

Chapter 391-65 WAC

GRIEVANCE ARBITRATION RULES

Last Update: ~~2/19/15~~

WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

391-65-072 Special provision-Educational employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-072, filed 9/30/80, effective 11/1/80.]
Repealed by WSR 15-06-003, filed 2/19/15, effective 3/22/15. Statutory Authority: RCW 41.58.050, 41.59.110, 28B.52.080.

391-65-073 Special provision-Academic employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-073, filed 9/30/80, effective 11/1/80.]
Repealed by WSR 15-06-003, filed 2/19/15, effective 3/22/15. Statutory Authority: RCW 41.58.050, 41.59.110, 28B.52.080.

391-65-074 Special provisions-Marine employees. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),

§ 391-65-074, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 88-12-057 (Order 88-09), filed
5/31/88. Statutory Authority: RCW 28B.52.080,
41.58.050, 41.56.090 and 41.59.110.

391-65-094 Special provision-Marine employees. [Statutory
Authority: RCW 28B.52.080, 41.56.040, 41.58.050,
41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),
§ 391-65-094, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 88-12-057 (Order 88-09), filed
5/31/88. Statutory Authority: RCW 28B.52.080,
41.58.050, 41.56.090 and 41.59.110.

391-65-500 Marine employees-Grievance arbitration. [Statutory
Authority: RCW 28B.52.080, 41.56.040, 41.58.050,
41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),
§ 391-65-500, filed 9/30/80, effective 11/1/80.]

Repealed by WSR 83-24-036 (Order 83-06), filed
12/1/83, effective 1/1/84. Statutory Authority: RCW

34.04.022, 41.58.050, 41.56.090, 41.59.110 and
28B.52.080.

391-65-510 Marine employees—Intervention and consolidation of
proceedings. [Statutory Authority: RCW 28B.52.080,
41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR
80-14-050 (Order 80-9), § 391-65-510, filed 9/30/80,
effective 11/1/80.] Repealed by WSR 83-24-036 (Order
83-06), filed 12/1/83, effective 1/1/84. Statutory
Authority: RCW 34.04.022, 41.58.050, 41.56.090,
41.59.110 and 28B.52.080.

391-65-515 Marine employees—Conduct of grievance arbitration
proceedings. [Statutory Authority: RCW 28B.52.080,
41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR
80-14-050 (Order 80-9), § 391-65-515, filed 9/30/80,
effective 11/1/80.] Repealed by WSR 83-24-036 (Order
83-06), filed 12/1/83, effective 1/1/84. Statutory
Authority: RCW 34.04.022, 41.58.050, 41.56.090,
41.59.110 and 28B.52.080.

391-65-525 Marine employees—Hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-525, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-530 Marine employees—Order of proceedings and evidence. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-530, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-535 Marine employees—Arbitration in the absence of a party. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR

80-14-050 (Order 80-9), § 391-65-535, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-540 Marine employees—Closing of hearing. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-540, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-545 Marine employees—Examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-545, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed

12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-550 Marine employees--Petition for review of examiner decision. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-550, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080.

391-65-555 Marine employees--Commission action. [Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-555, filed 9/30/80, effective 11/1/80.] Repealed by WSR 83-24-036 (Order 83-06), filed 12/1/83, effective 1/1/84. Statutory Authority: RCW

34.04.022, 41.58.050, 41.56.090, 41.59.110 and
28B.52.080.

391-65-560 Marine employees—Grievance arbitration remedies.

[Statutory Authority: RCW 28B.52.080, 41.56.040,
41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050
(Order 80-9), § 391-65-560, filed 9/30/80, effective
11/1/80.] Repealed by WSR 83-24-036 (Order 83-06),
filed 12/1/83, effective 1/1/84. Statutory
Authority: RCW 34.04.022, 41.58.050, 41.56.090,
41.59.110 and 28B.52.080.

Reviser's note: Chapter 15, Laws of 1983 recreates the marine employees' commission,
Title 316 WAC, and transfers the authority for the administration of chapter 47.64 RCW to that
agency. Title 391 WAC will reflect some of the changes resulting from this statutory revision.

