing conference.
251-12-240	Burden of proof.
251-12-250	Findings of fact—Conclusions of law—Filing procedure.
251-12-260	Restoration of rights.
251-12-270	Superior court appeals—Grounds—Notice requirements.
251-12-290	Superior court appeals—Preparation of record—Time limitations—Cost.
251-12-300	Superior court appeals—Consideration of record.
251-12-500	Relief from effect of board's order.
251-12-600	Remedial action.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-12-010	Demotion—Suspension—Reduction—Dismissal—Causes. [Order 21, § 251-12-010, filed 5/24/73; Order 1, § 251-12-010, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-110.
251-12-015	Dismissal—Union shop requirement—Notice—Recision of dismissal. [Order 25, § 251-12-015, filed 7/17/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-170.
251-12-020	Reduction—Demotion—Procedure. [Order 1, § 251-12-020, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-150.
251-12-030	Suspension—Grounds for—Duration—Notice. [Order 1, § 251-12-030, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-130.
251-12-040	Dismissal—Grounds for—Notice. [Order 1, § 251-12-040, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-120.
251-12-045	Probationary period—Rejection. [Order 17, § 251-12-045, filed 10/16/72, effective 11/20/72.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-190.

- 251-12-050 Suspension—Concurrently—Notice. [Order 1, § 251-12-050, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-140.
- 251-12-060 Unauthorized absence—Presumption of resignation—Notice. [Order 21, § 251-12-060, filed 5/24/73; Order 1, § 251-12-060, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-180.
- 251-12-070 Demotion, suspension—Reduction—Dismissal—Withdrawal of charges by appointing authority—Time limitation. [Order 1, § 251-12-070, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-10-160.
- 251-12-090 Appeals receipt—Procedure. [Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-090, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-090, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-090, filed 9/15/69.] Repealed by 92-13-063, filed 6/12/92, effective 8/1/92. Statutory Authority: RCW 28B.16.100.
- 251-12-095 Appeals—Limitations. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-12-095, filed 5/25/78, effective 7/1/78.] Repealed by 80-15-026 (Order 85), filed 10/8/80. Statutory Authority: RCW 28B.16.100.
- 251-12-101 Motion(s) for continuance. [Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-101, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-12-101, filed 11/1/88.] Repealed by 96-09-055, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 41.06.150.
- 251-12-130 Computation of time. [Order 1, § 251-12-130, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-100.
- 251-12-150 Method and completion of service. [Order 1, § 251-12-150, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-105.
- 251-12-160 Filing with board. [Order 1, § 251-12-160, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-04-110.
- 251-12-280 Grounds—Notice requirements. [Order 1, § 251-12-280, filed 9/15/69.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-270.
- 251-12-285 Superior court appeals—Statement of facts—Preparation. [Order 61, § 251-12-285, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-285, filed 2/22/74.] Repealed by 83-10-029 (Order 105), filed 4/29/83, effective 6/1/83. Statutory Authority: RCW 28B.16.100.
- 251-12-501 Appeals—Relief from indirect effect of board's order. [Order 29, § 251-12-501, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-502 Written notice by director. [Order 29, § 251-12-502, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-503 Request for review by board. [Order 29, § 251-12-503, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.
- 251-12-504 Board ruling on review. [Order 29, § 251-12-504, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-12-500.

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

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

WAC 251-12-072 Appeals from eligibility determinations. An applicant may appeal the following to the director in accordance with the provisions of WAC 251-17-170:

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

[Statutory Authority: RCW 28B.16.100. 93-01-157, § 251-12-072, filed 12/23/92, effective 2/1/93; 88-02-017 (Order 164), § 251-12-072, filed 12/30/87, effective 2/1/88; 84-24-032 (Order 122), § 251-12-072, filed 11/30/84, effective 1/1/85; Order 61, § 251-12-072, filed 8/30/77, effective 10/1/77.]

WAC 251-12-073 Appeals from exempt status. As indicated in WAC 251-04-040(10), any employee who feels that any classification should or should not be exempt, or any employee in a nonexempt classification who feels that he/she should be exempt because of academic qualifications which would enable such employee to teach and thus be exempt, may appeal to the board in the same manner as provided in WAC 251-12-080.

[Statutory Authority: RCW 28B.16.100. 90-14-018, § 251-12-073, filed 6/27/90, effective 8/1/90. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-073, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-12-073, filed 7/31/85, effective 9/1/85; Order 61, § 251-12-073, filed 8/30/77, effective 10/1/77.]

WAC 251-12-075 Appeals from alleged violations of higher education personnel law or rules. Any employee, employee representative or appointing authority desiring to appeal an alleged violation of the higher education personnel law or rules adopted thereunder, may appeal such alleged violation. Appeals must be in writing and must be filed with the personnel appeals board as provided in Title 358 WAC within thirty calendar days after the effective date of the action appealed.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-12-075, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-075, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-12-075, filed 3/23/89, effective 5/1/89; Order 61, § 251-12-075, filed 8/30/77, effective 10/1/77.]

WAC 251-12-076 Appeals from denial of parental leave requests. Any permanent employee who is denied parental leave per WAC 251-22-195 may appeal such action to the board. The appeal must be in writing and submitted to the higher education personnel board office within seven calendar days following receipt by the employee of the personnel officer's written notification and rationale for denial. Appeals under this section will be heard by a board hearing examiner and a verbal decision will be rendered within forty-eight hours of the hearing, with a written decision to follow within thirty days. The hearing examiner's determination shall be final and binding.

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-076, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-12-076, filed 9/30/87.]

WAC 251-12-080 Appeals from demotion, suspension, layoff, reduction in salary, separation, dismissal. Any permanent employee who is demoted, suspended, laid off, reduced in salary, separated or dismissed, may appeal such action. Appeals must be in writing and must be filed with the personnel appeals board as provided in Title 358 WAC within thirty calendar days after the effective date of the action appealed.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-12-080, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-080, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-12-080, filed 7/31/84; 82-10-006 (Order 95), § 251-12-080, filed 4/26/82, effective 6/1/82; Order 61, § 251-12-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-12-080, filed 5/24/73; Order 1, § 251-12-080, filed 9/15/69.]

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

- (a) Determine the order of presentation of evidence;
- (b) Administer oaths and affirmations;
- (c) Issue subpoenas;
- (d) Rule on procedural matters, objections, and motions;
- (e) Rule on offers of proof and receive relevant evidence;
- (f) Take any appropriate action necessary to maintain order during the hearing;
- (g) Permit or require oral argument or briefs and determine the time limits for submission thereof; and
- (h) Take any other action necessary and authorized by any applicable statute or rule.

(2) With the exclusion of WAC 251-12-076, within thirty calendar days of the hearing, the hearing examiner shall issue a recommended decision which shall be transmitted to the board and be served upon the parties by certified mail with a statement regarding the right to file exceptions to the recommended decision.

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

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

(5) When exceptions are filed, such written statements shall include in detail the specific items of the hearing examiner's recommended decision to which exception is taken. A hearing on the exceptions will be scheduled before the board at which time all parties may present oral argument on the basis of the transcript and exhibits. Written argument may be presented in accordance with WAC 251-

12-099. Following the hearing on the exceptions the board may affirm, reverse, or modify the recommended findings of fact, conclusions of law and/or decision of the hearing examiner.

[Statutory Authority: RCW 28B.16.100. 91-10-002, § 251-12-085, filed 4/18/91, effective 6/1/91; 90-13-017, § 251-12-085, filed 6/8/90, effective 7/9/90. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-085, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-12-085, filed 9/30/87; Order 61, § 251-12-085, filed 8/30/77, effective 10/1/77.]

WAC 251-12-096 Declaratory orders. As provided in RCW 34.05.240, any person may petition the board for a declaratory order with respect to the applicability to specified circumstances of a rule, order, or statute enforceable by the higher education personnel board. For purposes of this section, the term person includes natural persons, employee organizations, institutions of higher education, and related boards.

(1) The petition shall be in writing, in accordance with WAC 251-12-097, and filed at the higher education personnel board office in Olympia. The petition shall set forth the facts and reasons on which the petitioner relies to show:

- (a) That uncertainty necessitating resolution exists;
- (b) That there is actual controversy arising from the uncertainty such that a declaratory order will not be merely an advisory opinion;
- (c) That the uncertainty adversely affects the petitioner;
- (d) That the adverse effect of uncertainty on the petitioner outweighs any adverse effects on others or on the general public that may likely arise from the order requested.

(2) Upon receipt of a petition for declaratory ruling, the director or designee will acknowledge receipt of the petition and forward the petition to the board for consideration.

(3) Within fifteen days after receipt of a petition for a declaratory order, the board shall give notice of the petition to all persons to whom notice is required by law, and may give notice to any other person it deems desirable.

(4) The board shall consider the petition without argument and within thirty days of receipt of the petition will:

(a) Enter an order declaring the applicability of the statute, rule, or order in question to the specified circumstances as stated in the petition; or

(b) Set a reasonable time and place for a hearing to be held no more than ninety days after receipt of the petition, including submission of evidence by the parties if deemed necessary by the board, or submission of written argument upon the matter if the material facts are not in dispute. Reasonable notification will be given to the petitioner and other persons who have been given notice of the petition pursuant to subsection (3) of this section of the time and place for such hearing or submission and of the issues it will be considering; or

(c) Set a specified time no more than ninety days after receipt of the petition by which it will enter a declaratory order; or

(d) Decline to enter a declaratory order, stating the reasons for its action.

(5) The board may extend the time limits of subsection (4)(b) and (c) of this section for good cause.

(6) Normally, the board will not issue a declaratory order on any matter that is or could have been the subject of any other proceeding before the board.

(7) The board at any time before taking final action on a petition may request submission of additional facts or argument, including setting the case for oral argument.

(8) If the board proceeds in the manner provided in subsection (4)(b) of this section, it shall within a reasonable time after conclusion of the proceeding:

(a) Issue a declaratory order; or

(b) Notify the petitioner and any other party to the proceeding that no declaratory order will be issued and stating the reason for such action.

(9) The board may not enter a declaratory order that would substantially prejudice the rights of a person who would be a necessary party and who does not consent in writing to the determination of the matter by a declaratory order proceeding.

(10) A declaratory order has the same status as any other order entered in a higher education personnel board proceeding adjudicated under WAC 251-12-080. Each declaratory order shall contain the names of all parties to the proceeding on which it is based, the particular facts on which it is based, and the reasons for its conclusions.

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-096, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 89-12-059 (Order 177) § 251-12-096, filed 6/6/89; 87-16-045 (Order 158), § 251-12-096, filed 7/29/87, effective 9/1/87.]

WAC 251-12-097 Declaratory orders—Form. Any interested person petitioning the higher education personnel board for a declaratory order pursuant to WAC 251-12-096 shall generally adhere to the following form for such purpose.

At the top of the page shall appear the wording "BEFORE THE HIGHER EDUCATION PERSONNEL BOARD." On the left side of the page below the foregoing, the following caption shall be set out: "In the Matter of the Petition of (Name of Petitioning Party) for a Declaratory Order." Opposite the foregoing caption shall appear the phrase: "Petition for Declaratory Order."

The body of the petition shall be set out in numbered paragraphs. The first paragraph shall state the name and address of the petitioning party and the name and address, if any, of the representative appearing on behalf of the petitioning party. The second paragraph shall state all rules or statutes that may be brought into issue by the petition. Succeeding paragraphs shall set forth all of the facts which the petitioner wishes the board to consider in issuing a declaratory order. The concluding paragraph(s) shall clearly set forth the issues which the petitioner wishes the board to address in its order and the requested order.

The original and two copies shall be filed with the petition. Petitions shall be on 8-1/2 x 11 inch paper.

Examples of a form petition for declaratory ruling shall be available for reference to any interested person in the office of the higher education personnel board in Olympia.

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-097, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 89-12-059 (Order 177) § 251-12-097, filed 6/6/89; 87-16-045 (Order 158), § 251-12-097, filed 7/29/87, effective 9/1/87.]

WAC 251-12-099 Filing of prehearing statements.

(1) Parties are encouraged to file prehearing statements of position with the personnel resources board. The board may request all parties to submit a prehearing statement. The statements should include a summary of the evidence the party intends to present; a listing of the rules, statutes, or contract provisions upon which the party intends to rely; a statement of the disposition requested; and an argument as to why the party is entitled to the requested disposition. Such documents shall be provided to the board and to the opposing party no later than fourteen calendar days prior to the scheduled hearing date. Any response by the opposing party shall be served no later than seven calendar days prior to the scheduled hearing date or at such time as set at the prehearing conference.

(2) A party submitting prehearing statement(s) shall provide the original and three copies to the board, and one copy to the opposing party.

(3) The personnel resources board will determine whether to consider documents that are filed at the time of the hearing.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-099, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100. 90-13-017, § 251-12-099, filed 6/8/90, effective 7/9/90.]

WAC 251-12-100 Hearings before the board. (1)

Hearings shall be open to the public, except for cases in which the board determines there is substantial reason for not having an open hearing, or in cases where the employee so requests. On motion of a party or on the hearing examiner's own motion, witnesses may be excluded from any hearing except when testifying. Photographic and recording equipment may be permitted; however, the hearing examiner may impose such conditions upon their use as he or she deems necessary to prevent disruption of the hearing. Hearings shall be informal with technical rules of evidence not applying to the proceedings except the rules of privilege recognized by law.

(2) Members of the board may, and shall at the request of either party, issue subpoenas and subpoenas duces tecum. All testimony shall be on oath administered by a member of the board according to the provisions of RCW 5.28.020 through 5.28.060. The board shall certify to the superior court the facts of any refusals to obey a subpoena, take the oath, or testify. The court shall summarily hear the evidence on such refusal and if the evidence warrants punish such refusal in the same manner and to the same extent as for contempt committed before, or in connection with the proceedings of, the court.

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

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-100, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-100, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 83-10-029

(Order 105), § 251-12-100, filed 4/29/83, effective 6/1/83; Order 61, § 251-12-100, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-100, filed 9/15/69.]

WAC 251-12-102 Hearings—Motion for continuance—Procedure. (1) Any party to a hearing may make a written motion(s) to the board to continue a hearing by showing good cause. The motion(s) shall state the specific reason(s) and the period of time for which a continuance is necessary.

(2) Any party desiring a continuance shall first contact the opposing party to determine whether agreement to a continuance can be reached. The requesting party will immediately notify, in writing, the board of the request, the reason(s) for the request, and the opposing party's response to the request.

(3) The party requesting the continuance shall submit the motion in writing. The motion shall be filed with the board and the opposing party at least fourteen calendar days prior to the scheduled hearing date. The board or its designee shall review the motion, make a decision whether or not to grant the continuance, and notify the parties of the decision within three working days of receipt of the motion.

(4) In unusual circumstances, and only where the reason(s) for the continuance could not have been foreseen, a motion for continuance may be made when the party seeking the continuance becomes aware of the facts upon which the request for continuance is based. The following will apply:

(a) The requesting party shall notify the other party of the desire for a continuance and obtain the other party's response.

(b) The requesting party shall notify the board or board's hearings coordinator in writing of the request, the reason(s) for the request, and the opposing party's response to the request.

(c) The board or its designee shall review the request, make a decision whether or not to grant the continuance, and notify the parties of the decision as soon as possible.

(5) The opposing party may submit a written statement in opposition or support of the motion for continuance to the board and other parties upon receipt of the motion.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-102, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-102, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-12-102, filed 11/1/88.]

WAC 251-12-103 Dismissal by the board for lack of action. (1) In all appeals assigned for hearing before the board's designee or assigned for investigation by the director where there has been no action by the parties during the preceding three months, the director or designee shall mail notice to the appellant or his/her representative and the institution that the appeal will be dismissed by the board for want of prosecution unless within thirty days following the date of service of the notice a written request is made to the board and good cause is shown why it should be continued as a pending case.

(2) If no request is made, the matter will be brought before the board for dismissal at the next regularly scheduled board meeting.

[Statutory Authority: RCW 28B.16.100. 88-22-057 (Order 174), § 251-12-103, filed 11/1/88.]

WAC 251-12-104 Prehearing procedures—Exhibits.

(1) At any hearing before the personnel resources board when exhibits of a documentary character are offered into evidence, the party offering the exhibit shall provide a minimum of six copies: One each for the opposing parties, for the board members, for the court reporter, if any, and for the board's official file.

(2) The parties shall arrive at the hearing location at least thirty minutes before the time scheduled for the hearing for the purpose of exchanging copies of exhibits to be introduced. The parties shall pre-mark their exhibits for identification and present copies to other parties and the board's staff prior to commencement of the hearing.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-104, filed 4/12/96, effective 6/1/96.]

WAC 251-12-105 Scheduling of hearings. Prior to scheduling the hearing, the hearings coordinator will give the parties an opportunity to indicate preferred dates and amount of time allotted of the hearing. The hearings coordinator shall schedule all hearings before the personnel resources board with written notice, specifying the time, place, and length of the hearing. Notice of hearing shall be mailed not less than thirty calendar days prior to the date of the hearing, unless all parties agree to a shorter notice period. Primary and/or secondary hearings may be scheduled.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-105, filed 4/12/96, effective 6/1/96.]

WAC 251-12-106 Withdrawals—Default at hearings.

(1) Withdrawals requested by the grievant/petitioner or representative shall be filed with the board and each opposing party, in writing, no later than seven calendar days prior to the hearing date. Under unusual circumstances, the board may consider the request for withdrawal at a shorter time than the required seven calendar days.

(2) If a party fails to attend or participate in a hearing or other stage of a proceeding, the board may serve upon all parties a default or dismissal order which shall include a statement of the grounds for the order. Within seven calendar days after service of a default or dismissal order for failure to attend or participate, the party against whom it was entered may file a written motion requesting that the order be vacated, and stating the grounds relied upon.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-106, filed 4/12/96, effective 6/1/96.]

WAC 251-12-110 Appearance and practice before the board.

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

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-170, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-170, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-170, filed 10/15/71; Order 1, § 251-12-170, filed 9/15/69.]

WAC 251-12-180 Subpoenas—Issuance to parties. Subpoenas may be issued by any member of the board, or its designee, or by the attorney of record of the party to the hearing in whose behalf the witness is required to appear, and shall be subscribed by the signature of the issuing person. Parties desiring subpoenas which are to be signed by members of the board or its designee shall submit a written request to the board or its designee. Requests for subpoenas must be submitted at least ten calendar days prior to the hearing. The board or designee may allow less than ten calendar days under unusual circumstances. Parties requesting subpoenas shall make arrangements for service. The service of all subpoenas shall be at the expense of the party requiring the witness to appear.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-180, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-180, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-180, filed 8/30/77, effective 10/1/77; Order 33, § 251-12-180, filed 6/18/74; Order 9, § 251-12-180, filed 10/15/71; Order 1, § 251-12-180, filed 9/15/69.]

WAC 251-12-190 Subpoenas—Service of subpoena. Service of subpoena shall be made by delivering a copy of the subpoena a reasonable period ahead of time to such person and by tendering, on demand, the fees for one day's attendance and the mileage allowed by law.

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-190, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-190, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-190, filed 9/15/69.]

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

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-200, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-200, filed 8/30/77, effective 10/1/77; Order 9, § 251-12-200, filed 10/15/71; Order 1, § 251-12-200, filed 9/15/69.]

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

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-210, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-210, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-210, filed 9/15/69.]

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

- (1) Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or
- (2) Condition denial of the motion upon just and reasonable conditions.

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

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

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

WAC 251-12-231 Informal settlements. (1) If settlement of an appeal may be accomplished by informal negotiation, negotiations shall be commenced at the earliest possible stage of the proceeding. Settlement shall be concluded by one of the following:

- (a) Stipulation of the parties;
- (b) Withdrawal by the appellant of his or her appeal;
- (c) Withdrawal by the institution of the action which is the subject matter of the appeal.

(2) Settlement negotiations shall be informal and without prejudice to the rights of a participant in the negotiations; provided, however, that any time limit applicable to filing an appeal shall not be extended because settlement attempts are pending.

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-231, filed 10/24/89, effective 12/1/89.]

WAC 251-12-232 Prehearing conference. (1) The personnel resources board or its designee may direct the parties or their representatives to engage in an informal prehearing conference(s) to consider the following:

- (a) Statement of issue;
- (b) The possibility of obtaining stipulations, admissions of fact and admissions of the genuineness of documents which will avoid unnecessary proof;
- (c) Discovery, discovery methods and discovery deadlines;
- (d) The number of witnesses expected to be called and their names when possible;
- (e) The approximate time necessary for presentation of the evidence of the respective parties;
- (f) Whether or when motions may be brought;
- (g) Exhibits;
- (h) Affidavits;
- (i) Scheduling the hearing before the board; and
- (j) Such other matters as may aid in the prompt disposition of the petition.

(2) Prehearing conferences may be held by telephone conference call or at a time and place mutually agreed upon by the parties.

(3) The parties are encouraged where possible to resolve their disputes. To facilitate such resolution, the board or its designee may recess the conference at any time to give the parties time to discuss settlement. In the event settlement is reached, the grievant/petitioner or representative shall sign a request to withdraw the petition.

[Statutory Authority: RCW 41.06.150. 96-09-055, § 251-12-232, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-232, filed 10/24/89, effective 12/1/89.]

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

(2) The appellant and/or the appellant's representative shall have the burden of proof in all other matters on appeal, including, but not limited to appeals from allocation.

(3) The party filing the exceptions shall have the burden of proof of demonstrating that the recommended decision or determination is in error at any hearing on exceptions.

[Statutory Authority: RCW 28B.16.100. 93-06-033, § 251-12-240, filed 2/23/93, effective 4/1/93; 88-02-017 (Order 164), § 251-12-240, filed 12/30/87, effective 2/1/88; 87-02-036 (Order 154), § 251-12-240, filed 1/2/87, effective 2/1/87; 84-16-067 (Order 119), § 251-12-240, filed 7/31/84; 81-18-039 (Order 90), § 251-12-240, filed 8/28/81, effective 10/1/81; 78-06-068 (Order 68), § 251-12-240, filed 5/25/78, effective 7/1/78; Order 61, § 251-12-240, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-240, filed 9/15/69.]

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

[Statutory Authority: RCW 28B.16.100, 34.05.220 and [34.05.]250. 89-22-020, § 251-12-250, filed 10/24/89, effective 12/1/89; Order 61, § 251-12-250, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-250, filed 9/15/69.]

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

(2) In instances of immediate dismissal as provided in WAC 251-11-070 where the institution is unable to justify under appeal the immediacy of the dismissal but the dismissal action itself is upheld, the employee's entitlement to recovery shall not exceed the fifteen calendar day period which would have served as the notice period had the dismissal been processed as provided in WAC 251-11-050. In instances where the board does not uphold the dismissal action but deems a suspension to have been warranted, the employee may be reinstated and a suspension ordered of up to fifteen calendar days.

