Chapter 139-06 WAC
CERTIFICATION—NOTICES, INVESTIGATIONS, HEARINGS, AND ACTIONS

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WAC

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DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

139-06-090 Prehearing conferences. [Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-090, filed 12/20/02, effective 1/20/03.] Repealed by WSR 22-13-075, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080 and 43.101.801.

139-06-120 Petition for reinstatement of certification. [Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-120, filed 12/20/02, effective 1/20/03.] Repealed by WSR 22-13-075, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080 and 43.101.801.

WAC 139-06-010 Certification. (1) All peace officers, tribal police officers, and correction officers shall submit a signed officer certification form to the commission to officially request certification as a certified officer in Washington state. The form shall be submitted to the commission by the applicant once the applicant has met all requirements.

(a) Responsibility for the review and acceptance of an applicant's psychological background, polygraph, and other background materials lies with the hiring agency.

(i) Upon completion of the background check, the hiring agency must certify that the background check has been satisfactorily completed and no disqualifying information has been found.

(ii) At its discretion, the commission may review and audit background checks for compliance with standards established by applicable statutes and rules.

(iii) The hiring agency has the duty to evaluate information obtained in a background check and assure that the applicant meets certification standards of RCW 43.101.105 (2) and (3).

(b) The commission shall issue a certificate upon verification that an applicant is eligible for certification.

(2) The commission shall allow the certified officer to retain certification provided that the certified officer:

(a) Timely meets basic training requirements or is exempted in whole or in part under RCW 43.101.200 or 43.101.220, or under policies of the commission;

(b) Has not had a break of more than 24 consecutive months of service;

(c) Is not denied certification by the commission under this chapter; and

(d) Has not had certification suspended or revoked by the commission.

(3) Following a break in service and timely meeting the basic training requirements, certified officer shall, upon return to service, submit an officer certification form to the commission as described in subsection (1) of this section.

(a) The commission shall issue a certificate of officer certification upon verification that the applicant is eligible for certification.

(b) If a certified officer's break in service is less than 24 months and the certified officer's certification remains in good standing, no additional training is required.

(c) If a certified officer's break in service was more than 24 consecutive months and less than 60 months and certification is in good standing, the lapsed certified officer must comply with commission training requirements per WAC 139-05-200 and 139-05-210.

(d) If a certified officer's break in service is over 60 months and certification is in good standing, the applicant must attend the basic law enforcement academy or the corrections officer academy. The employing agency may also request a variance per WAC 139-05-940.

(4) A certification granted based on an administrative exemption under WAC 139-05-200 shall remain in effect for the duration of the exemption. However, such certification is subject to the requirements of RCW 43.101.105.

(5) Upon determination that a certification form contains missing or erroneous information, the commission shall notify the applicant and the employing agency and the applicant must submit the correct information to the commission within 30 days of the date the request is issued. Failure to submit the correct information within the required time shall result in a recommendation to deny the request for certification.

(6) In order to determine an applicant's eligibility for certification, the commission may request records and information in addition to that provided on the officer certification form. The applicant or the applicant's employing agency shall submit the requested records and information within 30 days of the date the request is issued. Failure to comply with the commission's request shall result in a recommendation to deny the request for certification.

[Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-010, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-010, filed 12/20/02, effective 1/20/03.]

WAC 139-06-015 Tribal certification. Tribal governments may voluntarily request certification for their police officers.

(1) Tribal governments requesting certification for their police officers must enter into a written agreement with the commission.

(2) The agreement must require the tribal law enforcement agency and its officers to comply with all certification requirements as those requirements are applied to all other officers certified under this chapter and the policy of the commission.

(3) To ensure clarity regarding the requirements with which the tribal government and its police officers must comply should the tribal government request certification, a tribal government may first request consultation with the commission.

(4) Applicants for certification as tribal police officers shall meet the requirements of this chapter and the policy of the commission as those requirements are applied to certification of all officers. Application for certification as a tribal police officer shall be accepted and processed in the same manner as those for certification of all officers.

[Statutory Authority: RCW 43.101.080. WSR 23-01-086, § 139-06-015, filed 12/16/22, effective 1/16/23.]

