

WAC 162-08-288 Parties. (1) **Who are parties.** The parties to the hearing shall be the commission, through its counsel presenting the case in support of the complaint, a complainant or aggrieved person under RCW 49.60.040(15) who has filed a notice of independent appearance under WAC 162-08-261, the respondent or respondents named in the notice of hearing or an amended notice of hearing, and any other person who moves to intervene and is permitted to do so by order of the administrative law judge.

(2) **Adding parties.** Any party may move to join an additional party or parties. The motion must be directed to the administrative law judge. If the motion is granted, the administrative law judge shall cause to be issued an amended notice of hearing showing the addition of the party or parties and making such other provisions as are appropriate for an orderly hearing.

(3) **Substituting parties.** If death, incompetency, transfer of interest, or other occurrence should make the substitution of parties necessary or desirable, the administrative law judge may make the substitution by order. The administrative law judge may act on his or her own motion, or on motion of a party or of the person asking to be substituted for a party.

(4) **Intervention.** A person claiming an interest in the subject matter of the hearing may move to intervene. The motion must be directed to the administrative law judge. The administrative law judge shall grant or deny the motion as a matter of discretion.

(5) **Factors considered.** The administrative law judge in ruling on a motion to add a party shall be guided by whether the presence of the party will be helpful in carrying out the purposes of the law against discrimination (compare WAC 162-08-061). In addition, the administrative law judge shall consider whether adding the party will cause unnecessary delay or will divert the hearing from the objectives of the statute and of the commission's amended complaint. The administrative law judge need not follow court rules or precedents on the joinder of parties.

(6) **Not class actions.** Hearings under RCW 49.60.250 are not class actions, in the technical sense of that term in court practice. The commission, presenting the case in support of a complaint, may ask that a respondent be ordered to pay back pay or to afford other relief to all persons injured by an unfair practice, and the administrative law judge may issue such an order to carry out the purposes of the law against discrimination (WAC 162-08-298(6)). If such an order is made, the right to have the payments made will belong to the commission, not to the injured persons (WAC 162-08-305). The legal rights of persons of the class alleged to have been injured are not at issue in the case, and those persons are not bound by the administrative law judge's decision unless they accept the benefits of it in full satisfaction of their potential claims. Only the commission and the respondent and other persons named as parties are bound by the order of an administrative law judge.

[Statutory Authority: RCW 49.60.120(3) and 49.60.240. WSR 96-13-045, § 162-08-288, filed 6/13/96, effective 7/14/96. Statutory Authority: RCW 49.60.120(3). WSR 89-23-020, § 162-08-288, filed 11/7/89, effective 12/8/89; Order 35, § 162-08-288, filed 9/2/77.]