WAC 390-37-100 Enforcement procedures—Conduct of hearings (adjudicative proceedings). (1) An enforcement hearing (adjudicative proceeding) will be conducted pursuant to the Administrative Procedure Act (chapter 34.05 RCW). Chapter 390-37 WAC further governs these proceedings, as supplemented by chapter 10-08 WAC. To the extent chapters 390-37 and 10-08 WAC differ, chapter 390-37 WAC controls.

(2) An adjudicative proceeding must be heard by the commission, except for brief adjudicative proceedings which may be conducted by a presiding officer pursuant to WAC 390-37-142. The commission may request through the office of administrative hearings the appointment of an administrative law judge to preside over any adjudicatory proceeding.

(3) The commission or the presiding officer have the authority to:

(a) Determine the order of presentation of evidence;

(b) Administer oaths and affirmations;

(c) Rule on procedural matters, objections, and motions;

(d) Rule on offers of proof and receive relevant evidence;

(e) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(f) Interrogate witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(g) Call additional witnesses and request additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by all parties;

(h) Take official notice of facts pursuant to RCW 34.05.452(5);

(i) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(j) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(k) Issue an order of default pursuant to RCW 34.05.440;

(l) Take any other action necessary and authorized by any applicable statute or rule;

(m) Waive any requirement of these rules unless a party shows that it would be prejudiced by such a waiver; and

(n) The commission chair or the chair's designee may conduct the procedural aspects of the adjudicative proceeding under (a) through (m) of this subsection, unless a majority of members present vote to seek a full commission decision on any particular matter.

(4) The commission may decide dispositive motions, and any other matters referred to it by the presiding officer at a prehearing conference.

(5) After an adjudicative proceeding by the commission, the commission may:

(a) Find that the respondent did not violate Title 29B RCW, as alleged, and dismiss the case; or

(b) Find that the respondent violated Title 29B RCW, as alleged, and determine the sanction, if any, to be imposed; or

(c) Find that the respondent is in apparent violation of Title 29B RCW, and that the commission's statutory remedies are inadequate, and enter an order referring the matter to the attorney general or another appropriate law enforcement agency as provided in RCW 29B.20.020 and 29B.60.020.

(6) Upon the conclusion of an adjudicative proceeding or after submission of memos, briefs or proposed findings when requested by the presiding officer, the commission:

(a) Must set forth in writing its findings of fact, conclusions of law and decision on the merits of the case and enter an order within 30 days, unless extended by the presiding officer due to the complexity of the case or other good cause; and

(b) Must serve the parties by electronic communication a copy of the findings of fact, conclusions of law and decision and order.

(7) Once the commission has drafted and approved an order, the executive director is authorized to sign orders on behalf of the commission at the discretion of the commission.

[Statutory Authority: RCW 42.17A.110 and 2024 c 164. WSR 26-01-209, s 390-37-100, filed 12/24/25, effective 1/1/26. Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-37-100, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-100, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 17-03-004, § 390-37-100, filed 1/4/17, effective 2/4/17; WSR 12-03-002, § 390-37-100, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 03-22-065, § 390-37-100, filed 11/4/03, effective 12/5/03; WSR 91-16-072, § 390-37-100, filed 8/2/91, effective 9/2/91; WSR 90-16-083, § 390-37-100, filed 7/31/90, effective 8/31/90. Statutory Authority: RCW 42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-37-100, filed 2/5/86; WSR 85-15-020 (Order 85-03), § 390-37-100, filed 7/9/85; WSR 84-12-017 (Order 84-03), § 390-37-100, filed 5/25/84; Order 81, § 390-37-100, filed 7/22/76.]