

**WAC 296-123-010 Definitions.** (1) "Actual damages" means compensation including, but not limited to, wages, salary, or other employment benefit, denied or lost to an employee or applicant, and may include other monetary losses suffered, as a result of a violation.

(2) "Benefits" are perks provided by an employer to an employee in addition to the employee's normal wage or salary. Benefits may be mandated by law or optionally provided by employers. Benefits may include, but are not limited to, health care benefits, retirement benefits, any benefits permitting paid days off (including more generous paid sick leave accruals, family leave, and paid time off or vacation benefits), and any other benefit that must be reported for federal tax purposes, such as fringe benefits.

(3) "Compensation" means discretionary and nondiscretionary wages and benefits provided by an employer to an employee as a result of the employment relationship.

(4) "Conference and conciliation" means an effort to find a voluntary resolution to the violation found as a result of an investigation. If the department finds that damages are owed to the employee or applicant as a result of the violation, the department may mediate, or appoint a third party to act as mediator, between the employee or applicant and the employer to find a mutually agreeable resolution. If the department finds that a violation occurred but the employee or applicant is not owed damages, the department may negotiate directly with the employer to resolve the violation.

(5) "Department" means the department of labor and industries.

(6) "Director" means the director of the department of labor and industries, or the director's designated representative.

(7) "Effort" means the amount of physical or mental exertion needed to perform a job. "Effort" encompasses the requirements of a job as a whole, including any factors of the job that cause or mitigate mental fatigue and stress.

(8) "Employee" means an employee who is employed in the business of the employer whether by way of manual labor or otherwise. For the purposes of this chapter, the term "employee" does not include independent contractors or business partners but does include employees who are exempt under chapter 49.46 RCW.

(9) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs one or more employees, and includes the state, any state institution, state agency, political subdivisions of the state, and any municipal corporation or quasi-municipal corporation.

(10) "Protected class" means a person's age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability, as those terms are defined in RCW 49.60.040.

(11) "Responsibility" means the degree of discretion or accountability involved in performing the essential functions of a job, and includes factors such as the amount of supervision the employee receives, whether the employee supervises others, the degree to which the employee is involved in decision-making such as determining policy, procedure, purchases, investments, or other such activities.

(12) "Retaliation" means any adverse action taken or threatened by an employer against an employee for their exercise of their rights

under chapter 49.58 RCW or this chapter, which may include, but is not limited to:

- (a) Terminating, suspending, demoting, or denying a promotion;
- (b) Reducing or changing the number of work hours for which the employee is scheduled;
- (c) Altering the employee's preexisting work schedule;
- (d) Reducing the employee's rate of pay;
- (e) Threatening to take, or taking action, based upon the immigration status of an employee or an employee's family member; and
- (f) Preventing future job opportunities whether for the employer or elsewhere.

(13) "Skill" means factors such as experience, training, education, and ability required to perform a job. Only skills necessary to perform a particular job are relevant in determining whether employees are similarly employed.

(14) "Working conditions" means the environmental factors and similar circumstances, such as physical surroundings and hazards, encountered by employees while performing a job.

[Statutory Authority: RCW 49.58.090 and 49.58.110. WSR 26-09-116 (Order 25-19), s 296-123-010, filed 4/21/26, effective 5/22/26. Statutory Authority: RCW 49.58.090. WSR 25-11-081, s 296-123-010, filed 5/21/25, effective 7/1/25.]