

**WAC 358-30-060 Dispositive and summary motions.** (1) The personnel appeals board, or a hearings examiner, may decide all, or any part, of an appeal by motion, after notice to all parties, if the documents on file, depositions and affidavits, if any, show there is no genuine issue as to any material fact and the appeal should be decided or dismissed as a matter of law.

(2) Dispositive or summary motions may be made by any party. The motion shall be in writing which sets forth the basis for the motion and shall be filed with the executive secretary of the personnel appeals board. The moving party shall note the motion on the board's motions calendar or schedule it with the hearings examiner and shall serve the motion, any memoranda or affidavits, and the notice of date scheduled for consideration of the motion on all parties at least twenty-one days before the date scheduled. The moving party should make a good faith effort to consult the opposing party as to scheduling the motion prior to noting it on the board's motions calendar. The board or hearings examiner shall allow oral argument on the motion at the request of either party. The party requesting oral argument shall notify the board or hearings examiner and all parties of the request.

(3) The motion may be decided based on written argument and affidavits only unless a party or the board or hearings examiner requests oral argument. Oral argument may be presented by telephone or other electronic media pursuant to WAC 358-30-028.

(4) Any affidavits to be filed in support of a motion shall be served with the motion at least twenty-one days prior to the date scheduled for consideration of the motion. Responses to the motion and any opposing affidavits shall be filed and served at least ten days prior to the date scheduled. Any reply and any counter affidavits by the moving party shall be filed and served at least three days prior to the date scheduled.

(5) When an appeal is dismissed or decided on motion, an order, or recommended order shall be issued as in other cases of appeal to the personnel appeals board.

(6) Deadlines in this rule may be altered as otherwise provided in a prehearing conference statement or order.

[Statutory Authority: RCW 41.64.060 and 34.05.220 [(1)](a). WSR 95-07-074, § 358-30-060, filed 3/15/95, effective 4/15/95. Statutory Authority: Chapter 41.64 RCW. WSR 82-01-053 (Order 81-4), § 358-30-060, filed 12/16/81.]