[Statutory Authority: RCW 28B.16.100. 89-01-071 (Order 175), § 251-12-260, filed 12/20/88, effective 2/1/89; 83-20-020 (Order 108), § 251-12-260, filed 9/23/83, effective 10/24/83; Order 61, § 251-12-260, filed 8/30/77, effective 10/1/77; Order 1, § 251-12-260, filed 9/15/69.]

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

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

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

(c) Materially affected by unlawful procedure.

(d) Based on violation of any constitutional provision.

(e) Arbitrary or capricious.

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

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

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

[Statutory Authority: RCW 28B.16.100. 93-06-033, § 251-12-290, filed 2/23/93, effective 4/1/93; Order 61, § 251-12-290, filed 8/30/77, effective 10/1/77; Order 31, § 251-12-290, filed 2/22/74; Order 1, § 251-12-290, filed 9/15/69.]

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

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

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

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

WAC 251-12-500 Relief from effect of board's order. (1) Employees who incur loss of position, seniority, salary or otherwise are caused to suffer directly by action of the board pursuant to rules set forth in chapters 251-17, 251-18, and 251-19 WAC may be considered to be aggrieved if the employee did not participate in the conditions as contributing to rules violation. Aggrieved employees may be provided by order of the board, such benefits as:

- (a) Permanent status when qualified by examination;
- (b) Salary maintenance or adjustment;
- (c) Seniority as appropriate;
- (d) Accrual of benefits.

(2) Upon receipt of written request for consideration from an employee, or upon initiation by the director, such action may be instituted as is required to provide appropriate relief under the rules for aggrieved employees when the employee is reduced in position or salary, laid off, or is otherwise caused to suffer as an indirect result of an order of the board and the employee was not a party to willful

disregard of the rules. Such written request from the employee must be received within thirty calendar days of the action unless an extension in time is requested by the personnel officer.

(3) The director shall notify interested parties in writing of any recommended action and such order shall be binding unless a request for review is received by the higher education personnel board as provided in subsection (4) of this section.

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

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-12-500, filed 12/30/87, effective 2/1/88; Order 61, § 251-12-500, filed 8/30/77, effective 10/1/77; Order 29, § 251-12-500, filed 1/22/74.]

WAC 251-12-600 Remedial action. (1) The director may take remedial action when it is determined that the following conditions exist.

(a) The hiring institution has made an appointment that does not comply with higher education personnel board rules.

(b) The employee has worked in one or more positions for more than one thousand fifty hours in any twelve consecutive month period since the original hire date or October 1, 1989, whichever is later. (These hours do not include overtime or work time as described in WAC 251-04-040(2).)

(c) The position or positions are subject to civil service.

(d) The employee has not taken part in any willful failure to comply with these rules.

(2) Remedial action includes the power to confer permanent status, set salary, establish seniority, and determine benefits accrued from the seniority date. Remedial action also includes other actions the director may require to meet the highest personnel standards.

(3) If the institution has complied with WAC 251-19-122, the employee must:

(a) Submit any request for remedial action in writing; and

(b) File the request within thirty calendar days after the effective date of the alleged violation of the conditions of employment which are to be specified in the written notification of temporary appointment.

(4) The director's order for remedial action shall be final and binding unless exceptions are filed with the board within thirty calendar days of the date of service of the order. Exceptions must state the specific items of the order to which exception is taken. The board will review the exceptions and may hold a hearing prior to modifying or affirming the director's order.

[Statutory Authority: RCW 28B.16.100, 28B.16.040(2) and 70.24.300. 90-01-007, § 251-12-600, filed 12/7/89, effective 1/7/90. Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-12-600, filed 6/21/89, effective 10/1/89; 88-22-057 (Order 174), § 251-12-600, filed 11/1/88; 81-24-019 (Order 92) § 251-12-600, filed 11/24/81, effective 1/1/82; 79-03-029

(Order 71), § 251-12-600, filed 2/27/79, effective 4/2/79; Order 61, § 251-12-600, filed 8/30/77, effective 10/1/77.]

Chapter 251-14 WAC COLLECTIVE BARGAINING

WAC

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

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

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

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

WAC 251-14-020 Employee organization filing requirements. (1) Any employee organization authorized to represent employees before the board or in collective bargaining with an appointing authority must first file with the director a notice of intent to represent employees. Such

notice must set forth the name of the employee organization; the name of an agent authorized to speak on its behalf; a mailing address and telephone number; a general description of the types of employment falling within the intended area of representation and the number of classified higher education employees who are presently members of the employee organization; and a copy of a constitution, bylaws, or any other documents defining powers and authorizing representation. The director or designee shall, after verification of the documents submitted, notify the employee organization, each institution and related board of the authorized recognition.

(2) An employee organization which is, or desires to be, an exclusive representative for a bargaining unit which has chosen to be a union shop must have a written procedure concerning representation fees which complies with applicable statutory and constitutional requirements. Such employee organization must provide to the director a written opinion of the employee organization's attorney that its representation fee procedure is in compliance with applicable statutory and constitutional requirements.

[Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-14-020, filed 8/29/88, effective 10/1/88; Order 61, § 251-14-020, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-020, filed 5/23/75; Order 2, § 251-14-020, filed 3/12/70; Order 1, § 251-14-020, filed 9/15/69.]

WAC 251-14-030 Determination of bargaining unit.

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

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

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

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

(c) Extent of organization among the employees.

(d) Desires of the employees.

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

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

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

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

(5) At the hearing on a petition, the board shall make an oral determination. Within thirty calendar days of the hearing, the board shall also enter an appropriate order containing findings of fact and conclusions of law reflecting

its oral determination. Unless otherwise provided, the effective date for the creation or modification of a bargaining unit shall be the date of the board's oral determination.

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

(7) The director or designee shall update bargaining unit descriptions to reflect any change in class title and/or code affected by board action and notify the affected exclusive bargaining representative and the institution of the change thirty days prior to the intended action. Either party may appeal the designee's decision to the board within thirty calendar days after receipt of the proposed updated description. The basis of the appeal is limited to whether the action represents a change which would affect the composition of the bargaining unit.

[Statutory Authority: RCW 28B.16.100, 87-16-045 (Order 158), § 251-14-030, filed 7/29/87, effective 9/1/87; 82-10-006 (Order 95), § 251-14-030, filed 4/26/82, effective 6/1/82; Order 61, § 251-14-030, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-030, filed 2/26/76; Order 2, § 251-14-030, filed 3/12/70.]

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

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

WAC 251-14-040 Election and certification of exclusive representative. (1) The director shall certify an employee organization as exclusive representative of the employees of a bargaining unit when such organization shows proof that it represents a majority of such employees at the close of the last preceding payroll period and such proof is not contested by the appointing authority, the director, or any other interested party. Prior to certification, the director shall give ten calendar days' notice that an employee representative has petitioned to be named the exclusive representative of a bargaining unit. Such notice shall inform all other interested parties that an election may be requested as herein provided and that the proof of majority representation may be contested within ten calendar days. The ten calendar day period shall begin three days after the director's notice is mailed, and a request for an election or notice of a contest of proof of majority representation shall be deemed timely if postmarked within the ten-day period. The institution personnel officer or designee shall have responsibility for posting copies of the notice in conspicuous places in the work area of the employees included in the bargaining unit. The director shall determine whether the proof of representation is satisfactory, and if it is not satisfactory shall require that an election be held.

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

(2) The director shall conduct a secret vote for selection of an exclusive representative of the employees of a bargain-

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

(3) The director or designee, at a pre-election conference, shall review with interested employee organizations and the appointing authority or designee the standards and procedures for the conduct of the election, shall inform all affected employees of the conditions set forth therein, and shall distribute sample ballots. The ballot shall contain the name of the requesting employee organization and the name of any other employee organization showing satisfactory proof of at least ten percent representation within the unit, and shall provide a choice for any employee within the unit to designate that he/she does not desire to be represented by an exclusive representative. All employees on the active payroll and employed within the bargaining unit at the time of election are eligible to vote. Eligible employees unable to vote at the time of election may vote by absentee ballot. Absentee ballots may be requested prior to date of election, but will be counted only if received by the director or designee no later than two regular working days following the closing date of election. Where more than one organization is on the ballot and none receives a majority of all votes cast in such election, a run-off election shall be held. The run-off ballot shall contain the two choices which received the largest and second largest number of votes.

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

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

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

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

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

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

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

(3) Prior to decertification, the director shall give ten calendar days notice to the affected employees. The notice shall be posted by the institution in the work areas of the employees affected. Such notice shall inform the employees that decertification by a disclaimer of interest petition may be contested within the ten calendar days and an election requested.

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

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

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

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

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

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

WAC 251-14-050 Petition for decertification of exclusive representative. (1) Upon petition to the director by not less than thirty percent of the employees of a bargaining unit, decertification or a new certification shall be determined by a secret vote of the employees, providing twelve months have elapsed since the last certification and between one hundred twenty and ninety calendar days remain before the termination date of any existing collective bargaining agreement covering the employees of the unit.

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

(2) When the board, pursuant to WAC 251-14-030, combines existing bargaining units into one new unit, the combination shall effect an automatic decertification of the affected exclusive representatives except in those instances where the same employee organization is certified as the exclusive representative for all of the existing bargaining units that are being combined into one new unit.

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-14-050, filed 1/2/87, effective 2/1/87; 86-09-076 (Order 148), § 251-14-050, filed 4/22/86, effective 6/1/86; Order 61, § 251-14-050, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-050, filed 2/26/76; Order 25, § 251-14-050, filed 7/17/73; Order 2, § 251-14-050, filed 3/12/70.]

WAC 251-14-052 Union shop representative election. (1) The director shall order a union shop representative election to be held upon petition from an employee organization which has been certified per WAC 251-14-040 as the exclusive representative of the employees of a bargaining unit. If the employee organization does not already have the opinion of counsel required by WAC 251-14-020(2) on file with the director, the petition shall not be considered complete until such an opinion is provided.

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

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

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

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

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

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 88-18-018 (Order 172), § 251-14-052, filed 8/29/88, effective 10/1/88; Order 61, § 251-14-052, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-052, filed 7/17/73.]

WAC 251-14-054 Union shop representative decertification election. (1) The director shall, upon petition of thirty percent of the members of a bargaining unit, order an election to determine if a majority of employees in such bargaining unit wish to rescind membership in the employee organization as a condition of employment, providing twelve months have lapsed since the original election which established the union shop representative. Such election shall be conducted in accordance with WAC 251-14-052 (2), (3), (4), (5), (6), (7), and (8).

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

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

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

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

[Statutory Authority: RCW 28B.16.100. 88-08-018 (Order 167), § 251-14-056, filed 3/29/88, effective 5/1/88; Order 61, § 251-14-056, filed 8/30/77, effective 10/1/77; Order 42, § 251-14-056, filed 5/23/75; Order 25, § 251-14-056, filed 7/17/73.]

WAC 251-14-057 Election validity—Objections. (1) The director, an appointing authority or designee, any employee of the bargaining unit, and/or any employee organization whose name appeared on the ballot as a choice, may question the validity of an election by objecting to the administration of the election or to improper conduct which may have affected the results of the election conducted under the provisions of chapter 251-14 WAC.

(2) The objections must contain a specific statement of the reasons therefor and be filed in the office of the director by the close of business on the fifth working day following the tabulation of the ballots. The party filing objections is required to submit evidence in support thereof at the time the objections are filed or forthwith upon request from the director.

(3) The director or designee will investigate the objections. Where the investigation reveals that the objections have merit, the director may set aside the results of the election and order a new election.

[Order 61, § 251-14-057, filed 8/30/77, effective 10/1/77; Order 44, § 251-14-057, filed 6/25/75.]

WAC 251-14-058 Union shop requirements. (1) When a majority of employees within a bargaining unit determine by election to require as a condition of employment membership in the employee organization designated as the exclusive bargaining representative, all employees included in that bargaining unit are required to pay to such employee organization the regular dues of the organization, or pay a representation fee or a nonassociation fee, within thirty calendar days of the beginning of their employment within the bargaining unit or within thirty calendar days of the date of the union shop representative election, whichever is later.

(2) Membership in the employee organization is satisfied by the payment of monthly or other periodic dues, or representation fees, and does not require payment of initiation, reinstatement, or any other fees or fines, and includes full and complete membership rights.

(3) Employees who wish to exercise the right of nonassociation with an employee organization based on bona fide religious tenets, or teachings of a church or religious body of which they are a member, must present a request for nonassociation to the personnel office of the concerned institution. The appointing authority or designee and the union shop representative must be in agreement that the requests are based on such bona fide reasons. If agreement cannot be reached within a reasonable time, either party may submit the issues in dispute to the director or designee. Should the request for nonassociation be denied by the appointing authority or designee, the employee may submit the issue to the director or designee. The decision of the director regarding nonassociation shall be final.

(4) Employees who are granted the nonassociation right must pay a union shop nonassociation fee to the employee organization. Such fee is equivalent to the regular dues of the organization minus any included monthly premiums for union sponsored insurance programs.

(5) When an employee has qualified for nonassociation with an employee organization on religious grounds, the employee may designate which of the programs of the

employee organization are in harmony with the employee's conscience and may then designate that the nonassociation fee shall go to such programs.

(6) The employee who qualifies for the nonassociation clause shall not be a member of the employee organization, but is entitled to the same representation rights as a member of the employee organization.

(7) Employees who object to payment for activities of the exclusive representative which are supported by regular dues and which are not related to representation of the employees in the bargaining unit may pay a representation fee in lieu of regular dues. The representation fee is to be calculated by the representative in accordance with applicable constitutional and statutory requirements. See WAC 251-01-367.

(8) A condition of employment for an employee employed in a bargaining unit where an employee organization is the exclusive union shop representative is membership in that employee organization or the regular payment of a union shop representation fee or a nonassociation fee to such organization. Failure of an employee to become a member of the employee organization or make payment of the union shop representation or nonassociation fee within thirty calendar days following the beginning of employment within the bargaining unit or thirty calendar days after the date of the union shop representative election, whichever is later, constitutes cause for dismissal per the provisions of WAC 251-11-100.

(9) The union shop representative shall inform the appointing authority, in writing, of those employees who have not complied with this section.

(10) The requirement to be a member of an employee organization or the payment of a union shop representation fee or a nonassociation fee as a condition of employment will be nullified when the employee organization which is the union shop representative is decertified per WAC 251-14-050 or 251-14-054.

(11) The appointing authority or designee shall notify affected employees of existing union shop provisions prior to their hire or transfer into a bargaining unit where there is a requirement to be a member of a designated employee organization to pay a union shop representation fee or a nonassociation fee as a condition of employment.

(12) Payroll deductions for employee organization dues or union shop representation or nonassociation fees may be provided by the institution upon written authorization from the employee.

[Statutory Authority: RCW 28B.16.100. 89-01-071 (Order 175), § 251-14-058, filed 12/20/88, effective 2/1/89; 88-18-018 (Order 172), § 251-14-058, filed 8/29/88, effective 10/1/88; 82-16-002 (Order 98), § 251-14-058, filed 7/22/82, effective 9/1/82; Order 61, § 251-14-058, filed 8/30/77, effective 10/1/77; Order 25, § 251-14-058, filed 7/17/73.]

WAC 251-14-060 Contents of written agreements.

(1) Written agreements may contain provisions covering all personnel matters over which the institution related board may lawfully exercise discretion.

(2) Written agreements shall include a grievance procedure for processing individual and group grievances within the bargaining unit and shall provide for mediation by the director or designee and for arbitration by the board. Mediation by the director or designee and arbitration by the

board of a grievance dispute shall not apply in those instances where the same complaint has been filed for hearing either through the unfair labor practice or appeal procedures of the higher education personnel board rules.

(3) Written agreements may contain provisions for payroll deduction of employee organization dues and/or union shop representation fees upon written authorization from the employee. Any employee may cancel his/her payroll deduction of employee organization dues by filing a written notice with the appointing authority or designee and the employee organization thirty calendar days prior to the effective date of such cancellation.

(4) Written agreements shall be for a minimum of one year in duration and shall not exceed three years. Automatic renewal or extension provisions may extend the term of a contract for only one year at a time. An automatic renewal or extension provision in a contract cannot act as a bar to a request for an exclusive representative decertification election per WAC 251-14-050(1).

(5) Where there are collective bargaining agreements in effect in bargaining units which are combined per WAC 251-14-030, the board shall determine the application of such bargaining agreements or terms thereof when there is an impasse between the exclusive representative and the institution.

(6) Institutions shall file signed written agreements with the director. Provisions of such agreements shall not prevail if in conflict with the higher education personnel board rules, the higher education personnel law or other applicable law.

[Statutory Authority: RCW 28B.16.100. 86-09-076 (Order 148), § 251-14-060, filed 4/22/86, effective 6/1/86; Order 61, § 251-14-060, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-060, filed 2/26/76; Order 42, § 251-14-060, filed 5/23/75; Order 25, § 251-14-060, filed 7/17/73; Order 2, § 251-14-060, filed 3/12/70.]

WAC 251-14-070 Unfair labor practices—Management—Employee organizations. (1) It shall be an unfair labor practice for an institution:

(a) To interfere with, restrain, or coerce employees in the exercise of their collective bargaining rights guaranteed by the higher education personnel law and the rules adopted thereunder as provided in chapter 251-14 WAC (Collective bargaining) and RCW 28B.16.230.

(b) To control, dominate, or interfere with a bargaining representative.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

(2) It shall be an unfair labor practice for employee organizations:

(a) To interfere with, restrain, or coerce employees in the exercise of their collective bargaining rights guaranteed by the higher education personnel law and the rules adopted thereunder as provided in chapter 251-14 WAC (Collective bargaining) and RCW 28B.16.230.

(b) To induce an institution to commit an unfair labor practice.

(c) To discriminate against an employee who has filed an unfair labor practice charge.

(d) To refuse to engage in collective bargaining.

[Statutory Authority: RCW 28B.16.100. 88-02-027 (Order 166), § 251-14-070, filed 12/31/87, effective 2/1/88; 87-21-089 (Order 163), § 251-14-070,

filed 10/21/87; Order 61, § 251-14-070, filed 8/30/77, effective 10/1/77; Order 2, § 251-14-070, filed 3/12/70.]

WAC 251-14-080 Unfair labor practices—Powers of board—Procedure. (1) The board, or its designee, whose final decision is appealable to the board, is empowered and directed to prevent any unfair labor practice and to issue appropriate remedial orders. This power shall not be affected or impaired by any means of adjustment, mediation or conciliation in labor disputes that have been or may hereafter be established by law.

(2) Unfair labor practice charges shall be filed on a form provided by the director or designee, and shall be filed in the office of the director within sixty calendar days after the parties become aware of the alleged unfair labor practice(s). A copy shall simultaneously be sent to the charged party. The form shall be signed by the charging party or an authorized representative and shall contain the following:

(a) The name and address of the institution.

(b) The name and address of the party or organization filing the charge.

(c) A clear and concise statement of the facts constituting the alleged unfair labor practice(s), including times, dates, places, and participants in occurrences.

(d) A listing of the specific unfair labor practice(s) alleged to have been committed including reference to the applicable subsection(s) of the statute and regulation defining unfair labor practices. If the charging party is not represented, this subsection may be left blank pending the investigation of the charge.

(e) A statement of the relief sought by the charging party.

(f) The signature and, if any, the title of the person filing the charge.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-080, filed 6/26/86, effective 8/1/86; 78-05-060 (Order 67), § 251-14-080, filed 4/27/78, effective 6/1/78; Order 61, § 251-14-080, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-080, filed 2/26/76; Order 2, § 251-14-080, filed 3/12/70.]

WAC 251-14-082 Investigation of and disposition of unfair labor practice charges. (1) Upon receipt of a properly completed unfair labor practice charge, the board or its designee shall conduct an investigation to determine whether or not the charges are frivolous or substantially without merit. If it is found that the charges are not frivolous or are not substantially without merit, a complaint shall be issued and a hearing scheduled as provided by these rules. If it is found that the charge(s) is frivolous or substantially without merit, the director shall issue and cause to be served on all parties an order of dismissal containing the reasons therefor. Dismissal of the charge is appealable to the higher education personnel board.

(2) If a charge does not contain all of the information required by WAC 251-14-080, the director or designee shall return the charge to the charging party for inclusion of the required information. If a complaint is issued, it shall be in the same form as the charge.

(3) The director or designee shall mail, or otherwise cause to be served, the complaint to the charged party.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-082, filed 6/26/86, effective 8/1/86.]

(1997 Ed.)

WAC 251-14-083 Unfair labor practice notice and complaint—Procedure. (1) Whenever a charge has been made concerning any unfair labor practice, the board or its designee shall have power to issue and cause to be served a complaint stating the charges in that respect, and containing a notice of hearing before the board or its designee at a place therein fixed to be held not less than seven calendar days after the serving of said complaint. Any such complaint may be amended by the board or its designee any time prior to the issuance of an order based thereon. The person so complained of shall have the right to file an answer to the original or amended complaint within five calendar days after the service of such original or amended complaint and to appear in person or otherwise to give testimony at the place and time set in the complaint.

(2) In the discretion of the board or its designee, any other person may be allowed to intervene in the said proceedings and to present testimony. In any such proceeding the board or its designee shall not be bound by technical rules of evidence prevailing in the courts of law or equity.

(3) The charging party shall prosecute the complaint and shall have the burden of proof.

(4) The hearing shall be limited to the issues and questions of fact raised by the complaint and answer of the parties.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-083, filed 6/26/86, effective 8/1/86.]

WAC 251-14-085 Amendment of complaint or answer—Unfair labor practice. The higher education personnel board may allow a complaint or answer to be amended at any time before the close of the hearing, upon motion of the party concerned, for good cause shown and upon such terms as the higher education personnel board may deem appropriate under the circumstances. Timeliness in making the motion shall be a factor in determining whether it will be granted.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-085, filed 6/26/86, effective 8/1/86.]

WAC 251-14-086 Hearings and investigation—Unfair labor practice. For the purpose of all hearings and investigations, which, in the opinion of the board or its designee are necessary and proper for the exercise of the powers vested in it by this act, the board or its designee shall at all reasonable times have access to for the purposes of examination, and the right to examine, copy or photograph any evidence, including payrolls or list of employees, of any person being investigated or proceeded against that relates to any matter under investigation or in question. The board or its designee shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation or in question before the board or its designee. The board or its designee may administer oaths and affirmations, examine witnesses, and receive evidence.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-086, filed 6/26/86, effective 8/1/86.]

WAC 251-14-087 Enforcement—Unfair labor practice. The board or its designee whose final decision is

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appealable to the board, or any party to the proceedings, thirty days after the board or its designee has entered its findings of fact, shall have power to petition the superior court of the state, within the county wherein any person charged with the unfair labor practice resides or transacts business, or if such court be on vacation or in recess, then to the superior court of any county adjoining the county wherein the unfair labor practice in question occurred or wherein any person charged with the unfair labor practice resides or transacts business, for the enforcement of such order and for appropriate temporary relief or restraining order, and shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and testimony upon which such order was made and the findings and order of the board or its designee. Upon such filing, the court shall cause notice thereof to be served upon such person, and thereupon shall have jurisdiction of the proceeding and of the question determined therein, and shall have power to grant such temporary relief or restraining order as it deems just and proper, and to make and enter upon the pleadings, testimony, and proceedings set forth in such transcript a decree enforcing, modifying and enforcing as so modified, or setting aside in whole or in part the order of the board or its designee.

