

Chapter 391-65 WAC

GRIEVANCE ARBITRATION RULES

WAC

391-65-001 Scope—Contents—Other rules.
 391-65-002 Sequence and numbering of rules—Special provisions.
 391-65-010 Grievance arbitration—Who may submit.
 391-65-030 Grievance arbitration—Request for grievance arbitration—Service.
 391-65-050 Grievance arbitration—Contents of request.
 391-65-070 Grievance arbitration—Appointment of staff arbitrator.
 391-65-072 Special provision—Educational employees.
 391-65-073 Special provision—Academic employees.
 391-65-075 Special provision—Marine employees.
 391-65-090 Grievance arbitration—Designation of panel of arbitrators.
 391-65-110 Grievance arbitration—Conduct of proceedings.
 391-65-130 Grievance arbitration—Award.
 391-65-150 Grievance arbitration—Expenses.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-65-074 Special provisions—Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-074, filed 9/30/80, effective 11/1/80.] Repealed by WSR 88-12-057 (Order 88-09), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.

391-65-094 Special provision—Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-094, filed 9/30/80, effective 11/1/80.] Repealed by WSR 88-12-057 (Order 88-09), filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110.

391-65-500 Marine employees—Grievance arbitration. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-500, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-510 Marine employees—Intervention and consolidation of proceedings. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-510, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-515 Marine employees—Conduct of grievance arbitration proceedings. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-515, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-525 Marine employees—Hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-525, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-530 Marine employees—Order of proceedings and evidence. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-530, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-535 Marine employees—Arbitration in the absence of a party. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-535, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-540 Marine employees—Closing of hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-540, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-545 Marine employees—Examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-545, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-550 Marine employees—Petition for review of examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-550, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-555 Marine employees—Commission action. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-555, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-560 Marine employees—Grievance arbitration remedies. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-560, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

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

WAC 391-65-001 Scope—Contents—Other rules.

This chapter governs proceedings before the public employment relations commission relating to arbitration of grievance disputes arising out of the interpretation or application of a collective bargaining agreement under all chapters of the Revised Code of Washington (RCW) administered by the commission. The provisions of this chapter should be read in conjunction with the provisions of:

- (1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission, and which also replaces some provisions of chapter 10-08 WAC.
- (2) Chapter 391-25 WAC, which regulates representation proceedings.

(3) Chapter 391-35 WAC, which regulates unit clarification proceedings and contains some well-established unit determination standards in a subchapter of rules beginning at WAC 391-35-300.

(4) Chapter 391-45 WAC, which regulates unfair labor practice proceedings.

(5) Chapter 391-55 WAC, which regulates the resolution of impasses in collective bargaining.

(6) Chapter 391-95 WAC, which regulates union security nonassociation proceedings.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-001, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 01-14-009, § 391-65-001, filed 6/22/01, effective 8/1/01; WSR 99-14-060, § 391-65-001, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-001, filed 9/30/80, effective 11/1/80.]

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

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

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

(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining—Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.

(4) Special provisions relating to chapter 47.64 RCW (Marine employees—Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.

(5) Special provisions relating to chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections numbered six digits greater than the general rule on that subject matter.

(6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.

(7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-002, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.130, and 49.39.060.]

WSR 10-20-172, § 391-65-002, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-002, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 99-14-060, § 391-65-002, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-036 (Order 83-06), § 391-65-002, filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-002, filed 9/30/80, effective 11/1/80.]

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

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-010, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-010, filed 9/30/80, effective 11/1/80.]

WAC 391-65-030 Grievance arbitration—Request for grievance arbitration—Service. A request for appointment of a grievance arbitrator may be made in writing or by electronic telefacsimile transmission. The request shall be on a form furnished by the commission or prepared by the party or parties submitting the request in conformance with WAC 391-65-050. The original request shall be submitted to the commission's Olympia office, as required by WAC 391-08-120(2). If the request is not submitted jointly the party submitting the request shall serve a copy, as required by WAC 391-08-120 (3) and (4), on the other party to the collective bargaining agreement under which the dispute arises.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-030, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.50.413 and 41.56.125. WSR 96-07-105, § 391-65-030, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-030, filed 9/30/80, effective 11/1/80.]

