

PERC-Subpoena Informational Handout for Clientele

PERC encourages parties to voluntarily cooperate in making witnesses available in adjudicative (representation, unfair labor practice, unit clarification, declaratory order, and nonassociation) hearings and typically finds that the issuance of subpoenas is not necessary in most proceedings.

Types of subpoenas: When parties find it necessary to compel witness testimony at a hearing they should request a *subpoena*. When parties find it necessary to compel the provision of a document at a hearing they should request a *subpoena duces tecum*. WAC 391-08-300 precludes discovery other than subpoenas to produce testimony and exhibits at a PERC hearing.

Procedure for requesting a subpoena: When a party finds it necessary to issue a subpoena in order to compel witness testimony (subpoena) or compel the provision of documents (subpoena duces tecum) the following process applies:

A party who is represented by an attorney is encouraged to have their attorney issue subpoenas on their behalf pursuant to WAC 391-08-310(4).

A party who is not represented by an attorney, or who otherwise wish to have subpoenas issued by the Commission, may request that the Hearing Officer or Examiner for the Commission issue subpoenas on their behalf pursuant to WAC 391-08-310(3).

A party requesting the Commission to issue a subpoena should submit a written request to the Hearing Officer or Examiner several days before the hearing to allow time for processing the request. The written request should contain the following information:

- For a witness: First and last name of witness and a brief description of the nature and relevance of the witness testimony in relation to the complaint.
- For a document: Description of the document and explanation of why the document is relevant to the case.

A party requesting a subpoena should expect the Hearing Officer or Examiner to inquire into the relevance of the witness testimony or the document to the case.

Responsibilities of the party requesting a subpoena: Once a subpoena has been issued by the Commission it is the responsibility of the party requesting the subpoena to:

Serve the subpoena on the appropriate party and document proof of service. Service must be made in compliance with WAC 391-08-310(5).

Pay all fees, allowances, and the cost of producing records required by the subpoena. PERC uses the rates established by the [superior court of Thurston County](#) to determine witness expenses in all proceedings pursuant to WAC 391-08-310(6).



If a party wants a copy of a document produced as a result of a *subpoena duces tecum*, the party requesting the copy is responsible for the cost of reproduction.

Modification of subpoena: A witness or another party may ask the Hearing Officer or Examiner to cancel (quash) or modify a subpoena that is claimed to be unreasonable or oppressive. WAC 391-08-310(7)

Subpoena enforcement: The Commission does not enforce subpoenas. Subpoenas shall be enforced as provided in RCW 34.05.588(1). See WAC 391-08-310(8). A party that wants to enforce a subpoena will need to seek enforcement in superior court.

This handout is intended to serve as a basic guide on the subpoena process. Complete rules on subpoenas are contained in [WAC 391-08-300](#) and [WAC 391-08-310](#).