[Statutory Authority: RCW 28B.16.100. 86-14-042 (Order 153), § 251-14-087, filed 6/26/86, effective 8/1/86.]

WAC 251-14-090 Unfair labor practice—Hearings.

Complaints charging unfair labor practices shall be filed in writing with the board. The board shall hold a hearing in the same manner as provided for appeals from demotions, suspensions, reductions, layoffs, and dismissals, and any decision of the board shall be binding unless reversed or modified by a court of law.

[Statutory Authority: RCW 28B.16.100. 80-15-026 (Order 85), § 251-14-090, filed 10/8/80; Order 61, § 251-14-090, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-090, filed 2/26/76; Order 2, § 251-14-090, filed 3/12/70.]

WAC 251-14-100 Mediation—Collective bargaining impasse—Grievance disputes. (1) When agreement cannot be reached within a reasonable time in collective bargaining between an institution and the certified exclusive representative of the employees in the bargaining unit, either party may submit the impasse issues to the director or designee who shall confer with both parties in an effort to resolve the impasse.

(2) When an unresolved grievance dispute has been referred to the director pursuant to the mediation provision of a grievance procedure in a signed agreement, the director or designee shall confer with both parties in an effort to resolve the dispute. Requests for grievance mediation must be submitted to the director within thirty calendar days or less of the institution/related board's written response or lack thereof at the final internal step of the procedure.

[Statutory Authority: RCW 28B.16.100. 87-20-023 (Order 162), § 251-14-100, filed 9/30/87; Order 61, § 251-14-100, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-100, filed 2/26/76; Order 2, § 251-14-100, filed 3/12/70.]

WAC 251-14-110 Arbitration—Collective bargaining impasse—Grievance disputes. (1) When the director or designee is unable to resolve the collective bargaining impasse, the institution or the certified exclusive representative may submit such impasse to the board for arbitration. The board will hold a hearing at which the parties may submit evidence and argument in support of their respective positions. The decision of the board shall be final and binding.

(2) When the director or designee is unable to resolve a grievance dispute, the exclusive representative, employee or employer may submit such dispute to the board for arbitration in accordance with WAC 251-14-130.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-14-110, filed 12/13/96, effective 1/13/97; 96-09-055, § 251-14-110, filed 4/12/96, effective 6/1/96. Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-14-110, filed 3/23/89, effective 5/1/89; 87-20-023 (Order 162), § 251-14-110, filed 9/30/87; Order 61, § 251-14-110, filed 8/30/77, effective 10/1/77; Order 52, § 251-14-110, filed 2/26/76; Order 2, § 251-14-110, filed 3/12/70.]

WAC 251-14-120 Requests for mediation and arbitration. Mediation and arbitration requests per WAC 251-14-100(2) and 251-14-110(2) shall not be allowed if the same charges are pending before the board for processing per WAC 251-12-090 or 251-14-090.

[Statutory Authority: RCW 28B.16.100. 80-15-026 (Order 85), § 251-14-120, filed 10/8/80.]

WAC 251-14-130 Arbitration—Grievance—Procedure. Whenever arbitration of a grievance is requested as authorized by WAC 251-14-060(2), the procedure set forth below shall apply:

(1) The request for arbitration shall be in the form of a complaint. It shall be filed on a form supplied by the board, or in a writing containing the same information as required on the form within thirty calendar days or less from the date the director of personnel or designee indicates in writing that the mediation is at impasse. The request shall state the following:

(a) The name, address and telephone number of the party filing the request, and the name, address and telephone number of any principal representative.

(b) The name, address and telephone number of the opposing party, and, if known, the opposing party's principal representative.

(c) Clear and concise statements of the facts upon which the grievance is based, including times, dates, places and participants in occurrences.

(d) A listing of the applicable sections of the collective bargaining agreement, rules, policies, etc., upon which the grievance is based and which are claimed to be violated. A copy of the collective bargaining agreement or of the pertinent sections of the agreement shall be attached to the request for arbitration.

(e) A statement of the specific issue(s) to be arbitrated.

(f) A statement of the relief sought.

(g) The signature and, if any, the title of the person filing the request for arbitration.

(h) A copy of the original grievance and the institution's last written response to the grievance shall be attached to the request for arbitration.

(2) By mutual agreement the parties to the grievance may extend the thirty-day time frame for requesting arbitration established in subsection (1) of this section. Agreements to extend the time frame shall be reported in writing by the parties to the director of personnel.

(3) The board's hearings coordinator shall review the request for arbitration to determine compliance with subsection (1) of this section. If the hearings coordinator determines the request is incomplete, the person filing the request is notified of the portions which need to be supplemented or changed to comply with subsection (1) of this section. When the hearings coordinator determines that the request substantially complies with subsection (1) of this section, he or she shall mail, or otherwise cause to be served, the request on the opposing party(ies). Any refusal by the hearings coordinator to serve the request for arbitration on the opposing party is reviewable by the board upon motion of the requesting party.

(4) After the request for arbitration is served on the opposing party(ies), the board or the board's designee may direct the parties or their representatives to engage in a prehearing conference(s) in accordance with WAC 251-12-232.

(5) The board's hearings coordinator shall schedule the arbitration for hearing pursuant to WAC 251-12-105.

(6) Within thirty calendar days from the date of service of the acknowledgment of the arbitration request, the respondent shall submit a written statement of issue(s) to be arbitrated. If no response is received, the petitioner's statement of issue(s) will be deemed to be the issue(s) at the arbitration hearing unless otherwise determined by the personnel resources board.

(7) Upon stipulation between the parties, the board or designee may grant the grievant's request to waive the right to an evidentiary hearing and thereafter require the parties to submit written evidence upon which the board or designee may act without a hearing.

(8) If the matter is heard directly by the board, a final and binding decision will be issued. If the matter is heard by the board's designee, a recommended decision will be issued. Within thirty calendar days of its service, either party may request the board to review the designee's decision. The review will be limited to specific areas of the decision to which the party takes exception. The requesting party must provide written argument in support of the exceptions. The board will consider the exceptions and may in its discretion hear oral argument. Thereafter, the board will issue a decision which shall be final and binding on the parties. The designee's decision will become final and binding forty calendar days after it was served on the parties if no exceptions are filed, unless the board calls a hearing to reconsider the decision.

(9) The grievant shall have the burden of proof and go forward with the evidence.

(10) The board or its designee shall be the judge of relevancy and materiality of evidence offered. Technical rules of evidence shall not apply to the proceedings.

(11) The provisions of chapter 251-12 WAC (Appeals) shall apply to the conduct of grievance arbitration hearings, except as otherwise provided in this section.

[Statutory Authority: RCW 41.06.150, 97-01-065, § 251-14-130, filed 12/13/96, effective 1/13/97; 96-09-055, § 251-14-130, filed 4/12/96, effective 6/1/96.]

Chapter 251-17 WAC

RECRUITMENT—EXAMINATION

WAC

251-17-010	Examination—Requirement—Responsibilities.
251-17-020	Promotional organizational units—Establishment.
251-17-030	Eligible list—Related list.
251-17-040	Noncompetitive service.
251-17-050	Recruitment notice—Publicity—Duration.
251-17-060	Recruitment notices—Required content.
251-17-070	Application materials—Distribution to applicants.
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251-17-090	Examination—Eligibility.
251-17-100	Application forms—Acceptance.
251-17-110	Examination administration.
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251-17-130	Application—Disqualification—Rejection.
251-17-150	Veterans preference.
251-17-160	Examination results—Notification.
251-17-165	Institutional review—Notification.
251-17-170	Examination—Eligibility—Right of appeal.
251-17-180	Examination—Medical.
251-17-190	Examinations—Records requirements.
251-17-200	Modification of minimum qualifications.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-17-140	Applicants—Anonymity. [Statutory Authority: RCW 28B.16.100, 88-02-018 (Order 165), § 251-17-140, filed 12/30/87, effective 2/1/88.] Repealed by 88-13-018 (Order 169), filed 6/6/88, effective 8/1/88. Statutory Authority: RCW 28B.16.100.
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WAC 251-17-010 Examination—Requirement—Responsibilities. (1) Appointment to positions in the classified service shall be made according to merit and suitability ascertained for each class by an appropriate examination.

(2) All job elements included in examinations developed or modified subsequent to January 1, 1986, shall be justified by documented job analysis.

(3) Personnel officers shall assist in conducting and/or conduct job analyses at their institutions.

(4) Job analysis methods shall meet professional standards and be approved by the director before they are used to develop examinations.

(5) System examinations shall be developed by the director with the assistance of the personnel officers and made available for the use of all institutions. The director shall periodically distribute an approved system job element examination list showing all current system examinations.

(6) Personnel officers shall use only the current versions of the examinations shown on the approved system job element examination list. However, personnel officers may develop modifications to system examinations and/or institutional examinations to meet requirements which are unique to their institutions. Before they are used, institutional examinations and modifications to system examinations

shall be approved by the director unless approval has been delegated to the personnel officer under WAC 251-04-060(4).

(7) The personnel officer is responsible for determining when to open eligible lists and conduct examinations.

[Statutory Authority: RCW 41.06.150. 96-02-072, § 251-17-010, filed 1/3/96, effective 2/3/96; 95-19-099, § 251-17-010, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-010, filed 12/30/87, effective 2/1/88.]

WAC 251-17-020 Promotional organizational units—Establishment. The personnel officer shall establish promotional organizational units based upon administrative unit and/or geographical location. Such units must be approved by the director unless approval has been delegated to the personnel officer under WAC 251-04-060(4).

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-17-020, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-020, filed 12/30/87, effective 2/1/88.]

WAC 251-17-030 Eligible list—Related list. (1) Should a vacancy occur in a class for which there is no existing eligible list, it shall be the responsibility of the personnel officer to recruit and develop an eligible list.

(2) If it is impractical to recruit in order to establish an eligible list for a class, the personnel officer may:

(a) Substitute an eligible list for a related class if he/she deems the classes to be sufficiently similar.

(b) Request the use of an eligible list established for the class at another institution.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-030, filed 12/30/87, effective 2/1/88.]

WAC 251-17-040 Noncompetitive service. All classes at an institution shall be considered to be in the competitive service unless a class has been specifically approved by the director to be in the noncompetitive service at that institution.

[Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-040, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-040, filed 12/30/87, effective 2/1/88.]

WAC 251-17-050 Recruitment notice—Publicity—Duration. (1) Notice of examinations to establish eligible lists shall be made via public display, including institutional posting, of recruitment notices and such other publicity as the personnel officer deems to be warranted.

(2) Recruitment notices may be opened with or without specified closing dates:

(a) A recruitment notice with a specified closing date must allow for an application period of at least seven calendar days from the date of opening the notice, unless the personnel officer authorizes a shorter application period for an open competitive or noncompetitive recruitment notice.

(b) A recruitment notice without a specified closing date must state that the application period may be closed upon three calendar days prior notice. Public notice of at least three calendar days must be given prior to closing such a recruitment notice.

(3) The personnel officer shall develop and utilize a procedure by which employees who have formally indicated

an interest in promotion are made aware of promotional opportunities.

(4) The personnel officer may extend the application period for a recruitment notice as required by giving public notice in the same manner as the original notice.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-050, filed 12/30/87, effective 2/1/88.]

WAC 251-17-060 Recruitment notices—Required content. Official institutional recruitment notices (not to include advertisements or other supplemental publicity) shall contain the following information:

(1) For promotional examinations, a statement that the examination is open only to organizational unit and/or institution-wide promotional applicants.

(2) The title of the HEP classification for which the list is open.

(3) The salary range for the class.

(4) Any conditions of employment for the class or position(s).

(5) The closing date of the recruitment notice, i.e., the specific date and time by which applications must be received by the personnel officer.

(6) A statement of the specific locations at which corrected or extended recruitment notices will be displayed.

(7) A brief description of the duties of the class and, if applicable, the duties of the specific position(s).

(8) The minimum qualifications of the classification, if any; and a statement that applicants must meet the minimum qualifications to apply for the position, and that meeting the minimum qualifications does not guarantee a passing or competitive score on the examination.

(9) When applicable, a statement regarding the use of a combined list per WAC 251-18-180(10).

(10) When applicable, a statement that supplemental certification may be utilized in accordance with an approved affirmative action program, as provided in WAC 251-23-060.

(11) When applicable, a statement that certification for specific position requirements per WAC 251-18-255 may be utilized.

(12) When applicable per WAC 251-17-090(3), the minimum number of most qualified applicants who will be admitted to each phase of the examination after the initial screening phase, provided that at least this number of applicants pass the initial phase of the examination.

[Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-060, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-060, filed 12/30/87, effective 2/1/88.]

WAC 251-17-070 Application materials—Distribution to applicants. The following materials shall be provided to applicants when they apply for a recruitment:

(1) The institution's application form as prescribed in WAC 251-17-100(1).

(2) A document which explains the examination process used at the institution.

(3) Identification of the examination elements used in the initial screening phase.

[Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-070, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-070, filed 12/30/87, effective 2/1/88.]

WAC 251-17-080 Examinations—Employee release time. Current employee applicants shall suffer no loss in regular salary as a result of participating in examinations which are conducted for their employing institution during their regularly scheduled working hours.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-080, filed 12/30/87, effective 2/1/88.]

WAC 251-17-090 Examination—Eligibility. (1) Open-competitive examinations shall be open to all persons who apply according to the provisions of these rules and meet the minimum qualifications for the class.

(2) Promotional examinations shall be limited to those current permanent employees of the classified service at the institution, and those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080, who apply according to the provisions of these rules and meet the minimum qualifications for the class. The personnel officer may open promotional examinations on either an organizational unit or institution-wide basis, whichever the personnel officer determines to be in the interest of the service.

(3) When the number of qualified applicants for a class in the competitive service is expected to result in an eligible list in excess of the institution's current needs, the personnel officer may limit the applications to be admitted to the intermediate and/or final phase(s) of the examination to those most qualified, based on an assessment of qualifications in the initial and/or intermediate phase(s) of the examination. Such limitation must be specified in the recruitment notice. If no such limitation is specified, all applicants who pass the entire examination shall be placed on the eligible list for the class.

(4) The personnel officer may add members of underutilized groups to all eligible lists, except layoff lists, at anytime in accordance with the institution's affirmative action program as provided in WAC 251-23-040 (7)(b), provided such persons pass the examination for the class. The personnel officer shall also add the names of those former permanent employees of the institution seeking to return from separation pursuant to WAC 251-10-080 to all eligible lists at any time, provided such persons pass the examination for the class.

(5) The personnel officer may add employees who complete institution-approved training programs to the appropriate eligible list at any time, provided such employees meet the minimum qualifications and pass the examination for the class.

(6) The personnel officer may add to the institution-wide promotional list at any time:

(a) Current employees on layoff status or scheduled for layoff;

(b) Former employees laid off from the institution per WAC 251-10-030 who are on an institution-wide layoff list.

However, persons covered in (a) and (b) of this subsection meet the minimum qualifications and pass the examination for the class.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-17-090, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 89-08-003 (Order 176), § 251-17-090, filed 3/23/89, effective 5/1/89; 88-02-018 (Order 165), § 251-17-090, filed 12/30/87, effective 2/1/88.]

(1997 Ed.)

WAC 251-17-100 Application forms—Acceptance.

(1) Application forms shall be prescribed by the personnel officer in compliance with applicable state and/or federal law.

(2) Applications shall be filed in accordance with the times specified in the recruitment notice.

(3) All required application materials, including supplemental applications, must be submitted by the specified time in order for an application to be considered.

(4) When an application is rejected for failure to meet the requirements of subsection (3) of this section, the provisions of WAC 251-17-130(2) shall apply.

(5) The personnel officer may require proof of age, education, experience, veterans preference, and/or other claims relevant to the qualifications of an applicant.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-100, filed 12/30/87, effective 2/1/88.]

WAC 251-17-110 Examination administration. (1)

Personnel officers shall administer examinations in accordance with the administration instructions developed for each system or institutional examination.

(2) The personnel officer is responsible for maintaining the security of all confidential examination materials, including test booklets, answer sheets, scoring keys, and rating guides. The personnel officer shall notify the director immediately if there is a suspected breach of examination security.

(3) The personnel officer shall develop an institutional procedure for the reexamination of applicants at the institution. Before it is used, such procedure shall be approved by the director unless approval has been delegated to the personnel officer under WAC 251-04-060(4).

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-17-110, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-110, filed 12/30/87, effective 2/1/88.]

WAC 251-17-120 Examinations—Evaluation of. (1)

The director shall specify the rating and/or scoring systems to be used to evaluate examinations, including the ratings, scores and/or percentiles required to pass an examination.

(2) Personnel officers shall evaluate examinations in accordance with the rating guides and rating/scoring instructions developed for each system and institutional examination.

(3) Rating guides shall be used to evaluate all job elements included in system and institutional examinations.

(4) Personnel officers shall develop rating guides for all examinations for which system rating guides are not available.

(5) Personnel officers shall assure that raters of examinations, including supplemental applications, performance tests and oral boards, shall have an adequate knowledge of the work required by the specific class or position.

(6) The personnel officer is responsible for the accuracy of the total examination ratings given by the raters of examinations and may disqualify a rater for good and sufficient reason(s). The personnel officer shall disqualify any rater who was biased, did not follow either the content or the intent of the rating guide, or did not possess the required technical knowledge to evaluate the examination.

(7) Applicants must obtain ratings of "satisfactory ability" or higher on all of the essential job elements in an examination in order to pass that examination.

(8) Applicants must pass the final phase of an examination in order to be placed on an eligible list.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-120, filed 12/30/87, effective 2/1/88.]

WAC 251-17-130 Application—Disqualification—Rejection. (1) The personnel officer may reject an application at any time during the examination process for good and sufficient reason(s).

(2) Whenever the personnel officer rejects an application, the applicant shall be given a written statement including:

- (a) The specific reason(s) for the rejection; and
- (b) Notification of the right of review per WAC 251-17-160 (1)(b); and
- (c) His/her right of appeal per WAC 251-17-170 (1)(a).

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-130, filed 12/30/87, effective 2/1/88.]

WAC 251-17-150 Veterans preference. (1) Veterans who claim veterans preference and meet the criteria specified in subsections (2) through (4) of this section shall have added to their final passing scores:

(a) Ten percent of the final passing score for a veteran who is not receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(b) Five percent of the final passing score for a veteran who is receiving any veteran's retirement payments. This preference shall be utilized in open-competitive examinations until the veteran's first appointment and not in any promotional examination.

(c) Five percent of the final passing score for a veteran who, after having previously received employment with the state, is called, or recalled, to active military service for one or more years during any period of war. This preference shall be limited to the first promotional examination following return from military service.

(2) Veterans preference must be claimed within eight years of the date of release from active service.

(3) The term "veteran" as used in these rules shall include every person who has received an honorable discharge or received a discharge for physical reasons with an honorable record and:

(a) Has served in any branch of the armed forces of the United States between World War I and World War II or during any period of war; or

(b) Has served in any branch of the armed forces of the United States and received the armed forces expeditionary medal, or Marine Corps and Navy expeditionary medal, for opposed action on foreign soil.

(4) A "period of war" includes:

- (a) World War I;
- (b) World War II;
- (c) The Korean conflict;

(d) The Viet Nam era, beginning August 5, 1964 and ending on May 7, 1975;

(e) The Persian Gulf War, beginning August 2, 1990 and ending on the date prescribed by presidential proclamation or law;

(f) The following armed conflicts, if the participant was awarded the respective campaign badge or medal; the crisis in Lebanon; the invasion of Grenada; Panama, Operation Just Cause; Somalia, Operation Restore Hope; Haiti, Operation Uphold Democracy; and Bosnia, Operation Joint Endeavor; and

(g) The period beginning on the date of any future declaration of war by the Congress and ending on the date prescribed by presidential proclamation or concurrent resolution of the Congress.

[Statutory Authority: RCW 41.06.150. 96-11-061, § 251-17-150, filed 5/10/96, effective 6/6/96. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-150, filed 12/30/87, effective 2/1/88.]

WAC 251-17-160 Examination results—Notification. The personnel officer shall:

(1) Give each applicant written notice of his/her examination results, normally within fifteen calendar days after the eligible list is established; and

(2) Inform each applicant that within fifteen calendar days of service of his/her notice, he/she may submit a request, in writing, of a review of the action by the personnel officer and of his/her subsequent appeal rights.

[Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-160, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-160, filed 12/30/87, effective 2/1/88.]

WAC 251-17-165 Institutional review—Notification. Within thirty calendar days after receiving a written request for review as provided in WAC 251-17-160(2), the personnel officer will give the applicant written notice of the results of the institutional review and of appeal rights as provided in WAC 251-17-170.

[Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-165, filed 12/23/92, effective 2/1/93.]

WAC 251-17-170 Examination—Eligibility—Right of appeal. (1) A person shall have the right to appeal the following to the director:

- (a) Rejection of his/her application; or
- (b) The results of the institutional review; or
- (c) The conduct of the examination process and/or his/her examination results; or

(d) Failure to restore his/her name to an eligible list following the institutional review process per WAC 251-18-200(4); or

(e) Removal of his/her name from an eligible list for reasons other than those specified in WAC 251-18-200(2).

(2) A person shall **not** have the right to appeal the decisions of employing officials regarding consideration and/or hiring of correctly certified candidates.

(3) Such appeal must be in writing and filed in the office of the director within thirty calendar days after either service of the results of the institutional review or the effective date of the action appealed. The director shall investigate the case and issue a determination.

(4) When the appellant is a classified employee, within thirty calendar days of the date of service of the determina-

tion to the appellant and the institution, either party may file written exceptions with the board detailing the specific items of the determination to which exception is taken. A hearing on the exceptions will be scheduled before the board which may limit argument to the exceptions or may rehear the case in its entirety.

(5) When the appellant is not a classified employee, the director's determination shall be final and binding.

(6) Any employee or employee representative may appeal an alleged failure to follow the provisions of WAC 251-17-010 (1) through (6) in accordance with WAC 251-12-075.

[Statutory Authority: RCW 41.06.150. 96-02-072, § 251-17-170, filed 1/3/96, effective 2/3/96. Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-170, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-170, filed 12/30/87, effective 2/1/88.]

WAC 251-17-180 Examination—Medical. Eligibles for employment or promotion shall take a medical examination if prescribed for the position to which appointment is sought. All eligibles must conform with medical regulations for state employment established by the Washington state board of health.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-180, filed 12/30/87, effective 2/1/88.]

WAC 251-17-190 Examinations—Records requirements. (1) The personnel officer shall maintain selection records as required by applicable federal, state, and local laws and institutional policies.

(2) The director shall maintain records of all current approvals given with regard to the selection process at each institution.

