



STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION

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To: Members, Washington State Public Disclosure Commission

From: Tony Perkins, Acting Assistant Director

Date: July 16, 2015

Re: July 2016 Rule Making – Discussion and Possible Approval of Draft Language to Amend WACs 390-12-200 and 390-37-030

AGENDA ITEM

At its July 23, 2015 meeting, the Commission will consider and hopefully approve the final draft proposed rule language related to providing alternatives to adjudicative proceedings for enforcing Chapter 42.17A and Title 390 WAC.

BACKGROUND

Last March, the Commission began rule making to carry out its strategic plan action item of providing alternatives to adjudicative proceedings for enforcing Chapter 42.17A and Title 390 WAC. During the June meeting, the Commission approved draft language for four new rules and 14 amended rules.

The Commission suggested revising the proposed draft language to amend WAC 390-37-060 to clarify the notice that will be provided to the complainant in the event of an adjudicative proceeding or a report to the commission on an enforcement matter. That draft language, as modified by the Commission, will be set for a hearing. The Commission requested that staff return with draft language to amend WAC 390-37-030 to provide complainants and other members of the public the opportunity to address the Commission, at the Commission's discretion, during such a hearing or proceeding.

Finally, the rule making considered to date to provide enforcement alternatives grants authority to the Executive Director, which staff believes should be reflected in the duties set out in WAC 390-12-200.

COMMISSION ACTION

Staff is requesting the Commission approve the attached proposed draft language to amend WACs 390-12-200 and 390-37-030. Once approved, staff will schedule a hearing for the Commission to consider adopting these and the other draft rule language approved in June. The hearing will likely be scheduled during the September 2016 Commission meeting.

ATTACHMENTS

- Draft amended WAC 390-37-030
- Draft amended WAC 390-12-200

WAC 390-12-200 Public disclosure commission—Executive director.

The commission shall employ and fix the compensation of an executive director who shall perform the following duties under the general authority and supervision of the commission:

(1) Act as records officer and administrative arm of the commission.

(2) Coordinate the policies of the commission and the activities of all commission employees and other persons who perform ministerial functions for the commission.

(3) Determine when appropriate and authorize enforcement alternatives set out in WAC 390-37 to resolve complaints filed with the commission.

(4) Act as liaison between the commission and other public agencies.

[Statutory Authority: RCW 42.17.370(1). WSR 85-15-020 (Order 85-03), § 390-12-200, filed 7/9/85; Order 62, § 390-12-200, filed 8/26/75; Order 14, § 390-12-200, filed 7/31/73.]

WAC 390-37-030 Enforcement procedures—Citizen complaints filed with the commission. (1) When a citizen complaint has been filed with the agency pursuant to WAC 390-37-040, neither the complainant nor any other person shall have special standing to participate or intervene in the investigation or consideration of the complaint by the commission. However, the staff shall give notice to the complainant of any open commission hearings on the matter and the complainant may be called as a witness in any enforcement hearing or investigative proceeding. The Commission has the discretion to allow comment by a person other than the respondent when it considers a complaint. Any person who wishes to comment should notify staff at least 3 business days before the proceeding.

(2) The complainant or any other person may submit documentary evidence and/or written factual or legal statements to the staff at any time up to and including the fifth calendar day before the date of any enforcement hearing or proceeding.

(3) A person not satisfied with the dismissal of a complaint by the commission or its executive director may pursue an appropriate remedy under RCW 42.17A.765(4).

[Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-37-030, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370(1). WSR 04-12-058, § 390-37-030, filed 5/28/04, effective 6/28/04. Statutory Authority: RCW 42.17.370. WSR 03-22-065, § 390-37-030, filed 11/4/03, effective 12/5/03; WSR 02-23-001, § 390-37-030, filed 11/6/02, effective 12/7/02. Statutory Authority: RCW 42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-37-030, filed 2/5/86; WSR 84-12-017 (Order 84-03), § 390-37-030, filed 5/25/84; Order 79, § 390-37-030, filed 6/25/76.]