

Chapter 192-04 WAC PRACTICE AND PROCEDURE

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

192-04-175	Advisement order. [Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 10-20-082, § 192-04-175, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. WSR 95-18-055, § 192-04-175, filed 8/31/95, effective 10/1/95.] Repealed by WSR 14-04-074, filed 1/30/14, effective 3/2/14. Statutory Authority: RCW 50.12.010 and 50.12.040.
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WAC 192-04-010 Adoption of model rules. The model rules of procedure contained in chapter 10-08 WAC, as they exist now or may be hereafter amended, are, to the extent they are not inconsistent with the rules contained in this chapter, adopted as the rules of procedure before this agency. The rules contained in this chapter will, to the extent of any conflict with the model rules of procedure, be deemed to supersede the conflicting provisions of the model rules of procedure. The model rules of procedure will be included in the departmental publication provided for in RCW 50.12.160.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-010, filed 11/30/89, effective 1/1/90.]

WAC 192-04-020 Definitions. Unless the context in this chapter clearly indicates otherwise, the following terms and phrases shall have these meanings:

(1) "Appeal" means a request for a hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance benefits.

(2) "Petition for hearing" means a request for hearing before and decision by the office of administrative hearings in a matter involving unemployment insurance taxes.

(3) "Petition for review" means a request directed to the commissioner for a review of the proceedings held and decision issued by the office of administrative hearings.

(4) "Advisement order" means an order issued by the commissioner on his or her own motion assuming jurisdiction over a matter heard and/or decided by the office of administrative hearings.

(5) "Commissioner" means the commissioner's review office of the employment security department.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-020, filed 11/30/89, effective 1/1/90.]

WAC 192-04-030 Appeals—Petitions for review—Payments under federal programs. When the applicable federal law, regulations or guidelines for any federal program administered by the employment security department provides for the right of appeal, petition for hearing or petition for review from a determination or decision of the employment security department or the office of administrative hearings, the procedures outlined in Title 50 RCW, Title 34 RCW, and chapter 192-04 WAC shall, to the extent that said procedures are consistent with the federal law, regulations and guidelines, be utilized for the disposition of such appeals or petitions for review.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-030, filed 11/30/89, effective 1/1/90.]

WAC 192-04-040 Interested parties. In all cases adjudicated under Title 50 RCW the employment security department is an interested party.

(1) Other interested parties in benefit appeals are:

(a) The claimant;

(b) Any employer entitled to notice under WAC 192-130-060; and

(c) An interested employer as defined in WAC 192-220-060 in cases involving the recovery of benefits.

(2) Other interested parties in tax appeals are employers whose contributions, experience rating, benefit charges, or rate of contribution are affected by:

(a) An assessment for contributions;

(b) A denial of a claim for refund of contributions, interest, penalties;

(c) A denial of a request for relief of benefit charges made to their account; or

(d) Their determined or redetermined rate of contribution.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 10-20-082, § 192-04-040, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-04-040, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-20-064 (Order 4-89), § 192-04-040, filed 10/4/89, effective 10/9/89.]

WAC 192-04-050 Appeals—Petitions for hearing—Right to notice. Notice of appeal or petition for hearing rights shall be set forth on the face of, or as an attachment to, each of the following:

(1) Redetermination of an initial monetary determination.

(2) Determination of allowance or denial of waiting period credit or benefits.

(3) Redetermination of allowance or denial of waiting period credit or benefits.

(4) An overpayment assessment or a denial of a request for waiver of an overpayment.

(5) Order and notice of assessment of contributions, interest, or penalties.

(6) Denial of a claim for refund of contributions, interest, or penalties.

(7) Denial of a request for relief of benefit charges made to an employer's account.

(8) Denial of a redetermination or adjustment of an employer's determined or redetermined rate of contribution.

(9) Denial of approval or extension of standby status.

(10) Denial of a request for commissioner approved training or training benefits.

(11) Notice to separating employer of liability for all benefits paid on a claim as provided in RCW 50.29.021 (2)(c).

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042. WSR 05-01-076, § 192-04-050, filed 12/9/04, effective 1/9/05. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-050, filed 11/30/89, effective 1/1/90.]

WAC 192-04-060 Appeals—Petitions for hearing—Petitions for review—Time limitation. (1) **Appeals and petitions for hearing.** Any interested party who is aggrieved by any decision of the department set forth in WAC 192-04-050 or for which the department has provided notice of appeal or petition for hearing rights may file an appeal or a petition for hearing by using the department's online services, by mailing it to the address indicated on the determination notice or other appealable document, or by faxing it to the fax number indicated on the determination notice or other appealable document.

