

**WAC 308-101-210 Conduct of hearings.** Hearings are open to public observation. To the extent that a hearing is conducted by telephone or other electronic means, the availability of public observation is satisfied by giving members of the public an opportunity to hear or inspect the agency's record. The hearings examiner's authority includes, but shall not be limited to, the authority to:

- (1) Determine the order of presentation of evidence;
- (2) Administer oaths and affirmations;
- (3) Issue subpoenas pursuant to RCW 46.20.308(7);
- (4) Rule on procedural matters, objections, and motions;
- (5) Rule on offers of proof and receive relevant evidence;
- (6) Order the exclusion of witnesses upon a showing of good cause;
- (7) Afford the petitioner the opportunity to respond, present evidence, conduct cross-examination, and submit rebuttal evidence. The hearings examiner may question witnesses to develop any facts deemed necessary to fairly and adequately decide the matter;
- (8) Call additional witnesses and request and/or obtain additional exhibits deemed necessary to complete the record and receive such evidence subject to full opportunity for cross-examination and rebuttal by the petitioner;
- (9) Examine and admit the official records of the department, subject to full opportunity, including the opportunity to request a continuance if needed, for cross-examination and rebuttal by the petitioner;
- (10) Examine and admit public records including, but not limited to, maps, policy and procedure manuals, breath testing equipment manuals and the Washington state patrol breath test section website at any time before, during, or after the hearing, subject to full opportunity, including the opportunity to request a continuance if needed, for cross-examination and rebuttal by the petitioner;
- (11) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;
- (12) Permit or require oral argument or briefs and determine the time limits for submission thereof;
- (13) Issue an order of default;
- (14) Recess the hearing to a later time to accommodate scheduling conflicts. Hearings are ordinarily scheduled to be one hour in length;
- (15) Take any other action necessary and authorized by any applicable statute or rule; and
- (16) Waive any requirement of these rules unless petitioner shows that he or she would be prejudiced by such a waiver.

[Statutory Authority: RCW 46.01.110. WSR 18-11-098, § 308-101-210, filed 5/21/18, effective 9/4/18.]