

WSR 24-17-071
PROPOSED RULES
PUBLIC EMPLOYMENT
RELATIONS COMMISSION
[Filed August 16, 2024, 8:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-20-107.

Title of Rule and Other Identifying Information: WAC 391-45-400

Compliance.

Hearing Location(s): On October 2 and October 23, 2024, at 10:00 a.m., by Zoom <https://perc-wa-gov.zoom.us/j/2679794803>. Public viewing for both meetings is also available at 112 Henry Street, Suite 300, Olympia, WA 98504 [98504].

Date of Intended Adoption: November 12, 2024.

Submit Written Comments to: Dario de la Rosa, 112 Henry Street, Suite 300, Olympia, WA 98504, email dario.delarosa@perc.wa.gov, fax 360-570-7334, beginning September 5, 2024, at 9:00 a.m., by September 27, 2024, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Diane Tucker, phone 360-570-7335, fax 360-570-7334, email diane.tucker@perc.wa.gov, by September 27, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: When an unfair labor practice violation is found, the public employment relations commission (PERC) issues an order requiring the respondent to take certain steps to remedy the violation of state law. PERC assigns a staff member to monitor the compliance process to ensure that the order is complied with. The purpose of WAC 391-45-400 is to provide procedural structure to the compliance process.

Reasons Supporting Proposal: PERC currently does not have any administrative rules governing the compliance process.

Statutory Authority for Adoption: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 47.64.135, and 49.39.060.

Statute Being Implemented: RCW 41.58.070.

Name of Proponent: PERC, [governmental].

Name of Agency Personnel Responsible for Drafting: Dario de la Rosa, 112 Henry Street, Suite 300, Olympia, WA 98504, 360-570-7328;

Implementation and Enforcement: Michael P. Sellars, 112 Henry Street, Suite 300, Olympia, WA 98504, 360-570-7306.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. Proposed rule gives adjudicative proceedings before PERC.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Scope of exemption for rule proposal:

Is fully exempt.

August 16, 2024
Dario de la Rosa
Rules Coordinator

OTS-5765.1

NEW SECTION

WAC 391-45-400 Compliance. (1) After issuance of a remedial order or entry of a court judgment enforcing an order, an agency compliance officer will work with the parties to facilitate compliance with the terms of the order.

(2) The compliance officer will regularly report to the executive director on the parties' progress toward compliance with the order. After a reasonable amount of time, the compliance officer will make a recommendation as to whether the parties have achieved compliance or whether disputed issues regarding compliance remain.

(a) If the compliance officer recommends that the parties have achieved compliance and neither party disputes compliance, the executive director may accept compliance and close the case.

(b) If the compliance officer identifies that disputed issues regarding compliance remain, the executive director will assign the matter to an examiner under WAC 391-45-130 to conduct a hearing on the disputed issues. If the matter is assigned to an examiner for a hearing, the compliance officer may continue compliance facilitation efforts with the parties.

(3) Hearings on whether the parties have complied with the terms of the order will be governed by WAC 391-45-270 and 391-45-290. The issues will be limited to the disputed issues regarding compliance. Unless appealed to the commission under WAC 391-45-350, a decision issued on the disputed issues under this section is the final order of the agency with the same force and effect as if issued by the commission.