

WAC 296-46B-995 Electrical board—Appeal rights and hearings.

General.

(1) Electrical board.

(a) Except as provided in chapters 19.28 and 42.30 RCW, Open Public Meetings Act, and this chapter, all proceedings will be conducted according to chapter 34.05 RCW, Administrative Procedure Act and chapter 10-08 WAC, Model rules of procedure.

(b) See RCW 19.28.311 for the composition of the electrical board.

(c) The board adopts the current edition of the "*Roberts' Rules of Order, Newly Revised.*"

(d) The board holds regular meetings on the last Thursday of January, April, July, and October of each year per RCW 19.28.311. Board meetings may be scheduled in a variety of geographic locations in Washington.

(e) All hearings before the board will be held on regularly scheduled meeting dates unless the board determines that an alternate date is necessary.

(f) The chairperson or a majority of the members of the board may call special meetings as provided in RCW 42.30.080.

(g) Each board member will be notified of the agenda, date, time, and place of each regular and special meeting.

(h) The board may elect to have board meetings recorded or transcribed by a court reporter.

(i) A majority of the board constitutes a quorum for purposes of rendering any decision.

(j) Board members may attend meetings in person, via electronic means, or by telephone.

(k) All filings and documents for any matter before the board must be submitted to the chief electrical inspector, as secretary to the board as follows:

By mail: Department of Labor and Industries, P.O. Box 44460, Olympia, WA 98504-4460.

By personal delivery: Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501.

Documents may be submitted by ordinary mail, certified or registered mail, personal delivery, or in an electronic manner acceptable to the department.

(1) Except for original appeal documents and notices of appeal from decisions of either the office of administrative hearings or a city or town, any documents a party wants the board to consider at the hearing must be filed with the chief electrical inspector, as secretary to the board, by the dates specified in the notice of hearing letter. Documents submitted after the deadlines may be excluded at the discretion of the board chair as presiding officer in accordance with WAC 10-08-140 (2) (b).

Appeals

(2) General appeal requirements.

(a) A party may appeal the following matters pursuant to chapter 19.28 RCW to the board: Penalties issued by the department, proposed decisions by the office of administrative hearings, suspension, revocation, or nonrenewals, disputes relating to department interpretation per RCW 19.28.111, 19.28.480, or 19.28.531, appeals of a continuing or basic trainee class or instructor for denials or revocations per WAC 296-46B-970, appeals pertaining to engineer approval or electrical

testing laboratory recognition and accreditation, and penalty decisions issued through an appellate process of a city or town.

(b) The appeal must be filed within 20 days after service of the decision and must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board. The request for an appeal must be accompanied with a certified check payable to the department. The appeal fee for penalties must be in the sum of 200 dollars or 10 percent of the penalty amount, whichever is less, but in no event less than 100 dollars. A separate appeal fee is required for each violation type with a maximum of 1,000 dollars for all violation types. The appeal fee for all other appeals is 200 dollars unless specified otherwise.

(c) The issues on appeal must be made as precise as possible, in order that the board may proceed promptly to conduct the hearing on relevant and material matter only. Appeals must identify the contentions of the appellant, and if applicable, must specify to which conclusions of law and findings of fact the party takes exception.

(d) The parties to the appeal will be notified of the date, time, and location of the appeal hearing by letter from the chief electrical inspector, as secretary to the board. The notice letter may also include deadlines for filing memorandums of authorities, prehearing conference or other matters necessary for the smooth adjudication of the appeal. Failure to comply with the deadlines outlined in the notice of hearing letter may result in exclusion of the documents. If a party is unable to attend the scheduled hearing due to the geographic location of the meeting, they must immediately notify the chief electrical inspector, as secretary to the board. The appeal may also be rescheduled for good cause shown.

(e) Requests to reschedule a hearing date must be in writing and made at least 30 days prior to the scheduled meeting at which the appeal is to be heard. The chairperson to the board, as the presiding officer, may grant or deny the request based on the needs of the parties.

(f) If either party intends to file a dispositive motion, they must notify the chief electrical inspector, as secretary to the board, no later than 45 days prior to the scheduled hearing. The secretary will consult with the presiding officer to determine a briefing schedule so that the motion can be ruled upon at least 14 days prior to the meeting at which the appeal is scheduled to be heard.

(g) Appeals received at least 60 days before the next regularly scheduled board meeting will be heard at that meeting. When an appeal is received less than 60 days prior to the next regularly scheduled board meeting, the appeal will be scheduled for the following regularly scheduled board meeting.

(h) The board may elect to have the assistance of an administrative law judge in any proceeding.

(3) Appeals of penalties issued by the department.

(a) Appeals will be assigned to the office of administrative hearings who will conduct the hearing pursuant to chapter 34.05 RCW and issue a proposed decision and order.

(b) In all appeals of penalties issued by the department, the department has the burden of proof by a preponderance of the evidence.

(4) Appeals of proposed decisions issued by the office of administrative hearings.

(a) In all appeals of decision issued by the office of administrative hearings, the party aggrieved by the decision has the burden of proof by a preponderance of the evidence.

(b) All appeals of decisions issued by the office of administrative hearings will be based on the record of the hearing and conducted pursuant to chapter 34.05 RCW.

(c) If neither party timely appeals a proposed decision issued by the office of administrative hearings, the proposed decision and order shall become the final order of the board.

