



# RULE-MAKING ORDER

**2-103 (June 2004)**  
(Implements RCW 34.05.360)

**Agency:** Washington State Criminal Justice Training Commission

**Permanent Rule**  
 **Emergency Rule**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.  
 Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

Immediately upon filing.  
 Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:** 139-03 WAC Procedures. To improve effectiveness, clarity, and intent in order to better serve clients, stakeholders, and citizens.

**Citation of existing rules affected by this order:**

Repealed: 3  
Amended: 2  
Suspended:

**Statutory authority for adoption:** RCW 43.101.080

**Other authority:**

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 05-03-024 on 01/07/2005 (date).  
Describe any changes other than editing from proposed to adopted version: N/A

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** March 9, 2005

**NAME (TYPE OR PRINT)**  
Michael D. Parsons

**SIGNATURE**

**TITLE**  
Executive Director

**CODE REVISER USE ONLY**

CODE REVISER'S OFFICE  
STATE OF WASHINGTON  
FILED

MAR 11 2005

936 (AM)

TIME \_\_\_\_\_ PM

WSR 05-07-019

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Federal rules or standards:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Recently enacted state statutes:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

**The number of sections adopted at the request of a nongovernmental entity:**

	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
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**The number of sections adopted in the agency's own initiative:**

	New	<u>2</u>	Amended	<u>2</u>	Repealed	<u>3</u>
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>2</u>	Amended	<u>2</u>	Repealed	<u>3</u>
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Pilot rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>
<b>Other alternative rule making:</b>	New	<u>0</u>	Amended	<u>0</u>	Repealed	<u>0</u>

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

**WAC 139-03-010 Adoption of model rules of procedure.** (~~In those contested cases, declaratory proceedings, and requests for rule making in which the commission has authority to conduct hearings,~~) Practice and procedure before the commission shall be in accordance with the model rules of procedure adopted by the chief administrative law judge pursuant to RCW 34.05.250, as now or hereafter amended. The model rules hereby adopted are found in chapter 10-08 WAC. Other procedural rules adopted in this title are supplementary to the model rules of procedure. In the case of a conflict between the model rules of procedure and the procedural rules adopted in this title, the procedural rules adopted in this title shall govern.

Peace officer certification proceedings before the commission are governed by chapter 139-06 WAC.

AMENDATORY SECTION (Amending WSR 00-17-017, filed 8/4/00, effective 9/4/00)

**WAC 139-03-020 (~~(Review and appeal of action.)~~) Request for adjudicative proceedings.** (1) (~~Except as otherwise provided in this section or in WAC 139-03-030, a person aggrieved by a commission "action" as defined under the Administrative Procedure Act may appeal that action by filing a notice of appeal to the commission on an appeal form provided by the commission. Notice of appeal forms are available from the commission at the following address: 621 Woodland Square Loop, P.O. Box 40905, Olympia, WA 98504. This section shall not apply to a request for a variance or exemption pursuant to WAC 139-03-030.~~

(2) ~~Unless otherwise provided in this title, student dismissal for academic or disciplinary reasons may be reviewed at the request of such individual, or the head of such individual's employing agency, and shall be considered in accordance with the process hereinafter provided.~~

(3) ~~An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable.)~~ All applications requesting that the commission conduct an adjudicative proceeding shall be made on a form provided by the commission for that purpose. The application must specify the issue to be brought before the commission, including:

(a) The action for which review is requested, identified by date and description of action;

(b) The direct and adverse effects of such action;

(c) The corrective or remedial action or other relief sought;

(d) The name and mailing address of the requesting party (~~any witness to be called by the requesting party, and any person who will personally appear in support of the requesting party, including legal counsel~~); and

(e) A statement that the person signing the request for review has read it and that to the best of (~~his or her~~) their knowledge or information and belief the contents thereof are true.

