

WAC 381-100-330 Determination of competency. (1) If, at any time prior to, or at the beginning of, the violation hearing, the individual or defense counsel raises the issue of the individual's competency, or there is reason to doubt competency, the presiding board member may order an evaluation of competency to be completed.

(2) The certified evaluator shall have access to all information obtained by the board including the ISRB file.

(3) The evaluation/assessment should include:

(a) A diagnosis of the mental condition of the individual;

(b) If the individual has indicated their intention to rely on the fact of their competency at the time of the specified violations, an opinion as to the individual's competency at the time of the alleged violation behavior;

(c) An opinion as to whether the individual is a danger to themselves or other persons;

(d) An opinion as to whether the individual is able to understand the nature of the proceeding and/or assist in their own defense.

(4) At the time the competency evaluation is ordered, the fact determination phase of the hearing may be completed. The dispositional phase of the hearing shall be continued until the competency evaluation can be submitted to the board for consideration and inclusion in the dispositional phase of the hearing.

(5) The board shall not lose jurisdiction of an individual, regardless of the outcome of the competency evaluation.

(6) Once the dispositional phase has been convened, the board shall consider the results of the evaluation and the evidence presented by both parties in making its decision to revoke or reinstate the individual.

(7) Should the board determine that the individual is competent, the board may reinstate the individual to supervision with special or modified conditions, revoke the individual and return them to a state correctional institution, or impose other appropriate sanctions.

(8) Should the board member determine that the individual is not competent, the board may reinstate the individual with the special condition that the individual utilize the voluntary commitment provisions under chapter 71.05 RCW, or the board may revoke the individual and recommend that the individual seek further mental health services while at the correctional institution.

[Statutory Authority: RCW 34.05.030 (1)(c). WSR 24-12-050, § 381-100-330, filed 5/31/24, effective 7/1/24.]