WAC 391-65-001 ~~Scope-Contents-Other rules.~~ This chapter

governs proceedings before the public employment relations
commission relating to arbitration of grievance disputes arising
out of the interpretation or application of a collective
bargaining agreement under all chapters of the Revised Code of

Commented [CCJ(1): Proposed revisions eliminate unnecessary cross-references to other WAC chapters and clarifies relationship between grievance arbitration rules and model rules.

Washington (RCW) administered by the commission. To the extent these rules of practice and procedure differ from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250 and found in chapter 10-08 WAC, these rules shall prevail.~~The provisions of this chapter should be read in conjunction with the provisions of:~~

~~(1) Chapter 391-08 WAC, which contains rules of practice and procedure applicable to all types of proceedings before the public employment relations commission, and which also replaces some provisions of chapter 10-08 WAC.~~

~~(2) Chapter 391-25 WAC, which regulates representation proceedings.~~

~~(3) Chapter 391-35 WAC, which regulates unit clarification proceedings and contains some well-established unit determination standards in a subchapter of rules beginning at WAC 391-35-300.~~

~~(4) Chapter 391-45 WAC, which regulates unfair labor practice proceedings.~~

~~(5) Chapter 391-55 WAC, which regulates the resolution of impasses in collective bargaining.~~

~~(6) Chapter 391-95 WAC, which regulates union security nonassociation proceedings.~~

In the event of a conflict between a general rule in Chapter 391-08 and a special rule in this chapter applicable to a particular proceeding, the special rule shall govern.

~~[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-001, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050. WSR 01-14-009, § 391-65-001, filed 6/22/01, effective 8/1/01; WSR 99-14-060, § 391-65-001, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-001, filed 9/30/80, effective 11/1/80.]~~

~~**WAC 391-65-002 Sequence and numbering of rules-Special provisions.** This chapter of the Washington Administrative Code~~

~~is designed to regulate proceedings under a number of different chapters of the Revised Code of Washington. General rules are set forth in sections with numbers divisible by ten. Where a deviation from the general rule is required for conformity with a particular statute, that special provision is set forth in a separate rule numbered as follows:~~

Commented [CCJ(2)]: The proposed strike of this rule eliminates an unnecessary table of contents detailing the numbering process for the rules in this chapter.

~~(1) Special provisions relating to chapter 41.56 RCW (Public Employees' Collective Bargaining Act) and to chapter 53.18 RCW (port employees) are set forth in WAC sections numbered one digit greater than the general rule on that subject matter.~~

~~(2) Special provisions relating to chapter 41.59 RCW (Educational Employment Relations Act) are set forth in WAC sections numbered two digits greater than the general rule on that subject matter.~~

~~(3) Special provisions relating to chapter 28B.52 RCW (Collective Bargaining Academic Personnel in Community Colleges) are set forth in WAC sections numbered three digits greater than the general rule on that subject matter.~~

~~(4) Special provisions relating to chapter 47.64 RCW (Marine employees Public employment relations) are set forth in WAC sections numbered four digits greater than the general rule on that subject matter.~~

~~(5) Special provisions relating to chapter 41.80 RCW (Personnel System Reform Act) are set forth in WAC sections~~

~~numbered six digits greater than the general rule on that subject matter.~~

~~(6) Special provisions relating to chapter 41.76 RCW (faculty at public four-year institutions of higher education) are set forth in WAC sections numbered seven digits greater than the general rule on that subject matter.~~

~~(7) Special provisions relating to chapter 49.39 RCW (symphony musicians) and chapter 49.08 RCW (private sector and other employees) are set forth in WAC sections numbered nine digits greater than the general rule on that subject matter.~~
~~[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-002, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 10-20-172, § 391-65-002, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060. WSR 03-03-064, § 391-65-002, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110 and 41.58.050. WSR 99-14-060, § 391-65-002, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 83-24-036 (Order 83-06), § 391-65-002, filed 12/1/83, effective~~

~~1/1/84. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-002, filed 9/30/80, effective 11/1/80.]~~

WAC 391-65-010 Grievance arbitration—Who may submit.

