

WAC 391-35-190 Proceedings before the executive director. (1)

The executive director may proceed upon the record, after submission of briefs or after hearing, as appropriate. The executive director shall determine the status of each position, classification, or group of employees at issue and issue an order clarifying the bargaining unit, dismiss the petition, or make other disposition of the matter.

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

(3)(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 under this rule, 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.

(4) Unless appealed to the commission under WAC 391-35-210, 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, § 391-35-190, 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, 41.80.070. WSR 08-04-058, § 391-35-190, 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 and 41.59.080. WSR 01-14-009, § 391-35-190, filed 6/22/01, effective 8/1/01; WSR 98-14-112, § 391-35-190, filed 7/1/98, effective 8/1/98; WSR 90-06-073, § 391-35-190, filed 3/7/90, effective 4/7/90. 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), § 391-35-190, filed 9/16/85. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-047 (Order 80-6), § 391-35-190, filed 9/30/80, effective 11/1/80.]