

WAC 390-37-060 Case initiation and resolution procedures—Alternative responses to noncompliance—Technical corrections—Investigation of complaints—Initiation of adjudicative proceeding. (1) Upon receipt or initiation of a complaint, the PDC staff will conduct an initial review pursuant to WAC 390-37-005.

(a) If the executive director determines that any complaint is obviously unfounded or frivolous, or outside of the PDC's jurisdiction, the executive director will inform the complainant and, as appropriate, the respondent why no further action is warranted.

(b) The executive director may resolve a matter as a technical correction pursuant to RCW 42.17A.755. PDC staff will notify the respondent of the need to make a correction and the deadline by which that correction must be made. The deadline will be no less than two days and no more than fourteen days from the date of the notification. The failure to make the requested correction may result in the initiation of an investigation or other enforcement action.

(c) The executive director may resolve a matter as a remediable violation pursuant to RCW 42.17A.755.

(d) The executive director may resolve any complaint that alleges minor violations of chapter 42.17A by issuing a formal written warning. If the resolution is conditioned upon the respondent reaching or maintaining compliance, specific expectations and any deadlines will be clearly explained in the written warning. A respondent's failure to meet conditions may result in a complaint being reopened.

(e) The executive director may use the complaint publication process set out in WAC 390-32-030 to resolve any complaint that alleges minor or remediable violations or warrants a technical correction under chapter 42.17A RCW.

(f) The executive director may enter into a statement of understanding, in accordance with WAC 390-37-142.

(g) The executive director may propose a stipulation to the commission before or after conducting an investigation.

(h) The executive director may initiate an investigation whenever an initial review of a complaint indicates that a material violation may have occurred.

(i) The executive director may, with the concurrence of the commission chair or vice chair, refer a complaint to the attorney general, in accordance with WAC 390-37-042.

(j) The executive director must report at each regular commission meeting a summary covering the period since the previous commission meeting of all complaints initiated or received; how they were categorized; the nature of the allegations; conformance to required timelines; and actions taken and resolutions achieved pursuant to the alternatives provided for under chapter 42.17A RCW, such as dismissals, requests for technical correction, warning letters, complaint publication, statements of understanding, initiations of investigations, status reviews, stipulations, referrals to the attorney general's office, brief adjudicative proceedings, or commission hearings.

(2) If the executive director determines an investigation will require the expenditure of substantial resources, the executive director may request review and concurrence by the commission before proceeding.

(3) If the executive director determines an investigation is warranted, an initial hearing (also referred to as a "case status review") will be held pursuant to WAC 390-37-071 within ninety days of the complaint being initiated or received.

(4) Following the initial hearing (case status review), and further investigation if needed, the executive director may initiate an adjudicative proceeding before the commission whenever the facts support that a material violation has occurred and the matter is not appropriate for a dismissal or an alternative resolution.

(5) The respondent and complainant must be notified of the date of the adjudicative proceeding or a report on an enforcement matter resulting from a complaint no later than ten calendar days before that date. The notice must contain the information required by RCW 34.05.434, the staff investigative report, and any charges to be adjudicated. The notice, whenever possible, will be delivered electronically.

[Statutory Authority: RCW 42.17A.110(1), 2019 c 428, and 2019 c 261. WSR 20-02-062, § 390-37-060, filed 12/24/19, effective 1/24/20. Statutory Authority: RCW 42.17A.110(1) and 2018 c 304. WSR 18-24-074, § 390-37-060, filed 11/30/18, effective 12/31/18. Statutory Authority: RCW 42.17A.110. WSR 17-03-004, § 390-37-060, filed 1/4/17, effective 2/4/17. Statutory Authority: RCW 42.17A.110(1). WSR 16-01-015, § 390-37-060, filed 12/4/15, effective 1/4/16. Statutory Authority: RCW 42.56.100, 42.56.040, and 42.17A.110. WSR 12-18-015, § 390-37-060, filed 8/24/12, effective 9/24/12. Statutory Authority: RCW 42.17A.110. WSR 12-03-002, § 390-37-060, filed 1/4/12, effective 2/4/12. Statutory Authority: RCW 42.17.370. WSR 05-11-001, § 390-37-060, filed 5/4/05, effective 6/4/05; WSR 03-22-065, § 390-37-060, filed 11/4/03, effective 12/5/03; WSR 93-24-003, § 390-37-060, filed 11/18/93, effective 12/19/93; WSR 91-16-072, § 390-37-060, filed 8/2/91, effective 9/2/91. Statutory Authority: RCW 42.17.370(1). WSR 86-04-071 (Order 86-01), § 390-37-060, filed 2/5/86; WSR 84-12-017 and 84-12-029 (Orders 84-03 and 84-03A), § 390-37-060, filed 5/25/84 and 5/29/84; Order 81, § 390-37-060, filed 7/22/76.]