

AMENDATORY SECTION (Amending WSR 03-03-064, filed 1/14/03, effective 2/14/03)

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 Washington (RCW) administered by the ~~((commission. 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))~~ agency. To the extent these rules of practice and procedure differ from the model rules in chapter 10-08 WAC or this agency's general rules of practice and procedure in chapter 391-08 WAC, these special rules prevail.

AMENDATORY SECTION (Amending WSR 99-14-060, filed 7/1/99, effective 8/1/99)

WAC 391-65-010 ~~Grievance arbitration request—Who may ((submit)) file.~~ ~~((Where there is an agreement))~~ If the parties agree 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)) filed by the employer, the exclusive representative ((or)), their agents, or by the parties jointly.

AMENDATORY SECTION (Amending WSR 99-14-060, filed 7/1/99, effective 8/1/99)

WAC 391-65-030 ~~((Grievance arbitration—))Request for grievance arbitration—Filing and service.~~ A request for appointment of a grievance arbitrator may be ~~((made))~~ filed through the agency's online e-filing system, by email, or in writing ((or by electronic telefacsimile transmission. The request shall be on a form furnished by the commission or prepared by the party or parties submitting the request

~~in conformance with WAC 391-65-050. The original request shall be submitted to the commission's Olympia office, as required by WAC 391-08-120(2)) to the agency's Olympia office, as required by WAC 391-08-120 (1) and (2). If the request is not ((submitted)) filed jointly, the party ((submitting)) filing 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, as required by WAC 391-08-120 (3) and (4).~~

AMENDATORY SECTION (Amending WSR 99-14-060, filed 7/1/99, effective 8/1/99)

WAC 391-65-050 ((Grievance arbitration)) Contents of request filing forms. Each ((request for appointment of a grievance arbitrator shall contain)) completed grievance arbitrator request filing form, whether obtained from the agency's website or through the agency's e-filing system, must include all of the following:

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

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

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

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

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

((e)) (d) 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)) maintained by the agency under WAC 391-75-010.

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

(5) Any other information requested in the grievance arbitrator request filing form found on the agency's website at www.perc.wa.gov or as required through the agency's e-filing system.

AMENDATORY SECTION (Amending WSR 00-14-048, filed 6/30/00, effective 8/1/00)

WAC 391-65-070 ((Grievance arbitration)) Appointment of staff arbitrator. Upon concurrence of the parties or upon the submission of a joint request, a member of the agency staff ~~((shall))~~ will be assigned as grievance arbitrator. The parties ~~((shall))~~ are not ~~((be))~~ permitted to select a grievance arbitrator from a list of agency staff members~~((r))~~ or to exercise a right of rejection on appointments made under this section~~((; but))~~. However, the parties may jointly express a preference for appointment of one or more staff members as their arbitrator, and their request ((shall)) will 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 arbitrator, the agency ((shall)) will 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)) will notify the requesting party of the lack of concurrence and ((shall)) close the case if concurrence is not provided within a reasonable time.

AMENDATORY SECTION (Amending WSR 99-14-060, filed 7/1/99, effective 8/1/99)

WAC 391-65-090 ((Grievance arbitration)) Designation of panel of arbitrators. Upon the request of a party, the agency shall ~~((furnish))~~ provide a list of ~~((members of))~~ arbitrators from the dispute resolution panel in accordance with WAC 391-75-020(1). ~~((Names shall be referred and an arbitrator shall be selected under WAC 391-55-120))~~ The parties must select an arbitrator under the procedures specified in WAC 391-75-020(2).

AMENDATORY SECTION (Amending WSR 12-05-066, filed 2/15/12, effective 3/17/12)

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))~~ must be kept in the public files ~~((of))~~ maintained by the agency.

(2) Except as provided in subsection~~((s))~~ (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.

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

AMENDATORY SECTION (Amending WSR 08-04-059, filed 1/31/08, effective 4/1/08)

WAC 391-65-150 (~~(Grievance arbitration)~~) **Expenses of arbitration.** Each party shall pay the expenses of presenting its own case and the expenses and fees of its arbitration panel member, if any (~~(of an arbitration panel)~~). The expenses of witnesses (~~(shall)~~) must be paid by the party producing them. The (~~(commission)~~) agency shall pay the salary and expenses of a staff member assigned under WAC 391-65-070, but the (~~(commission)~~) agency shall not pay any costs for recording (~~(and/or)~~) or transcription of proceedings (~~(r)~~) 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)~~) 391-75-020.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 391-65-002	Sequence and numbering of rules—Special provisions.
WAC 391-65-075	Special provision—Marine employees.
WAC 391-65-130	Grievance arbitration—Award.