

Chapter 391-75 WAC
DISPUTE RESOLUTION PANEL AND LAW ENFORCEMENT ARBITRATOR ROSTER

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WAC

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WAC 391-75-001 Scope—Contents—Other rules. This chapter governs the maintenance of the dispute resolution panel and law enforcement arbitrator roster.

[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, § 391-75-001, filed 11/16/22, effective 1/1/23.]

WAC 391-75-010 Dispute resolution panel—Membership. The agency shall maintain a panel of individuals qualified to serve in an impartial capacity in the resolution of labor disputes.

(1) Applicants for membership on the dispute resolution panel shall demonstrate minimum background and experience equal to the minimum qualifications for the working level positions on the agency staff:

(a) A master's degree in labor relations, personnel management, industrial relations, or closely allied field, or a law degree;

(b) At least three years of experience in collective bargaining with major work assignments in negotiations, contract administration, or related work as a union or management representative, mediator, arbitrator, or educator in the above areas; and

(c) Additional qualifying experience may substitute, year for year, for education.

(2) Applicants for membership on the dispute resolution panel shall provide at least five letters of recommendation supporting their acceptability as an impartial from:

(a) At least two management representatives;

(b) At least two union representatives; and

(c) At least one impartial arbitrator, mediator, or labor relations administrative agency official.

(3) All letters of recommendation submitted under subsection (2) of this section must be signed and dated within two years of the date of the application for membership. Additionally, any letter of recommendation submitted in support of an applicant should be on official letterhead or contain recent contact information for the author of the letter.

(4) Applicants for membership on the dispute resolution panel who desire to be referred for interest arbitration proceedings shall demonstrate their experience as an impartial in at least five grievance arbitration, fact-finding, or interest arbitration cases by submitting copies of arbitration awards which can be provided, upon request, to parties selecting an interest arbitrator.

(5) Applicants for membership on the dispute resolution panel shall submit, in the form specified by the executive director, infor-

mation on their background, qualifications, professional certifications, and affiliations. All information submitted may be subject to administrative verification.

(6) Applications of persons appearing to be qualified for membership on the panel are forwarded to the commission for consideration and action. The commission shall review each application submitted to it, together with the supporting letters of recommendation, and notify the applicant of the determination made.

(7) No member of the commission appointed under RCW 41.58.010 may be an active member of the dispute resolution panel.

(8) Upon appointment to the dispute resolution panel by the commission, the panel member may be placed under contract pursuant to statute. Only persons listed on the panel may be compensated by the agency under a personal service contract.

[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, § 391-75-010, filed 11/16/22, effective 1/1/23.]

WAC 391-75-020 Dispute resolution panel—Referral and selection procedures.

(1) All referrals from the dispute resolution panel are made by random selection from among the panel members eligible for the type of proceeding involved, subject to the following:

(a) If the parties do not specify the number of names requested, the agency will supply seven names.

(b) Where the parties request a specific number of names, the agency will supply the number requested.

(c) The agency will post on its website at www.perc.wa.gov biographical information, including background, qualifications, and experience, for each of the arbitrators on the list supplied to the parties.

(d) The agency will supply the parties with a second list or additional name(s) upon submission of their joint written request.

(2) The parties may use any method agreed upon for selecting an impartial from the list provided by the agency. In the absence of agreement on any other method, they shall alternately strike names from the list, with the order of striking determined by lot.

(3) All contacts and arrangements between the parties and a selected dispute resolution panel member are the responsibility of the parties. The fees and travel expenses of the dispute resolution panel member must be paid by the parties under applicable rules or as agreed by the parties.

[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, § 391-75-020, filed 11/16/22, effective 1/1/23.]

WAC 391-75-040 Law enforcement arbitrator roster—Membership.

The agency shall maintain a roster of nine to 18 individuals qualified to serve in an impartial capacity for disputes involving law enforcement personnel disciplinary actions that are submitted to binding grievance arbitration under an existing collective bargaining agreement.