The appeal or petition for hearing must be filed within thirty days of the date the decision is delivered or mailed, whichever is the earlier. The appeal or petition for hearing must be filed in accordance with the provisions of RCW 50.32.025.

(2) **Petitions for review.** Any interested party who is aggrieved by a decision of the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, may file a written petition for review, including filing by using the department's online services, in accordance with the provisions of WAC 192-04-170. The petition for review must be filed within thirty days of the date of delivery or mailing of the decision of the office of administrative hearings, whichever is the earlier. The petition for review must be filed in accordance with the provisions of RCW 50.32.025.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-04-060, filed 10/7/16, effective 11/14/16; WSR 14-04-074, § 192-04-060, filed 1/30/14, effective 3/2/14; WSR 10-20-082, § 192-04-060, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-15-069, § 192-04-060, filed

7/19/99, effective 8/19/99. Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. WSR 95-18-055, § 192-04-060, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-060, filed 11/30/89, effective 1/1/90.]

WAC 192-04-063 Aggrieved party. An aggrieved party is:

(1) A claimant or an employer who receives an adverse decision of the department set forth in WAC 192-04-050 or for which the department has provided notice of appeal or petition for review rights; or

(2) The department, a claimant, or an employer who receives an adverse decision of the office of administrative hearings.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 10-20-082, § 192-04-063, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. WSR 95-18-055, § 192-04-063, filed 8/31/95, effective 10/1/95.]

WAC 192-04-070 Mailing addresses—Obligations of parties. Once an appeal or petition for hearing has been filed, any interested party must notify the office of administrative hearings of any change of mailing address.

Once a petition for review has been filed, any interested party must notify the commissioner's review office of any change of mailing address.

Any interested party who fails to comply with this regulation will not be deemed to have good cause for failure to appear at a hearing or for late filing of a petition for review or untimely submission of a reply or petition for reconsideration.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-070, filed 11/30/89, effective 1/1/90.]

WAC 192-04-080 Appeals—Petitions for hearing—Petitions for review—Advisement orders—Time computation. The time within which an appeal, a petition for hearing, a petition for review, or advisement order is to be perfected, under the provisions of the Employment Security Act (Title 50 RCW, as amended) shall be computed by excluding the day of delivery or mailing of the determination, redetermination, denial, order and notice of assessment, or decision and including the last day. If the last day is a Saturday or Sunday or a holiday, as defined in RCW 1.16.050, the appeal, petition for hearing, petition for review or advisement order must be perfected no later than the next business day.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-080, filed 11/30/89, effective 1/1/90.]

WAC 192-04-090 Untimely appeals—Petitions for hearing or petitions for review—Good cause. (1) The following factors shall be considered in determining whether good cause exists under RCW 50.32.075

for the late filing of an appeal, petition for hearing or petition for review:

- (a) The length of the delay,
- (b) The excusability of the delay, and
- (c) Whether acceptance of the late filed appeal, petition for hearing, or petition for review will result in prejudice to other interested parties, including the department.

(2) In determining the excusability for the late filing of an appeal, petition for hearing or petition for review, the office of administrative hearings or the commissioner's review office shall take into account any physical, mental, educational or linguistic limitations of the appealing or petitioning party, including any lack of facility with the English language.

[Statutory Authority: RCW 50.12.010, [50.12.]040 and RCW 34.05.310 et seq. WSR 95-18-055, § 192-04-090, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-090, filed 11/30/89, effective 1/1/90.]

WAC 192-04-100 Appeals—Petitions for hearing or petitions for review—Withdrawal and reinstatement of. (1) Any interested party may withdraw their appeal, petition for hearing, or petition for review at any time prior to a decision thereon, in which case the previous determination, redetermination, denial, order and notice of assessment or decision shall be final in accordance with the provisions of the Employment Security Act. Such withdrawal shall, however, be subject to the approval of the office of administrative hearings in the case of an appeal or petition for hearing, or of the commissioner in the case of a petition for review.

(2) After an order granting withdrawal of an appeal or an order granting withdrawal of a petition for hearing has been issued by the office of administrative hearings, a party may file a motion to reinstate appeal or motion to reinstate petition for hearing. The motion shall be filed with the office of administrative hearings. The motion may be granted for good cause shown.

