

Chapter 180-08 WAC
PRACTICE, PROCEDURE, AND ACCESS TO PUBLIC RECORDS

Last Update: 11/16/10

WAC

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180-08-002 General description of organization. [Statutory Authority: RCW 28A.305.130, 34.05.220, and 42.17.250 through 42.17.348. WSR 06-23-007, § 180-08-002, filed 11/2/06, effective 12/3/06. Statutory Authority: RCW 34.05.220, 28A.305.130. WSR 02-18-054, § 180-08-002, filed 8/28/02, effective 9/28/02.] Repealed by WSR 10-12-083, filed 6/1/10, effective 7/2/10.

180-08-003 Authority. [Statutory Authority: RCW 34.05.220(A) [34.05.220(1)(a)] and 34.05.250. WSR 89-22-010, § 180-08-003, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 34.04.020. WSR 83-21-063 (Order 8-83), § 180-08-003, filed 10/17/83.] Repealed by WSR 02-18-054, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 34.05.220, 28A.305.130.

180-08-005 Administrative practices regarding hearings and rule proceedings. [Statutory Authority: RCW 34.05.220(A) [34.05.220(1)(a)] and 34.05.250. WSR 89-22-010, § 180-08-005, filed 10/20/89, effective 11/20/89. Statutory Authority: RCW 34.04.020. WSR 83-21-063 (Order 8-83), § 180-08-005, filed 10/17/83. Statutory Authority: Chapter 34.04 RCW. WSR 81-16-026 (Order 8-81), § 180-08-005, filed 7/28/81.] Repealed by WSR 02-18-054, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 34.05.220, 28A.305.130.

180-08-010 Appearance and practice before the state board of education—Who may appear. [SBE .08.010, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-020 Appearance and practice before the state board of education—Appearance in certain proceedings may be limited to attorneys. [SBE .08.020, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-030 Appearance and practice before the state board of education—Solicitation of business unethical. [SBE .08.030, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-040 Appearance and practice before the state board of education—Standards of ethical conduct. [SBE .08.040, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-050 Appearance and practice before the state board of education—Appearance by former employee of board or former member of attorney general's staff. [SBE .08.050, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-060 Appearance and practice before the state board of education—Appearance of former employee as expert witness. [SBE .08.060, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-070 Computation of time. [SBE .08.070, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-080 Notice and opportunity for hearing in contested cases. [SBE .08.080, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-090 Service of process—By whom served. [SBE .08.090, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-100 Service of process—Upon whom served. [SBE .08.100, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-110 Service of process—Service upon parties. [SBE .08.110, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-120 Service of process—Method of service. [SBE .08.120, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-130 Service of process—When service complete. [SBE .08.130, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-140 Service of process—Filing with agency. [SBE .08.140, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-230 Depositions and interrogatories in contested cases—Right to take. [SBE .08.230, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-240 Depositions and interrogatories in contested cases—Scope. [SBE .08.240, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-250 Depositions and interrogatories in contested cases—Officer before whom taken. [SBE .08.250, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-260 Depositions and interrogatories in contested cases—Authorization. [SBE .08.260, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-270 Depositions and interrogatories in contested cases—Protection of parties and deponents. [SBE .08.270, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-280 Depositions and interrogatories in contested cases—Oral examination and cross-examination. [SBE .08.280, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-290 Depositions and interrogatories in contested cases—Recordation. [SBE .08.290, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-300 Depositions and interrogatories in contested cases—Signing attestation and return. [SBE .08.300, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-310 Depositions and interrogatories in contested cases—Use and effect. [SBE .08.310, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-320 Depositions and interrogatories on contested cases—Fees of officers and deponents. [SBE .08.320, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-330 Depositions upon interrogatories—Submission of interrogatories. [SBE .08.330, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-340 Depositions upon interrogatories—Interrogation. [SBE .08.340, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-350 Depositions upon interrogatories—Attestation and return. [SBE .08.350, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-360 Depositions upon interrogatories—Provisions of deposition rule. [SBE .08.360, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-370 Official notice—Matters of law. [SBE .08.370, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-380 Official notice—Material facts. [SBE .08.380, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-390 Presumptions. [SBE .08.390, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-400 Stipulations and admissions of record. [SBE .08.400, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-410 Form and content of decisions in contested cases. [SBE .08.410, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-420 Definition of issues before hearing. [SBE .08.420, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-430 Prehearing conference rule. [SBE .08.430, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-440 Prehearing conference rule—Record of conference action. [SBE .08.440, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-450 Submission of documentary evidence in advance. [SBE .08.450, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-460 Excerpts from documentary evidence. [SBE .08.460, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-470 Expert or opinion testimony and testimony based on economic and statistical data—Number and qualifications of witnesses. [SBE .08.470, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-480 Expert or opinion testimony and testimony based on economic and statistical data—Written sworn statements. [SBE .08.480, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-490 Expert or opinion testimony and testimony based on economic and statistical data—Supporting data. [SBE .08.490, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-500 Expert or opinion testimony and testimony based on economic and statistical data—Effect of noncompliance with WAC 180-08-470 or 180-08-480. [SBE .08.500, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-510 Continuances. [SBE .08.510, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-520 Rules of evidence—Admissibility criteria. [SBE .08.520, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-530 Rules of evidence—Tentative admission—Exclusion—Discontinuance—Objections. [SBE .08.530, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-540 Petitions for rule making, amendment or repeal—Who may petition. [SBE .08.540, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-550 Petitions for rule making, amendment or repeal—Requisites. [SBE .08.550, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-560 Petitions for rule making, amendment or repeal—Agency must consider. [SBE .08.560, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-570 Petitions for rule making, amendment or repeal—Notice of disposition. [SBE .08.570, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-580 Declaratory rulings. [SBE .08.580, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

