

WAC 391-25-390 Proceedings before the executive director. (1)

The executive director may proceed upon the record, after submission of briefs or after hearing, as appropriate.

(a) The executive director shall determine whether a question concerning representation exists and issue a direction of election, dismiss the petition, or make other disposition of the matter.

(b) Unless otherwise provided in a direction of election, the cutoff date for eligibility to vote in an election is the date of issuance of the direction of election.

(2) Where the executive director determines that employee eligibility issues exist, the executive director may delegate authority to a hearing officer to decide those issues.

(3) A direction of election and other rulings in the proceedings up to the issuance of a tally are interim orders and may only be appealed to the commission by objections under WAC 391-25-590 after the election.

(4)(a) A party seeking review by the commission of an interlocutory decision of the executive director, the executive director's designee, or a hearing officer must file a motion for discretionary review with the commission and a copy with the person who issued the interlocutory decision within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the executive director, the executive director's designee, or a hearing officer will be accepted by the commission only:

(i) If the executive director, the executive director's designee, or the hearing officer has committed an obvious error that would render further proceedings useless;

(ii) If the executive director, the executive director's designee, or the hearing officer has committed probable error and the interlocutory decision substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the executive director, the executive director's designee, or the hearing officer has so far departed from the accepted and usual course of administrative proceedings as to call for immediate review by the commission.

(c) A motion for discretionary review, and any response, should not exceed 15 pages (double-spaced, 12-point type) excluding appendices.

(d) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the interlocutory decision or the issues pertaining to that decision.

(5) Unless appealed to the commission under WAC 391-25-660, a decision issued under this section is the final order of the agency with the same force and effect as if issued by the commission.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080, 47.64.135, and 49.39.060. WSR 22-23-101, § 391-25-390, filed 11/16/22, effective 1/1/23. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.080. WSR 08-04-058, § 391-25-390, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.56.060, 41.56.070, 41.56.080, 41.59.070, 41.59.080 and 41.59.090. WSR 01-14-009, § 391-25-390, filed 6/22/01, effective 8/1/01. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 41.56.060, 41.56.070, 41.59.070 and 41.59.080. WSR 98-14-112, § 391-25-390, filed 7/1/98, effective 8/1/98; WSR 90-06-072, § 391-25-390, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.58.050,

41.56.090 and 41.59.110. WSR 88-12-054 (Order 88-02), § 391-25-390, filed 5/31/88. Statutory Authority: RCW 34.04.022, 41.58.050, 41.56.090, 41.59.110 and 28B.52.080. WSR 85-19-059 (Resolution No. 85-01), § 391-25-390, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-046 (Order 80-5), § 391-25-390, filed 9/30/80, effective 11/1/80.]