

NEW SECTION

WAC 230-17-151 Brief adjudicative proceedings—Procedure. (1)

The following procedures apply to the commission's brief adjudicative proceedings for matters identified in WAC 230-17-150, unless the matter is converted to a formal adjudicative proceeding as provided in subsection (2) of this section.

(a) We will set the date and time of the hearing.

(b) Written notice shall be served upon the licensee at least seven days before the date of the hearing. Service is to be made pursuant to WAC 230-17-035.

(c) A brief adjudicative proceeding may be conducted telephonically with the concurrence of the presiding officer and all persons involved in the proceeding.

(d) WAC 230-17-045 controls who can appear in a brief adjudicative proceeding.

(e) The presiding officer must be the director, deputy director, or administrative law judge.

(f) Parties or their representatives may present written documentation or oral testimony at a brief adjudicative proceeding. However, no nonparty witnesses may appear to testify.

(g) The presiding officer may, in her or his discretion, allow oral argument from parties or their representatives during a brief adjudicative proceeding.

(h) The presiding officer will enter an initial order within ten business days of the end of a brief adjudicative proceeding. The initial order shall briefly state the basis and legal authority for the decision.

(i) An initial order will become the final order if no request for review of the initial order is received by us within twenty-one days of service of the initial order.

(2) Any party, including the agency, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that it be converted to a formal adjudicative proceeding.

(a) The objection must be received by the presiding officer at least three days before the scheduled brief adjudicative proceeding.

(b) Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted.

(c) A presiding officer may convert any brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears to him or her that a brief adjudicative proceeding is insufficient to determine the issues pending before the commission.

(d) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(i) Whether witness testimony will aid the presiding or reviewing officer in resolving contested issues of fact;

(ii) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(iii) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(iv) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the commission;

- (v) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and
- (vi) Any other factors that the presiding or reviewing officer deems relevant in reaching a determination.

NEW SECTION

WAC 230-17-152 Brief adjudicative proceedings—Appeal rights.

- (1) Any party to a brief adjudicative proceeding may request review of the initial order by filing a written petition for review to us.
- (2) We must receive your petition for review within twenty-one days after service of the initial order.
- (3) Your petition for review must contain any evidence or written material relevant to the matter that the party wishes the reviewing officer to consider.
- (4) Parties must serve copies of the petition to all other parties or their representatives at the time the petition for review is filed.
- (5) The chair of the commission or the commissioners shall be the reviewing officer(s).
- (6) The reviewing officer(s) consider your appeal and either uphold, modify or overturn the brief adjudicative proceeding order. The decision of the reviewing officer(s), also called an order, is the final agency decision. The order will be provided to you at the last address you furnished to the commission.
- (7) The order on review must be in writing, must include a brief statement of the reasons for the decision, and must be entered within ten business days after the petition for review is considered. The order shall include a description of any further available administrative review or, if none is available, a notice that judicial review may be available.