Chapter 208-08 WAC
ADJUDICATIVE PROCEDURES

WAC

208-08-010	Application of this chapter.
208-08-020	Adoption of rules of procedure.
208-08-030	Appearance and practice before the department.
208-08-040	Notice of appearance or withdrawal.
208-08-050	Requests for adjudicative hearing.
208-08-060	Discovery.
208-08-070	Production of documents to parties.
208-08-080	Depositions upon oral examination.
208-08-090	Submission on stipulated facts.
208-08-100	Consolidation of proceedings.
208-08-110	Prehearing conferences.
208-08-120	Informal settlements.
208-08-130	Prehearing and posthearing memoranda.
208-08-140	Transcript of proceedings.

WAC 208-08-010 Application of this chapter. This chapter applies to all adjudicative proceedings under the jurisdiction of the department of financial institutions or the director of the department of financial institutions. This chapter does not apply to investigations conducted under the authority granted by the acts administered by the department.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-010, filed 5/6/96, effective 6/6/96.]

WAC 208-08-020 Adoption of rules of procedure. (1) **Model rules.** The department adopts the model rules of procedure as set forth in WAC 10-08-035 through 10-08-230. If there is a conflict between the model rules and this chapter, the rules in this chapter shall govern. Wherever the term "agency" appears in the model rules it means the department of financial institutions.

(2) **Brief adjudicative proceedings.** The department specifically adopts the criteria and procedures for brief adjudicative proceedings contained in RCW 34.05.482 through 34.05.494. The department will use this procedure in any proceeding under chapter 293, Laws of 1996, regarding the suspension of escrow agent licenses for nonpayment of student loans.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-020, filed 5/6/96, effective 6/6/96.]

WAC 208-08-030 Appearance and practice before the department. (1) Only the following persons may appear in a representative capacity before the department or its designated presiding officer:

(a) Attorneys at law entitled to practice before the supreme court of the state of Washington.

(b) Attorneys at law entitled to practice before the highest court of record of another state, if attorneys at law are permitted to appear in a representative capacity before administrative agencies of that state, and if not otherwise prohibited by the laws of this state.

(c) A bona fide officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears for such individual firm, association, partnership, or corporation.

(2) The presiding officer may allow other forms of representation if he or she deems the representation satisfactory.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-030, filed 5/6/96, effective 6/6/96.]

WAC 208-08-040 Notice of appearance or withdrawal. (1) **Appearance.** Each attorney or other representative shall file a written notice of appearance with the department and the presiding officer and shall serve a notice of appearance on all attorneys and representatives then of record and on all unrepresented parties. The notice shall contain the name, address and telephone number of the attorney or representative.

(2) **Withdrawal.** Any attorney or representative who withdraws from representing a party shall file a written notice of withdrawal with the department and the presiding officer and shall serve the notice of withdrawal on all attorneys and representatives then of record and on all unrepresented parties. The notice shall contain the effective date of the withdrawal, and, if known, the name of the person who will represent the party from that time forward. Withdrawal of a party's attorney or representative after the service of a notice of hearing shall not be grounds for the continuance of the hearing unless good cause is shown.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-040, filed 5/6/96, effective 6/6/96.]

WAC 208-08-050 Requests for adjudicative hearing. (1) **Where filed—Form.** All requests that the department conduct an adjudicative hearing shall be filed with the department on the form provided by the department or on a form that is substantially similar.

(2) **Time limits for request.** The department must receive the request for an adjudicative hearing no later than twenty calendar days after the department serves the applicant with a written notice of an opportunity to request a hearing upon department action or contemplated department action. Service upon the applicant is completed when made in accordance with WAC 10-08-110 (2) and (3) or as provided by the statute under which the department initiated the action. If the statute under which the department initiated the action specifically provides for a different time limit, the time limit in that statute shall apply unless it has been superseded by the Administrative Procedure Act, chapter 34.05 RCW, but in no case shall the time limit for requesting an adjudicative hearing be less than twenty calendar days.

(3) **Failure to request hearing.** Failure of an applicant to file an application for an adjudicative hearing within the time limit set forth in subsection (2) of this section constitutes a default and results in the loss of the applicant's right to an adjudicative hearing. When an applicant defaults, the department may proceed to resolve the case pursuant to RCW 34.05.440(1).

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-050, filed 5/6/96, effective 6/6/96.]

WAC 208-08-060 Discovery. (1) **Motion required.** Unless discovery is included in the prehearing order as provided in WAC 208-08-110, a party wishing to make discovery must file a motion for discovery with the presiding officer. The party must also serve the discovery motion on all other parties to the proceeding. Any party opposing the motion must file a response with the presiding officer and the response must be served on all parties within ten calendar days after service of the motion.

(2) **Hearing on discovery motion.** Any party may request a hearing on a discovery motion. If the presiding officer determines that a hearing on the motion is warranted, he or she shall give all parties at least three business days notice of the time and place for the hearing.