(3) The following factors shall be considered in determining whether good cause exists under subsection (2) of this section:

(a) The length of time between the request for withdrawal and the motion to reinstate appeal or motion to reinstate petition and the reason for any delay;

(b) Any physical, mental, educational, or linguistic limitations of the moving party, including any lack of facility with the English language;

(c) Any mistake, inadvertence, surprise, excusable neglect, newly discovered information or evidence, or irregularity that led to the request to withdraw the appeal;

(d) Whether granting the motion will result in prejudice to other interested parties, including the department; and

(e) Any other factors relevant to the determination.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.12.042, 50.32.060, 34.05.220, and 50.32.060. WSR 25-04-111, s 192-04-100, filed 2/5/25, effective 3/8/25. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-100, filed 11/30/89, effective 1/1/90.]

WAC 192-04-110 Hearings—Representation—Cross-examination. Any interested party, or his or her legally authorized representative, shall have the right to give testimony and to examine and cross-examine any other interested party and/or witnesses with respect to facts material and relevant to the issues involved.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-110, filed 11/30/89, effective 1/1/90.]

WAC 192-04-120 Hearings—Postponements—Continuances. Any party to a hearing may request a postponement of a hearing at any time prior to the actual convening of the hearing. The granting or denial of the request will be at the discretion of the presiding administrative law judge.

The presiding administrative law judge may in the exercise of sound discretion grant a continuance of a hearing at any time at the request of any interested party or on his or her own motion.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-120, filed 11/30/89, effective 1/1/90.]

WAC 192-04-130 Discovery—Depositions and interrogatories. At the discretion of the presiding administrative law judge he or she may cause to be taken depositions or interrogatories on his or her own motion, or at the request of any interested party.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-130, filed 11/30/89, effective 1/1/90.]

WAC 192-04-140 Consolidated cases. The presiding administrative law judge may hear individual matters on a consolidated record if there is a substantial identity of issues and the rights of no party will be adversely affected thereby. Such procedure should provide for the hearing of additional or unique issues relating to individual cases.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-140, filed 11/30/89, effective 1/1/90.]

WAC 192-04-145 Brief adjudicative proceedings. (1) Adoption of brief adjudicative proceedings. Pursuant to RCW 34.05.410 (1)(a), the department hereby adopts the use of brief adjudicative proceedings for use in appeals.

(a) RCW 34.05.488 and 34.05.491 shall not apply to brief adjudicative proceedings under this rule.

(b) Brief adjudicative proceedings will only be used if:

(i) The appeal involves a claim for benefits;

(ii) The appeal is filed by a claimant;

(iii) No employer is an interested party pursuant to WAC 192-04-040; and

(iv) The presiding administrative law judge, in their sole discretion, determines a brief adjudicating proceeding is warranted.

(2) **Procedure for brief adjudicative proceedings.** The following procedural rules will apply to brief adjudicative proceedings:

(a) An administrative law judge with the office of administrative hearings will conduct the brief adjudicative proceeding.

(b) Not less than seven days before the date of the hearing, the office of administrative hearings shall serve notice on the claimant pursuant to WAC 10-08-040 that a brief adjudicative proceeding will occur. The notice of hearing will contain the following:

(i) Notice that the claimant may submit additional relevant documentary evidence and sworn oral statements, if desired, along with a date by which these submissions must be made and instructions for doing so;

(ii) Instructions for how the department or claimant may request that the brief adjudicative proceeding may be converted to a regular proceeding pursuant to subsection (4) of this section and the date by which such request must be submitted; and

(iii) The date of the brief adjudicative proceeding.

(c) The administrative law judge, in their sole discretion, may send a written request for additional evidence from the claimant or the department. The request will contain instructions for how to submit the additional evidence and the date by which additional evidence must be submitted.

(d) The administrative law judge's review will be limited to the record defined in subsection (3) of this section.

(e) If the claimant fails to provide any additional relevant documentary evidence or sworn oral statements, the administrative law judge will affirm the department's determination unless the evidence provided by the department is sufficient to resolve the matter in the claimant's favor.

(f) The administrative law judge shall issue a written decision consistent with WAC 192-04-150.

(3) **Record for brief adjudicative proceeding.** The record with respect to brief adjudicative proceedings will consist of the following:

(a) The department's determination letter;

(b) The claimant's appeal of the determination letter;

(c) All records relied upon by the department in support of its determination letter;

(d) Any additional records submitted by the department;

(e) Any additional records or sworn oral statements submitted by the claimant; and

(f) Any additional evidence submitted by the parties at the written request of the administrative law judge.