Where there is an agreement to arbitrate, a request for appointment of an arbitrator to hear and determine issues arising out of the interpretation or application of a collective bargaining agreement may be submitted by the employer, the exclusive representative or their agents or by the parties jointly.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-010, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-010, filed 9/30/80, effective 11/1/80.]

WAC 391-65-030 Grievance arbitration—Request for grievance

arbitration—Service. A request for appointment of a grievance

arbitrator may be made through the agency's on-line e-filing system, by email, or in writing ~~or by electronic telefaessimile transmission~~. The request shall be through the agency's on-line e-filing system, on a form furnished by the commission, or prepared by the party or parties submitting the request in

Commented [CCJ(3): Proposed revisions update filing procedures for grievance arbitration requests.

conformance with WAC 391-65-050. The original request shall be submitted through the agency's on-line e-filing system or to the commission's Olympia office, as required by WAC 391-08-120(2). If the request is not submitted jointly the party submitting the request shall serve a copy, as required by WAC 391-08-120 (3) and (4), on the other party to the collective bargaining agreement under which the dispute arises.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-030, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.50.413 and 41.56.125. WSR 96-07-105, § 391-65-030, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-030, filed 9/30/80, effective 11/1/80.]

WAC 391-65-050 Grievance arbitration—Contents of request.

Each request for appointment of a grievance arbitrator shall contain:

(1) Information identifying the parties to the dispute, including:

Commented [CCJ(4): Proposed revisions update the information that is required for grievance arbitration requests.

(a) The name, address, email, and telephone number of the employer and the name, address, email, and telephone number of its principal representative;

(b) The name, address, email, and telephone number of the employee organization and the name, address, email, and telephone number of its principal representative;

(c) ~~The employer's principal business;~~

(d) A copy of the current or most recent applicable collective bargaining agreement;

(e) A general description of the employee job classification(s) in the bargaining unit ~~involved, specifying inclusions and exclusions;~~

(f) ~~The number of employees in the bargaining unit;~~

(g) ~~The agreement of the party or parties making the request to accept the decision of the arbitrator as final and binding; and~~

~~(h) The agreement of the party or parties making the request that there shall be no strike or lockout on the matters submitted to arbitration.~~

(2) Identification of the grievance to be resolved in arbitration.

(3) Designation of the request as:

(a) A request for appointment of a member of the agency staff as arbitrator; or

(b) A request for the submission of a list containing a specified number of names from the dispute resolution panel created by WAC 391-55-110.

(4) The name(s), signature(s) and, if any, title(s) of the representative(s) of the requesting party (parties), and the date(s) of the signature(s).

(5) Or any other information contained in the "Grievance Arbitration Request" form found on the agency's website or as required through the agency's e-filing system.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-050, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 34.05.413 and 41.56.125. WSR 96-07-105, § 391-65-050, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.58.050, 41.56.090 and 41.59.110. WSR 88-12-057 (Order 88-09), § 391-65-050, filed 5/31/88. Statutory Authority: RCW 28B.52.080, 41.56.040,

41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9),
§ 391-65-050, filed 9/30/80, effective 11/1/80.]

WAC 391-65-070 Grievance arbitration-Appointment of staff

arbitrator. Except as detailed below, a request for agency
staff shall automatically generate a list of staff members
available as a grievance arbitrator, and an arbitrator shall be
selected pursuant to WAC 391-55-120. In lieu of receiving a
list, the parties may jointly request that the agency appoint a
staff member as the grievance arbitrator,~~Upon concurrence of the~~
~~parties or upon the submission of a joint request, the parties~~
may request a specific member of the agency staff shall be
assigned as the grievance arbitrator, subject to final
determination by the Executive Director. ~~The parties shall not~~
~~be permitted to select a grievance arbitrator from a list of~~
~~agency staff members, or to exercise a right of rejection on~~
~~appointments made under this section; but may jointly express a~~
~~preference for appointment of one or more staff members as their~~
~~arbitrator, and their request shall be considered in making the~~
~~assignment. Upon the submission of a request by one party for~~
~~the appointment of a member of the agency staff as grievance~~

Commented [CCJ(5): The proposed revision updates the procedure for the appointment of a PERC staff member as a grievance arbitrator consistent with current protocols.