(3) Personnel officers shall maintain written records of all current approvals given with regard to the selection process at their institutions.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-17-190, filed 12/30/87, effective 2/1/88.]

WAC 251-17-200 Modification of minimum qualifications. When a vacancy exists and reasonable recruiting efforts fail to establish an eligible list for the class, the personnel officer may request that the director modify the minimum qualifications for that recruiting cycle unless approval has been delegated to the personnel officer under WAC 251-04-060(4). On approval, the personnel officer shall initiate recruiting at the reduced minimum qualifications.

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-17-200, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 93-01-158, § 251-17-200, filed 12/23/92, effective 2/1/93; 88-02-018 (Order 165), § 251-17-200, filed 12/30/87, effective 2/1/88.]

**Chapter 251-18 WAC
CERTIFICATION**

WAC

- 251-18-180 Eligible lists—Definition—Composition.
- 251-18-190 Eligible lists—Duration.
- 251-18-200 Eligible lists—Removal of name—Notification.
- 251-18-240 Certification—Method.

- 251-18-255 Certification—Specific position requirements.
- 251-18-260 Certification—Incomplete.
- 251-18-265 Certification—Concurrent.
- 251-18-280 Certification—Selection—Actions required.
- 251-18-285 Certification—Error—Correction.

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

- 251-18-010 Examination—Requirement—Responsibilities. [Statutory Authority: RCW 28B.16.100. 85-21-031 (Order 139), § 251-18-010, filed 10/10/85; 85-16-038 (Order 134), § 251-18-010, filed 7/31/85, effective 9/1/85; 84-10-056 (Order 115), § 251-18-010, filed 5/2/84; Order 61, § 251-18-010, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-010, filed 9/19/75; Order 33, § 251-18-010, filed 6/18/74; Order 3, § 251-18-010, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-011 Promotional organizational units—Establishment. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-011, filed 5/2/84.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-012 Eligible list—Related list. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-012, filed 5/2/84.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-015 Noncompetitive service. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-015, filed 5/2/84.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-020 Recruitment notice—Publicity—Duration. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-020, filed 5/2/84; 79-03-029 (Order 71), § 251-18-020, filed 2/27/79; Order 61, § 251-18-020, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-020, filed 9/19/75; Order 35, § 251-18-020, filed 7/23/74; Order 3, § 251-18-020, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-025 Examination notice—Exception—Training. [Order 61, § 251-18-025, filed 8/30/77, effective 10/1/77.] Repealed by 84-18-060 (Order 120), filed 9/5/84. Statutory Authority: RCW 28B.16.100.
- 251-18-030 Examination notice—Content. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-18-030, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-030, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-030, filed 9/19/75; Order 3, § 251-18-030, filed 1/15/71.] Repealed by 84-18-060 (Order 120), filed 9/5/84. Statutory Authority: RCW 28B.16.100.
- 251-18-035 Recruitment notices—Required content. [Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-18-035, filed 2/28/86, effective 4/1/86; 85-21-031 (Order 139), § 251-18-035, filed 10/10/85; 85-16-038 (Order 134), § 251-18-035, filed 7/31/85, effective 9/1/85.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-040 Recruitment notice—Duration. [Order 3, § 251-18-040, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-041 Application materials—Distribution to applicants. [Statutory Authority: RCW 28B.16.100. 86-03-081 (Order 143), § 251-18-041, filed 1/22/86, effective 3/1/86; 85-16-038 (Order 134), § 251-18-041, filed 7/31/85, effective 9/1/85.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-045 Eligible list modification—Training. [Order 36, § 251-18-045, filed 8/20/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-050 Examinations—Employee release time. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-

- 050, filed 5/2/84; Order 61, § 251-18-050, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-050, filed 9/19/75; Order 33, § 251-18-050, filed 6/18/74; Order 3, § 251-18-050, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-060 Examination—Eligibility. [Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-18-060, filed 2/28/86, effective 4/1/86; 84-12-047 (Order 117), § 251-18-060, filed 6/1/84; Order 61, § 251-18-060, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-060, filed 9/19/75; Order 38, § 251-18-060, filed 11/18/74; Order 3, § 251-18-060, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-070 Application forms—Acceptance. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-070, filed 5/2/84; 78-02-094 (Order 65), § 251-18-070, filed 1/30/78; Order 61, § 251-18-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-070, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-075 Examination administration. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-075, filed 7/31/85, effective 9/1/85.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-080 Application—Acceptance. [Order 61, § 251-18-080, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-080, filed 5/24/73; Order 3, § 251-18-080, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-090 Application—Freedom from bias. [Order 3, § 251-18-090, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-095 Examinations—Evaluation of. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-095, filed 7/31/85, effective 9/1/85.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-100 Application—Admission to examination. [Order 61, § 251-18-100, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-100, filed 9/19/75; Order 3, § 251-18-100, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-110 Application—Disqualification—Rejection. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-110, filed 5/2/84; 78-02-094 (Order 65), § 251-18-110, filed 1/30/78; Order 61, § 251-18-110, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-110, filed 11/18/74; Order 4, § 251-18-110, filed 2/19/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-115 Examination—Eligibility—Right of appeal or review. [Statutory Authority: RCW 28B.16.100. 79-12-088 (Order 81), § 251-18-115, filed 12/3/79; 78-02-094 (Order 65), § 251-18-115, filed 1/30/78; Order 61, § 251-18-115, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-120 Applicants—Anonymity. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-120, filed 5/2/84; Order 61, § 251-18-120, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-120, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-130 Veterans preference. [Statutory Authority: RCW 28B.16.100. 84-24-032 (Order 122), § 251-18-130, filed 11/30/84, effective 1/1/85; 84-12-047 (Order 117), § 251-18-130, filed 6/1/84; 78-10-090 (Order 70), § 251-18-130, filed 9/29/78, effective 11/1/78; Order 61, § 251-18-130, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-130, filed 7/23/74; Order 3, § 251-18-130, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-140 Examination results—Notification—Institutional review. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-140, filed 7/31/85, effective 9/1/85; 84-10-056 (Order 115), § 251-18-140, filed 5/2/84; 78-06-068 (Order 68), § 251-18-140, filed 5/25/78, effective 7/1/78; 78-02-094 (Order 65), § 251-18-140, filed 1/30/78; Order 61, § 251-18-140, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-140, filed 7/23/74; Order 21, § 251-18-140, filed 5/24/73; Order 3, § 251-18-140, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-145 Examination—Eligibility—Right of appeal. [Statutory Authority: RCW 28B.16.100. 85-20-050 (Order 137), § 251-18-145, filed 9/25/85, effective 11/1/85; 84-10-056 (Order 115), § 251-18-145, filed 5/2/84.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-150 Reexamination—Procedure. [Order 61, § 251-18-150, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-150, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-155 Examination—Records requirement. [Order 61, § 251-18-155, filed 8/30/77, effective 10/1/77; Order 35, § 251-18-155, filed 7/23/74.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-160 Examination—Medical. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-160, filed 5/2/84; 78-06-068 (Order 68), § 251-18-160, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-160, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-160, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-165 Examinations—Records requirements. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-165, filed 7/31/85, effective 9/1/85.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-170 Eligible lists—Establishment. [Order 61, § 251-18-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-170, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-175 Eligible list—Related list. [Order 61, § 251-18-175, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-176 Modification of minimum qualifications. [Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-18-176, filed 1/2/87, effective 2/1/87; 80-08-073 (Order 84), § 251-18-176, filed 7/2/80; 78-06-068 (Order 68), § 251-18-176, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-176, filed 8/30/77, effective 10/1/77.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-181 Eligible lists—Combined. [Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-18-181, filed 5/25/78, effective 7/1/78; 78-02-094 (Order 65), § 251-18-181, filed 1/30/78; Order 61, § 251-18-181, filed 8/30/77, effective 10/1/77.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-185 Eligible lists—Tied scores—Certification. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-185, filed 7/31/85, effective 9/1/85; Order 61, § 251-18-185, filed 8/30/77, effective 10/1/77; 85-16-038 (Order 134), § 251-18-185, filed 7/31/85, effective 9/1/85; Order 21, § 251-18-185, filed 5/24/73.] Repealed by 90-17-037, filed 8/10/90, effective 10/1/90. Statutory Authority: RCW 28B.16.100.
- 251-18-210 Notification of removal of name. [Order 37, § 251-18-210, filed 10/15/74; Order 3, § 251-18-210, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-220 Related eligible lists. [Order 3, § 251-18-220, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-230 Certification—Request for. [Statutory Authority: RCW 28B.16.100. 78-02-094 (Order 65), § 251-18-230, filed

- 1/30/78; Order 61, § 251-18-230, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-230, filed 1/15/71.] Repealed by 84-10-056 (Order 115), filed 5/2/84. Statutory Authority: RCW 28B.16.100.
- 251-18-235 Temporary conversion list. [Order 32, § 251-18-235, filed 3/19/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-250 Certification—Selective. [Statutory Authority: RCW 28B.16.100. 82-16-002 (Order 98), § 251-18-250, filed 7/22/82, effective 9/1/82; 80-08-073 (Order 84), § 251-18-250, filed 7/2/80; Order 63, § 251-18-250, filed 11/22/77; Order 61, § 251-18-250, filed 8/30/77, effective 10/1/77; Order 19, § 251-18-250, filed 12/20/72; Order 3, § 251-18-250, filed 1/15/71.] Repealed by 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86. Statutory Authority: RCW 28B.16.100.
- 251-18-270 Certification—Interview of eligibles. [Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-270, filed 5/2/84; Order 61, § 251-18-270, filed 8/30/77, effective 10/1/77; Order 38, § 251-18-270, filed 11/18/74; Order 3, § 251-18-270, filed 1/15/71.] Repealed by 90-17-037, filed 8/10/90, effective 10/1/90. Statutory Authority: RCW 28B.16.100.
- 251-18-290 Returning employee provisions—Layoff. [Order 61, § 251-18-290, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-290, filed 5/24/73; Order 3, § 251-18-290, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-291 Returning employee provisions—Reemployment. [Order 63, § 251-18-291, filed 11/22/77; Order 61, § 251-18-291, filed 8/30/77, effective 10/1/77.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-300 Appointment—Provisional. [Order 61, § 251-18-300, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-300, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-310 Appointment—Emergency. [Order 61, § 251-18-310, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-310, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-320 Appointment—Probationary. [Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-18-320, filed 7/31/84; 84-08-032 (Order 113), § 251-18-320, filed 3/30/84, effective 5/1/84; 82-16-002 (Order 98), § 251-18-320, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-320, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-320, filed 3/19/74; Order 3, § 251-18-320, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-330 Trial service period. [Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-18-330, filed 3/30/84, effective 5/1/84; 81-22-065 (Order 91), § 251-18-330, filed 11/4/81; 81-15-003 (Order 88), § 251-18-330, filed 7/2/81; 78-02-094 (Order 65), § 251-18-330, filed 1/30/78; Order 61, § 251-18-330, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-330, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-335 Appointment—Alternate. [Order 61, § 251-18-335, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-335, filed 6/25/75.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-340 Appointment—Permanent status. [Statutory Authority: RCW 28B.16.100. 84-08-032 (Order 113), § 251-18-340, filed 3/30/84, effective 5/1/84; 82-16-002 (Order 98), § 251-18-340, filed 7/22/82, effective 9/1/82; 78-02-094 (Order 65), § 251-18-340, filed 1/30/78; Order 64, § 251-18-340, filed 12/23/77; Order 61, § 251-18-340, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-340, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-345 Reassignment. [Order 61, § 251-18-345, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-345, filed 5/24/73.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-346 Transfer—Lateral movement—Voluntary demotion. [Order 61, § 251-18-346, filed 8/30/77, effective 10/1/77.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-347 Permanent classified employee interinstitutional and intersystem movement. [Statutory Authority: RCW 28B.16.100. 87-20-023 (Order 162), § 251-18-347, filed 9/30/87; 84-16-067 (Order 119), § 251-18-347, filed 7/31/84; 84-02-042 (Order 110), § 251-18-347, filed 12/30/83, effective 2/1/84.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-350 Appointment—Temporary. [Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-18-350, filed 1/2/87, effective 2/1/87; 84-16-067 (Order 119), § 251-18-350, filed 7/31/84; 82-04-069 (Order 93), § 251-18-350, filed 2/3/82; Order 61, § 251-18-350, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-350, filed 5/24/73; Order 3, § 251-18-350, filed 1/15/71.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-360 Modification of minimum qualifications. [Order 35, § 251-18-360, filed 7/23/74; Order 3, § 251-18-360, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-370 Concurrent certification. [Order 3, § 251-18-370, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-18-380 Appointment—Instructional year. [Statutory Authority: RCW 28B.16.100. 79-03-029 (Order 71), § 251-18-380, filed 2/27/79; Order 61, § 251-18-380, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-380, filed 5/24/73; Order 12, § 251-18-380, filed 5/23/72, effective 6/25/72.] Repealed by 83-10-029 (Order 105), filed 4/29/83, effective 6/1/83. Statutory Authority: RCW 28B.16.100.
- 251-18-381 Appointment—Cyclic year position. [Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-18-381, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-18-381, filed 4/29/83, effective 6/1/83.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-390 Corrective employment programs. [Statutory Authority: RCW 28B.16.100. 80-08-073 (Order 84), § 251-18-390, filed 7/2/80; Order 61, § 251-18-390, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-390, filed 3/18/77, effective 4/18/77; Order 40, § 251-18-390, filed 1/23/75; Order 39, § 251-18-390, filed 12/24/74; Order 37, § 251-18-390, filed 10/15/74; Order 35, § 251-18-390, filed 7/23/74; Order 19, § 251-18-390, filed 12/20/72.] Repealed by 86-06-034 (Order 145), filed 2/28/86, effective 4/1/86. Statutory Authority: RCW 28B.16.100.
- 251-18-400 Apprenticeship programs. [Order 61, § 251-18-400, filed 8/30/77, effective 10/1/77; Order 41, § 251-18-400, filed 3/17/75.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-410 Special employment programs. [Statutory Authority: RCW 18B.16.100 [28B.16.100]. 79-07-096 (Order 76), § 251-18-410, filed 6/29/79, effective 8/1/79; Order 61, § 251-18-410, filed 8/30/77, effective 10/1/77; Order 44, § 251-18-410, filed 6/25/75.] Repealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.
- 251-18-420 Appointment—Conversion of exempt position. [Statutory Authority: RCW 28B.16.100. 85-16-038 (Order 134), § 251-18-420, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-18-420, filed 9/23/83, effective 10/24/83; 79-03-029 (Order 71), § 251-18-420, filed 2/27/79; Order 64, § 251-18-420, filed 12/23/77.] Re-

pealed by 88-02-018 (Order 165), filed 12/30/87, effective 2/1/88. Statutory Authority: RCW 28B.16.100.

WAC 251-18-180 Eligible lists—Definition—Composition. Eligible lists shall be established by class as follows:

(1) **Institution-wide layoff lists** shall contain the names of:

(a) All permanent and probationary employees of the institution laid off or scheduled for layoff in accord with WAC 251-10-030 and 251-10-055 ranked in order of layoff seniority.

(b) Former permanent employees of the institution who (i) have transferred, promoted, voluntarily demoted or laterally moved to positions at other institutions/related boards, and (ii) have not successfully completed their trial service periods at the institution to which they moved, ranked in order of layoff seniority.

(2) **Organizational unit promotional lists** shall contain the names of all permanent employees of the organizational unit for which the list is established who have passed the examination for the class. This list shall also contain the names of former employees separated from the organizational unit per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(3) **Institution-wide promotional lists** shall contain the names of all permanent employees of the institution who have passed the examination for the class. This list shall also contain the names of:

(a) Former employees separated from the institution per WAC 251-10-070 who have submitted an application for reemployment pursuant to WAC 251-10-080 and who have passed the examination for the class, provided that during their previous employment with the institution they were not demoted for disciplinary reasons, reverted, or dismissed from the class. This list shall be ranked in order of their final examination scores.

(b) Former employees laid off from the institution per WAC 251-10-030, who are on an institution-wide layoff list.

Persons appointed under (b) of this subsection shall serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be returned to the position and/or status held immediately prior to the appointment.

(4) **Special employment program layoff lists** shall contain the names of permanent employees of the institution laid off, scheduled for layoff or removed from service within a class due to layoff conditions in special employment programs as provided in WAC 251-10-035 ranked in order of layoff seniority.

(5) **State-wide layoff lists** shall contain the names of permanent employees laid off or scheduled for layoff who have exercised their option per WAC 251-10-060, ranked in order of layoff seniority as provided in WAC 251-10-060(2).

(6) **Interinstitutional employee lists** shall contain the names of permanent employees of an institution or related board other than the one at which he/she is applying, who

have passed the examination for the class, ranked in order of their final examination scores.

(7) **Intersystem employee lists** shall contain the names of permanent employees under the jurisdiction of chapter 41.06 RCW who have passed the examination for the class, ranked in order of their final examination scores.

(8) **Open competitive lists** shall contain the names of all other applicants who have passed the examination for the class, ranked in order of their final examination scores.

(9) **Noncompetitive lists** shall be established per WAC 251-17-040 and shall contain the names of applicants who meet the minimum qualifications and have passed the noncompetitive examination, if any, for the class, ranked by priority in time of filing application.

(10) For positions assigned to EEO-6 categories executive, administrative, managerial, and professional nonfaculty, the personnel officer may combine the organizational unit promotional list, the institution-wide promotional list, the special employment program layoff list, the interinstitutional employee list, the intersystem employee list, the state-wide layoff list, and the open competitive list into a single eligible list:

(a) The combined list option must be specified in the recruitment notice for a class in order for the personnel officer to combine lists for positions in the class;

(b) The combined list shall contain the names of eligibles ranked in order of their final examination scores. Permanent employees of the institution and former permanent employees eligible to return to work pursuant to WAC 251-10-080 shall have a five percent credit added to their final passing scores.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-18-180, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 92-05-034, § 251-18-180, filed 2/11/92, effective 4/1/92; 89-08-003 (Order 176), § 251-18-180, filed 3/23/89, effective 5/1/89; 88-02-018 (Order 165), § 251-18-180, filed 12/30/87, effective 2/1/88; 86-03-081 (Order 143), § 251-18-180, filed 1/22/86, effective 3/1/86; 84-16-067 (Order 119), § 251-18-180, filed 7/31/84; 84-10-056 (Order 115), § 251-18-180, filed 5/2/84; 84-08-032 (Order 113), § 251-18-180, filed 3/30/84, effective 5/1/84; 84-02-042 (Order 110), § 251-18-180, filed 12/30/83, effective 2/1/84; Order 61, § 251-18-180, filed 8/30/77, effective 10/1/77; Order 46, § 251-18-180, filed 9/19/75; Order 44, § 251-18-180, filed 6/25/75; Order 32, § 251-18-180, filed 3/19/74; Order 21, § 251-18-180, filed 5/24/73; Order 12, § 251-18-180, filed 5/23/72, effective 6/25/72; Order 8, § 251-18-180, filed 6/17/71, effective 7/19/71; Order 6, § 251-18-180, filed 4/21/71, effective 5/25/71; Order 4, § 251-18-180, filed 2/19/71.]

WAC 251-18-190 Eligible lists—Duration. (1) The duration of eligibility on a list begins the date the name is placed on the list and ends as follows:

(a) After two years on an institution-wide layoff list or state-wide layoff list;

(b) After one year on an organizational unit or institution-wide promotional list, special employment program layoff list, interinstitutional employee list or intersystem employee list;

(c) After six months on an open competitive or noncompetitive list.

(2) Prior to the original expiration date of a name on an institution-wide layoff list, an organizational unit promotional list, an institution-wide promotional list, a special employment program layoff list, an interinstitutional employee list, or an intersystem employee list, the eligible shall be notified of the expiration and given the opportunity to extend

eligibility for one additional year by written request to the personnel officer.

(3) The personnel officer may extend an entire eligible list for the following periods:

(a) Six months for open competitive and noncompetitive lists;

(b) One year for all other lists.

(4) The personnel officer shall cancel the entire eligible list when the class or examination has been changed to the degree that the list would be invalid. All affected eligibles shall be notified of the cancellation.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-18-190, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 85-04-019 (Order 123), § 251-18-190, filed 1/30/85; 84-10-056 (Order 115), § 251-18-190, filed 5/2/84; Order 61, § 251-18-190, filed 8/30/77, effective 10/1/77; Order 32, § 251-18-190, filed 3/19/74; Order 21, § 251-18-190, filed 5/24/73; Order 4, § 251-18-190, filed 2/19/71.]

WAC 251-18-200 Eligible lists—Removal of name—Notification. (1) The personnel officer may remove a name from an eligible list for good and sufficient reason.

(2) Notification of the removal of a name according to subsection (1) of this section is not required where the person has:

(a) Requested removal from the list in writing;

(b) Failed to respond to a written inquiry within ten calendar days or to a telegraphed inquiry within three calendar days relative to availability for appointment;

(c) Failed to notify the personnel office of a change of address;

(d) Been removed from a state-wide layoff list, an interinstitutional employee list, an intersystem employee list, an open-competitive or noncompetitive list due to expiration of eligibility; or

(e) Been removed from an eligible list due to expiration of an extension of eligibility in accordance with WAC 251-18-190(2).

(3) In all other cases, the affected person shall be notified of the specific reasons for removal from the eligible list and advised of the right to request a review by the personnel officer per subsection (4) of this section.

(4) A person whose name has been removed from an eligible list for reasons other than those listed in subsection (2) of this section may request in writing within ten calendar days of notification that the personnel officer restore the name to the list for the duration of eligibility.

(5) Within ten calendar days after receiving a request per subsection (4) of this section, the personnel officer will provide the person with written notification of the decision to:

(a) Restore the name to the eligible list; or

(b) Refuse to restore the name to the eligible list. In this case, the person shall also be advised of the right of appeal per WAC 251-17-170 (1)(d).

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-18-200, filed 12/30/87, effective 2/1/88; 85-04-019 (Order 123), § 251-18-200, filed 1/30/85; 84-10-056 (Order 115), § 251-18-200, filed 5/2/84; 79-03-029 (Order 71), § 251-18-200, filed 2/27/79; Order 61, § 251-18-200, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-200, filed 1/15/71.]

WAC 251-18-240 Certification—Method. (1) Upon receipt of a personnel request, the personnel officer shall

provide the following number of names to the employing official in writing:

(a) When there are names on the institution-wide layoff list for the class, a single name for each vacancy to be filled by the certification.

(b) When there are no names on the institution-wide layoff list for the class, six more names than there are vacancies to be filled by the certification, provided that:

(i) When other applicants on the eligible list in use have scores equal to the lowest score among the names certified, their names shall be certified; and

(ii) Up to three additional names of eligibles who meet the applicable affirmative action criteria shall be certified as provided in WAC 251-23-060.

(iii) Up to three additional names of eligibles from the state-wide layoff list per WAC 251-10-061, provided that all higher lists have been exhausted.

(2) Names shall be certified in strict order of standing on the eligible list(s) as established in WAC 251-18-180.