WAC 139-06-020 Agency reporting requirements—Force, separation, and investigation. (1) Within 15 days the employing agency of either a certified officer or reserve officer shall use an approved form to notify the commission of the following occurrences:

(a) When a certified officer or reserve officer is separated from the agency for any reason;

(b) When the agency first learns of a use of force by a certified officer or reserve officer, including canine bites, that caused serious injury or death;

(c) When the agency first learns that a certified officer or reserve officer has been charged with a crime. An employing agency shall have written policies that require a certified officer or reserve officer to immediately report any pending criminal charges and any conviction, plea, or other case disposition to their agency; and

(d) When the agency makes an initial disciplinary decision for alleged misconduct by a certified officer or reserve officer that is noncriminal and may constitute misconduct within RCW 43.101.105.

(2) An employing agency shall provide timely updates to the commission on the status of a reported internal investigation until the investigation concludes.

(3) If the employing agency accepts a certified officer's or reserve officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale in the information provided to the commission including the findings from any internal or external investigations into alleged misconduct.

(4) If the totality of the circumstances supports a conclusion that a certified officer or reserve officer resigned or retired in anticipation of discipline, the agency who employed the officer at the time of the misconduct shall timely conduct and complete an internal investigation and provide all relevant information to the commission as it would if the officer were still employed by the agency, regardless of whether the misconduct was discovered at the time:

(a) When such discipline if carried forward would more likely than not have led to discharge; or

(b) If the certified officer or reserve officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge.

(5) Within 15 days of the conclusion of its internal investigation, the agency shall provide the commission with a summary of findings.

(a) If sustained misconduct results in separation, then a commission separation form is also required.

(b) The commission will review the separation form and may request investigative files for review of certification misconduct.

(6) The agency shall, upon request by the commission, provide any records and information the commission deems necessary to determine whether the certified officer committed misconduct that falls within RCW 43.101.105.

(7) In addition to disciplinary action authorized in RCW 43.101.105, the commission may impose a civil penalty not to exceed $10,000 for the failure by a certified officer, reserve officer, or an employing agency to timely and accurately report information pursuant to this section.

(8) Pursuant to RCW 43.101.135(7) an employing agency may not enter into any agreement or contract with a certified officer, reserve officer, or labor union that:

(a) Agrees not to report conduct, or to delay reporting, or to preclude disclosure of any relevant information to the commission, including any promise not to inform the commission that a certified officer or reserve officer may have committed misconduct in exchange for allowing that officer to resign or retire or for any other reason; or

(b) Allows the agency to destroy or remove any personnel record while the certified officer or reserve officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and any other disciplinary appeals and litigation records.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-020, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-020, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-020, filed 12/20/02, effective 1/20/03.]

WAC 139-06-030 Investigative authority and duty to cooperate. (1) Except when otherwise required by RCW 43.101.105 (2) or (3), the commission has authority to undertake an investigation regardless of the status of any administrative or criminal investigations into the matter by other agencies.

(2) An agency shall cooperate in any investigation conducted by the commission regarding a certified officer's certification status. This includes providing records and information when requested.

(a) Upon receipt of a request an agency has 30 days to provide requested records.

(b) If the totality of the circumstances supports a conclusion that a certified officer resigned or retired in anticipation of discipline, then the agency who employed the officer at the time of the misconduct shall timely conduct and complete an investigation and provide all relevant information to the commission in accordance with WAC 139-06-020(4) and as if the certified officer were still employed by the agency.

(3) A certified officer must authorize the release of their personnel file to the employing agency and the commission including disciplinary, termination, civil or criminal investigation, and other records and information directly related to a certification before the commission under RCW 43.101.095 and 43.101.105.

(4) Requests from the commission for records under chapter 43.101 RCW are not subject to any exemptions, redactions, waiting periods, or timelines associated with the Public Records Act, chapter 42.56 RCW.

(5) A certified officer must also consent to and facilitate a review of the certified officer's social media accounts when relevant to an investigation brought before the commission pursuant to RCW 43.101.095(4).

(a) The certified officer is not required to provide login information pursuant to RCW 49.44.200.