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

(1) Information identifying the parties to the dispute, including:

(a) The name, address and telephone number of the employer and the name, address and telephone number of its principal representative;

(b) The name, address and telephone number of the employee organization and the name, address and telephone number of its principal representative;

(c) The employer's principal business;

(d) A copy of the current or most recent applicable collective bargaining agreement;

(e) A description of the bargaining unit involved, specifying inclusions and exclusions;

(f) The number of employees in the bargaining unit;

(g) The agreement of the party or parties making the request to accept the decision of the arbitrator as final and binding; and

(h) The agreement of the party or parties making the request that there shall be no strike or lockout on the matters submitted to arbitration.

(2) Identification of the grievance to be resolved in arbitration.

(3) Designation of the request as:

(a) A request for appointment of a member of the agency staff as arbitrator; or

(b) A request for the submission of a list containing a specified number of names from the dispute resolution panel created by WAC 391-55-110.

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

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-050, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.05.413 and 41.56.125. WSR 96-07-105, § 391-65-050, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.-090 and 41.59.110. WSR 88-12-057 (Order 88-09), § 391-65-050, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-050, filed 9/30/80, effective 11/1/80.]

WAC 391-65-070 Grievance arbitration—Appointment of staff arbitrator. Upon concurrence of the parties or upon the submission of a joint request, a member of the agency staff shall be assigned as grievance arbitrator. The parties shall not be permitted to select a grievance arbitrator from a list of agency staff members, or to exercise a right of rejection on appointments made under this section; but may jointly express a preference for appointment of one or more staff members as their arbitrator, and their request shall be considered in making the assignment. Upon the submission of a request by one party for the appointment of a member of the agency staff as grievance arbitrator, the agency shall determine whether the other party to the collective bargaining agreement concurs in the appointment of a staff arbitrator. In the absence of concurrence, the agency shall notify the requesting party of the lack of concurrence and shall close the case if concurrence is not provided within a reasonable time.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 00-14-048, § 391-65-070, filed 6/30/00, effective 8/1/00; WSR 99-14-060, § 391-65-070, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-070, filed 9/30/80, effective 11/1/80.]

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

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

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

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

(2/15/12)

WAC 391-65-075 Special provision—Marine employees. Grievance arbitration cases filed under chapter 47.64 RCW shall be mediated by agency staff under chapter 391-55 WAC. Absent settlement, the grievance arbitration proceeding may be conducted by the marine employees' commission in a manner consistent with this chapter.

[Statutory Authority: RCW 41.58.050 and 41.58.065. WSR 12-05-066, § 391-65-075, filed 2/15/12, effective 3/17/12.]

WAC 391-65-090 Grievance arbitration—Designation of panel of arbitrators. Upon the request of a party, the agency shall furnish a list of members of the dispute resolution panel. Names shall be referred and an arbitrator shall be selected under WAC 391-55-120.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-090, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-090, filed 9/30/80, effective 11/1/80.]

WAC 391-65-110 Grievance arbitration—Conduct of proceedings. The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises, subject to the following:

(1) Arbitration cases handled by members of the agency staff shall be kept in the public files of the agency.

(2) Except as provided in subsections (1) and (2) of this section, all arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" as last amended with approval of the Federal Mediation and Conciliation Service.

(3) Rulings, actions, and decisions issued by staff arbitrators under this chapter shall not be subject to appeal to the commission or the marine employees' commission.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-110, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-110, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060 and 41.56.125. WSR 03-03-064, § 391-65-110, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-110, filed 7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-110, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.-040. WSR 80-14-050 (Order 80-9), § 391-65-110, filed 9/30/80, effective 11/1/80.]

WAC 391-65-130 Grievance arbitration—Award. Any arbitrator assigned or selected under this chapter for a dispute involving public employees shall, after sending the arbitration award to the parties, submit a copy to the executive director.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-130, filed 7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-130, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.-040. WSR 80-14-050 (Order 80-9), § 391-65-130, filed 9/30/80, effective 11/1/80.]

WAC 391-65-150 Grievance arbitration—Expenses. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitra-

[Ch. 391-65 WAC p. 3]

tion panel. The expenses of witnesses shall be paid by the party producing them. The commission shall pay the salary and expenses of a staff member assigned under WAC 391-65-070, but the commission shall not pay any costs for recording and/or transcription of proceedings, or any other expenses of the proceedings. The parties shall pay the fees and expenses of a dispute resolution panel member selected under WAC 391-65-090, as provided in WAC 391-55-120.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-150, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-150, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-150, filed 9/30/80, effective 11/1/80.]