180-08-590 Forms. [SBE .08.590, filed 12/21/60.] Repealed by WSR 81-16-026 (Order 8-81), filed 7/28/81. Statutory Authority: Chapter 34.04 RCW.

WAC 180-08-001 Purpose and authority. (1) The purpose of this chapter is to establish the formal and informal procedures of the state board of education relating to rules adoption, protection of public records, and access to public records.

(2) The authority for this chapter is RCW 34.05.220 and chapter 42.56 RCW.

[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040. WSR 10-23-104, § 180-08-001, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 34.05.220, 28A.305.130. WSR 02-18-054, § 180-08-001, filed 8/28/02, effective 9/28/02.]

WAC 180-08-004 Definitions. (1) As used in this chapter, "public record" includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by the state board of education, regardless of physical form or characteristics. Personal and other records cited in RCW 42.56.210 are exempt from the definition of public record.

(2) As used in this chapter, "writing" means handwriting, type-writing, printing, photostating, photographing, use of facsimile and electronic communication, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, disks, drums, diskettes, sound recordings, and other documents including existing data compilations from which data may be obtained or translated.

(3) The state board of education shall hereafter be referred to as the "board" or "state board."

[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040. WSR 10-23-104, § 180-08-004, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 34.05.220, 28A.305.130. WSR 02-18-054, § 180-08-004, filed 8/28/02, effective 9/28/02.]

WAC 180-08-006 Public records officer—Access to public records—Requests for public records—Determination regarding exempt records—Review of denials of public record requests—Protection of public records—Copying—Office hours. (1) The state board's public records of-

ficer shall be the board's secretary (executive director) located in the administrative office of the board located in the Old Capitol Building, 600 South Washington, Olympia, Washington 98504-7206. The secretary (executive director) shall be responsible for implementation of the board's rules and regulations regarding release of public records and generally ensuring compliance by staff with the public records disclosure requirements in chapter 42.56 RCW.

(2) Access to public records in the state board of education shall be provided in compliance with the provisions of RCW 42.56.070.

(3) Requests for public records must comply with the following procedures:

(a) A request shall be made in writing to the secretary (executive director) or designee of the director. The request may be brought to the administrative office of the board during customary office hours or may be mailed, delivered by facsimile, or by electronic mail. The request shall include the following information:

(i) The name of the person requesting the record;

(ii) The time of day and calendar date on which the request was made;

(iii) The nature of the request;

(iv) If the matter requested is referenced within the current index maintained by the secretary (executive director), a reference to the requested information as it is described in such current index;

(v) If the requested matter is not identifiable by reference to the current index, an appropriate description of the record requested shall be provided.

(b) In all cases in which a member of the public is making a request, it shall be the obligation of the secretary (executive director), or person to whom the request is made, to assist the member of the public in succinctly identifying the public record requested.

(4)(a) The board reserves the right to determine that a public record requested in accordance with subsection (3) of this section is exempt under the provisions of RCW 42.56.210. Such determination may be made in consultation with the secretary (executive director) or an assistant attorney general assigned to the board.

