Chapter 192-570 WAC
DISPUTE RESOLUTION

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WAC

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WAC 192-570-010 Conference and conciliation. (1)(a) The department will engage employers in conference and conciliation when the employer fails to make all required:

(i) Premium payments;

(ii) Payments on penalties assessed by the department for the failure to submit required reports; or

(iii) Payments on penalties assessed by the department for violations related to voluntary plans.

(b) "Conference and conciliation" for the purpose of this chapter means to encourage an amicable resolution of disputes between the employer and the department prior to the issuance of a warning letter.

(2) The department will promptly attempt to contact the employer to engage in conference and conciliation when appropriate under subsection (1) of this section. If the department does not receive a response from the employer by the deadline given, the department will attempt the contact again, for a total of two attempts. A warning letter will be sent to the employer if no contact can be made.

(3)(a) Through conference and conciliation employers will be given an opportunity to provide information and to explain their reasons for failing to meet the department's requirements in subsection (1) of this section. The department will not issue a warning letter if:

(i) The employer provides good cause;

(ii) The department determines the good cause provided prevented compliance; and

(iii) The parties agree to an approved payment schedule.

(b) "Good cause" for the purpose of this section means:

(i) Death or serious illness of one or more persons directly responsible for discharging the employer's duties under Title 50A RCW;

(ii) Destruction of the employer's place of business or business records not caused by, or at the direction of, the employer; or

(iii) Fraud or theft against the employer.

(4) The burden of proof is on the employer to provide all pertinent facts and evidence or documentation for the department to determine good cause.

(5) Conference and conciliation is only available to employers in the circumstances described in subsection (1)(a) of this section.

(6) If an employer is eligible for conference and conciliation, the department will issue a warning letter when:

(a) The employer does not comply with the approved repayment schedule; or

(b) A resolution is not reached through conference and conciliation.

[Statutory Authority: RCW 50A.04.215. WSR 19-23-090, § 192-570-010, filed 11/19/19, effective 12/20/19; WSR 18-22-080, § 192-570-010, filed 11/2/18, effective 12/3/18.]

WAC 192-570-020 Complaints regarding unlawful acts. (1) It is unlawful for an employer to discriminate against any employee for a reason specified in RCW 50A.40.010. When the department receives notification from an employee that discrimination may have occurred the department will investigate the allegation and issue a determination. The determination will include any remedies available under RCW 50A.40.030.

(2) Nothing in the chapter shall be construed to prohibit a private right of action under all applicable laws.

[Statutory Authority: RCW 50A.05.60 [50A.05.060] and 50A.25.030. WSR 20-01-087, § 192-570-020, filed 12/12/19, effective 1/12/20. Statutory Authority: RCW 50A.04.215. WSR 18-22-080, § 192-570-020, filed 11/2/18, effective 12/3/18.]

WAC 192-570-030 What is the process for an employee to file a complaint alleging that an employer committed unlawful acts? (1) Any employee as defined in RCW 50A.05.010 may file a complaint with the department alleging one or more violations of RCW 50A.40.010. A complaint must be submitted on a form provided by the department, or in another format approved by the department.

(2) An employee may alternatively seek a private right of action under chapter 50A.40 RCW to recover damages described in RCW 50A.40.030. A private right of action is only available to an employee who has:

(a) Not filed a complaint with the department;

(b) Withdrawn a filed complaint under subsection (4) of this section; or

(c) Resolved a complaint under subsection (5) of this section.

(3) All complaints alleging a violation of RCW 50A.40.010, whether filed with the department or through a private right of action, must be filed within three years of the date the violation is alleged to have occurred.

(4) An employee who has filed a complaint with the department may withdraw the complaint by providing written notice to the department within ten days from the date the department acknowledges receipt of the complaint. A withdrawal of a complaint terminates the department's administrative action, including investigation of the complaint.

(5) If a resolution is reached between the employee and the employer during the course of the investigation, a statement of resolution must be signed by the employee and the employer and provided to the department. Resolution between the employee and the employer terminates the department's administrative action related to the complaint.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-570-030, filed 10/2/20, effective 11/2/20.]

WAC 192-570-040 What happens when the department receives a complaint alleging unlawful acts by an employer? (1) Upon receipt of a complaint, the department will investigate allegations of an employer committing unlawful acts as described in RCW 50A.40.010.

(2) The department may request additional information from other parties including, but not limited to, employees, employers, and potential witnesses.

(3) Under chapter 50A.05 RCW, the department may subpoena potential witnesses, compel their attendance for deposition, and require production for examination of any books, papers, correspondence, memoranda, and any other records deemed necessary as evidence in order to make a determination and assess all damages.

(4) If the department finds a violation did not occur, the complaint will be closed and a determination will be sent to all interested parties.

(5) If the department finds one or more violations occurred, the department will determine the monetary amount of all damages the employer owes to the employee as referenced in WAC 192-570-050, and a determination will be sent to all interested parties.

(6) Any aggrieved party may file an appeal of the department's determination under chapter 50A.50 RCW.

(7) The department may consider any information obtained in the investigation under this chapter as cause to initiate audits for employer files and records.

[Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-570-040, filed 10/2/20, effective 11/2/20.]

WAC 192-570-050 How are damages and liquidated damages assessed by the department, awarded, and paid? (1) If the department finds the employer has violated RCW 50A.40.010, the department will assess monetary damages referenced in RCW 50A.40.030 plus any interest accrued on the assessed damages.

(2) If the department finds that the employer has committed a violation of RCW 50A.40.010 that is willful as defined in RCW 50A.40.030(4), additional liquidated damages will be added equal to the sum of the assessed damages.

(3) Damages and liquidated damages must be paid by the employer directly to the employee.

(4) If liquidated damages are assessed, the employer must pay all damages owed directly to the employee within 30 calendar days from the day the determination is issued, unless the employer files an appeal under chapter 50A.50 RCW.

(5) The department is not responsible for collection action against an employer that defaults on the payment of all damages awarded. A collection action may be initiated by the employee against the employer by filing a warrant with the clerk of any county within the state.

(6) If damages are not paid to the employee on the date on which they are due and payable as prescribed by the commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by the employee.

[Statutory Authority: RCW 50A.05.060. WSR 25-03-089, s 192-570-050, filed 1/16/25, effective 2/16/25. Statutory Authority: RCW 50A.05.060 and 2020 c 125. WSR 20-20-074, § 192-570-050, filed 10/2/20, effective 11/2/20.]