(3) When it is necessary to use more than one eligible list to complete a certification, each eligible list must be exhausted before progressing to the next eligible list. Eligible lists shall be used for filling classified vacancies in the strict order of priority listed below:

(a) Unless the personnel officer has established a combined eligible list in accordance with WAC 251-18-180(10):

- (i) Institution-wide layoff list;
- (ii) Organizational unit promotional list;
- (iii) Institution-wide promotional list;
- (iv) Special employment program layoff list;
- (v) State-wide layoff list;
- (vi) Interinstitutional employee list;
- (vii) Intersystem employee list;
- (viii) Open competitive or noncompetitive list.

(b) When the personnel officer has established a combined eligible list:

- (i) Institution-wide layoff list;
- (ii) Combined eligible list.

(4) Permanent employees certified from an eligible list for consideration of appointment shall be notified by the institution at the time of referral. Upon appointment, the institution shall advise those employees certified but not appointed of the action taken.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-18-240, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 90-17-037, § 251-18-240, filed 8/10/90, effective 10/1/90; 86-06-034 (Order 145), § 251-18-240, filed 2/28/86, effective 4/1/86; 85-16-038 (Order 134), § 251-18-240, filed 7/31/85, effective 9/1/85; 84-16-067 (Order 119), § 251-18-240, filed 7/31/84; 84-10-056 (Order 115), § 251-18-240, filed 5/2/84; 82-16-002 (Order 98), § 251-18-240, filed 7/22/82, effective 9/1/82; 78-02-094 (Order 65), § 251-18-240, filed 1/30/78; Order 61, § 251-18-240, filed 8/30/77, effective 10/1/77; Order 57, § 251-18-240, filed 3/18/77, effective 4/18/77; Order 44, § 251-18-240, filed 6/25/75; Order 41, § 251-18-240, filed 3/17/75; Order 39, § 251-18-240, filed 12/24/74; Order 32, § 251-18-240, filed 3/19/74; Order 21, § 251-18-240, filed 5/24/73; Order 14, § 251-18-240, filed 6/18/72; Order 4, § 251-18-240, filed 2/19/71.]

WAC 251-18-255 Certification—Specific position requirements. (1) All specific position requirements shall be justified by a job analysis in accordance with WAC 251-17-010(2).

(2) When specific position requirements have been documented for a position, only the names of eligibles who have demonstrated a satisfactory level of knowledge, skill or ability on such specific position requirements shall be certified for that position.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-18-255, filed 12/30/87, effective 2/1/88; 85-16-038 (Order 134), § 251-18-255, filed 7/31/85, effective 9/1/85.]

WAC 251-18-260 Certification—Incomplete. When the number of names available for certification for a given vacancy is fewer than seven, the employing official may make an appointment from the certification or decline to do so.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-18-260, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-260, filed 5/2/84; 82-16-002 (Order 98), § 251-18-260, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-18-260, filed 5/25/78, effective 7/1/78; Order 61, § 251-18-260, filed 8/30/77, effective 10/1/77; Order 3, § 251-18-260, filed 1/15/71.]

WAC 251-18-265 Certification—Concurrent. When more than one employing official submits a personnel request for certification for a class concurrently, the same names from the appropriate eligible list(s) will be certified to each official as required by WAC 251-18-240.

[Statutory Authority: RCW 28B.16.100. 84-10-056 (Order 115), § 251-18-265, filed 5/2/84; 82-16-002 (Order 98), § 251-18-265, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-265, filed 8/30/77, effective 10/1/77.]

WAC 251-18-280 Certification—Selection—Actions required. (1) The employing official shall consider all eligibles certified.

(2) Following certification and consideration of eligibles, the personnel officer shall record one of the following dispositions of the employing official for each name certified:

- (a) Eligible was considered but not appointed;
- (b) Eligible waived consideration for the position;
- (c) Eligible could not be contacted or failed to appear for an interview; or
- (d) Eligible was appointed to the position.

(3) When the number of certified eligibles available is reduced to less than six more than there are positions to be filled, upon request from the employing official the personnel officer may provide a replacement name for each eligible who has waived consideration, been determined to be unavailable, or did not appear for the scheduled interview.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-147 (Order 432), § 251-18-280, filed 9/22/93, effective 10/23/93. Statutory Authority: RCW 28B.16.100. 90-17-037, § 251-18-280, filed 8/10/90, effective 10/1/90; 82-16-002 (Order 98), § 251-18-280, filed 7/22/82, effective 9/1/82; Order 61, § 251-18-280, filed 8/30/77, effective 10/1/77; Order 21, § 251-18-280, filed 5/24/73; Order 4, § 251-18-280, filed 2/19/71.]

WAC 251-18-285 Certification—Error—Correction. When an error is made in the certification of names for a vacancy, the director or the personnel officer may invalidate a probationary or trial service appointment when the appointed eligible(s) would not be among those certified to the position upon correction of the error.

[Statutory Authority: RCW 28B.16.100. 85-10-056 (Order 126), § 251-18-285, filed 5/1/85, effective 6/1/85.]

Chapter 251-19 WAC APPOINTMENT

WAC

251-19-010	Returning employee provisions—Layoff.
251-19-020	Returning employee provisions—Reemployment.
251-19-050	Appointment—Probationary.
251-19-060	Trial service period.
251-19-070	Appointment—Alternate.
251-19-080	Appointment—Permanent status.
251-19-090	Reassignment.
251-19-100	Transfer—Lateral movement—Voluntary demotion.
251-19-105	Accommodation due to disability.
251-19-110	Permanent classified employee interinstitutional and intersystem movement.
251-19-120	Appointment—Temporary.
251-19-122	Written notification of temporary appointment.
251-19-130	Appointment—Cyclic year position.
251-19-140	Apprenticeship programs.
251-19-150	Special employment programs.
251-19-155	Workers' compensation—Return-to-work—Purpose.
251-19-156	Workers' compensation—Return-to-work—Opportunity.
251-19-157	Workers' compensation—Return-to-work—Program.
251-19-158	Workers' compensation—Return-to-work—Eligibility.
251-19-160	Appointment—Conversion of exempt position.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-19-030	Appointment—Provisional. [Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-030, filed 12/30/87, effective 2/1/88.] Repealed by 89-13-074 (Order 179), filed 6/21/89, effective 10/1/89. Statutory Authority: RCW 28B.16.100.
251-19-040	Appointment—Emergency. [Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-040, filed 12/30/87, effective 2/1/88.] Repealed by 89-13-074 (Order 179), filed 6/21/89, effective 10/1/89. Statutory Authority: RCW 28B.16.100.

WAC 251-19-010 Returning employee provisions—Layoff. An eligible appointed from an established institution-wide layoff list shall be credited with the following:

(1) Assumption of appointment status, salary step as provided in WAC 251-08-115 and seniority held at the time of layoff;

(2) Sick leave accrued at the time of layoff;

(3) Periodic increment date extended by an amount of time equal to the period of layoff in order to give credit for time served in a salary step prior to layoff;

(4) The provisions of subsections (1), (2) and (3) of this section also shall apply to former employees appointed as follows:

(a) From an institution-wide promotional list per WAC 251-18-180 (3)(b);

(b) Through the institution's transfer/lateral movement/voluntary demotion procedure per WAC 251-19-100(3).

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-19-010, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-010, filed 12/30/87, effective 2/1/88.]

WAC 251-19-020 Returning employee provisions—Reemployment. A former state employee who is appointed from an open competitive list shall be:

- (1) Credited with unused sick leave accrued if reemployed within three years of termination;
- (2) Given a new periodic increment date in accordance with WAC 251-08-100(2);
- (3) Required to serve a probationary period.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-020, filed 12/30/87, effective 2/1/88.]

WAC 251-19-050 Appointment—Probationary. (1) Probationary appointment shall be made only upon appointment of eligibles from the:

- (a) Open-competitive or noncompetitive list.
- (b) Institution-wide layoff list - when the employee was in probationary status at the time of layoff.
- (c) State-wide layoff list.
- (d) Combined eligible list as provided in WAC 251-18-180(10) and 251-18-240 (3)(b)(ii) when the person appointed is neither a permanent employee of the institution nor an employee moving pursuant to WAC 251-19-110.

(2) The probationary period will continue for the length of time as determined under WAC 251-06-090, unless interrupted as provided in these rules. All positions in a class shall require the same probationary period. In the event an employee is on leave without pay and/or shared leave for more than ten work days during the probationary period, the completion date of the probationary period shall be extended by an amount of time equal to the period of leave without pay and/or shared leave.

(3) Qualified probationary employees may be reappointed during the probationary period to other classes. Upon such reappointment the following shall apply:

- (a) The employee shall begin a probationary period in the new class;
- (b) The salary in the new class shall be established as provided in WAC 251-08-080;
- (c) The former periodic increment date shall be abolished and a new periodic increment date established in the same manner as provided in WAC 251-08-100(2).

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-19-050, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-050, filed 12/30/87, effective 2/1/88.]

WAC 251-19-060 Trial service period. (1) A trial service period of six months shall be required upon appointment of a permanent employee to a new class at the institution, unless

- (a) During the current period of employment at the institution, permanent status has been held in the class to which the employee is moving, or
- (b) The class is lower in that same class series, or
- (c) The employee is being reallocated per the provisions of WAC 251-06-080 (1)(a), or
- (d) The employee is moving to the class as part of a recognized apprenticeship program as provided in WAC 251-19-140(5).

(2) A trial service period of six months shall be required upon employee movement as specified in WAC 251-19-110.

(3) A trial service period shall be required upon appointment from an institution-wide promotional list as provided in WAC 251-18-180 (3)(b).

(4) The trial service period provides the employing official an opportunity to observe and evaluate the new employee's work. Employees who do not perform satisfactorily during the trial service period may be reverted as follows:

(a) With preemptive rights to the former position in which permanent status was last held, or to a vacant position in that class (except when reversion is from a position the appointment to which was a result of disciplinary demotion or employee movement as specified in WAC 251-19-110). The personnel officer shall determine which position to preempt. However, if the employee was in a trial service appointment in another class prior to the current trial service period, the personnel officer may provide the employee the opportunity to complete the first interrupted trial service period.

(b) Reversion must be preceded by written notice at least one work day (eight hours), before the effective date.

(c) If the former position to which the employee has preemptive rights has been abolished and a vacant position in the class is not available, or if there is no class to which the reverted employee has preemptive rights, the affected employee shall be accorded such bumping rights and placement on layoff lists as would be provided in layoff from his/her former class.

(5) Reversion from trial service must be preceded by:

- (a) Written notice detailing deficiencies in performance, which shall include the specific changes required; and
- (b) A reasonable opportunity to overcome identified deficiencies.

(6) An employee who is reverted may appeal to the board regarding:

- (a) Whether the employer complied with the requirements of subsection (5)(a) and (b) of this section; and
- (b) Whether the claimed deficiencies existed at the time of reversion.

(7) The board may uphold the reversion action, extend the trial service period, overturn the reversion, grant permanent status or order such other actions as may be determined appropriate pursuant to the best standards of personnel administration.

(8) In the event an employee is on leave without pay status and/or shared leave for more than ten work days during the trial service period, the completion date of the trial service period shall be extended by an amount of time equal to the period of leave without pay and/or shared leave.

(9) Successful completion of the trial service period shall result in permanent status in the class.

(10) Salary and periodic increment date shall be determined as follows:

(a) Upon promotional trial service appointment, the salary shall be established as provided in WAC 251-08-110; and the existing periodic increment date shall be eliminated and a new date established to be effective the date of completion of trial service;

(b) Upon trial service reversion the salary shall be established as provided in WAC 251-08-115(4) and the former periodic increment date shall be reestablished;

(c) Upon trial service appointment to a class at the same salary level, the salary and periodic increment date shall remain unchanged.

[Statutory Authority: RCW 41.06.150. 97-01-065, § 251-19-060, filed 12/13/96, effective 1/13/97. Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-19-060, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-060, filed 12/30/87, effective 2/1/88.]

WAC 251-19-070 Appointment—Alternate.

Application of the alternate appointment rule shall apply only to unique research classes pre-approved by the board. An alternate appointment for research positions shall consist of the six month period following appointment from a layoff list or an option taken in lieu of layoff. This provides the employing official an opportunity to observe the employee's work and determine whether or not he/she can perform in that specific position. If it is determined that the employee cannot perform, as documented by a written performance review, the employee shall be placed on the appropriate layoff list or provided other transfer options as available.

Application of this rule shall be appealable under the same provisions as WAC 251-12-080 et seq.

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-19-070, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-070, filed 12/30/87, effective 2/1/88.]

WAC 251-19-080 Appointment—Permanent status.

Permanent status appointments shall be made under the following conditions:

(1) Upon successful completion of a probationary period or trial service period.

(2) Demotion, either voluntary or involuntary, when made to a class in which the employee has held permanent status during the current period of employment at the institution.

(3) Transfer within a class at the institution.

(4) Certification from a layoff list for a class in which the employee had permanent status at the time of layoff or lower classes in the same class series for which the employee is qualified.

(5) Conversion, per the provisions of WAC 251-19-160, of the incumbent of an exempt position which is converted to classified status, provided the incumbent has been employed for at least six months in the exempt position.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-080, filed 12/30/87, effective 2/1/88.]

WAC 251-19-090 Reassignment. The appointing authority may reassign an employee to a different position within the same class. Such reassignment shall not result in a change in salary or periodic increment date.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-090, filed 12/30/87, effective 2/1/88.]

WAC 251-19-100 Transfer—Lateral movement—Voluntary demotion. (1) The personnel officer for each institution shall develop a "transfer/lateral movement/voluntary demotion procedure" to provide reasonable opportunity for employees desiring to transfer within class or to voluntarily demote or move laterally to classes where they

have previously attained permanent status at the institution, or equivalent classes as determined by the personnel officer, when:

(a) The action is by employee request; or

(b) The employee's position is being reallocated upward and the employee is not appointed to the reallocated position; or

(c) The personnel officer determines that the employee seeking the action is no longer able to perform in the current class due to a medically verified physical, mental, or sensory disability. An employee is eligible to apply for appointment to a position under the provisions of this subsection if the employee meets the minimum qualifications and is able to perform the work of the position as confirmed by medical verification which provides adequate guidance to the employer.

(2) Except as provided in subsection (1) of this section, permanent employees who wish to be considered for appointment to classes with an equal or lower salary range maximum than their current class must apply in accord with institutional procedure, meet the minimum qualifications, pass the examination and be placed on the appropriate eligible list for the class.

(3) Former employees laid off from the institution, per WAC 251-10-030, who are on an institution-wide layoff list, also shall be included in the procedures developed per subsections (1)(a) and (2) of this section.

(4) Upon appointment via the provisions of this rule, the following shall apply:

(a) For voluntary demotion, the salary shall be determined by the personnel officer and the periodic increment date shall remain unchanged.

(b) For transfer within class or lateral movement, the salary and periodic increment date shall remain unchanged.

[Statutory Authority: RCW 41.06.040 and 41.06.150. 93-19-078, § 251-19-100, filed 9/14/93, effective 10/1/93. Statutory Authority: RCW 28B.16.100. 89-13-075 (Order 180), § 251-19-100, filed 6/21/89, effective 8/1/89; 88-02-018 (Order 165), § 251-19-100, filed 12/30/87, effective 2/1/88.]

WAC 251-19-105 Accommodation due to disability.

Each institution/related board shall develop and disseminate a procedure regarding reasonable accommodation of employees with disabilities in accordance with state and federal laws. In addition, the institution/related board shall be responsible for notifying the employee of steps to be followed should the employee request accommodation for essential job functions. A copy of the procedure shall be provided to the employee. The institution/related board shall follow state and federal laws when considering and providing reasonable accommodations for employees with disabilities.

[Statutory Authority: RCW 41.06.150. 96-05-026, § 251-19-105, filed 2/13/96, effective 4/1/96. Statutory Authority: RCW 28B.16.100. 89-13-075 (Order 180), § 251-19-105, filed 6/21/89, effective 8/1/89.]

WAC 251-19-110 Permanent classified employee interinstitutional and intersystem movement. Permanent classified employees desiring to promote, transfer, laterally move, or voluntarily demote to positions at other institutions/related boards or state agencies will:

(1) Have the responsibility for communicating their desires in writing to potential receiving institutions/related boards or the department of personnel.

(2) Be required to pass the examination for the class administered by the receiving institution/related board or department of personnel.

(3) Have their names placed on the appropriate eligible list as provided in WAC 251-18-180 or corresponding department of personnel register.

(4) Be certified to employing official(s) as provided in WAC 251-18-240 or corresponding department of personnel rule.

(5) Serve a trial service period of six months. If the trial service period is not satisfactorily completed, the employee shall be placed on the institution-wide layoff list at the institution/related board from which he/she came or corresponding department of personnel register.

(6) Be unable to bump if laid off during such trial service period even though layoff seniority will move with employee to the new position.

(7) Retain vacation and sick leave balances. Vacation leave accrual rates shall be determined by appropriate higher education personnel board or department of personnel rules.

(8) Retain their former periodic increment date except upon promotion in accordance with WAC 251-08-100 (3)(a).

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-110, filed 12/30/87, effective 2/1/88.]

WAC 251-19-120 Appointment—Temporary. (1) Temporary appointment may be made only to meet employment conditions set forth in the definition of "temporary appointment" in WAC 251-01-415.

(2) Temporary appointment to perform work in the absence of an employee on leave for more than six consecutive months shall be made following certification from appropriate eligible lists of eligibles who have indicated willingness to accept such temporary appointment. Employees appointed to classified positions in accordance with this subsection are covered by chapter 28B.16 RCW and Title 251 WAC. Temporary appointment made in accordance with this subsection is not limited to the one thousand fifty hours in any twelve consecutive month period from the original date of hire limitation, or October 1, 1989, whichever is later, identified in WAC 251-01-415(2) and 251-12-600.

(3) The employing official may temporarily assign a classified employee the duties and responsibilities of a higher-level class for a period of less than six consecutive months. The salary shall be determined per WAC 251-08-110.

(4) Temporary appointment to positions identified in the definition of "temporary appointment" in WAC 251-01-415 (2) and (3) may be made without regard to the rules governing appointment.

(5) A permanent classified employee accepting temporary appointment to a position identified in the definition of "temporary appointment" in WAC 251-01-415 (1), (2), and (3), shall retain and continue to receive all rights and benefits provided by these rules for the duration of the temporary appointment.

(6) At the conclusion of a temporary appointment made in accordance with these rules, a permanent employee shall

have the right to revert to his/her former position or to an equivalent position.

(7) Each institution shall develop for director approval a procedure which indicates its system for controlling and monitoring exempt positions as identified in RCW 28B.16.040(2).

(8) An institution may petition the director in writing for approval of exceptions to these requirements. The director will annually review the appropriateness of exceptions granted and advise the board.

(9) No temporary appointment shall take the place of employees laid off due to lack of work or lack of funds.

[Statutory Authority: RCW 28B.16.100. 91-10-002, § 251-19-120, filed 4/18/91, effective 6/1/91. Statutory Authority: RCW 28B.16.100, 28B.16.040(2) and 70.24.300. 90-01-007, § 251-19-120, filed 12/7/89, effective 1/7/90. Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-19-120, filed 6/21/89, effective 10/1/89; 88-02-018 (Order 165), § 251-19-120, filed 12/30/87, effective 2/1/88.]

WAC 251-19-122 Written notification of temporary appointment. (1) All temporary employees shall be notified in writing of the conditions of their employment prior to the commencement of each appointment and/or upon any subsequent change to the conditions of their employment.

(2) The written notification shall contain the following information:

(a) The reason for the temporary appointment (see WAC 251-01-415 (1), (2), and (3));

(b) The hours of work and the hourly rate of pay;

(c) The duration of appointment as adjusted by any current or former temporary appointments. The duration shall be expressed as a starting and expected end date;

(d) The name of the employee's supervisor;

(e) A statement regarding the receipt or nonreceipt of benefits. If the employee is to receive benefits, the statement shall include which benefits are to be received;

(f) The expected status of the employee within the higher education personnel board system upon completion of the appointment;

(g) The signature of the personnel officer and/or authorizing hiring official;

(h) The signature of the employee verifying receipt of the written notification;

(i) An identification of any current and/or previously held temporary positions at the institution;

(j) A statement of appeal rights for those positions in which a violation of WAC 251-01-415 may result in permanent status.

[Statutory Authority: RCW 28B.16.100. 89-13-074 (Order 179), § 251-19-122, filed 6/21/89, effective 10/1/89.]

WAC 251-19-130 Appointment—Cyclic year position. (1) Cyclic year positions are to be filled in accord with chapters 251-17 and 251-18 WAC.

(2) At least fifteen calendar days before the start of each annual cycle, incumbents of cyclic year positions will be informed in writing of their scheduled periods of leave without pay in the ensuing annual cycle. Such leave without pay shall not constitute a break in service and shall not be deducted from the employees' length of service in granting periodic increments except as provided in WAC 251-08-100

(3)(f), nor in computing the employees' vacation leave accrual rate.

(3) When additional work is required of a cyclic year position during a period for which the position was scheduled for leave without pay, the temporary work will be offered to the incumbent. The incumbent will be allowed at least three working days in which to accept or decline the offer.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-130, filed 12/30/87, effective 2/1/88.]

WAC 251-19-140 Apprenticeship programs. (1) Apprentices shall be employed and compensated under conditions appropriate for the particular apprenticeable class which have been recommended by the joint apprenticeship committee as approved by the state apprenticeship council and the higher education personnel board. Each apprentice shall enter into a training contract with the joint apprenticeship committee and shall abide by its term and conditions.

(2) When an apprenticeship agreement is cancelled, the employee shall have the same reversionary employment rights he/she had available at the time of entering the apprenticeship program.

(3) When an employee moves into an apprenticeship program and he/she has a higher salary than is provided by the apprenticeship program, his/her salary shall be continued at the existing level until the employee has been in the apprenticeship program long enough to move onto the apprenticeship salary schedule without a reduction in salary.

(4) Incremental salary step increases shall be in accordance with the appropriate salary schedule but are not solely dependent upon time in grade. Objective evaluation of performance in on-the-job and related training may be justification to delay an incremental salary increase until training requirements for that step have been fulfilled. Conversely, objective evaluation of performance may be justification to advance incremental salary steps to the level equal to ability and training.

(5) Graduates from the apprenticeship program will be assigned to the mid-step of the journey scale and will remain until twelve months elapse before moving to the top step. Movement from the apprenticeship program into the journey class does not require competition and a trial service appointment is not required.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-140, filed 12/30/87, effective 2/1/88.]

WAC 251-19-150 Special employment programs. (1) Special employment programs are those programs designated by the director which are designed and implemented to reduce unemployment and/or provide training opportunities to enable persons to become more employable. Special employment programs are funded in total, or in part, from sources other than the normal sources available to the institutions.

