

WAC 139-06-020 Agency reporting requirements—Force, separation, and investigation. (1) Within 15 days the employing agency of either a certified officer or reserve officer shall use an approved form to notify the commission of the following occurrences:

(a) When a certified officer or reserve officer is separated from the agency for any reason;

(b) When the agency first learns of a use of force by a certified officer or reserve officer, including canine bites, that caused serious injury or death;

(c) When the agency first learns that a certified officer or reserve officer has been charged with a crime. An employing agency shall have written policies that require a certified officer or reserve officer to immediately report any pending criminal charges and any conviction, plea, or other case disposition to their agency; and

(d) When the agency makes an initial disciplinary decision for alleged misconduct by a certified officer or reserve officer that is noncriminal and may constitute misconduct within RCW 43.101.105.

(2) An employing agency shall provide timely updates to the commission on the status of a reported internal investigation until the investigation concludes.

(3) If the employing agency accepts a certified officer's or reserve officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission including the findings from any internal or external investigations into alleged misconduct.

(4) If the totality of the circumstances supports a conclusion that a certified officer or reserve officer resigned or retired in anticipation of discipline, the agency who employed the officer at the time of the misconduct shall timely conduct and complete an internal investigation and provide all relevant information to the commission as it would if the officer were still employed by the agency, regardless of whether the misconduct was discovered at the time:

(a) When such discipline if carried forward would more likely than not have led to discharge; or

(b) If the certified officer or reserve officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge.

(5) Within 15 days of the conclusion of its internal investigation, the agency shall provide the commission with a summary of findings.

(a) If sustained misconduct results in separation, then a commission separation form is also required.

(b) The commission will review the separation form and may request investigative files for review of certification misconduct.

(6) The agency shall, upon request by the commission, provide any records and information the commission deems necessary to determine whether the certified officer committed misconduct that falls within RCW 43.101.105.

(7) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed \$10,000 for the failure by a certified officer, reserve officer, or an employing agency to timely and accurately report information pursuant to this section.

(8) Pursuant to RCW 43.101.135(7) an employing agency may not enter into any agreement or contract with a certified officer, reserve officer, or labor union that:

(a) Agrees not to report conduct, or to delay reporting, or to preclude disclosure of any relevant information to the commission, including any promise not to inform the commission that a certified officer or reserve officer may have committed misconduct in exchange for allowing that officer to resign or retire or for any other reason; or

(b) Allows the agency to destroy or remove any personnel record while the certified officer or reserve officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and any other disciplinary appeals and litigation records.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-020, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-020, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-020, filed 12/20/02, effective 1/20/03.]