

**WAC 391-35-020 Time for filing petition—Limitations on results of proceedings.**

TIMELINESS OF PETITION

(1) A unit clarification petition may be filed at any time, with regard to:

(a) Disputes about the appropriate bargaining unit placement for newly created positions;

(b) Disputes under WAC 391-35-300 concerning a requirement for a professional education certificate;

(c) Disputes under WAC 391-35-310 concerning eligibility for interest arbitration;

(d) Disputes under WAC 391-35-320 concerning status as a confidential employee; or

(e) Disputes under WAC 391-35-330 concerning one-person bargaining units.

(2) A petition concerning supervisory status under WAC 391-35-340 or regular part-time status under WAC 391-35-350 will be considered timely if:

(a) All parties agree to raise the issue;

(b) The petitioner demonstrates that it put the other party on notice during negotiation for the most recent collective bargaining agreement that it would contest the inclusion or exclusion of the position or class through a unit clarification proceeding and the petitioner files the petition before ratification of the current collective bargaining agreement; or

(c) The petitioner demonstrates through evidence that a substantial change in circumstances occurred within a reasonable time before the filing of the petition and that the change in circumstances warrants a modification of the bargaining unit by inclusion or exclusion of a position or class.

LIMITATIONS ON RESULTS OF PROCEEDINGS

(3) Employees or positions may be removed from an existing bargaining unit if the petition was timely filed as provided in subsections (1) and (2) of this section.

(4) Employees or positions may be added to an existing bargaining unit in a unit clarification proceeding if:

(a) The petition is filed within a reasonable time period after a change of circumstances altering the community of interest of the employees or positions;

(b) The existing bargaining unit is the only appropriate unit for the employees or positions; or

(c) All parties to the proceeding agree the agency should rule upon the request for clarification.

(5) An order clarifying bargaining unit will not be issued under this section if:

(a) Employees or positions have been excluded from a bargaining unit by agreement of the parties or by a certification, and a unit clarification petition is not filed within a reasonable time period after a change of circumstances; or

(b) Adding the disputed employees or positions to a bargaining unit would create a doubt as to the ongoing majority status of the exclusive bargaining representative.

(6) An appropriate bargaining unit of classified employees at a school district or educational service district may not be divided in-

to more than one appropriate bargaining unit without the agreement of the employer and certified bargaining representative of the unit where severance is sought.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-35-020, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.070. WSR 08-04-058, § 391-35-020, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.05.413, 41.56.060 and 41.59.080. WSR 01-14-009, § 391-35-020, filed 6/22/01, effective 8/1/01; WSR 96-07-105, § 391-35-020, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110 and chapters 28B.52, 41.56, 41.58, 41.59, 49.08 and 53.18 RCW. WSR 90-06-073, § 391-35-020, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. WSR 88-12-061 (Order 88-03), § 391-35-020, filed 5/31/88.]