(2) Applications for adjudicative proceedings shall be made within thirty calendar days of:

(a) Service upon the applicant of the proposed commission action giving rise to the application; or

(b) Notice to the applicant from any source of action by the commission or commission staff which the applicant believes will adversely affect the applicant.

(3) Failure of an applicant to file an application for an adjudicative proceeding within the time limits set forth in subsection (2) of this section, constitutes a default and results in the loss of the applicant's right to an adjudicative proceeding. The commission may proceed to resolve the matter pursuant to RCW 34.05.440(1).

(4) (~~A request~~) An application for (~~review~~) adjudicative proceeding must be (~~mailed to or~~) served personally (~~served~~) or delivered by certified mail upon the director of the commission (~~within thirty days of the date of written communication of commission staff action. "Mailing" for purposes of this regulation means posting in the United States mail, properly addressed, postage prepaid~~).

(5) (~~A requesting party may notify the director of the commission within seven days of filing the request for a hearing that the requesting party chooses to first meet with the executive director and ask him or her to informally review the staff action. The executive director will conduct such informal review within thirty days of such request for informal review or within such additional period as is agreed to between the requesting party and the executive director. If the executive director then affirms staff action, or if the requesting party elects to forgo this informal review step, the matter will proceed to a formal hearing by an administrative law judge from the state office of administrative hearings.~~) The commission will process applications for adjudicative proceedings in accordance with RCW 34.05.416 and 34.05.419.

(6) If the commission decides to proceed with an adjudicative proceeding, the director will designate a presiding officer, which may be an administrative law judge from the state office of administrative hearings. The (~~administrative law judge~~) presiding officer will:

(~~a~~) Schedule and conduct an adjudicative proceeding under chapter 34.05 RCW; and

(~~b~~) Issue an initial decision of the commission in the

matter.

~~The commission staff or the requesting party may then pursue review by the commission subject to the time limits and any other jurisdictional requirements of chapter 34.05 RCW and of this section.~~

~~(6) A petition for review of the initial decision must be filed with the commission within thirty days of mailing of the initial decision to the parties. Extensions of the time for filing petitions for review may be granted for good cause shown in the discretion of the chairperson of the commission on timely written request of a party. The petition for review shall set forth in detail the grounds for review, and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. At the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted, the commission shall consider the whole record, or such portions of it as are cited by the parties. The commission shall afford the parties an opportunity to present written argument, and may, as a matter of discretion, allow oral argument. Thereafter, a final decision shall be entered within thirty days of the meeting, either finally disposing of the action or remanding the matter for further proceedings before the initial reviewer.)~~ (7) Upon receiving a request for adjudicative proceeding, the commission may at the request of the applicant, or on its own initiative, schedule an informal settlement conference that shall be without prejudice to the rights of the parties.

(8) This section shall not apply to a request for a variance or exemption pursuant to WAC 139-03-030.

NEW SECTION

**WAC 139-03-045 Prehearing conferences.** The presiding officer shall hold one or more prehearing conferences in each case, which may be held telephonically and shall be attended by the parties or their attorneys. The parties shall be prepared to discuss the timing and filing of any motions, and witness and exhibit lists, as well as the need for discovery, in addition to those matters identified in WAC 10-08-130(1). A prehearing order shall be issued at the conclusion of the conference.

NEW SECTION

**WAC 139-03-075 Review of initial orders.** The initial order will become final unless, within thirty days of mailing of the initial order to the parties, the commission determines that the initial order should be reviewed or a party to the proceedings files a petition for review of the initial order. A petition for review shall set forth in detail the grounds for review and the party filing the petition shall be deemed to have waived all objections or claims of irregularities not specifically set forth therein. The initial order will be considered by the commission at the next succeeding regularly scheduled meeting of the commission at which review can practicably be conducted. The commission shall thereafter enter a final order.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 139-03-040	Method of recording.
WAC 139-03-050	Discovery.
WAC 139-03-060	Procedure for closing parts of hearings.