

**WAC 139-06-040 Investigation and appeal—Procedures for misconduct.** (1) Commission investigations are to determine whether there is preponderance of the evidence to believe the certified officer's certification should be denied, revoked, or suspended.

(2) Investigations may commence on the commission's own initiative under RCW 43.101.105, or upon receiving a complaint per WAC 139-17-010.

(3) The commission may conduct its investigation before, during, or after any internal or criminal investigation by another agency, except in cases where a revocation decision requires a finding that the certified officer's conduct violated policy or law under RCW 43.101.105 (2) or (3).

(4) The commission may investigate any instance where there is a pattern of acts by a certified officer that may have not resulted in formal adjudication of wrongdoing but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105 (2) or (3).

(5) The commission may initiate a certification hearing by preparing a statement of charges regardless of the status or posture of any internal disciplinary action by the employing agency.

(6) Upon a determination by the commission that there is a preponderance of the evidence to believe that a certified officer's certification should be denied, revoked, or suspended, the commission shall prepare a statement of charges and commence proceedings under RCW 43.101.155.

(7) Upon a determination by the commission that there is not preponderance of the evidence to revoke, suspend, or deny the certified officer's certification, a copy of the decision not to proceed, with a brief statement of the reasons for the decision, shall be furnished to the certified officer's employing agency and the complainant, if any.

(8) The certified officer's employing agency, or the complainant, if any, may request a review by the executive director of the commission, or their designee, of a determination that there is not preponderance of the evidence to revoke or suspend the certified officer's certification, by making such request in writing within 14 days of the receipt of written notification of the decision not to proceed.

(9) The commission's final order is subject to the judicial review provisions of the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

(10) The commission shall maintain all records obtained during an investigation in a permanent file in accordance with the retention schedule provided in RCW 43.101.400.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-040, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-040, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-040, filed 12/20/02, effective 1/20/03.]