

**WAC 139-06-070 Conference and hearings procedures.** (1) An administrative law judge (ALJ) shall preside over all prehearing conferences, status conferences, and the hearing itself.

(2) The attorney general's office shall represent commission staff in all adjudicative proceedings before a hearing panel.

(3) Once the commission hearings coordinator receives the request for hearing, the first prehearing conference shall be held within 14 days unless that time is extended by mutual agreement of the parties or for good cause.

(a) The ALJ shall serve timely notice of the initial prehearing conference on all parties. The notice will contain the date and time of the first prehearing conference, the sign-on information, and the names of the hearing panel members.

(b) Any motion for disqualification of a panel member must be filed prior to the first prehearing conference.

(4) The first prehearing conference is administrative. Its primary purpose is to schedule the hearing date, which must occur within 90 days of the first prehearing conference unless that time is extended on mutual agreement of the parties or for good cause.

(a) During the first prehearing conference, the ALJ may schedule due dates for the filing of any prehearing briefs, witness lists, exhibit lists and exchange of exhibits, objections to witnesses and exhibits, and prehearing motions. The ALJ will also schedule a second prehearing conference.

(b) The ALJ shall issue a prehearing conference order within one week of the conclusion of the first prehearing conference. The prehearing conference order shall describe the action taken at the conference and the parties' agreements.

(5) The purpose of the second prehearing conference is to address the parties' evidentiary objections and ascertain the parties' readiness to proceed to hearing. Parties shall be prepared to discuss all evidentiary objections, all motions, and any remaining matters.

(a) The ALJ will make any necessary rulings on motions and evidentiary objections.

(b) The ALJ shall issue an order within 10 days of the conclusion of the second prehearing conference.

(c) After the second prehearing conference, the panel members will be provided with copies of all materials admitted into evidence, the witness lists, the statement of charges, and the briefings submitted by the parties.

(6) Failure of the respondent or the respondent's attorney to attend or participate in any scheduled prehearing conference will result in a finding of default and an order will be entered under RCW 34.05.440.

(7) Hearings may be held in-person or virtually.

(a) Once the hearing date has been set, a written notice will appear on the commission website with the date, time, and location of the hearing.

(b) Hearings are open to the public and accommodations will be made for public attendance of virtual meetings.

(c) The commission shall create audio or video recordings of all prehearing conferences and hearings.

(8) If an in-person hearing is scheduled, the hearings coordinator will provide an admitted exhibits binder including all admitted exhibits from both parties. Both parties shall use the admitted exhibits binder to reference or display any admitted exhibits during the hearing. If a virtual hearing is scheduled, the parties shall maintain

control of their exhibits and, if necessary, will be required to share their screens when referencing or displaying an admitted exhibit during the proceeding. Parties are forbidden from screen sharing any portion or version of exhibits not previously admitted.

(9) If an in-person hearing is scheduled, the respondent must attend the proceeding in person. A respondent's failure to comply with this attendance requirement will result in the revocation, suspension, or denial of certification and the hearings panel shall enter an order of default and final order under RCW 34.05.440.

(a) In-person hearings will be conducted at the training commission located at: 19010 1st Avenue South, Burien, Washington, 98148.

(b) If a virtual hearing is scheduled, the respondent shall remain visible on screen at all times the parties are on the record. A respondent's failure to comply with this attendance requirement will result in the revocation, suspension, or denial of certification and the hearings panel shall enter an order of default and final order under RCW 34.05.440.

(10) Regardless of whether a hearing is scheduled in-person or virtually, witnesses may testify at the hearing in-person, by telephone, or virtually.

(11) A five-member hearings panel shall hear the case and will make the commission's final administrative decision based on a majority of the vote.

(12) The standard of proof for certification proceedings is a preponderance of the evidence. RCW 43.101.380(1).

(13) The commission staff bears the burden of proof in actions before the hearings panel to deny, suspend, or revoke an officer's certification, or require remedial training for an officer.

(14) In an appeal of the commission's final administrative decision issued by the hearing panel, the appellant bears the burden of proof, unless otherwise provided by law.

[Statutory Authority: RCW 43.101.080. WSR 24-07-042, § 139-06-070, filed 3/13/24, effective 4/13/24; WSR 23-19-038, § 139-06-070, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-070, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-070, filed 12/20/02, effective 1/20/03.]