

WAC 391-25-480 Elections—Electioneering—Objectionable conduct.

(1) The executive director shall have discretion to conduct elections electronically, by mail, or on-site. The procedures for each means of election shall be designed to preserve the secrecy of employee voting. Multiple questions, including unit determination elections, may be submitted to employees at the same time on separate ballots.

(2) Following the close of an electronic or telephonic election, the agency shall transmit the results to the parties of record.

(3) Following the close of an election by mail, each party may be represented by observers of its own choosing at the tally of any ballots. Any lists of those who have voted or who have abstained from voting shall be surrendered to the agency at the conclusion of the tally.

(4) For an on-site election, each party may be represented by observers of its own choosing, subject to such limitations as the executive director may prescribe. During the hours of voting, no management official having authority over bargaining unit employees nor any officer or paid employee of an organization shall serve as observer. Any lists of those who have voted or who have abstained from voting shall be surrendered to the agency at the conclusion of the tally.

(5) The following prohibitions apply to assure appropriate conditions for employees to cast their ballots:

(a) The reproduction of any document purporting to suggest, either directly or indirectly, that the agency endorses a particular choice in an election is prohibited.

(b) The use of deceptive campaign practices improperly involving the commission and its processes is prohibited.

(c) The use of forged documents is prohibited.

(d) Coercion or intimidation of eligible voters, or any threat of reprisal or force or promise of benefit to eligible voters, is prohibited.

(e) Conduct in violation of WAC 391-25-140 is prohibited.

(f) Misrepresentations of fact or law are prohibited. To set aside an election, a misrepresentation must:

(i) Be a substantial misrepresentation of fact or law regarding a salient issue;

(ii) Be made by a person having intimate knowledge of the subject matter, so that employees may be expected to attach added significance to the assertion;

(iii) Occur at a time which prevents others from effectively responding; and

(iv) Be reasonably viewed as having had a significant impact on the election, whether a deliberate misrepresentation or not.

(g) Election speeches on the employer's time to massed assemblies of employees are prohibited during the period that the polls are open in an on-site or electronic election or during the period beginning on the scheduled date for a mail ballot election and continuing through the deadline for mail ballots. Other electioneering not prohibited by (a) through (f) of this subsection is permitted during that period.

(h) For on-site elections, there shall be no electioneering at or about the polling place during the hours of voting.

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

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.280(2), 49.39.060. WSR 16-06-019, § 391-25-480, filed 2/22/16, effective 3/24/16.]