(b) Pursuant to RCW 42.56.070, the board reserves the right to delete identifying details when it makes available or publishes any public record when there is reason to believe that disclosure of such details would be an unreasonable invasion of personal privacy: Provided, however, In each case, the justification for the deletion shall be explained fully in writing.

(c) Response to requests for a public record must be made promptly. Within five business days of receiving a public record request, the executive director shall respond by either:

(i) Providing the record;

(ii) Acknowledging that the board has received the request and providing a reasonable estimate of the time required to respond to the request; or

(iii) Denying the public record request.

(d) Additional time required to respond to a request may be based upon the need to clarify the intent of the request, to locate and assemble the information requested, to notify third persons or agencies affected by the request, or to determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request. In acknowledging receipt of a public record request that is unclear, the executive director may ask the requester to clarify what information the requester is seeking. If the requester

fails to clarify the request within five working days of being asked for said clarification, the executive director need not respond to it.

(5) All denials of request for public records must be accompanied by a written statement, signed by the secretary (executive director) or designee, specifying the reason for the denial, a statement of the specific exemption authorizing the withholding of the record, and a brief explanation of how the exemption applies to the public record withheld.

(6)(a) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement which constituted or accompanied the denial.

(b) The written request by a person petitioning for prompt review of a decision denying a public record shall be submitted to the board's secretary (executive director) or designee.

(c) Within two business days after receiving a written request by a person petitioning for a prompt review of a decision denying a public record, the secretary (executive director) or designee shall complete such review.

(d) During the course of the review the secretary (executive director) or designee shall consider the obligations of the board to comply fully with the intent of chapter 42.56 RCW insofar as it requires providing full public access to official records, but shall also consider both the exemptions provided in RCW 42.56.210 and 42.56.510, and the provisions of the statute which require the board to protect public records from damage or disorganization, prevent excessive interference with essential functions of the board, and prevent any unreasonable invasion of personal privacy by deleting identifying details.

(7) Public records and a facility for their inspection will be provided by the secretary (executive director) or designee. Such records shall not be removed from the place designated for their inspection. Copies of such records may be arranged for according to the provisions of subsection (8) of this section.

(8) No fee shall be charged for the inspection of public records. The board may impose a charge for providing copies of public records and for the use by any person of agency equipment to copy public records. Copying charges shall be reasonable and conform with RCW 42.56.120. No person shall be released a record so copied until and unless the person requesting the copied public record has tendered payment for such copying to the appropriate official. All charges must be paid by money order, check, or cash in advance.

(9) Public records shall be available for inspection and copying during the customary office hours of the administrative office of the board. For the purposes of this chapter, the customary office hours shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays and dates of official state board of education business requiring all board staff to be away from the office.

[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040. WSR 10-23-104, § 180-08-006, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 28A.305.130, 34.05.220, and 42.17.250 through 42.17.348. WSR 06-23-007, § 180-08-006, filed 11/2/06, effective 12/3/06. Statutory Authority: RCW 34.05.220, 28A.305.130. WSR 02-18-054, § 180-08-006, filed 8/28/02, effective 9/28/02.]

WAC 180-08-008 Administrative practices regarding hearings and rule proceedings. (1) Administrative practices before and pertaining to the state board of education are governed by the state Administrative Procedure Act, chapter 34.05 RCW, the Washington State Register Act, chapter 34.08 RCW, and the Office of Administrative Hearings Act, chapter 34.12 RCW. These acts govern the conduct of "agency action"; the conduct of "adjudicative proceedings"; and "rule making" as these terms are defined in RCW 34.05.010.

(2) The rules of the state code reviser (currently set forth in chapter 1-21 WAC) and the rules of the office of administrative hearings (currently set forth in chapter 10-08 WAC) shall govern procedures and practices before the state board of education for the following: Petitions for declaratory rulings; petitions for adoption, amendment, or repeal of a rule; and the conduct of adjudicative proceedings. All other regulatory actions and hearings conducted by the state board of education may be conducted informally at the discretion of the state board of education.

[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040. WSR 10-23-104, § 180-08-008, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 34.05.220, 28A.305.130. WSR 02-18-054, § 180-08-008, filed 8/28/02, effective 9/28/02.]

WAC 180-08-015 Scheduled review of state board rules. The state board of education shall review all board rules not less than every three years.

[Statutory Authority: RCW 34.05.220. WSR 99-10-092, § 180-08-015, filed 5/4/99, effective 6/4/99.]