

FORM OF ORDER AND TRANSMITTAL BY BOARD, COMMISSION, OR COUNCIL

State of Washington

WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION

(name of governing body)

(agency name, if applicable)

Resolution No. _____

Administrative Order No. 2B

(1) Be it resolved by the _____
acting at _____
(place)

that it does adopt the annexed rules relating to:

AMEND: WAC 139-08-600

NEW SECTION: WAC 139-08-601

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. _____
filed with the code reviser on _____. These rules shall take effect:
 thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
 at a later date, such date being _____

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

We, Washington State Criminal Justice Training Commission, find that
an emergency exists and that this order is necessary for the preservation of the public health, safety, or general
welfare and that observance of the requirements of notice and opportunity to present views on the proposed action
would be contrary to public interest. A statement of the facts constituting the emergency is:
Reassignment of functions previously carried out by boards on training
standards & education which are sunsetted effective June 30, 1986.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026¹ that "every agency shall incorporate the most specific, but
in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b),
or (c) as appropriate:

- (a) This rule is promulgated pursuant to RCW _____
and is intended to administratively implement that statute.
- (b) This rule is promulgated pursuant to RCW _____
which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

(c) This rule is promulgated under the general rule-making authority of the
Washington State Criminal Justice Training Commission

as authorized in RCW RCW 43.101.080 (2) (agency)

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public
Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW), and the State Register
Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this governing body, is herewith transmitted to
the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED May 29, 1986

JUN 23 1986

By James C. Scott
James C. Scott
Executive Director
Title

CODE REVISER'S OFFICE
WSR 86-14-014

STATEMENT OF RULE PURPOSE AND IMPLEMENTATION

RULE: WAC 139-08 PRACTICE AND PROCEDURE

ACTION: AMEND SECTION: 600

ADD NEW SECTION: 601

GENERAL PURPOSE OF RULE:

The Training Commission's boards on training standards and education will be terminated on June 30, 1986, pursuant to the provisions of this state's sunset law.

The proposed amended section and new section of WAC 139-08 describe the process and assign the responsibility for certain review and appellate functions heretofore carried out by the boards on training standards and education.

DESCRIPTION, SUMMARY, AND STATUTORY AUTHORITY FOR RULE:

The statutory authority for amendment of an existing section and addition of a new section is provided by RCW 43.101.080(2).

The proposed amended section designates the executive director as the reviewing authority in any instance wherein a staff action is challenged or contested and designates the Training Commission as the appellate authority for the executive director's determinations in such instances.


The proposed new section designates the Training Commission as the appropriate action body in any instance wherein a variance or exemption is requested under the law or the Commission's regulations.

RESPONSIBLE AGENCY PERSONNEL:

The following personnel of the Washington State Criminal Justice Training Commission have responsibility for drafting, implementing and enforcing this rule:

James C. Scott, Executive Director
Washington State Criminal Justice
Training Commission
Mail Stop PW-11
Olympia, WA 98504
Ph. (206) 459-6342
SCAN 858-6342

Garry E. Wegner, Assistant Director
Same address and phone as above.


James C. Scott, Executive Director


Date

AMENDATORY SECTION (Amending Order 2-A, filed 3/27/85)

WAC 139-08-600 APPEAL. (1) Any action which directly and adversely (~~effects~~) affects an individual's interest under this title or chapter 43.101 RCW 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. (~~If such action was taken by a commission employee or representative, the review shall be considered by the board on training standards and education having primary responsibility in the matter as determined by the executive director of the commission. If such responsibility cannot be determined, or if the action for which review is requested was initiated by, or originated with, any board, the review shall be made by the commission only.~~) This section shall not apply to a request for a variance or exemption pursuant to WAC 139-08-601.

(2) An individual requesting review shall submit a request in writing to the executive director and shall therein specify and include, where applicable:

(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 relief sought;

~~((d) Whether review is to be effected in executive or public session, provided that, approval and/or conduct of any executive session shall be subject to applicable provisions of this state's open public meetings act (chapter 43.30 RCW);)~~

~~((e))~~ (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;

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

~~((g))~~ (f) The signature by the requesting party and/or the party's authorized representative; and

~~((h))~~ (g) A copy of any document or other written material which will be offered by the requesting party.