(b) The release of records and information may not be delayed, limited, or precluded by any agreement or contract between the certified officer or the certified officer's union and the entity responsible for the records and information.

(6) An employing agency may not enter into any agreement or contract with a certified officer or union that:

(a) Agrees not to report conduct or to delay reporting or to preclude disclosure of any relevant records and information to the commission, including any promise not to inform the commission that the certified officer may have committed misconduct in exchange for allowing a certified officer to resign or retire or for any other reason; or

(b) Allows the agency to destroy or remove any personnel record while the certified officer is employed and for 10 years thereafter. Such records must include all misconduct and equal employment opportunity complaints, progressive discipline imposed including written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, and other disciplinary appeals and litigation records.

[Statutory Authority: RCW 43.101.080. WSR 23-01-086, § 139-06-030, filed 12/16/22, effective 1/16/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-030, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-030, filed 12/20/02, effective 1/20/03.]

WAC 139-06-040 Investigation and appeal—Procedures for misconduct. (1) Commission investigations are to determine whether there is preponderance of the evidence to believe the certified officer's certification should be denied, revoked, or suspended.

(2) Investigations may commence on the commission's own initiative under RCW 43.101.105, or upon receiving a complaint per WAC 139-17-010.

(3) The commission may conduct its investigation before, during, or after any internal or criminal investigation by another agency, except in cases where a revocation decision requires a finding that the certified officer's conduct violated policy or law under RCW 43.101.105 (2) or (3).

(4) The commission may investigate any instance where there is a pattern of acts by a certified officer that may have not resulted in formal adjudication of wrongdoing but when considered together demonstrate conduct that would constitute a violation of RCW 43.101.105 (2) or (3).

(5) The commission may initiate a certification hearing by preparing a statement of charges regardless of the status or posture of any internal disciplinary action by the employing agency.

(6) Upon a determination by the commission that there is a preponderance of the evidence to believe that a certified officer's certification should be denied, revoked, or suspended, the commission

shall prepare a statement of charges and commence proceedings under RCW 43.101.155.

(7) Upon a determination by the commission that there is not preponderance of the evidence to revoke, suspend, or deny the certified officer's certification, a copy of the decision not to proceed, with a brief statement of the reasons for the decision, shall be furnished to the certified officer's employing agency and the complainant, if any.

(8) The certified officer's employing agency, or the complainant, if any, may request a review by the executive director of the commission, or their designee, of a determination that there is not preponderance of the evidence to revoke or suspend the certified officer's certification, by making such request in writing within 14 days of the receipt of written notification of the decision not to proceed.

(9) The commission's final order is subject to the judicial review provisions of the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

(10) The commission shall maintain all records obtained during an investigation in a permanent file in accordance with the retention schedule provided in RCW 43.101.400.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-040, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-040, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-040, filed 12/20/02, effective 1/20/03.]

WAC 139-06-050 Statement of charges and notification for hearing. (1) The commission shall prepare a statement of charges providing the grounds for denial, suspension, or revocation of the certified officer's certification under RCW 43.101.105.

(a) The statement of charges shall include a notice informing the certified officer that they are entitled to a hearing on the denial, suspension, or revocation of their certification, the steps to request a hearing, and that failure to request or attend a hearing will cause their certification to be denied or revoked.

(b) The statement of charges shall be sent to the certified officer and to the agency that employed the certified officer at the time of the alleged misconduct. If the certified officer is employed by a different law enforcement agency at the time the statement of charges is issued, that agency shall also be sent a copy of the statement of charges.

(2) A request for a hearing on the potential denial, suspension, or revocation of certification must be made by the certified officer on an approved form and received by the commission within 60 days from the date of sending the statement of charges.

(a) If a hearing is requested, the officer must provide an email address that constitutes the officer's legal address for purposes of any subsequent communication from the commission.

(b) If a hearing is requested, the first prehearing conference shall be held within 14 days of receipt of the hearing request form. The hearing shall occur within 90 days of the first prehearing conference.

(c) Any date related to the hearing schedule including, but not limited to, the dates of prehearing and status conferences, due dates for pleadings, briefings, and exhibits and the date of the hearing it-

self may be extended upon mutual agreement of the parties or for good cause.