(4) **Conversion of brief adjudicative proceeding to regular proceeding.**

(a) A brief adjudicative proceeding will be converted to a regular proceeding if:

(i) The claimant files a conversion request by the deadline listed in the notice of the brief adjudicative proceeding. Such a request shall be automatically granted by the administrative law judge; or

(ii) The department files a conversion request by the deadline listed in the notice of the brief adjudicative proceeding. Such a request shall be automatically granted by the administrative law judge; or

(iii) The administrative law judge, at any time prior to issuing a written decision, determines the brief adjudicative proceeding shall be converted to a regular proceeding. Reasons the administrative law

judge may convert the brief adjudicative proceeding to a regular proceeding may include, but are not limited to:

(A) The use of the brief adjudicative proceeding procedures violates any provision of law;

(B) The protection of the public interest requires that notice and an opportunity to be heard be given to persons other than the claimant and the department;

(C) A regular proceeding is required to adequately develop the record and decide the issues in the appeal; or

(D) The issues and interests involved otherwise warrant the use of the procedures in a regular proceeding.

(b) When a brief adjudicative proceeding is converted to a regular proceeding, the office of administrative hearings shall issue a new notice of hearing.

(5) **Right to petition for review.** A party aggrieved by a decision issued by an administrative law judge pursuant to a brief adjudicative proceeding shall have the same right to petition for review as contained in WAC 192-04-060. In conducting this review of the brief adjudicative proceeding, prior to rendering a decision, the commissioner shall order the taking of additional evidence by the office of administrative hearings to be made a part of the record in the case.

[Statutory Authority: RCW 50.12.010, 50.12.040, 34.05.410 (1)(a), 34.05.220, 50.32.060, and 50.32.080. WSR 22-23-064, § 192-04-145, filed 11/9/22, effective 12/10/22.]

WAC 192-04-150 Decisions—Contents. Every decision issued by the office of administrative hearings, other than an order approving a withdrawal of appeal, an order approving a withdrawal of a petition for hearing, a consent order, or an interim order, and every decision issued by the commissioner pursuant to RCW 50.32.080, other than an interim order or an order granting or denying a motion for reconsideration or a stay, shall:

(1) Be correctly captioned as to the name of the agency and name of the proceeding;

(2) Designate all parties and representatives participating in the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Contain appropriate numbered findings of fact meeting the requirements in RCW 34.05.461;

(5) Contain appropriate numbered conclusions of law, including citations of statutes and rules relied upon;

(6) Contain an initial or final order disposing of all contested issues;

(7) Be accompanied by or contain a statement of petition for review or petition for judicial review rights.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-150, filed 11/30/89, effective 1/1/90.]

WAC 192-04-160 Decision of commissioner—Incorporation. A decision of the commissioner issued pursuant to RCW 50.32.080 may incorporate by reference any portion of the decision under review. Such in-

corporation shall be deemed to meet the requirements of WAC 192-04-150.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-160, filed 11/30/89, effective 1/1/90.]

WAC 192-04-170 Decision of commissioner—Petition for review—Filing—Reply. (1) The written petition for review must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555, within thirty days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is the earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and be filed at the same time. The commissioner's review office will acknowledge receipt of the petition for review by assigning a review number to the case, entering the review number on the face of the petition for review, and setting forth the acknowledgment date on the petition for review. The commissioner's review office will also send copies of the acknowledged petition for review and attached argument in support thereof to the petitioning party, nonpetitioning party and their representatives of record, if any.

(3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555. The reply must be received by the commissioner's review office within fifteen days of the date of the acknowledged petition for review. An informational copy must be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof and the reply to the petition for review and argument in support thereof must:

(a) Be captioned as such, set forth the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by his or her representative.

(b) Be legible, reproducible and five pages or less.

(5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

(6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation shall not be considered in the disposition of the case absent a showing that failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-04-170, filed 10/7/16, effective 11/14/16; WSR 13-05-033, § 192-04-170, filed 2/12/13, effective 3/15/13; WSR 10-20-082, § 192-04-170, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-04-170, filed 4/5/99, effective 5/6/99. Statutory Authority: RCW 50.12.010,

[50.12.]040 and 34.05.310 et seq. WSR 95-18-055, § 192-04-170, filed 8/31/95, effective 10/1/95. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-170, filed 11/30/89, effective 1/1/90.]

WAC 192-04-180 Decisions—Disposition other than by hearing on the merits—Petition for review. (1) The presiding administrative law judge may dispose of any appeal or petition for hearing through:

- (a) An order approving a withdrawal of appeal;
 - (b) An order approving a withdrawal of a petition for hearing;
 - (c) A consent order; or
 - (d) An order of default.
- (2) There shall be no petition for review rights from:
- (a) An order approving a withdrawal of appeal;
 - (b) An order approving a withdrawal of a petition for hearing; or
 - (c) A consent order.