(2) Positions created for special employment programs are included in the regular classified service of an institution. Participants have the rights and benefits of classified employees, except as precluded by WAC 251-10-035 or higher statutory authority. The primary distinction is that each institution shall establish a separate layoff unit to

include all special employment programs. When special employment program positions are abolished or when an incumbent must be separated due to the salary or longevity mandates of Public Law 95-524, layoffs will occur as provided in WAC 251-10-035.

[Statutory Authority: RCW 28B.16.100. 88-02-018 (Order 165), § 251-19-150, filed 12/30/87, effective 2/1/88.]

WAC 251-19-155 Workers' compensation—Return-to-work—Purpose. To establish a return-to-work program for permanent state employees who are receiving compensation under RCW 51.32.090 and who are, by reason of their temporary disability, unable to return to their previous work but are capable of carrying out work of a lighter or modified nature.

[Statutory Authority: RCW 28B.16.100. 91-10-001, § 251-19-155, filed 4/18/91, effective 6/1/91.]

WAC 251-19-156 Workers' compensation—Return-to-work—Opportunity. Permanent state employees who are receiving compensation under RCW 51.32.090 shall have the opportunity for return-to-work state-wide when appropriate job classifications are not available in the institution of higher education that is the appointing authority at the time of qualifying injury. All institutions of higher education must coordinate and cooperate with one another and with other state agencies to provide the opportunity for return-to-work state-wide.

[Statutory Authority: RCW 28B.16.100. 91-10-001, § 251-19-156, filed 4/18/91, effective 6/1/91.]

WAC 251-19-157 Workers' compensation—Return-to-work—Program. Each institution of higher education shall establish a state employee return-to-work policy. It will be the responsibility of each institution to:

(1) Adopt a written return-to-work policy and submit a copy to the higher education personnel board to be kept on file. Prior to adoption, the institution shall publish a copy of the proposed policy utilizing reasonable means of communication available to the institution and allow reasonable time for comment by interested parties.

(2) Take into consideration the special nature of employment in the institution.

(3) Name an institution representative responsible for coordinating the return-to-work program of the institution. At a minimum, the return-to-work coordinator will determine employee interests and availability regarding employment locations and types of employment, contact return-to-work coordinators at employment locations the employee has identified to facilitate identification of potential return-to-work opportunities, and submit completed forms to appropriate return-to-work coordinators.

(4) Provide all classified employees with information regarding the institution return-to-work policy.

(5) Train supervisors on implementation of the return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee.

(6) Coordinate participation of applicable employee assistance programs, as appropriate.

(7) Provide alternative work opportunities of limited duration to permanent employees who are eligible for the

return-to-work program if possible. Such alternative employment opportunities may include work described under WAC 251-04-040.

[Statutory Authority: RCW 41.06.150, 95-19-099, § 251-19-157, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100, 91-10-001, § 251-19-157, filed 4/18/91, effective 6/1/91.]

WAC 251-19-158 Workers' compensation—Return-to-work—Eligibility. Employees are eligible to participate in the return-to-work program under the following conditions:

- (1) The employee is a permanent classified state employee.
- (2) The employee is receiving compensation under RCW 51.32.090.
- (3) The employee has a temporary disability which makes the employee temporarily unable to return to his/her previous work, but the employee is capable of carrying out work of a lighter or modified nature as evidenced by a written statement from a physician.

[Statutory Authority: RCW 28B.16.100, 91-10-001, § 251-19-158, filed 4/18/91, effective 6/1/91.]

WAC 251-19-160 Appointment—Conversion of exempt position. (1) Incumbents of positions which are converted from exempt to classified service for the following reasons may be placed within the classified service as provided in subsections (2) through (9) of this section:

- (a) When it has been determined that the exempt position does not meet the criteria for exemption per WAC 251-04-040 (1), (7), (8), or (9) and thus is inappropriately exempt;
- (b) When an organizational realignment has caused the exempt position to become inappropriately exempt by no longer meeting the criteria for exemption per WAC 251-04-040 (1), (7), (8), or (9); or
- (c) When an institution elects to convert a position which has been exempt per the provisions of WAC 251-04-040(9).

(2) An incumbent whose position is converted as indicated in subsection (1)(c) of this section must have served a minimum of one year in the position being converted in order to be subject to the provisions of this section.

(3) The incumbent shall not be required to pass a qualifying examination or meet the minimum qualifications for entry into the class.

(4) The incumbent shall enter the classified position with permanent status unless he/she has been employed less than six months in the exempt position being converted, in which case he/she shall hold probationary status until a total of six months has been served.

(5) The incumbent shall be placed at the first step within the salary range or range extension which is not less than the current exempt salary.

(6) The periodic increment date shall be established based on the date of conversion to the classified service or the date of last salary increase, whichever is sooner. Those employees at or above the top step of the new range shall not be assigned a P.I.D.

(7) The incumbent shall be credited with unused accrued sick leave on the books at the time of conversion and shall

continue to accrue at the rate of one day per month as provided in WAC 251-22-100.

(8) The incumbent shall be credited with unused accrued vacation leave on the books at the time of conversion and shall accrue at the same rate as for classified employees as provided in WAC 251-22-060.

(9) Layoff seniority for the incumbent shall be established based upon unbroken service at the institution.

[Statutory Authority: RCW 28B.16.100, 91-10-002, § 251-19-160, filed 4/18/91, effective 6/1/91; 88-02-018 (Order 165), § 251-19-160, filed 12/30/87, effective 2/1/88.]

Chapter 251-20 WAC

EMPLOYEE PERFORMANCE EVALUATION

WAC

251-20-010	Employee performance evaluation—Authority, purpose, use.
251-20-020	Employee performance evaluation—Forms.
251-20-030	Method of evaluation.
251-20-040	Employee performance evaluation—Procedure.
251-20-050	Employee performance evaluation—Appeal.
251-20-060	Employee performance evaluation—Responsibility.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-20-045	Annual performance evaluation—Distribution of ratings—Management employees. [Statutory Authority: RCW 28B.16.100, 84-16-067 (Order 119), § 251-20-045, filed 7/31/84.] Repealed by 85-20-049 (Order 136), filed 9/25/85. Statutory Authority: RCW 28B.16.100.
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WAC 251-20-010 Employee performance evaluation—Authority, purpose, use. (1) The rules contained in this chapter follow from the authority of the higher education personnel law, chapter 28B.16 RCW, which requires that standardized employee performance evaluation procedures and forms be used by institutions of higher education for the appraisal of employee job performance at least annually.

(2) Supervisors will conduct annual performance evaluations to record and inform employees regarding how well they have contributed to the fulfillment of institution and job objectives.

(3) Performance evaluation shall not be used to initiate personnel actions such as transfers, promotion, or discipline.

[Statutory Authority: RCW 28B.16.100, 85-20-049 (Order 136), § 251-20-010, filed 9/25/85; 84-16-067 (Order 119), § 251-20-010, filed 7/31/84; 78-06-068 (Order 68), § 251-20-010, filed 5/25/78, effective 7/1/78.]

WAC 251-20-020 Employee performance evaluation—Forms. (1) Standardized performance evaluation forms approved by the board shall be used to record employee evaluations. The forms shall contain standard "rating factors" and shall provide for one or more "optional factors" developed by the institution, which reflect organizational requirements and specific job-related aspects of performance.

(2) The approved forms shall accommodate the provisions of WAC 251-20-040.

(3) The approved forms may be supplemented with other forms and/or information used by an institution to support the ratings recorded on the approved forms.

[Statutory Authority: RCW 28B.16.100. 84-16-067 (Order 119), § 251-20-020, filed 7/31/84; 78-06-068 (Order 68), § 251-20-020, filed 5/25/78, effective 7/1/78.]

WAC 251-20-030 Method of evaluation. (1) Employee performance is to be rated for each "rating factor" on the approved form on the basis of performance expectations determined by the supervisor.

(2) Upon appointment to a position, the employee's supervisor will provide the employee with a copy of the following:

(a) The specification for the class.

(b) The employee's specific position duties and responsibilities which relate to the specification.

(3) Written performance expectations for each of the rating factors shall be provided to the employee in sufficient time to allow the employee to meet the work expectations (normally within thirty calendar days after appointment to an existing position and within ninety calendar days after appointment to a newly created or significantly modified position).

(4) The supervisor's performance expectations shall remain in effect for future evaluations unless action is taken to modify them and the employee has been provided with a copy of them.

(5) Each "rating factor" will be rated and recorded in one of the rating categories on the approved evaluation form.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-20-030, filed 9/25/85; 84-16-067 (Order 119), § 251-20-030, filed 7/31/84; 81-15-021 (Order 89), § 251-20-030, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-030, filed 5/25/78, effective 7/1/78.]

WAC 251-20-040 Employee performance evaluation—Procedure. (1) Each employee shall be evaluated at least annually by his/her immediate supervisor. The evaluation process shall use the form(s) as provided in WAC 251-20-020 and shall be in accord with the provisions of this chapter.

(2) Prior to review by the second level of supervision, the employee shall be provided an opportunity to comment on the evaluation and to discuss his/her comments and the final evaluation with the supervisor.

(3) The evaluation shall be reviewed by the employee's second level of supervision (or management designee as determined by the institution).

(4) A copy of the completed annual evaluation form will be provided to the employee upon request.

(5) Performance evaluations shall be retained in the employee's file for no more than three years.

[Statutory Authority: RCW 28B.16.100. 85-20-049 (Order 136), § 251-20-040, filed 9/25/85; 84-16-067 (Order 119), § 251-20-040, filed 7/31/84; 81-15-021 (Order 89), § 251-20-040, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-040, filed 5/25/78, effective 7/1/78.]

WAC 251-20-050 Employee performance evaluation—Appeal. An appeal against action under this chapter shall be restricted to allegations of irregularities in the use of the approved form and/or the procedures outlined in WAC 251-20-010, 251-20-020, 251-20-030, and 251-20-040, as provided in WAC 251-12-075.

[Statutory Authority: RCW 28B.16.100. 85-22-022 (Order 141), § 251-20-050, filed 10/30/85, effective 12/1/85; 84-16-067 (Order 119), § 251-20-050,

filed 7/31/84; 81-15-021 (Order 89), § 251-20-050, filed 7/9/81, effective 8/10/81; 78-06-068 (Order 68), § 251-20-050, filed 5/25/78, effective 7/1/78.]

WAC 251-20-060 Employee performance evaluation—Responsibility. The personnel officer shall be responsible for establishing and administering the employee performance evaluation system for the institution.

[Statutory Authority: RCW 28B.16.100. 78-06-068 (Order 68), § 251-20-060, filed 5/25/78, effective 7/1/78.]

Chapter 251-22 WAC HOLIDAYS—LEAVE

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

251-22-010	Hours of work—General. [Order 29, § 251-22-010, filed 1/22/74; Order 3, § 251-22-010, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-010.
251-22-020	Work schedules. [Order 29, § 251-22-020, filed 1/22/74; Order 3, § 251-22-020, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-020.
251-22-030	Rest period. [Order 3, § 251-22-030, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-09-110.
251-22-091	Vacation leave—Separation. [Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-091, filed 9/23/83, effective 10/24/83; 82-19-067 (Order 102), § 251-22-091, filed 9/20/82, effective 10/25/82.] Repealed by

- 84-12-047 (Order 117), filed 6/1/84. Statutory Authority: RCW 28B.16.100.
- 251-22-105 Leave accrual date. [Order 16, § 251-22-105, filed 7/27/72, effective 7/1/73.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-053.
- 251-22-115 Maternity leave. [Order 61, § 251-22-115, filed 8/30/77, effective 10/1/77; Order 29, § 251-22-115, filed 1/22/74.] Repealed by 88-13-019 (Order 168), filed 6/6/88. Statutory Authority: RCW 28B.16.100.
- 251-22-120 Sick leave—Reporting. [Order 3, § 251-22-120, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-111.
- 251-22-130 Sick leave—Physician's certificate. [Order 3, § 251-22-130, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
- 251-22-140 Sick leave—Workmen's compensation. [Order 19, § 251-22-140, filed 12/20/72; Order 3, § 251-22-140, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-165.
- 251-22-150 Sick leave—Change of employment. [Order 3, § 251-22-150, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-059.
- 251-22-160 Sick leave—Separation—Reinstatement. [Order 32, § 251-22-160, filed 3/19/74; Order 3, § 251-22-160, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-125.
- 251-22-197 Family medical leave—Serious health condition. [Statutory Authority: RCW 28B.16.100 and Federal Family and Medical Leave Act of 1993. 93-14-115, § 251-22-197, filed 7/2/93, effective 8/5/93.] Repealed by 96-13-077, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW.
- 251-22-215 Leave of absence without pay—Excepted work period. [Statutory Authority: Chapter 28B.16 RCW. 91-13-011, § 251-22-215, filed 6/7/91, effective 6/7/91.] Repealed by 93-06-032, filed 2/23/93, effective 4/1/93. Statutory Authority: RCW 28B.16.100.
- 251-22-230 Leave—Procedures. [Order 3, § 251-22-230, filed 1/15/71.] Repealed by Order 61, filed 8/30/77, effective 10/1/77. Later promulgation, see WAC 251-22-048.

WAC 251-22-040 Holidays. (1) Legal holidays are designated by statute. The following holidays are identified per RCW 1.16.050:

- (a) The first day of January (New Year's Day);
- (b) The third Monday of January (Martin Luther King, Jr.'s birthday);
- (c) The third Monday of February (Presidents' Day);
- (d) The last Monday of May (Memorial Day);
- (e) The fourth day of July (Independence Day);
- (f) The first Monday in September (Labor Day);
- (g) The eleventh day of November (Veterans Day);
- (h) The fourth Thursday of November (Thanksgiving Day);
- (i) The day immediately following Thanksgiving Day; and
- (j) The twenty-fifth day of December (Christmas Day).

Each higher education institution will provide qualifying employees in pay status with a paid holiday on the above days. However, the governing board of each institution, and in the case of the community college system through the state board for community college education, may designate other days to be observed in lieu of the above holidays. Implementation of modified holiday schedules must be approved by the director. Schedules may be determined on a calendar or fiscal year basis. When an institution estab-

lishes a modified schedule, paid holidays shall be granted based on the modified schedule.

(2) Classified employees working twelve-month schedules or cyclic year position employees who work full monthly schedules throughout their work year shall receive the number of holidays for which they qualify during their scheduled work year as set forth in this section. Qualification is determined by being in pay status on the work day preceding the holiday(s).

(3) Cyclic year position employees scheduled to work less than full monthly schedules throughout their work year qualify for holiday compensation if they work or are in pay status on their last regularly scheduled working day preceding the holiday(s) in that month.

(4) Part-time classified employees shall be entitled to the number of paid hours on a holiday that their monthly schedule bears to a full time schedule.

(5) Full-time alternate work schedule employees shall receive eight hours of regular holiday pay per holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(6) When a holiday falls on an employee's regularly scheduled day off, he/she shall receive a day of compensatory time off.

(7) Holiday time worked shall be compensated as provided in WAC 251-09-035.

(8) Whenever a holiday falls on Sunday, the following Monday shall be considered a nonworking or legal holiday. When a holiday falls on Saturday, the preceding Friday shall be considered a nonworking or legal holiday.

(9) Employees terminating immediately prior to a holiday do not qualify for holidays occurring after termination.

(10) Employees shall be entitled to one paid personal holiday per calendar year in addition to those specified in this section as provided in WAC 251-22-045.

[Statutory Authority: RCW 41.06.150. 95-19-099, § 251-22-040, filed 9/20/95, effective 11/1/95. Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-22-040, filed 1/2/87, effective 2/1/87; 86-08-037 (Order 146), § 251-22-040, filed 3/26/86, effective 5/1/86; 85-16-038 (Order 134), § 251-22-040, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-22-040, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-040, filed 4/29/83, effective 6/1/83; Order 61, § 251-22-040, filed 8/30/77, effective 10/1/77; Order 60, § 251-22-040, filed 7/18/77; Order 55, § 251-22-040, filed 6/1/76; Order 42, § 251-22-040, filed 5/23/75; Order 41, § 251-22-040, filed 3/17/75; Order 29, § 251-22-040, filed 1/22/74; Order 8, § 251-22-040, filed 6/17/71, effective 7/19/71; Order 3, § 251-22-040, filed 1/15/71.]

WAC 251-22-045 Personal holiday. (1) Each employee may select one personal holiday each calendar year, as indicated in WAC 251-22-040(10) and the institution/related board must grant the day, provided:

(a) The employee has been continuously employed by the institution for more than four months.

(b) The employee has given not less than fourteen calendar days written notice to the supervisor; provided, however, the employee and the supervisor may agree upon an earlier date; and

(c) The number of employees selecting a particular day off does not prevent providing continued public service.

(2) Entitlement to the holiday will not lapse when denied under (1)(c) above.

(3) Full-time alternate work schedule employees shall receive eight hours of regular holiday pay for the personal holiday. Any differences between the scheduled shift for the day and eight hours may be adjusted by use of vacation leave, use or accumulation of compensatory time as appropriate, or leave without pay.

(4) Part-time classified employees shall be entitled to the number of paid hours on a personal holiday that their monthly schedule bears to a full time schedule.

(5) Part or all of a personal holiday may be donated to another employee for shared leave as provided in WAC 251-22-250 and WAC 251-22-280.

(a) Any portion of the personal holiday that remains after donation to shared leave shall be taken by the donating employee in one absence subject to request and approval as described in subsection (1) and (2) of this section.

(b) That portion of a personal holiday that is accrued, donated as shared leave, and then returned during the same calendar year to the donating employee, may be taken by the donating employee.

(c) An employee shall be allowed to split the personal holiday only when donating a portion of the personal holiday to the shared leave program.

[Statutory Authority: RCW 41.06.150. 96-21-036, § 251-22-045, filed 10/10/96, effective 11/10/96. Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-22-045, filed 1/2/87, effective 2/1/87; 83-20-020 (Order 108), § 251-22-045, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-045, filed 8/30/77, effective 10/1/77; Order 55, § 251-22-045, filed 6/1/76.]

WAC 251-22-048 Leave—Procedures. Each institution shall have on file in the personnel office complete instructions specifying the procedure for granting all leave, as outlined in these rules.

[Order 61, § 251-22-048, filed 8/30/77, effective 10/1/77.]

WAC 251-22-050 Leave—Authorization. All leave must be authorized by the employing official or designee. Unauthorized absence shall be treated as absence without pay.

[Order 61, § 251-22-050, filed 8/30/77, effective 10/1/77; Order 42, § 251-22-050, filed 5/23/75; Order 3, § 251-22-050, filed 1/15/71.]

WAC 251-22-053 Leave—Accrual date. The effective date for computing leave accrual shall be:

(1) The first of the month of hire for employees hired between the first and the fifteenth of a month; or

(2) The first of the following month for employees hired between the sixteenth and the end of a month.

(3) Employees terminating on or before the fifteenth of the month shall not receive accrued leave for the month; those terminating on or after the sixteenth shall receive the full monthly accrual credit, provided they have not been on leave of absence without pay during the month in excess of ten working days.

[Order 61, § 251-22-053, filed 8/30/77, effective 10/1/77.]

WAC 251-22-056 Leave—Alternate work schedule employees. (1) Full-time alternate work schedule employees

shall accrue vacation and sick leave on the same schedule as provided in WAC 251-22-060; i.e., during the first year of employment a full-time employee assigned to an alternate work schedule accrues eight hours of vacation leave and eight hours of sick leave for each month of qualifying service, etc.

(2) Part-time alternate work schedule employees shall accrue leave on the same pro rata basis that their monthly work schedule bears to a full-time work schedule.

(3) Leave use shall be charged on an hour for hour basis; i.e., an alternate work schedule employee on a ten hour per day work schedule would be charged ten hours of vacation or sick leave for each such day taken.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-056, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-056, filed 8/30/77, effective 10/1/77.]

WAC 251-22-059 Leave—Change of employment. Unused sick and vacation leave credits of permanent status employees changing employment between higher education institutions, related boards or other state agencies shall move with the employee.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-059, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-059, filed 8/30/77, effective 10/1/77.]

WAC 251-22-060 Vacation leave—Accrual. (1) Full-time employees eligible for vacation leave shall accrue vacation leave, to be credited monthly, at the following rates:

(a) During the first year of continuous state employment - 12 days (8.0 hours per month);

(b) During the 2nd year of continuous state employment - 13 days (8 hours, 40 minutes per month);

(c) During the 3rd and 4th years of continuous state employment - 14 days (9 hours, 20 minutes per month);

(d) During the 5th through the 9th years of total state employment - 15 days (10 hours per month);

(e) During the 10th year of total state employment - 16 days (10 hours, 40 minutes per month);

(f) During the 11th year of total state employment - 17 days (11 hours, 20 minutes per month);

(g) During the 12th year of total state employment - 18 days (12 hours per month);

(h) During the 13th year of total state employment - 19 days (12 hours, 40 minutes per month);

(i) During the 14th year of total state employment - 20 days (13 hours, 20 minutes per month);

(j) During the 15th year of total state employment - 21 days (14 hours per month);

(k) During the 16th and succeeding years of total state employment - 22 days (14 hours, 40 minutes per month).

(2) Employees working less than full-time schedules shall accrue vacation leave credit on the same prorata basis that their appointment bears to a full-time appointment.

(3) Per the provisions of WAC 251-19-130(2), the scheduled period of cyclic year position leave of absence without pay shall not be deducted for purposes of computing the rate of vacation leave accrual for cyclic year position employees.

(4) The following shall apply for purposes of computing years of qualifying state employment:

(a) Employment in the legislative and/or the judicial branch shall not be credited;

(b) Employment exempt by the provisions of WAC 251-04-040(4) or employment under the state personnel board jurisdiction which is analogous to the conditions specified in WAC 251-04-040(4) shall not be credited;

(c) Each contract year of full-time faculty and/or administrative exempt employment within the higher education institutions shall be credited as a year of qualifying service;

(d) Employment in part-time classified positions shall be credited as full-time service.

(5) Vacation leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month, nor shall credit be given toward the rate of vacation leave accrual.

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-22-060, filed 12/30/87, effective 2/1/88; 85-16-038 (Order 134), § 251-22-060, filed 7/31/85, effective 9/1/85; 83-20-020 (Order 108), § 251-22-060, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-060, filed 4/29/83, effective 6/1/83; 79-03-029 (Order 71), § 251-22-060, filed 2/27/79, effective 4/2/79; Order 61, § 251-22-060, filed 8/30/77, effective 10/1/77; Order 49, § 251-22-060, filed 1/16/76; Order 47, § 251-22-060, filed 11/19/75; Order 23, § 251-22-060, filed 6/20/73, effective 1/1/74; Order 16, § 251-22-060, filed 7/27/72, effective 7/1/73.]

WAC 251-22-070 Vacation leave—Use. (1) Vacation leave may not be taken until an employee has completed six months of continuous employment. An employee bringing an accrued balance from another state agency may use the previously accrued vacation leave during the institutional probationary or trial service period.

(2) All requests for vacation leave must be approved by the employing official or designee in advance of the effective date unless used for emergency child care as provided in WAC 251-22-117.