(3) Failure by the certified officer to request a hearing within 60 days of sending of the statement of charges, or failure by the certified officer or their counsel to appear at any prehearing or status conference, shall constitute default and the commission shall enter an order of default and final order under RCW 34.05.440.

(4) Failure of the certified officer to appear at the scheduled hearing shall constitute default and the hearing panel shall enter an order of default and final order under RCW 34.05.440.

(5) The certified officer may waive the right to a hearing on an approved form. By waiving the right to a hearing, the certified officer acknowledges that their certification will be revoked, suspended, or denied and that the commission shall enter an order of default and a final order under RCW 34.05.440.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-050, filed 9/13/23, effective 10/14/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-050, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-050, filed 12/20/02, effective 1/20/03.]

HEARING AND OUTCOMES

WAC 139-06-060 Hearing panels. (1) The commission shall cultivate a list of qualified individuals to be appointed as members of hearing panels in certification actions.

(a) Names of qualified individuals interested in serving as panel members under RCW 43.101.380 may be submitted by any person for consideration by the commission. The commission will establish desired qualifications in policy.

(b) Commissioners will be appointed to hearing panels by the commission's governing body.

(c) Other qualified and interested individuals will submit:

(i) Hearing panel member application;

(ii) Cover letter;

(iii) Resume;

(iv) The names and contact information for three references; and

(v) Letter of support from their agency supervisor or administrator. Members of the public may submit a letter of recommendation in lieu of a letter of support.

(d) Materials shall be submitted to the commission's hearing coordinator at the following address: 19010 1st Avenue South, Burien, Washington 98148. Materials may also be submitted via email, as identified on the commission website.

(2) The commission shall review applications and submit a list of qualified individuals to the commission. The commission shall have sole discretion over the selection of panel members.

(3) Prior to the hearings panel being selected for a hearing, the commission will confirm with panelists that they have no conflicts of interest as outlined in the hearing panel member handbook. Examples of conflicts of interest include, but are not limited to, the below situations:

(a) Personal, working, and financial relationships, past or present; and

(b) Shared affiliations in groups, organizations, and activities.

(4) If a panel member is concerned that they have a conflict of interest, including a relationship with a party or a witness that would prevent the panel member from judging the case fairly, they must notify the commission as soon as possible. If the petitioner or respondent has any motion for disqualification of a panel member, the motion must be filed prior to or at the first prehearing conference.

(5) If there is a panel member replacement prior to the hearing, parties must file a motion for disqualification within 10 days of service of notice of the replacement.

(6) 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.

(7) When a hearing is requested in relation to a certification action of a Washington peace officer, the commission shall appoint to the panel:

(a) One police chief or sheriff from an agency, who is not a current or past employer of the certified officer;

(b) One certified Washington officer who is at or below the level of first line supervisor and who has at least 10 years' experience as an officer;

(c) One civilian member of the commission as appointed under RCW 43.101.030 (1)(f) and (h) through (j);

(d) One member of the public who is not a prosecutor, defense attorney, judge, or officer; and

(e) One person with expertise and background in police accountability who is not a current or former certified officer.

(8) When a hearing is requested in relation to a certification action of a Washington corrections officer, the commission shall appoint to the panel:

(a) A person who heads either a city or county corrections agency or facility or of a Washington state department of corrections facility;

(b) One corrections officer who is at or below the level of first line supervisor and who has at least 10 years' experience as a corrections officer;

(c) One civilian member of the commission as appointed under RCW 43.101.030 (1)(f) and (h) through (j);

(d) One member of the public who is not a prosecutor, defense attorney, judge, or officer; and

(e) One person with expertise and background in police accountability who is not a current or former certified officer.

(9) When a hearing is requested in relation to a certification action of a tribal police officer, the commission shall appoint to the panel:

(a) One tribal police chief;

(b) One tribal police officer who is at or below the level of first line supervisor, and who has at least 10 years' experience as an officer;

(c) One civilian member of the commission as appointed under RCW 43.101.030 (1)(f) and (h) through (j);

(d) One member of the public who is not a prosecutor, defense attorney, judge, or officer; and

(e) One person with expertise and background in police accountability who is not a current or former certified officer.