(1) In addition to the qualifications set forth in RCW 41.58.070(4), applicants for membership on the law enforcement arbitrator roster shall provide at least five letters of recommendation supporting their acceptability as an impartial from:

- (a) At least two management representatives;
- (b) At least two union representatives; and
- (c) At least one impartial arbitrator, mediator, or labor relations administrative agency official.

(2) All letters of recommendation submitted under subsection (1) of this section must be signed and dated within two years of the date of the application for membership. Additionally, any letter of recommendation submitted in support of an applicant should be on official letterhead or contain recent contact information for the author of the letter.

(3) Applicants for membership on the law enforcement arbitrator roster shall submit, in the form specified by the executive director, information on their background, qualifications, professional certifications, and affiliations. All information submitted may be subject to administrative verification.

(4) Applications of persons appearing to be qualified for membership on the roster are forwarded to the commission for consideration and action. The commission shall review each application submitted together with the supporting letters of recommendation. Individuals selected by the commission for appointment to the law enforcement arbitrator roster will be provided with a letter of appointment designating the expiration date of the appointee's term. Except as provided in RCW 41.58.070(6), a person appointed to the law enforcement arbitrator roster serves a three year term.

(a) If an appointee desires to be reappointed to the roster for an additional term, the appointee must notify the executive director of this desire in writing within 60 days before the expiration date of the appointee's current term. Any notice for reappointment will be transmitted to the commission for its consideration consistent with this section.

(b) If the appointee declines to seek reappointment or fails to request reappointment, the commission may then fill the vacancy on the roster consistent with RCW 41.58.070 and this section.

(5) No member of the commission appointed under RCW 41.58.010 may be an active member of the law enforcement arbitrator roster.

[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, § 391-75-040, filed 11/16/22, effective 1/1/23.]

WAC 391-75-050 Awards. 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, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-75-050, filed 11/16/22, effective 1/1/23.]

WAC 391-75-060 Ethical standards. Whenever it appears to the commission that an applicant or member of the dispute resolution panel

or law enforcement arbitrator roster has failed or refused to comply with applicable statutes, rules, and ethical standards, the application must be rejected or the member must be removed from the dispute resolution panel or law enforcement arbitrator roster. A member must also be removed from the dispute resolution panel or law enforcement arbitrator roster if the member has:

(1) Ceased accepting appointments as an impartial in the resolution of labor disputes;

(2) Failed to keep the agency informed of the member's current email address, mailing address, and telephone number; or

(3) Failed to follow ethical standards and procedures as set forth in the "Code of Professional Responsibility for Arbitrators of Labor Management Disputes" as approved by the National Academy of Arbitrators, the Federal Mediation and Conciliation Service, and the American Arbitration Association.

[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, § 391-75-060, filed 11/16/22, effective 1/1/23.]

WAC 391-75-070 Impartiality. Persons referred from the dispute resolution panel or law enforcement arbitrator roster shall be impartial. No active member of the dispute resolution panel or law enforcement arbitrator roster may serve in any capacity as an advocate or representative for either labor or management in labor relations matters. Any member of the panel or roster who intends to engage in advocacy work shall notify the executive director and will be placed on inactive status while their advocacy work continues.

[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, § 391-75-070, filed 11/16/22, effective 1/1/23.]

WAC 391-75-080 Disclosure. Before accepting an appointment as an arbitrator from either the dispute resolution panel or the law enforcement arbitrator roster, or as soon as information giving rise to a problem of appearance of fairness becomes known, a person serving in an impartial capacity shall disclose to the parties and to the executive director any circumstances likely to create an appearance of bias or which might disqualify that person from serving in the impartial capacity. Employment of the person or any member of their immediate family by any party is disqualifying. Each party to the proceeding shall immediately notify the executive director and the appointee or selectee whether it is willing to waive disqualification. If either party declines to waive the disqualification, the appointment must be vacated.

[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, § 391-75-080, filed 11/16/22, effective 1/1/23.]