(3) Vacation leave shall be scheduled by the employing department at a time most convenient to the work of the department, the determination of which shall rest with the employing official. As far as possible, leave will be scheduled in accordance with the wishes of the employee in any amount up to the total of his/her earned leave credits.

(4) Paid vacation leave may not be used in advance of its accrual.

[Statutory Authority: RCW 28B.16.100. 87-14-051 (Order 156), § 251-22-070, filed 7/1/87, effective 8/1/87; 84-08-032 (Order 113), § 251-22-070, filed 3/30/84, effective 5/1/84; 83-20-020 (Order 108), § 251-22-070, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-070, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-070, filed 1/15/71.]

WAC 251-22-080 Vacation leave—Accumulation—Excess. Vacation leave credits may be accumulated to a maximum of thirty working days (240 hours). However, there are two methods which allow vacation leave to be accumulated above the maximum:

(1) If an employee's request for vacation leave is denied by the employing official, then the maximum of thirty working days' accrual shall be extended for each month that the leave is deferred, provided a statement of necessity justifying the denial is approved by the personnel officer.

(2) As an alternative to subsection (1) of this section, employees may also accumulate vacation leave in excess of thirty days as follows:

(a) An employee may accumulate the vacation leave days between the time thirty days is accrued and his/her anniversary date of state employment.

(b) Such accumulated leave shall be used by the anniversary date and at a time convenient to the employing institution/agency. If such leave is not used prior to the employee's anniversary date, such leave shall be automatically extinguished and considered to have never existed.

(c) Such leave credit acquired and accumulated shall never, regardless of circumstances, be deferred by the employing institution/agency by filing a statement of necessity as described in subsection (1) of this section.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-080, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-080, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-080, filed 1/15/71.]

WAC 251-22-090 Vacation leave—Cash payment. Classified employees who have completed six continuous months of employment and who separate from service by resignation, layoff, dismissal, retirement or death are entitled to a lump sum cash payment for all unused vacation leave. In the case of voluntary resignation, an employee may be required to provide fourteen calendar days' notice to qualify for such lump sum cash payment. Vacation leave payable under WAC 251-22-080 and this section shall be computed and paid as prescribed by the office of financial management. No contributions are to be made to the department of retirement systems for lump sum payment of excess vacation leave accumulated as prescribed in WAC 251-22-080(2), nor shall such payment be reported to the department of retirement systems as compensation.

[Statutory Authority: RCW 28B.16.100. 85-22-023 (Order 142), § 251-22-090, filed 10/30/85, effective 12/1/85; 85-16-038 (Order 134), § 251-22-090, filed 7/31/85, effective 9/1/85; 84-12-047 (Order 117), § 251-22-090, filed 6/1/84; 83-20-020 (Order 108), § 251-22-090, filed 9/23/83, effective 10/24/83; 82-19-067 (Order 102), § 251-22-090, filed 9/20/82, effective 10/25/82; Order 61, § 251-22-090, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-090, filed 1/15/71.]

WAC 251-22-100 Sick leave—Accrual. (1) Full-time classified employees shall accrue eight hours of sick leave credit for each month of completed classified service. Paid sick leave may not be used in advance of accrual.

(2) Employees working less than a full-time schedule shall accrue sick leave credit on the same prorata basis that their employment schedule bears to a full-time schedule.

(3) Sick leave credits shall not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

[Order 61, § 251-22-100, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-100, filed 12/24/74; Order 21, § 251-22-100, filed 5/24/73, effective 7/1/73; Order 16, § 251-22-100, filed 7/27/72, effective 7/1/73.]

WAC 251-22-110 Sick leave—Use. (1) Sick leave shall be allowed an employee under the following conditions:

(a) Because of and during illness, disability or injury which has incapacitated the employee from performing required duties.

(b) By reason of exposure of the employee to a contagious disease during such period as attendance on duty

would jeopardize the health of fellow employees or the public.

(c) Because of emergencies caused by serious illness or injury of a family member fifteen years of age and over that require the presence of the employee to provide immediate necessary care of the patient or to make arrangements for extended care. The personnel officer may authorize sick leave use as provided in this subsection for other than family members. The applicability of "emergency," "necessary care" and "extended care" shall be made by the personnel officer.

(d) To care for a child (as identified in WAC 251-01-172) under the age of eighteen with a health condition that requires treatment or supervision, or to make arrangements for extended care.

(e) Because of illness or injury of a family member who is a person of disability and requires the employee's presence to provide short-term care or to make arrangements for extended care.

(f) To provide emergency child care for the employee's child (as identified in WAC 251-01-172). Such use of sick leave is limited to three days in any calendar year, unless extended by the personnel officer, and shall be used only as specified in WAC 251-22-117.

(g) Because of a family member's death that requires the assistance of the employee in making arrangements for interment of the deceased.

(h) For personal medical, dental, or optical appointments or for family members' appointments when the presence of the employee is required, if arranged in advance with the employing official or designee.

(2) Sick leave may be granted for condolence or bereavement.

[Statutory Authority: RCW 28B.16.100. 88-17-008 (Order 171), § 251-22-110, filed 8/5/88, effective 9/5/88; 88-13-019 (Order 168), § 251-22-110, filed 6/6/88; 87-14-051 (Order 156), § 251-22-110, filed 7/1/87, effective 8/1/87; Order 63, § 251-22-110, filed 11/22/77; Order 61, § 251-22-110, filed 8/30/77, effective 10/1/77; Order 39, § 251-22-110, filed 12/24/74; Order 29, § 251-22-110, filed 1/22/74; Permanent and Emergency Order 15, § 251-22-110, filed 7/14/72; Order 3, § 251-22-110, filed 1/15/71.]

WAC 251-22-111 Sick leave—Reporting—Verification. (1) Employees shall report illness or disability to the immediate supervisor at the beginning of any period of sick leave and daily thereafter unless prearranged.

(2) Upon returning to work, the employee may be required by the employing official to submit a written statement or medical certificate explaining the nature of the disability.

[Statutory Authority: RCW 28B.16.100. 82-10-006 (Order 95), § 251-22-111, filed 4/26/82, effective 6/1/82; 80-02-111 (Order 83), § 251-22-111, filed 1/28/80; Order 61, § 251-22-111, filed 8/30/77, effective 10/1/77.]

WAC 251-22-112 Bereavement leave. Paid leave in addition to that as provided in WAC 251-22-100 shall be granted for bereavement as follows:

One day of bereavement leave shall be granted for each death of a family member or household member as defined in WAC 251-22-250(2). Bereavement leave may be extended to a maximum of three days with the approval of the employing official and the personnel officer.

[Statutory Authority: Chapter 28B.16 RCW. 91-13-012, § 251-22-112, filed 6/7/91, effective 8/1/91. Statutory Authority: RCW 28B.16.100. 87-14-051 (Order 156), § 251-22-112, filed 7/1/87, effective 8/1/87; Order 61, § 251-22-112, filed 8/30/77, effective 10/1/77.]

WAC 251-22-116 Family and Medical Leave Act of 1993. (1) Benefits provided through state laws and these rules shall not be diminished or withheld in complying with the Family and Medical Leave Act of 1993.

(2) An eligible employee is an employee who has worked for the state for at least 12 months and for at least 1,250 hours during the previous 12-month period. Pursuant to the Family and Medical Leave Act of 1993, during a 12-month period, a total of 12 work weeks of absence shall be granted to an eligible employee:

(a) As a result of the employee's serious health condition;

(b) To care for an employee's parent, spouse or child who has a serious health condition; and/or

(c) To provide care to an employee's newborn, adopted or foster child as provided in WAC 251-22-195.

(3) The institution will designate absences which meet the criteria of the Family and Medical Leave Act. Paid or unpaid leave, excluding compensatory time, which is used for that designated absence shall be counted towards the 12 weeks of the Family and Medical Leave Act entitlement.

(4) The employee may choose to use appropriate accrued paid leave or leave without pay for absence granted in accordance with the Family and Medical Leave Act. Use of accrued paid leave and leave without pay shall be in accordance with these rules.

(5) Employee absence granted for (2)(a) and (b) of this section shall be granted on an intermittent or reduced schedule at the employee's request when medically necessary.

(6) Following absence granted for the situations in (2) of this section, the employee shall return to the same or equivalent position held prior to the absence.

(7) The employer shall continue an eligible employee's existing employer-paid health insurance benefits during leave granted in accordance with the Family and Medical Leave Act.

(8) Each institution of higher education and related board shall develop and disseminate a policy specifying the procedures, required information, and time frames for employees to request and use leave in accordance with the state laws, these rules, and the Family and Medical Leave Act of 1993 law and regulations found in Title 29, Part 825 of the Code of Federal Regulations.

[Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW. 96-13-077, § 251-22-116, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 28B.16.100 and Federal Family and Medical Leave Act of 1993. 93-14-115, § 251-22-116, filed 7/2/93, effective 8/5/93.]

WAC 251-22-117 Leave due to child care emergencies. (1) Absence due to child care emergencies as defined shall be charged to one of the following:

(a) Compensatory time;

(b) Vacation leave;

(c) Sick leave;

(d) Personal holiday;

(e) Leave of absence without pay.

(2) Use of any of the above leave categories is dependent upon the employee's eligibility to use such leave. Accrued compensatory time shall be used before any other leave is used.

(3) Use of vacation leave, sick leave, and leave of absence without pay for emergency child care is limited to a maximum of three days each per calendar year.

(4) The employee upon returning from such leave shall designate in writing to which leave category the absence will be charged. For the purpose of this section, advance approval or written advance notice of vacation leave, personal holiday, and/or leave of absence without pay shall not be required.

[Statutory Authority: RCW 28B.16.100. 87-14-051 (Order 156), § 251-22-117, filed 7/1/87, effective 8/1/87.]

WAC 251-22-124 Sick leave—Compensation for.

(1) Employees shall be eligible to receive monetary compensation for accrued sick leave as follows:

(a) In January of each year, and at no other time, an employee whose year-end sick leave balance exceeds 480 hours may choose to convert sick leave hours earned in the previous calendar year minus those used during the year to monetary compensation.

(i) No sick leave hours may be converted which would reduce the calendar year-end balance below 480 hours.

(ii) Monetary compensation for converted hours shall be paid at the rate of 25% and shall be based upon the employee's current salary.

(iii) All converted hours will be deducted from the employee's sick leave balance.

(iv) Hours which are accrued, donated, and returned from the shared leave program in the same calendar year, may be included in the converted hours for monetary compensation.

(b) Employees who separate from state service on or after September 1, 1979, due to retirement or death shall be compensated for their unused sick leave accumulation at the rate of 25%. Compensation shall be based upon the employee's salary at the time of separation. For the purpose of this subsection, retirement shall not include "vested out-of-service" employees who leave funds on deposit with the retirement system.

(2) Compensation for unused sick leave shall not be used in computing the retirement allowance; therefore no contributions are to be made to the retirement system for such payments, nor shall such payments be reported as compensation.

(3) An employee who separates from the classified service for any reason other than retirement or death shall not be paid for accrued sick leave.

[Statutory Authority: RCW 41.06.150. 96-21-036, § 251-22-124, filed 10/10/96, effective 11/10/96. Statutory Authority: RCW 28B.16.100. 79-10-055 (Order 80), § 251-22-124, filed 9/17/79.]

WAC 251-22-125 Sick leave—Former employees.

(1) Former state employees who are reemployed within three years of separation shall have their former sick leave balance restored for use as provided in WAC 251-22-110.

(2) Upon subsequent retirement or death of a retired state employee who has returned to state service, only that

unused sick leave accrued since the original retirement minus that taken within the same period may be compensated per the provisions of WAC 251-22-124 (1)(b); this restriction shall not apply to other returning employees.

[Statutory Authority: RCW 28B.16.100. 79-10-055 (Order 80), § 251-22-125, filed 9/17/79; Order 61, § 251-22-125, filed 8/30/77, effective 10/1/77.]

WAC 251-22-165 Workers' compensation—Leave.

(1) Employees who suffer a work related injury or illness that is compensable under the state workers' compensation law may select time loss compensation exclusively, leave payment exclusively or a combination of time loss compensation and accrued paid leave.

(2) Employees taking sick leave during a period in which they receive workers' compensation under the industrial insurance provisions for a work related illness or injury shall receive full sick leave pay, less any industrial insurance payments for time loss during the sick leave period.

(a) Until eligibility for workers' compensation is determined by the department of labor and industries, the institution may pay full sick leave, provided that the employee shall return any overpayment to the institution when the salary adjustment is determined.

(b) Sick leave hours charged to an employee who receives workers' compensation, as a result of the time loss shall be proportionate to that portion of the employee's salary paid by the institution during the claim period.

(3) During a period when an employee receives pay for vacation leave, compensatory time off or holidays and also receives workers' compensation for time loss, he/she is entitled to both payments without any deduction for the industrial insurance payment.

(4) When an employee receives workers' compensation payment for time loss and is on leave without pay, no deductions will be made for the industrial insurance payment.

(5) An employee who sustains an industrial injury, accident or illness, arising from employment by an institution under the jurisdiction of the higher education personnel board shall, upon written request and proof of continuing disability, be granted leave of absence without pay for up to six months without loss of layoff seniority or change in annual increment date. Leave without pay exceeding six months without loss of layoff seniority or change in annual increment date may be granted at the option of the employing institution.

[Statutory Authority: RCW 28B.16.100. 90-14-018, § 251-22-165, filed 6/27/90, effective 8/1/90; 83-20-020 (Order 108), § 251-22-165, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-165, filed 8/30/77, effective 10/1/77.]

WAC 251-22-167 Disability leave. (1) Leave shall be granted for a reasonable period to a permanent employee who is precluded from performing his/her job duties because of a disability (including those related to pregnancy or childbirth). Disability leave includes a serious health condition of the employee as provided in the federal Family and Medical Leave Act of 1993 and WAC 251-22-116.

(2) The disability and recovery period shall be as defined and certified by the employee's licensed health care

provider. The employee shall provide, in a timely manner, a copy of such certification to the employer.

(3) Disability leave, including leave due to serious health condition per WAC 251-22-116, may be a combination of sick leave, vacation leave, personal holiday, compensatory time, and leave of absence without pay and shall be granted at the written request of the employee. The combination and use of paid and unpaid leave during a disability leave shall be per the choice of the employee.

(4) If necessary due to continued disability, the employee shall be allowed to use eight hours of accrued paid leave per month for up to four months, including the twelve workweeks provided in WAC 251-22-116, to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

[Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW. 96-13-077, § 251-22-167, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 28B.16.100 and Federal Family and Medical Leave Act of 1993. 93-16-061 and 93-14-115, § 251-22-167, filed 7/29/93 and 7/2/93, effective 8/5/93. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-22-167, filed 9/30/87.]

WAC 251-22-170 Military leave. (1) Employees shall be entitled to military leave with pay not to exceed fifteen working days in any one calendar year in order to report for active duty, when called, or to take part in active training duty in such manner and at such time as they may be ordered to active duty or active training duty in the Washington National Guard or of the Army, Navy, Air Force, Coast Guard, or Marine Corps reserve of the United States or of any organized reserve or armed forces of the United States.

(2) Such leave shall be in addition to any vacation and sick leave to which an employee is entitled and shall not result in any reduction of benefits, performance ratings, privileges or pay.

(3) During military leave, the employee shall receive the normal base pay.

(4) Employees required to appear during working hours for a physical examination to determine physical fitness for military service shall receive full pay for the time required to complete the examination.

[Statutory Authority: RCW 28B.16.100. 91-16-054, § 251-22-170, filed 8/1/91, effective 9/1/91. Statutory Authority: RCW 28B.16.100 and 38.40.060. 89-22-018, § 251-22-170, filed 10/24/89, effective 12/1/89. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-22-170, filed 9/30/87; 83-20-020 (Order 108), § 251-22-170, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-170, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-170, filed 1/15/71.]

WAC 251-22-180 Military leave without pay. A classified employee shall be entitled to military leave of absence without pay for service in the armed forces of the United States or the state, and to reinstatement to his/her former position or to one in the same class, with cumulative seniority and increments, upon application to the personnel officer within ninety calendar days after the expiration of such period of military service, in accordance with RCW 73.16.030 through 73.16.061.

[Order 61, § 251-22-180, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-180, filed 1/15/71.]

WAC 251-22-190 Civil duty leave. Leave of absence with pay shall be granted employees to serve on jury duty, as trial witnesses, or to exercise other subpoenaed civil duties. Employees shall reimburse the institution for all compensation received for such civil duty, exclusive of expenses incurred.

[Order 61, § 251-22-190, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-190, filed 1/15/71.]

WAC 251-22-195 Parental leave. (1) Parental leave shall be granted to a permanent employee because of the birth of a child of the employee and in order to provide care, or because of the placement of a child with the employee for adoption or foster care.

(a) Parental leave shall not total more than four months, including any portion covered by Family and Medical Leave Act as specified in WAC 251-22-116, unless additional time is granted by the employer.

(b) Requests for up to four months of parental leave that exceed the provisions of WAC 251-22-116 may be denied on the basis of operational necessity.

(c) Parental leave must be taken during the first year following the child's birth or placement of the child with the employee for adoption or foster care.

(2) The employee shall submit a written request for parental leave to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(a) The employee shall provide not less than thirty days' notice, except that if the child's birth or placement requires leave to begin in less than thirty days, the employee shall provide notice as is practicable.

(b) Within ten working days of the receipt of the request for leave not covered by WAC 251-22-116, the institution shall provide the employee with a written response and, if the leave is denied, rationale supporting the operational necessity and the notice of the employee's right to appeal per WAC 251-12-076.

(3) Parental leave may be a combination of vacation leave, personal holiday, compensatory time, and leave of absence without pay. The combination and use of paid and unpaid leave during a parental leave shall be per choice of the employee.

(4) If necessary due to continued approved parental leave, the employee shall be allowed to use eight hours per month of the accrued paid leave identified in subsection (4) of this section for up to four months, including the twelve workweeks provided in WAC 251-22-116, during a parental leave of absence without pay to provide for continuation of benefits as provided by the public employees' benefits board. The employer shall designate on which day of each month the eight hours paid leave will be used.

(5) A total of 12 work weeks of appropriate paid leave or leave without pay in a 12-month period for an eligible employee may be designated under the Family and Medical Leave Act for parental leave or serious health condition or a combination of both as described in WAC 251-22-116. An eligible employee for Family and Medical Leave Act is an employee who has worked for the state for 12 months for at

least 1,250 hours and who is the parent of a newborn, adopted, or foster child.

[Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW. 96-13-077, § 251-22-195, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 28B.16.100 and Federal Family and Medical Leave Act of 1993. 93-16-061 and 93-14-115, § 251-22-195, filed 7/29/93 and 7/2/93, effective 8/5/93. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-22-195, filed 9/30/87.]

WAC 251-22-200 Leave of absence without pay.

(1) Leave of absence without pay may be allowed for any of the following reasons:

- (a) Conditions applicable for leave with pay;
- (b) Disability leave;
- (c) Educational leave;
- (d) Leave for government service in the public interest;
- (e) Parental leave;
- (f) Child care emergencies;
- (g) To accommodate annual work schedules of employees occupying cyclic year positions as specified in WAC 251-19-130;
- (h) Serious health condition of an eligible employee's child, spouse, or parent as provided in WAC 251-22-116.

(2) Requests for leave of absence without pay must be submitted in writing to the employing official or designee and must receive the approval of both the employing official and the personnel officer.

(3) Leave of absence without pay extends from the time an employee's leave commences until he/she is scheduled to return to continuous service, unless at the employee's request the employing official and the personnel officer agree to an earlier date.

(4) Vacation leave and sick leave credits will not accrue during a leave of absence without pay which exceeds ten working days in any calendar month.

(5) A classified employee taking an appointment to an exempt position shall be granted a leave of absence without pay, with the right to return to his/her regular position, or to a like position at the conclusion of the exempt appointment; provided application for return to classified status must be made not more than thirty calendar days following the conclusion of the exempt appointment.

[Statutory Authority: RCW 41.06.150 and chapter 41.06 RCW. 96-13-077, § 251-22-200, filed 6/18/96, effective 8/1/96. Statutory Authority: RCW 28B.16.100 and Federal Family and Medical Leave Act of 1993. 93-14-115, § 251-22-200, filed 7/2/93, effective 8/5/93. Statutory Authority: RCW 28B.16.100. 87-20-025 (Order 161), § 251-22-200, filed 9/30/87; 87-14-051 (Order 156), § 251-22-200, filed 7/1/87, effective 8/1/87; 85-16-038 (Order 134), § 251-22-200, filed 7/31/85, effective 9/1/85; 84-12-047 (Order 117), § 251-22-200, filed 6/1/84; 83-20-020 (Order 108), § 251-22-200, filed 9/23/83, effective 10/24/83; 83-10-029 (Order 105), § 251-22-200, filed 4/29/83, effective 6/1/83; 82-16-002 (Order 98), § 251-22-200, filed 7/22/82, effective 9/1/82; 78-06-068 (Order 68), § 251-22-200, filed 5/25/78, effective 7/1/78; Order 61, § 251-22-200, filed 8/30/77, effective 10/1/77; Order 12, § 251-22-200, filed 5/23/72, effective 6/25/72; Order 3, § 251-22-200, filed 1/15/71.]

WAC 251-22-210 Leave of absence—Duration.

Leave of absence without pay shall not exceed twelve months except for educational leave which may be allowed for the duration of actual attendance and leave for government service in the public interest. Leave of absence without pay may be extended for an additional twelve months upon signed request of the employee and signed

approval of the employing official or designee and the personnel officer. Additional leave of absence without pay may be approved by the personnel officer.

[Order 61, § 251-22-210, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-210, filed 1/15/71.]

WAC 251-22-220 Leave of absence—Employee rights. Employees returning from an authorized leave of absence shall be employed in the same position or in another position in the same class in the same geographical area and organizational unit, providing that such re-employment is not in conflict with rules relating to reduction in force.

[Order 61, § 251-22-220, filed 8/30/77, effective 10/1/77; Order 3, § 251-22-220, filed 1/15/71.]

WAC 251-22-240 Suspended operation. (1) Notwithstanding the provisions of WAC 251-10-030, if the chief executive officer of the institution determines that the public health or property or safety is jeopardized and it is advisable due to emergency conditions to suspend the operation of all or any portion of the institution, the following will govern classified employees:

(a) When prior notification has not been given, employees released until further notice after reporting to work, shall receive a minimum of four hours pay for the first day. The following options shall be made available to affected employees not required to work for the balance of the closure:

- (i) Vacation leave, personal holiday; or
- (ii) Accrued compensatory time (where applicable); or
- (iii) Leave without pay; or
- (iv) Reasonable opportunity to make up work time lost as a result of the suspended operation as provided in subsection (1)(c).

(b) Employees required to work shall receive their regular rate of pay for work performed during the period of suspended operation. Overtime worked during the closure will be compensated as provided in chapter 251-09 WAC. The personnel officer may petition the director for approval of a special premium pay allowance due to hazardous working conditions encountered by employees required to work during the period of suspended operation.