[Statutory Authority: RCW 43.101.080. WSR 25-19-056, s 139-06-060, filed 9/11/25, effective 10/12/25. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-060, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-060, filed 12/20/02, effective 1/20/03.]

WAC 139-06-070 Conference and hearings procedures. (1) In all hearings requested under RCW 43.101.155, an administrative law judge (ALJ) appointed under chapter 34.12 RCW shall preside over all prehearing conferences, status conferences, and the hearing itself. The ALJ makes all necessary prehearing and hearing rulings, but is not entitled to deliberate, vote, or make any final recommendation.

(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.

(b) 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.

(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 25-19-056, s 139-06-070, filed 9/11/25, effective 10/12/25; 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.]

WAC 139-06-080 Filing of documents for hearings. (1) Once a request for hearing form is received, the commission will serve the document via email to the petitioner, the respondent, and the office of administrative hearings (OAH).

(a) All documents pertaining to the case must be submitted to the OAH in person, by mail, fax, or through the OAH electronic portal and served on the other party and the commission's hearing coordinator in compliance with WAC 10-08-110.

(b) If agreed by the parties, service may be accomplished through email. Otherwise, documents shall be served in compliance with RCW 34.05.010(19) and WAC 10-08-110.

(2) If the parties plan on presenting witnesses, their witness list must be timely filed as outlined in the prehearing conference order and include the following information:

(a) Name;

(b) Role;

(c) Phone number;

(d) Address or email address if presenting virtually; and

(e) A description of the testimony the party anticipates the witness will give.

(3) If the parties plan on presenting exhibits, they must timely file an exhibit list and a fully marked set of their exhibits as outlined in the prehearing conference order. For each exhibit, the list must include the following information:

(a) Title or description of the exhibit;

(b) Date of the exhibit; and

(c) Number of pages.

(4) Each exhibit must be marked in the lower right-hand corner with an exhibit number and a page number.

(a) The petitioner will identify their exhibits numerically.

(b) The respondent will identify their exhibits alphabetically.

(5) If either party's contact information changes, they must immediately update the OAH and the opposing party.

(6) After the administrative law judge determines their admissibility, the commission's hearing coordinator will provide electronic copies of the admitted hearing materials, including witness lists, exhibit lists, exhibits and opening brief (if submitted), to the hearings panel.

(7) For hearings held in-person, the admitted hearing materials will be provided in a binder to the hearing panel members and the witnesses on the morning of the hearing.

(8) Either party may submit proposed findings of fact and conclusions of law within five days of the date the hearing concludes.

(9) Following the conclusion of the hearing, the hearings panel may, at its sole discretion, request an additional brief from the parties, including on whether retraining is appropriate under RCW 43.101.105 (3) and (4). The hearings panel may set page limits and a submissions deadline for any additional brief.

[Statutory Authority: RCW 43.101.080. WSR 26-13-044, s 139-06-080, filed 6/11/26, effective 7/12/26; WSR 25-19-056, s 139-06-080, filed 9/11/25, effective 10/12/25. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-080, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-080, filed 12/20/02, effective 1/20/03.]

WAC 139-06-100 Outcomes for determinations of misconduct—Denial, suspension, revocation, retraining, or dismissal of the statement of charges. (1) When an applicant or certified officer is found to

have committed misconduct listed under RCW 43.101.105(3), the commission may convene a hearing panel to review the facts and, with any finding of misconduct, determine any appropriate outcomes. Outcomes include any or multiple of the following: Denial, suspension, revocation of certification, remedial training, or dismissal of the statement of charges. In determining an appropriate outcome following a finding of misconduct, the hearings panel shall review the following evidence, if admitted:

(a) Information provided by the complainant(s), if any;

(b) The final disposition and all supporting documentation and information submitted to the commission and the basis for the final disposition following an investigation by a law enforcement or corrections agency regarding alleged misconduct;

(c) The final disposition and any documentation submitted to the commission and the basis for the final disposition of any due process hearing or disciplinary appeals hearing provided such hearing has occurred prior to the commission's action;

(d) Any information obtained by the commission through its own investigation or research;

(e) Any discipline or training ordered by the employing agency regarding the alleged misconduct; and

(f) Whether the employing agency bears any responsibility for the situation.