[Statutory Authority: RCW 50.32.060, 50.12.040, and 34.05.440. WSR 20-12-044, § 192-04-180, filed 5/28/20, effective 6/29/20. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-180, filed 11/30/89, effective 1/1/90.]

WAC 192-04-185 Orders of default—Motion to vacate—Petition for review. (1) Any interested party aggrieved by the entry of an order of default may:

(a) File a motion to vacate that order with the office of administrative hearings pursuant to the methods of filing found in WAC 10-08-110. Motions to vacate must be postmarked or received by the office of administrative hearings within ten days of the date of mailing of the order of default; or

(b) File a petition for review with the commissioner pursuant to the filing requirements in WAC 192-04-170. Once a petition for review is filed, the office of administrative hearings no longer has jurisdiction to vacate its order of default.

(2) The filing of a motion to vacate an order of default suspends the appeal period for filing a timely petition for review until the office of administrative hearings rules on the motion to vacate. If the motion to vacate is denied, the petitioner shall have thirty days from the issuance of denial in which to file a timely petition for review of the order of default.

(3) Under subsection (1)(a) of this section, an order of default will be vacated by the presiding officer only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. If the order of default is vacated, the presiding administrative law judge will conduct a hearing on the merits and issue a decision.

(4) Under subsection (1)(b) of this section, an order of default will be set aside by the commissioner's review office only upon a showing of good cause for failure to appear or to request a postponement prior to the scheduled time for hearing. If that order of default is set aside, the commissioner will remand the matter to the office of administrative hearings for hearing and decision.

[Statutory Authority: RCW 50.32.060, 50.12.040, and 34.05.440. WSR 20-12-044, § 192-04-185, filed 5/28/20, effective 6/29/20.]

WAC 192-04-190 Petition for reconsideration—Filing—Consideration—Disposition—Judicial review. (1) A written petition for reconsideration and argument in support thereof may be filed within ten days of the date of the decision of the commissioner. It must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555. It should also be sent to all other parties of record and their representatives.

(2) No matter will be reconsidered by the commissioner unless it clearly appears from the face of the petition for reconsideration and the argument submitted in support thereof that (a) there is obvious material, clerical error in the decision or (b) the petitioner, through no fault of his or her own, has been denied a reasonable opportunity to present argument or respond to argument pursuant to WAC 192-04-170.

(3) A petition for reconsideration shall be deemed to have been denied if, within twenty days from the date the petition for reconsideration is filed, the commissioner does not either (a) dispose of the petition for reconsideration or (b) mail or deliver to the parties a written notice specifying the date by which he or she will act on the petition for reconsideration. If no action is taken by the date specified in such written notice, the petition will be deemed to have been denied.

(4) A petition for reconsideration does not stay the effectiveness of the decision of the commissioner. The filing of a petition for reconsideration is not a prerequisite for filing a petition for judicial review. An order denying reconsideration or a written notice specifying the date upon which action will be taken on the petition for reconsideration is not subject to judicial review.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 16-21-013, § 192-04-190, filed 10/7/16, effective 11/14/16; WSR 10-20-082, § 192-04-190, filed 9/29/10, effective 10/30/10. Statutory Authority: RCW 50.20.010 and 50.12.040. WSR 99-08-073, § 192-04-190, filed 4/5/99, effective 5/6/99; WSR 89-24-030, § 192-04-190, filed 11/30/89, effective 1/1/90.]

WAC 192-04-200 Declaratory orders. The commissioner will not issue a declaratory order on any matter that may be adjudicated under any statute, regulation or other provision of law. No declaratory order will be issued which is merely an advisory opinion.

[Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 89-24-030, § 192-04-200, filed 11/30/89, effective 1/1/90.]

WAC 192-04-210 Petitions for judicial review—Service on agency. Delivery pursuant to RCW 34.05.542(4) shall be deemed to have been made when a copy of the petition for judicial review has been received by:

- (1) Delivery to the Commissioner's Office at 212 Maple Park Avenue S.E., Olympia, WA;
- (2) Mail at the Commissioner's Review Office, Post Office Box 9555, Olympia, WA 98507-9555; or
- (3) Email at the commissioner's review office at cro@esd.wa.gov.

[Statutory Authority: RCW 50.12.010, 50.12.040, 50.20.010, 50.20.140, 50.29.021 (2)(j), 34.05.220, 34.05.542(4) and 50.32.090. WSR 22-13-008, § 192-04-210, filed 6/2/22, effective 7/3/22. Statutory Authority: RCW 50.12.010 and 50.12.040. WSR 13-05-033, § 192-04-210, filed 2/12/13, effective 3/15/13; WSR 89-24-030, § 192-04-210, filed 11/30/89, effective 1/1/90.]