

Repealers

WAC 391-25-470, WAC 391-25-476, WAC 391-25-490, AND WAC 391-25-496 ARE EACH REPEALED IN THEIR ENTIRETY.

Amendatory Section

WAC 391-25-150

AMENDMENT AND WITHDRAWAL

A petition may be amended or withdrawn by the petitioner at any time prior to the issuance of a notice of election (~~((and the mailing of the ballots,))~~) or under such conditions as the executive director or the commission may impose.

Amendatory Section

WAC 391-25-430

NOTICE OF ELECTION

When an election is to be conducted, the agency shall furnish the employer with appropriate notices, and the employer shall post them in conspicuous places on its premises where notices to affected employees are usually posted. The notice shall contain:

- (1) The description of the bargaining unit or voting group(s) in which the election is to be conducted.
- (2) The deadline for return of mail ballots; the date(s), hours, and polling place(s) for an on-site election; or the voting period for an electronic election.
- (3) The cut-off date, if any, or other criteria to be applied in establishing eligibility to vote in the election, including that the eligible employees are limited to those who continue to be employed within the bargaining unit when they cast a ballot in an on-site election (~~((or))~~) at the deadline for return of mail ballots, or at the closing of polls in an electronic election.
- (4) A statement of the purpose of the election and the question to be voted upon or a sample ballot.

Notices shall be posted for at least ~~((seven))~~ five business days prior to the date on which the polls are opened for an on-site election or electronic election or five business days prior to the date on which ballots are mailed in a mail ballot election (~~((and shall remain posted until a tally of ballots has been issued. The day of posting shall be counted, but the day on which the polls are open for an on-site election shall not be counted.))~~) Notices of the election shall remain posted until a tally of ballots has been issued.

Amendatory Section

WAC 391-25-450

DISCLAIMERS

Prior to the issuance of a notice of election (~~(and the mailing of the ballots)~~), an organization may disclaim a bargaining unit and have its name removed from the ballot by written notice filed and served as required by WAC 391-08-120. The organization filing a disclaimer shall not seek to be certified in the bargaining unit, or subdivision thereof, for a period of at least six months.

New Section

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.

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

New Section

WAC 391-25-486

SPECIAL PROVISION – STATE CIVIL SERVICE EMPLOYEES

(1) The requirement in WAC 391-25-480(3) and (4) that lists of voters be surrendered shall not apply to elections concerning state civil service employees covered by chapter 41.06 RCW. Upon request, the agency shall provide the parties involved in the election with the names of employees who voted in a mail ballot election.

(2) If the executive director conducts an election involving state civil service employees by on-site balloting procedures, absentee ballots shall be allowed as prescribed in this subsection.

(a) Upon the request of an individual employee, the agency shall provide a notice and absentee ballot to the individual employee.

(b) To be counted, the absentee ballot must be received at the Olympia office of the commission:

(i) Directly from the employee or from the employee via the United States Postal Service; and

(ii) Prior to the close of business on the last day the polls are open for the on-site election.

(c) Whenever absentee ballots are issued, the tally of ballots shall be delayed for one or more days after the last day on which the polls are open for the on-site election and shall then be conducted in the commission's Olympia office in a manner which preserves the secrecy of the absentee ballots.