(2) Additional bases for determining appropriate outcomes shall be developed by the commission.

(3) The fact that the commission has suspended the certified officer's certification is not in and of itself a bar to the employing agency's maintenance of the officer's health and retirement benefits.

(4) Any suspension imposed by the commission shall run concurrently to any leave or discipline imposed by the employing agency for the same incident.

(5) An agency may not terminate the certified officer based solely on imposition of suspension or probation by the commission.

(6) This subsection does not prohibit a law enforcement agency from terminating the certified officer based on the underlying acts or omissions for which the commission took such action.

(7) Reserve officers are subject to the same commission actions as certified officers based on alleged misconduct listed in RCW 43.101.105 (2) and (3) if the reserve officers are certified pursuant to RCW 43.101.095.

[Statutory Authority: RCW 43.101.080. WSR 23-19-038, § 139-06-100, filed 9/13/23, effective 10/14/23; WSR 23-01-086, § 139-06-100, filed 12/16/22, effective 1/16/23. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-100, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-100, filed 12/20/02, effective 1/20/03.]

WAC 139-06-110 Final order. (1) The hearings panel shall enter a final order within 90 days of the conclusion of the hearing. The commission shall serve a copy of the order to the parties and the certified officer's employing agency. It will also appear on the commission website.

(2) The final order issued by the hearings panel shall be the final decision of the commission.

(3) The transcripts, admitted evidence, recordings, and written decision of the hearings panel on behalf of the commission are not confidential or exempt from public disclosure and are subject to subpoena and discovery proceedings in civil actions.

(4) The final order shall include information for respondents to petition for reconsideration or judicial review contained in RCW 34.05.510 through 34.05.598.

(5) The commission's final order is subject to the judicial review provisions of the Administrative Procedure Act, RCW 34.05.510 through 34.05.598.

[Statutory Authority: RCW 43.101.080. WSR 25-19-056, s 139-06-110, filed 9/11/25, effective 10/12/25. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-110, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-110, filed 12/20/02, effective 1/20/03.]

WAC 139-06-130 Standards for readmission to academy, certification after denial, and reinstatement of certification. (1) A person denied a certification based upon dismissal or withdrawal from a basic academy under RCW 43.101.105 (3)(a) is eligible for readmission and certification upon meeting standards established in the rules of the commission.

(2) A person whose certification is denied or revoked based upon prior administrative error of issuance, failure to cooperate, or interference with an investigation is eligible for certification upon meeting standards established in commission policy per RCW 43.101.115(2).

(3) A person whose certification is mandatorily denied or revoked pursuant to RCW 43.101.105(2) is not eligible for certification at any time.

(4) A person whose certification is denied or revoked for reasons other than provided in subsections (1) through (3) of this section may, five years after the revocation or denial, petition the commission for reinstatement of certification or for eligibility for reinstatement.

(a) The commission may hold a hearing on the petition to consider reinstatement, and the commission may allow reinstatement based upon standards established in commission policy.

(b) If certification is reinstated or eligibility for certification is determined, the commission shall establish a probationary period of certification.

(5) A person whose certification is revoked based solely upon a criminal conviction may petition the commission for reinstatement immediately upon final judicial reversal of the conviction. The commission shall hold a hearing on a request to consider reinstatement. The commission may allow reinstatement based on standards established in commission policy. If the certificate is reinstated or if eligibility for certification is determined, the commission shall establish a probationary period of certification.

(6) A person whose certification has been denied or revoked may petition the commission for certification or reinstatement of certification as such time as they are eligible under RCW 43.101.115 and this section.

(7) The commission's policies and decisions regarding reinstatement shall align with its responsibilities to enhance public trust and confidence in the law enforcement profession and correctional system.

[Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-130, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-130, filed 12/20/02, effective 1/20/03.]