~~arbitrator, the agency shall determine whether the other party to the collective bargaining agreement concurs in the appointment of a staff arbitrator. In the absence of concurrence, the agency shall notify the requesting party of the lack of concurrence and shall close the case if concurrence is not provided within a reasonable time.~~

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 00-14-048, § 391-65-070, filed 6/30/00, effective 8/1/00; WSR 99-14-060, § 391-65-070, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-070, filed 9/30/80, effective 11/1/80.]

~~**WAC 391-65-075 Special provision Marine employees.**~~

~~Grievance arbitration cases filed under chapter 47.64 RCW shall be mediated by agency staff under chapter 391-55 WAC. Absent settlement, the grievance arbitration proceeding may be conducted by the marine employees' commission in a manner consistent with this chapter.~~

[Statutory Authority: RCW 41.58.050 and 41.58.065. WSR 12-05-066, § 391-65-075, filed 2/15/12, effective 3/17/12.]

WAC 391-65-090 Grievance arbitration—Designation of panel of arbitrators. Upon the request of a party, the agency shall

Commented [CCJ(6): The proposed strike of this rule is to eliminate duplicative references for marine employees already covered in statute. It also strikes a reference to the now-defunct marine employees' commission.

furnish a list of members of the dispute resolution panel. Names shall be referred and an arbitrator shall be selected under WAC 391-55-120.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-090, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-090, filed 9/30/80, effective 11/1/80.]

WAC 391-65-110 Grievance arbitration—Conduct of

proceedings. The arbitrator assigned or selected shall conduct the arbitration proceedings in the manner provided in the collective bargaining agreement under which the dispute arises, subject to the following:

(1) Arbitration cases handled by members of the agency staff shall be ~~kept in the public files of~~ maintained by the agency.

(2) Except as provided in subsections (1) and (2) of this section, all arbitrators shall maintain compliance with the "Code of Professional Responsibility for Arbitrators of Labor-Management Disputes" as last amended with approval of the Federal Mediation and Conciliation Service.

Commented [CCJ(7)]: The proposed revision clarifies how arbitration cases are maintained by the agency and eliminates a reference to the marine employees commission.

(3) Rulings, actions, and decisions issued by staff arbitrators under this chapter shall not be subject to appeal to the commission. ~~or the marine employees' commission.~~

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.58.065, 41.59.110, 41.76.060, 41.80.130, and 49.39.060. WSR 12-05-066, § 391-65-110, filed 2/15/12, effective 3/17/12. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-110, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.06.340, 41.76.060 and 41.56.125. WSR 03-03-064, § 391-65-110, filed 1/14/03, effective 2/14/03. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-110, filed 7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-110, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-110, filed 9/30/80, effective 11/1/80.]

WAC 391-65-130 Grievance arbitration-Award. 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, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-130, filed

7/1/99, effective 8/1/99; WSR 96-07-105, § 391-65-130, filed 3/20/96, effective 4/20/96. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-130, filed 9/30/80, effective 11/1/80.]

WAC 391-65-150 Grievance arbitration-Expenses. Each party shall pay the expenses of presenting its own case and the expenses and fees of its member, if any, of an arbitration panel. The expenses of witnesses shall be paid by the party producing them. The commission shall pay the salary and expenses of a staff member assigned under WAC 391-65-070, but the commission shall not pay any costs for recording and/or transcription of proceedings, or any other expenses of the proceedings. The parties shall pay the fees and expenses of a dispute resolution panel member selected under WAC 391-65-090, as provided in WAC 391-55-120.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-059, § 391-65-150, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050 and 41.56.125. WSR 99-14-060, § 391-65-150, filed 7/1/99, effective 8/1/99. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-050 (Order 80-9), § 391-65-150, filed 9/30/80, effective 11/1/80.]