(c) Employees who lose regular work time as a result of suspended operation may request to work additional hours during the ninety-day period immediately following the suspended operation. Compensation for such additional work shall be granted on a compensatory time basis at not less than straight time nor more than time and one-half, and shall be part of the institution's suspended operations procedures. The amount of compensation earned under this section should not exceed the amount of salary lost by the employee due to suspended operation. Management directed overtime shall be compensated as provided in chapter 251-09 WAC.

(2) Each institution/related board, together with the appropriate exclusive representative(s), shall develop and file with the director, subject to approval, a procedure to provide for staffing during periods of suspended operation. The procedure shall include identification of the manner in which employees will be notified of suspended operation by the chief executive officer.

(3) The provisions of this rule may be utilized only when an institutional procedure has been approved by the director and an official declaration of suspended operation has been made by the chief executive officer of the institution.

(4) The provisions of this section and institutional procedures adopted hereunder may not be in effect in excess of fifteen calendar days unless within the fifteen days the personnel officer requests the director's or designee's approval of an extension. Such approval is subject to confirmation by the board.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-240, filed 9/23/83, effective 10/24/83; 81-07-002 (Order 87), § 251-22-240, filed 3/6/81, effective 4/6/81; Order 61, § 251-22-240, filed 8/30/77, effective 10/1/77; Order 47, § 251-22-240, filed 11/19/75, effective 12/22/75; Order 41, § 251-22-240, filed 3/17/75.]

WAC 251-22-245 Employee absence—Inclement weather. (1) When an employee is absent from work due to inclement weather, the employee shall have the option of charging the absence to accrued compensatory time (where applicable), vacation leave or leave without pay.

(2) Compensation for lost work time due to inclement weather is subject to the approval of the chief executive officer of the institution.

[Statutory Authority: RCW 28B.16.100. 83-20-020 (Order 108), § 251-22-245, filed 9/23/83, effective 10/24/83; Order 61, § 251-22-245, filed 8/30/77, effective 10/1/77; Order 41, § 251-22-245, filed 3/17/75.]

WAC 251-22-250 Shared leave. The purpose of the Washington state leave sharing program is to permit state employees, at no significantly increased cost to the state of providing leave, to come to the aid of another state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment. For purposes of the Washington state leave sharing program, the following definitions apply:

(1) "Employee's relative" normally shall be limited to the employee's spouse, child, stepchild, grandchild, grandparent, or parent.

(2) "Household members" is defined as persons who reside in the same home who have reciprocal duties to and do provide financial support for one another. This term shall include, but is not limited to, foster children and legal wards. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or commune.

(3) "Severe" or "extraordinary" condition is defined as serious or extreme and/or life threatening.

[Statutory Authority: RCW 41.06.150. 96-11-059, § 251-22-250, filed 5/10/96, effective 6/6/96. Statutory Authority: Chapter 28B.16 RCW. 91-13-012, § 251-22-250, filed 6/7/91, effective 8/1/91. Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-250, filed 10/24/89, effective 12/1/89.]

WAC 251-22-260 Shared leave receipt. An employee may be eligible to receive shared leave if the employee's agency/institution head has determined the employee meets the following criteria:

(1) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused or is likely to cause the employee to go on leave without pay status or terminate state employment; and

(2) The employee has depleted or will shortly deplete his or her annual and sick leave reserves; and

(3) The employee's absence and the use of shared leave are justified; and

(4) For work related illness or injury, the employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW; and

(5) The employee has abided by agency/institution policy regarding the use of sick leave.

[Statutory Authority: RCW 41.06.150. 96-21-036, § 251-22-260, filed 10/10/96, effective 11/10/96. Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-260, filed 10/24/89, effective 12/1/89.]

WAC 251-22-270 Shared leave use. (1) The agency/institution head shall determine the amount of leave, if any, which an employee may receive under these rules. However, an employee shall not receive more than two hundred sixty-one days of shared leave.

(2) The agency/institution head shall require the employee to submit, prior to approval or disapproval, a medical certificate from a licensed physician or health care practitioner verifying the employee's required absence, the description of the medical problem, and expected date of return-to-work status.

(3) The agency/institution head should consider other methods of accommodating the employee's needs such as modified duty, modified hours, flex-time or special assignments in lieu of shared leave usage per WAC 251-10-070, 251-10-080, 251-10-090, 251-17-090, 251-18-180, 251-19-100, 251-19-105, and 251-24-030.

(4) Leave transferred under these rules may be transferred from employees of one agency/institution to an employee of the same agency/institution or, with the approval of the heads of both agencies/institutions, to an employee of another state agency/institution.

(5) Annual leave, sick leave, or all or part of a personal holiday transferred from a donating employee under these rules shall be used solely for the purpose stated in WAC 251-22-250.

(6) The receiving employee shall be paid his/her regular rate of pay; therefore, the value of one hour of shared leave may cover more or less than one hour of the recipient's salary.

[Statutory Authority: RCW 41.06.150. 96-11-059, § 251-22-270, filed 5/10/96, effective 6/6/96. Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-270, filed 10/24/89, effective 12/1/89.]

WAC 251-22-280 Leave donation. An employee may donate annual leave, sick leave, or personal holiday to another employee for purposes of the Washington state leave sharing program under the following conditions:

(1) The employee's agency/institution head approves the employee's request to donate a specified amount of annual leave to an employee authorized to receive shared leave; and

(a) The full-time employee's request to donate leave will not cause his/her annual leave balance to fall below eighty hours. For part-time employees, requirements for annual leave balances will be prorated; and

(b) Employees may not donate excess vacation leave that they would not be able to take due to an approaching anniversary date; and

(2) The employee's agency/institution head approves the employee's request to donate a specified amount of sick leave to an employee authorized to receive shared leave; and

(a) The employee's request to donate leave will not cause his/her sick leave balance to fall below four hundred eighty hours after the transfer; and

(b) In no event will a donating employee transfer more than six days of sick leave during any 12-month period. For purposes of sick leave donation, a day equals the donor's monthly sick leave accrual.

(3) The employee's agency/institution head approves the employee's request to donate all or part of his or her personal holiday to an employee authorized to receive shared leave.

(a) That portion of a personal holiday that is accrued, donated as shared leave, and then returned during the same calendar year to the donating employee, may be taken by the donating employee.

(b) An employee shall be allowed to split the personal holiday only when donating a portion of the personal holiday to the shared leave program.

(4) No employee may be intimidated, threatened, or coerced into donating leave for purposes of this program.

[Statutory Authority: RCW 41.06.150, 96-21-036, § 251-22-280, filed 10/10/96, effective 11/10/96; 96-11-059, § 251-22-280, filed 5/10/96, effective 6/6/96. Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-280, filed 10/24/89, effective 12/1/89.]

WAC 251-22-290 Shared leave administration. (1) The calculation of the recipient's leave value shall be in accordance with applicable office of financial management policies, regulations, and procedures. The leave received will be coded as shared leave and be maintained separately from all other leave balances. All compensatory time, sick leave, and annual leave accrued must be used prior to using shared leave.

(2) An employee on leave transferred under these rules shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(3) All salary and wage payments made to employees while on leave transferred under these rules shall be made by the agency/institution employing the person receiving the leave.

(4) Where agency/institution heads have approved the transfer of leave by an employee of one agency/institution to an employee of another agency/institution, the agencies/institutions involved shall arrange for the transfer of funds and credit for the appropriate value of leave in accordance with office of financial management policies, regulations, and procedures.

(5) Leave transferred under this section shall not be used in any calculation to determine an agency's/institution's allocation of full-time equivalent staff positions.

(6) Any shared leave not used by the recipient shall be returned to the donor(s).

The remaining shared leave is to be divided on a pro rata basis among the donors and reinstated to the respective donors' appropriate leave balances based upon each employee's current salary rate at the time of the reversion. The shared leave returned shall be prorated back based on the donor's original donation.

(7) Unused shared leave may not be cashed out under WAC 251-22-090 but shall be returned to the donors per subsection (6) of this section.

(8) An employee who uses leave that is transferred under this section will not be required to repay the value of the leave that he or she used.

[Statutory Authority: RCW 41.06.150, 96-21-036, § 251-22-290, filed 10/10/96, effective 11/10/96; 96-11-059, § 251-22-290, filed 5/10/96, effective 6/6/96. Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-290, filed 10/24/89, effective 12/1/89.]

WAC 251-22-300 Shared leave records. Agency/institution heads shall maintain the following records pertaining to the Washington state shared leave program:

- (1) Number of requests received.
- (2) Number of requests granted.
- (3) Nature of request.
- (4) Additional cost to the agency/institution of allowing participation in the shared leave program.
- (5) Amount of leave transferred.
- (6) Value of leave transferred.
- (7) Date leave was transferred.

[Statutory Authority: RCW 28B.16.100 and chapter 41.04 RCW. 89-22-019, § 251-22-300, filed 10/24/89, effective 12/1/89.]

Chapter 251-23 WAC

AFFIRMATIVE ACTION

WAC

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251-23-060	Affirmative action—Supplemental certification.

WAC 251-23-010 Affirmative action—Authority.

The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.100, which provides in part, ". . . The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter . . . regarding the basis and procedures to be followed for . . ."; RCW 28B.16.100(22), which provides in part, ". . . Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables . . ."

[Statutory Authority: RCW 28B.16.100, 86-06-034 (Order 145), § 251-23-010, filed 2/28/86, effective 4/1/86.]

WAC 251-23-015 Affirmative action rules—Noncompliance. Pursuant to RCW 49.74.020 through 49.74.040, noncompliance with the rules contained in this chapter is within the jurisdiction of the Washington state human rights commission.

[Statutory Authority: RCW 28B.16.100. 87-16-045 (Order 158), § 251-23-015, filed 7/29/87, effective 9/1/87.]

WAC 251-23-020 Affirmative action plans—Requirements—Approval. (1) Each higher education institution/related board shall be required to develop and implement both an equal employment opportunity/affirmative action policy statement and an affirmative action plan.

(2) Equal employment opportunity/affirmative action policy statements and affirmative action plans shall comply with applicable state and federal laws, regulations, and guidelines, and shall require the approval of the director of the higher education personnel board or designee.

[Statutory Authority: RCW 28B.16.100. 90-02-054, § 251-23-020, filed 12/29/89, effective 2/1/90; 86-06-034 (Order 145), § 251-23-020, filed 2/28/86, effective 4/1/86.]

WAC 251-23-030 Affirmative action plans—Monitoring progress—Reporting. Each higher education institution/related board shall monitor progress under its affirmative action plan/program and shall submit a report to the director of the higher education personnel board, at least annually, reflecting progress against goals and timetables and containing such other information as required by the director.

[Statutory Authority: RCW 28B.16.100. 86-06-034 (Order 145), § 251-23-030, filed 2/28/86, effective 4/1/86.]

WAC 251-23-040 Affirmative action plans—Content. Each higher education institution/related board shall apply affirmative action plans/programs to increase the representation of protected group members in their workforce when it is determined that a particular group is underutilized. Affirmative action plans/programs shall address recruitment, appointment, promotion, transfer, training and career development, and shall include but not be limited to the following:

(1) An equal employment opportunity/affirmative action policy statement.

(2) An identification of the individual responsible for implementing the affirmative action plan/program and the specific responsibilities of that individual.

(3) Provisions for internal and external communication of the affirmative action plan/program.

(4) A workforce profile by race/ethnic origin, sex, age, disability, Vietnam-era and disabled veteran status and job class/category and provisions for ascertaining the same.

(5) The development and implementation of utilization analyses, goals, and timetables based on availability.

(6) An identification of the causes of underutilization and/or problem areas related to underutilization.

(7) The development and implementation of specific programs for correcting the identified causes of underutilization and/or problem areas, in order to achieve goals, such as:

(a) Provision for supplemental certification of underutilized groups from all eligible lists, except institution-wide layoff lists, in accordance with WAC 251-23-060;

(b) Provision that, when goals exist for a class and when it is determined by the personnel officer that an eligible list does not contain sufficient numbers of members of underutilized protected groups, applicants who are members of such groups and who meet the minimum qualifications for the class may be admitted to the examination at any time. Those who pass the examination for the class shall be placed on the appropriate eligible list;

(c) Provision for members of protected groups to enter the employment process, but not to exclude others from it;

(d) Provision for special employee training and development programs and selective appointment of employees who are members of protected groups into the programs, in accordance with WAC 251-24-030(8).

(8) A system for monitoring and evaluating progress under the affirmative action plan/program including reports to the president/chief executive officer of the institution/related board.

(9) Supportive programs, internally and externally, which will enhance the achievement of affirmative action goals.

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-23-040, filed 1/2/87, effective 2/1/87; 86-06-034 (Order 145), § 251-23-040, filed 2/28/86, effective 4/1/86.]

WAC 251-23-050 Affirmative action—Goals and timetables. Each higher education institution/related board shall develop and implement goals and timetables for hiring and/or promoting members of protected groups into job classes/categories where it has been determined that underutilization exists.

(1) Goals shall be established based on the relevant availability statistics and in direct relationship to the institution's/related board's workforce profile and utilization analysis.

(2) Timetables shall be developed on both a short-range (one year) and/or a long-range (three to five years) basis, whichever is determined to be appropriate for correcting identified areas of underutilization.

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-23-050, filed 1/2/87, effective 2/1/87; 86-06-034 (Order 145), § 251-23-050, filed 2/28/86, effective 4/1/86.]

WAC 251-23-060 Affirmative action—Supplemental certification. When an institution/related board is utilizing an approved affirmative action program in accordance with WAC 251-23-020 and 251-23-040 (7)(a), and when the initial certification process does not provide the names of at least three eligibles who are members of the specific underutilized protected group(s), the personnel officer shall certify from the eligible list up to three additional eligibles who meet the applicable affirmative action criteria. Such additional certification shall be made in strict order of standing on the eligible list. Certification of additional eligibles shall not result in more than a total of three eligibles from the specific underutilized protected group(s).

[Statutory Authority: RCW 28B.16.100. 87-02-036 (Order 154), § 251-23-060, filed 1/2/87, effective 2/1/87; 86-06-034 (Order 145), § 251-23-060, filed 2/28/86, effective 4/1/86.]

Chapter 251-24 WAC

EMPLOYEE DEVELOPMENT AND TRAINING

WAC

251-24-010	Employee development—Authority, purpose, objective.
251-24-030	Training and development programs—Contents.
251-24-035	Training and development programs—Availability—Reporting.
251-24-040	HEPB sponsored training.
251-24-050	Training—General provisions.
251-24-200	HIV and AIDS training for employees.

DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER

251-24-020	Definitions. [Order 29, § 251-24-020, filed 1/22/74.] Repealed by Order 61, filed 8/30/77, effective 10/1/77.
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WAC 251-24-010 Employee development—Authority, purpose, objective. (1) The rules contained in this chapter follow from the authority of the higher education personnel law, RCW 28B.16.100(1), which provides in part, ". . . the higher education personnel board shall adopt and promulgate rules and regulations consistent with the purposes and provisions of this chapter . . . regarding the basis for, and the procedures to be followed for . . . training programs including in-service, promotional and supervisory . . ."

(2) It is the board's intent that institutions will establish, conduct and report employee training and development programs. The rules in this chapter provide the guidelines for such programs.

(3) The objective of these rules is to provide opportunity for the development of the potential occupational or professional ability of each employee to make the most effective and economic use of employee resources in accomplishing institution's goals.

[Order 61, § 251-24-010, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-010, filed 1/22/74.]

WAC 251-24-030 Training and development programs—Contents. Each institution will develop and maintain on file with the board (subject to approval by the director) an employee training and development plan that provides as a minimum:

(1) The policy and objectives of the institution concerning training and development programs;

(2) The institution's policy regarding training program expenses;

(3) Identification of the person(s) responsible for employee training and development programs;

(4) Provision for the identification and appraisal of training and development needs;

(5) The identification of proposed training activities in the following areas:

(a) New employee orientation;

(b) Functional training, such as in accounting, data processing, office administration and job skills;

(c) System training, such as affirmative action, labor relations and safety;

(d) Professional/technical training;

(e) Management and organizational development;

(f) The institution's off-hour training or continuing education program;

(g) Specific training in the prevention, transmission, and treatment of HIV and AIDS for those employees who have a substantial likelihood of on-the-job exposure to the human immunodeficiency virus or acquired immunodeficiency syndrome virus;

(h) Training of supervisors on implementation of the institution return-to-work policy, including but not limited to assessment of the appropriateness of the return-to-work job for the employee;

(6) Provision specifying the manner of selecting employees for training or development programs;

(7) Provision for training records of employee participation;

(8) Provision for training and upgrading of skills of women and members of racial or ethnic minority groups as part of the institution's affirmative action program, including special training programs to achieve corrective action for underutilization of minority or female employees;

(9) Involvement of a representative group of employees in the development of the institution's training policy and plans;

(10) Provision for evaluation of training and development programs;

(11) The criteria by which the institution may provide employees the opportunity to attend class instruction in academic session during regular working hours;

(12) The institution's policy regarding release time during work hours for training course attendance;

(13) Provision for access to in-house training and development programs for former permanent employees returning from separation as set forth in WAC 251-10-070.

[Statutory Authority: RCW 28B.16.100. 91-10-001, § 251-24-030, filed 4/18/91, effective 6/1/91; 89-13-075 (Order 180), § 251-24-030, filed 6/21/89, effective 8/1/89; 89-08-003 (Order 176), § 251-24-030, filed 3/23/89, effective 5/1/89; Order 61, § 251-24-030, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-030, filed 1/22/74.]

WAC 251-24-035 Training and development programs—Availability—Reporting. (1) Copies of the institution's plan shall be made available to employees upon request.

(2) Each institution will have on file an annual report of the achievement of the training objectives of the preceding year.

[Order 61, § 251-24-035, filed 8/30/77, effective 10/1/77.]

WAC 251-24-040 HEPB sponsored training. The administrative requirements of the higher education personnel system are such that periodic training programs or workshops may be required. In such cases, the higher education personnel board will sponsor the program and provide the necessary resources. To the extent possible, the board will respond to the needs of the institutions by holding training sessions in various regions of the state.

[Order 61, § 251-24-040, filed 8/30/77, effective 10/1/77; Order 29, § 251-24-040, filed 1/22/74.]

WAC 251-24-050 Training—General provisions. (1) Voluntary attendance in training courses outside of regular working hours does not constitute grounds for overtime or compensatory time off.

(2) Required attendance in courses which are outside of regular working hours and which are work related or meet an identified institution need is considered "paid time training" and constitutes time worked.

(3) Upon completion of institution approved training programs, respective eligible lists may be opened to employees who meet the minimum qualifications and desire to be examined, as provided in WAC 251-17-090(5).

[Statutory Authority: RCW 28B.16.100. 88-02-017 (Order 164), § 251-24-050, filed 12/30/87, effective 2/1/88; Order 61, § 251-24-050, filed 8/30/77, effective 10/1/77; Order 36, § 251-24-050, filed 8/20/74; Order 29, § 251-24-050, filed 1/22/74.]

WAC 251-24-200 HIV and AIDS training for employees. (1) The following categories are descriptive of job-related tasks which have a substantial likelihood of coming in contact with human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS) virus:

(a) All procedures or other job-related tasks that involve potential for mucous membrane or skin contact with blood, body fluids, or tissues, or a potential for spills or splashes of them.

(b) The normal work routine does not involve exposure to blood, body fluids, or tissues, but exposure or potential exposure may occur in certain tasks such as providing or assisting in emergency medical care or first aid or providing maintenance services in patient care areas.

(2) Each institution which employs persons who, in the course of their employment, meet the category of subsection (1)(a) or (b) of this section shall:

(a) Provide or arrange for those employees to receive appropriate education and training on the prevention, transmission, and treatment of HIV and AIDS;

(i) Training specifically related to law enforcement shall be provided to law enforcement employees;

(ii) Training specifically related to health care shall be provided to health care employees, including those with responsibilities for laboratory work and analysis, maintenance and cleanup, and HIV/AIDS related research;

(iii) Training specifically related to correctional institutions shall be provided to employees working in correctional institutions.

(b) Use educational material and infection control standards consistent with recommendations by the office of HIV/AIDS; and

(c) Report such training in accordance with WAC 251-24-010(2).

[Statutory Authority: RCW 28B.16.100. 89-13-075 (Order 180), § 251-24-200, filed 6/21/89, effective 8/1/89.]

Chapter 251-25 WAC

WASHINGTON STATE INTERNSHIP PROGRAM

WAC

251-25-010	State internship program—Purpose.
251-25-020	State internship program—Eligibility—Duration of internship.
251-25-030	State internship program—Rights of participants.
251-25-040	State internship program—Completion of internship.
251-25-050	State internship program—Application of rules.

WAC 251-25-010 State internship program—Purpose. The purpose of the state internship program is to assist students and state employees in gaining valuable work experience and knowledge in various areas of state government.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-010, filed 6/26/86, effective 8/1/86.]

WAC 251-25-020 State internship program—Eligibility—Duration of internship. The state internship program shall consist of two individual internship programs:

(1) An undergraduate internship program for students working toward an undergraduate degree. Any state employee, whether working toward a degree or not, shall be eligible to participate in the program upon the written recommendation of the head of the employee's department. Persons selected to participate in the undergraduate internship program shall serve internships of three to six months.

(2) An executive fellows program for students who have successfully completed at least one year of graduate-level work and have demonstrated a substantial interest in public sector management. Any state employee, whether working toward an advanced degree or not, shall be eligible for selection into the program upon the written recommendation of the head of the employee's department. Positions in this program shall be as assistants or analysts at the mid-management level or higher. Persons selected to participate in the executive fellows program shall serve internships of one to two years.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-020, filed 6/26/86, effective 8/1/86.]

WAC 251-25-030 State internship program—Rights of participants. (1) An employee leaving his/her position to participate in the state internship program shall:

(a) Continue to accrue layoff seniority and receive all fringe benefits as if he/she had never left the position.

(b) Have the right to return to his/her previous position or to a like position at any time during or upon completion of the internship.

(2) Participants in the undergraduate internship program who were not state employees prior to accepting a position in the program shall accrue sick leave credits commensurate with other state employees.

(3) Participants in the executive fellows program who were not state employees prior to accepting a position in the program shall accrue sick leave and vacation leave credits commensurate with other state employees.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-030, filed 6/26/86, effective 8/1/86.]

WAC 251-25-040 State internship program—Completion of internship. Successful completion of an internship in the undergraduate internship program or the executive fellows program shall be considered as state employment experience at the level at which the intern was placed.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-040, filed 6/26/86, effective 8/1/86.]

WAC 251-25-050 State internship program—
Application of rules. Except for chapter 251-25 WAC and WAC 251-10-025(7), the higher education personnel board rules do not apply to positions or to the interns in the state internship program.

[Statutory Authority: RCW 28B.16.100. 86-14-041 (Order 152), § 251-25-050, filed 6/26/86, effective 8/1/86.]