(3) **Decision on motion.** The presiding officer may determine the extent and conditions of discovery in any adjudicative proceeding, considering the criteria set forth in RCW 34.05.446(3) and WAC 208-08-070 and 208-08-080. The presiding officer shall rule upon the motion only after all parties have responded or the time for response has passed.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-060, filed 5/6/96, effective 6/6/96.]

WAC 208-08-070 Production of documents to parties. (1) **Place of production.** When production of documents is allowed, they shall be produced for inspection and copying at the department's headquarters, at such other place as the parties may agree in writing, or as the presiding officer orders. In the case of documents produced by the department, a party may not remove the documents from the department's offices other than by written agreement of the department. This agreement shall specify the document subject to the agreement, the date for return of the document, and any other terms or conditions as are appropriate to provide for the safe keeping of the documents.

(2) **Copying procedures and charges.** The party requesting production may photocopy any documents produced. The requesting party is responsible for the cost of photocopying. The documents produced by the department may be copied at the department's offices or such other places as the parties may agree. Charges for copies made by the department for a requesting party will be at a rate agreed upon by the parties, or as ordered by the presiding officer.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-070, filed 5/6/96, effective 6/6/96.]

WAC 208-08-080 Depositions upon oral examination. (1) **Filing of transcripts.** If a deposition is allowed, it shall be recorded, including all questions and objections. If one of the parties orders a transcript, the testimony shall be transcribed verbatim under the direction of the court reporter, who shall certify the transcript. The witness shall sign the transcript or waive signature. If a deposition is transcribed, the court reporter shall file the original transcript and any exhibits to it with the presiding officer. The witness and any party may purchase a copy of the transcript from the court reporter.

(2) **Cost.** The party requesting the deposition shall pay the cost of the deposition, including any sitting or facility fee. A party ordering a copy of a transcript must make appropriate arrangements to pay the court reporter.

(3) **Videotaping of depositions.** If a videotaped deposition is allowed, Superior Court Civil Rule 30 (b)(8) shall apply.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-080, filed 5/6/96, effective 6/6/96.]

WAC 208-08-090 Submission on stipulated facts. With the agreement of the department, a party may waive a hearing and submit its case upon stipulated facts and briefs. Submission of a case without a hearing does not relieve the parties from the necessity of proving the facts supporting their allegations or defenses. The presiding officer shall review the submissions of the parties and shall enter a proposed order, including findings of fact and conclusions of law. If the parties agree, they may submit the stipulated facts to the director or designee for a final order, bypassing the presiding officer.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-090, filed 5/6/96, effective 6/6/96.]

WAC 208-08-100 Consolidation of proceedings. If there are multiple adjudicative proceedings involving common issues, the department or a party may notify the presiding officer of the common issues and request consolidation of the actions. If no other party objects, the presiding officer shall consolidate the proceedings. If another party objects, the presiding officer, in his or her discretion, may consolidate the proceedings.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-100, filed 5/6/96, effective 6/6/96.]

WAC 208-08-110 Prehearing conferences. The department encourages the use of prehearing conferences. If a party requests a prehearing conference, the presiding officer shall grant the request unless good cause is shown. WAC 10-08-130 governs the conduct of prehearing conferences.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-110, filed 5/6/96, effective 6/6/96.]

WAC 208-08-120 Informal settlements. The department encourages informal settlement of matters before the agency. Any person who believes his or her interest in an adjudicative proceeding may be settled informally may contact the department. The department specifically adopts WAC 10-08-230 setting forth procedures for informal settlements.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-120, filed 5/6/96, effective 6/6/96.]

WAC 208-08-130 Prehearing and posthearing memoranda. The presiding officer shall grant all timely requests to submit prehearing and posthearing memoranda and shall set a reasonable time for the submission of the memoranda. If a party files a posthearing memorandum, the opposing party has the right to file a response.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-130, filed 5/6/96, effective 6/6/96.]

WAC 208-08-140 Transcript of proceedings. (1) **Recording and transcripts.** Testimony and argument at the hearing shall be recorded either electronically or stenographically. Any party, upon motion, may order the court reporter to transcribe the proceedings at the party's expense. A party who orders a transcript of the proceedings shall provide the original transcript to the presiding officer at that party's expense, and upon such other terms as the presiding officer shall order.

(2) **Correction of transcript.** Corrections in the official transcript may be made only to make it conform to the evidence presented at the hearing. The presiding officer may call for the submission of proposed corrections and may dispose of them at appropriate times during the proceeding. If the parties agree and the presiding officer approves, transcript corrections may be incorporated into the record at any time during the hearing or after the close of evidence. All corrections must be made within ten calendar days after receipt of the transcript unless the presiding officer allows a different period.

[Statutory Authority: RCW 43.320.040 and 34.05.250. 96-11-035, § 208-08-140, filed 5/6/96, effective 6/6/96.]