

WAC 230-17-151 Brief adjudicative proceedings—Procedure. (1)

The following procedures apply to the commission's brief adjudicative proceedings for matters identified in WAC 230-17-150, unless the matter is converted to a formal adjudicative proceeding as provided in subsection (2) of this section.

(a) We will set the date and time of the hearing.

(b) Written notice shall be served upon the licensee at least seven days before the date of the hearing. Service is to be made pursuant to WAC 230-17-035.

(c) A brief adjudicative proceeding may be conducted telephonically with the concurrence of the presiding officer and all persons involved in the proceeding.

(d) WAC 230-17-045 controls who can appear in a brief adjudicative proceeding.

(e) The presiding officer must be the director, deputy director, or administrative law judge.

(f) Parties or their representatives may present written documentation or oral testimony at a brief adjudicative proceeding. However, no nonparty witnesses may appear to testify.

(g) The presiding officer may, in her or his discretion, allow oral argument from parties or their representatives during a brief adjudicative proceeding.

(h) The presiding officer will enter an initial order within ten business days of the end of a brief adjudicative proceeding. The initial order shall briefly state the basis and legal authority for the decision.

(i) An initial order will become the final order if no request for review of the initial order is received by us within twenty-one days of service of the initial order.

(2) Any party, including the agency, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that it be converted to a formal adjudicative proceeding.

(a) The objection must be received by the presiding officer at least three days before the scheduled brief adjudicative proceeding.

(b) Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted.

(c) A presiding officer may convert any brief adjudicative proceeding to a formal adjudicative proceeding whenever it appears to him or her that a brief adjudicative proceeding is insufficient to determine the issues pending before the commission.

(d) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(i) Whether witness testimony will aid the presiding or reviewing officer in resolving contested issues of fact;

(ii) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(iii) Whether a brief adjudicative proceeding will establish an adequate record for further agency or judicial review;

(iv) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the commission;

(v) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(vi) Any other factors that the presiding or reviewing officer deems relevant in reaching a determination.

[Statutory Authority: RCW 9.46.070. WSR 18-05-029, § 230-17-151, filed 2/9/18, effective 7/1/18.]