(3) Upon receipt of a request for review which satisfies the requirements of subsection (2) of this section, the executive director shall (~~schedule the review for full consideration at the next meeting of the responsible board or the commission, as provided in subsection (1) of this section. If the executive director determines that exigent and attendant circumstances exist, such director may, in his/her discretion, schedule a special meeting of a board or, where applicable, of the commission, for the sole purpose of effecting review.~~) conduct the review within 30 days.

(4) (~~Whenever sitting as a reviewing body, a board or the commission~~) In conducting the review, the executive director may consider any information or testimony determined by its chairperson to be relevant to full consideration of the matter for which review is requested. At least five days prior to the review proceeding, commission staff shall provide to the individual requesting review ((7)) a complete listing of those individuals who are expected to provide testimony ((7)) and a copy of any document or other written material which will be offered ((7-provided-that)) . If a request is made by commission staff, the individual

requesting review shall, at least five days prior to the review proceeding, provide to the commission a complete listing of those individuals who are expected to provide testimony and a copy of any document or any other material which will be offered. At the time of the proceeding, additional witnesses and written materials may be offered by staff or the requesting party, but only if there is a showing of good cause for the failure to provide prior notice of such additional evidence and witnesses. Each review proceeding(~~(7~~ whether conducted in executive or public session~~)~~) shall be recorded electronically. Thereafter, such recording shall be transcribed in writing if requested by ~~((a))~~ the appealing party or if directed by the commission(~~(7-board))~~) or staff.

(5) After full consideration of the matter, the ~~((reviewing-body-shall-affirm, rescind, or modify the action for which review is requested,--In any instance wherein a board sits as the reviewing body, appeal of such determination may be taken to the training commission at its next meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency.))~~ executive director shall affirm, rescind, or modify the action for which review is requested and shall give written notice of his or her decision to the individual requesting review. Such decision of the executive director shall become final unless a written appeal is received by the commission within thirty days of the receipt of such notice. Appeal of such determination may be taken to the commission at its next scheduled meeting following receipt by the executive director of a written appeal from the involved individual or the head of such individual's employing agency, unless there is insufficient time to permit administration of the appeal, in which case the appeal will be considered at the next succeeding scheduled meeting of the commission. In considering such appeal, the commission shall not be bound by any previous action or determination and may take any action it deems necessary and appropriate to the matter. The commission may consider only the record of the matter consisting of the transcript of the review proceeding and any written material(~~(s))~~) considered by the ~~((reviewing-board))~~ executive director, as well as any information requested or deemed relevant by the commission chairperson. A complete copy of such record shall be provided to the appellant at least five days prior to ~~((its consideration by))~~ the appeal proceeding before the commission. Additional written materials may be submitted at the time of the appeal proceeding by staff or the requesting party if there is a showing of good cause for the failure to provide prior notice of such additional written evidence. Oral arguments by the appellant or the appellant's representative shall be allowed, subject to time limitations set by the chairperson of the commission.

NEW SECTION

WAC 139-08-601 REQUEST FOR EXEMPTION OR VARIANCE

(1) Requests for exemption or variance from the commission's regulations may be pursued only under this section.

(2) A request for exemption or variance may be made only by the head of a law enforcement agency on behalf of an employee or employees directly affected by the regulation. Where a request for an exemption or variance is on behalf of a chief of police, such request shall be made by the appointing authority. Requests for exemption or variance shall be for mitigation only and shall not raise questions of law or of fact. Such requests shall be submitted in writing to the director of the commission and shall include, where applicable:

(a) The particular regulation from which exemption or variance is sought;

(b) The nature of the exemption or variance which is sought;

(c) The mitigating factors favoring exemption or variance in the particular case;

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

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

(3) Upon receipt of a request for exemption or variance which satisfies the requirements of subsection (2) of this section, the executive director shall schedule the request for full consideration at the next commission meeting. If it is determined by the chairperson of the commission that circumstances justify expedited review, the chairperson may schedule a special meeting for the sole purpose of effecting review. After full consideration of the matter, the commission shall deny the request, grant the request, or provide alternative mitigating relief.