(5) Appeals of suspension, revocation, or nonrenewal. An appeal of the suspension or revocation of a license or certificate of competency under RCW 19.28.241 and 19.28.341 or of nonrenewal of a license or certificate of competency under this chapter will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(6) Appeals of decisions on installation.

(a) A party may seek board review for disputes relating to the interpretation and application of electrical/telecommunications installation or maintenance standards under RCW 19.28.111, 19.28.480, and 19.28.531. The request for review must be filed with the office of the chief electrical inspector, as secretary to the board, within 20 days after the department issues its written interpretation.

(b) Appeals according to this section must specify why the department's interpretation or application of the installation or maintenance standards is in error.

(7) Appeals of a continuing or basic trainee class, course sponsor, or instructor for denials, suspensions, or revocations.

(a) A party may request a review of a decision of denial or modification of an application for a class or instructor issued by the department under WAC 296-46B-970 (3)(e)(iv). The party must submit a written request for review to the chief electrical inspector, as secretary to the board, within 20 days of notification of the denial or modification. The request must include the review fee specified in WAC 296-46B-970 (3)(e)(iv). The review fee is nonrefundable.

(b) A party may appeal a suspension or revocation of a course sponsor or instructor by the department under WAC 296-46B-970 (8)(a). The party must submit a written request for review to the chief electrical inspector, as secretary to the board, within 20 days of notification of the suspension or revocation.

(8) Appeals pertaining to engineer approval or electrical testing laboratory recognition and accreditation.

A party may appeal a decision issued by the department pursuant to WAC 296-46B-997 or 296-46B-999. The appeal will be heard by the board in accordance with chapter 34.05 RCW and not assigned to the office of administrative hearings. The board will conduct the hearing and may elect to have the assistance of an administrative law judge in the proceeding.

(9) Appeals of penalty decisions issued through an appellate process of a city or town.

(a) A party may appeal a decision pursuant to RCW 19.28.010(4) to the board. The appeal must be filed within 20 days after service of the decision issued by a city or town and must be made by filing a written notice of appeal with the chief electrical inspector, as secretary to the board.

(b) All appeals of decisions issued by a city or town will be based on the record of the hearing at the city or town and conducted pursuant to chapter 34.05 RCW.

(c) The appeal procedures will be the same as those for appeals of proposed decisions issued by the office of administrative hearings.

(d) The city or town will reimburse the department for all costs of an appeal.

(10) Judicial review of final decisions of the board.

(a) A party may seek judicial review of a final order of the board within 30 days after service of the decision. Appeals of final decisions and orders must be made in accordance with chapter 34.05 RCW.

(b) A party may seek judicial review within thirty days of department decisions not specified above in accordance with RCW 34.05.570(4).

Appearance and practice before board.

(11) No party may appear as a representative in proceedings other than the following:

(a) Attorneys at law qualified to practice before the supreme court of the state of Washington;

(b) Attorneys at law qualified to practice before the highest court of record of another state, if the attorneys at law of the state of Washington are permitted to appear as representatives before administrative agencies of the other state, and if not otherwise prohibited by Washington law; or

(c) An owner, officer, partner, or full-time employee of a firm, association, organization, partnership, corporation, or other entity who appears for the firm, association, organization, partnership, corporation or other entity.

(12) All persons appearing in proceedings as a representative must conform to the standards of ethical conduct required of attorneys before the courts of Washington. If a person does not conform to these standards, the board may decline to permit the person to appear as a representative in any proceeding before the board.

[Statutory Authority: Chapter 19.28 RCW, RCW 19.28.031, and 19.28.251. WSR 22-06-076, § 296-46B-995, filed 3/1/22, effective 4/1/22; WSR 19-15-117, § 296-46B-995, filed 7/23/19, effective 8/23/19. Statutory Authority: Chapter 19.28 RCW, RCW 19.28.010 and 19.28.031. WSR 17-12-021, § 296-46B-995, filed 5/30/17, effective 7/1/17. Statutory Authority: Chapter 19.28 RCW. WSR 13-03-128, § 296-46B-995, filed 1/22/13, effective 3/1/13. Statutory Authority: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.281, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551. WSR 09-20-032, § 296-46B-995, filed 9/29/09, effective 10/31/09; WSR 08-24-048, § 296-46B-995, filed 11/25/08, effective 12/31/08; WSR 08-08-084, § 296-46B-995, filed 4/1/08, effective 4/1/08; WSR 06-24-041, § 296-46B-995, filed 11/30/06, effective 12/31/06; WSR 06-05-028, § 296-46B-995, filed 2/7/06, effective 5/1/06. Statutory Authority: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.271, 19.28.311, 19.28.321, 19.28.400, 19.28.420, 19.28.490, 19.28.551, 2003 c 399, 2003 c 211, 2003 c 78, and 2003 c 242. WSR 04-12-049, § 296-46B-995, filed 5/28/04, effective 6/30/04. Statutory Authority: RCW 19.28.006, 19.28.010, 19.28.031, 19.28.041, 19.28.061, 19.28.101, 19.28.131, 19.28.161, 19.28.171, 19.28.191, 19.28.201, 19.28.211, 19.28.241, 19.28.251, 19.28.271, 19.28.311, 19.28.321, 19.28.400,

19.28.420, 19.28.490, 19.28.551, 2002 c 249, chapters 34.05 and 19.28
RCW. WSR 03-09-111, § 296-46B-995, filed 4/22/03, effective 5/23/03.]