WAC 139-06-140 Hearing on petition for eligibility for certification or reinstatement of certification. (1) The commission may hold a hearing to determine the previously certified officer's eligibility for certification or reinstatement of certification per RCW 43.101.115.

(a) The commission will review the request and determine whether to hold a hearing based on criteria established in commission policy. All parties shall be notified of the decision in writing and the reasons for the decision, if denied.

(b) Where a petition is denied, all parties may appeal the denial utilizing commission appeal processes within 14 days of receipt of notification that the petition was denied.

(c) The executive director or designee will review an appeal and make a written determination within 30 days of receiving an appeal.

(2) Hearings on eligibility for certification or reinstatement of certification shall be conducted by a hearing panel.

(a) The hearing panel as defined in RCW 43.101.380 shall review the certification file and any additional records and information submitted by the parties prior to the hearing and may request any additional records and information to assist in its determination.

(b) The issues shall be limited to whether eligibility for certification is met, whether certification should be reinstated, and whether probationary terms should be imposed as a condition of reinstatement pursuant to WAC 139-06-150.

(3) The hearing panel shall enter its decision on the petition by written order as soon as possible within 90 days of the conclusion of the hearing, unless the time is extended for good cause or waived. A copy of the order shall be sent to the parties and to their employing agency.

(4) The decision of the hearing panel shall be the final order of the commission.

(5) The respondent whose petition for eligibility for certification or reinstatement of certification was denied by a hearing panel for reasons other than those outlined in RCW 43.101.115 (1), (2), and (3) may file a subsequent petition after five years have lapsed since the date of the entry of the hearing panel's final written order denying the prior petition. If a second petition for reinstatement is denied, no further petitions may be filed. The commission will not consider or accept a petition for reinstatement submitted after two prior petitions have been denied.

[Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-140, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 14-01-046, § 139-06-140, filed 12/11/13, effective 1/11/14; WSR 03-02-010, § 139-06-140, filed 12/20/02, effective 1/20/03.]

WAC 139-06-150 Terms of suspension, probation, and retraining. (1) The commission may require the respondent to take positive and substantial steps to reconcile the causes for which the hearing panel imposed sanctions. Under RCW 43.101.105 (3) and (4), the final order imposed shall include any conditions of suspension, probation, or retraining.

(2) In the final order, the period of suspension or probation may be:

(a) Set for a designated length of time;

(b) Conditioned upon the completion of retraining or other requirements identified in the order; or

(c) Both (a) and (b) of this subsection.

(d) However, the period of a suspension shall last no longer than one year and no longer than two years for probation.

(3) Once the respondent has complied with the conditions imposed by a final order, the commission shall confirm that the conditions were satisfied and/or the mandatory period of suspension or probation has concluded. After confirming that the respondent has satisfied all conditions of the final order, the commission shall issue a notice to the respondent and the employing agency that all conditions have been met.

(4) If any conditions included in a final order have not been satisfactorily met, the commission may pursue revocation of the respondent's certification on such basis.

[Statutory Authority: RCW 43.101.080. WSR 26-13-044, s 139-06-150, filed 6/11/26, effective 7/12/26. Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-150, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-150, filed 12/20/02, effective 1/20/03.]

MISCELLANEOUS

WAC 139-06-160 Miscellaneous. The rules contained in this chapter are intended to supplement the procedures contained in the Administrative Procedure Act, chapter 34.05 RCW, and the model rules of procedure, chapter 10-08 WAC.

(1) In the case of conflict between the model rules of procedure and the rules adopted in this chapter, the rules adopted in this chapter shall govern.

(2) Certified officer certification proceedings are distinct from proceedings before the commission under chapter 139-03 WAC and this chapter is not intended to modify chapter 139-03 WAC.

(3) This chapter is not intended to affect standards relating to civil service appeals, to collective bargaining remedies, or to any similar remedies of employment actions.

[Statutory Authority: RCW 43.101.080 and 43.101.801. WSR 22-13-075, § 139-06-160, filed 6/9/22, effective 7/10/22. Statutory Authority: RCW 43.101.080. WSR 03-02-010, § 139-06-160, filed 12/20/02, effective 1/20/03.]