

WAC 391-45-310 Examiner decisions. (1)(a) A party seeking review by the commission of an interlocutory decision of the executive director, his or her designee, or a hearing examiner must file a motion for discretionary review with the commission and a copy with the executive director, his or her designee, or a hearing examiner, within seven days after the decision is issued.

(b) Discretionary review of an interlocutory decision issued by the executive director, his or her designee, or a hearing examiner will be accepted by the commission only:

(i) If the executive director, his or her designee, or a hearing examiner has committed an obvious error which would render further proceedings useless; or

(ii) If the executive director, his or her designee, or a hearing examiner has committed probable error and the decision of the interlocutory decision of the hearing examiner substantially alters the status quo or substantially limits the freedom of a party to act; or

(iii) If the executive director, his or her designee, or a hearing examiner has so far departed from the accepted and usual course of administrative proceedings as to call for the exercise of revisory jurisdiction by the commission.

(c) The commission will not accept motions for discretionary review of:

(i) The scope of proceedings issued in a preliminary ruling by the executive director or his or her designee or a hearing examiner under WAC 391-45-110; or

(ii) Application of the six-month statute of limitations;

(iii) Any evidentiary ruling by a hearing examiner during the course of an administrative hearing.

(d) A motion for discretionary review under this rule, and any response, should not exceed fifteen pages double-spaced, excluding appendices.

(e) Denial of discretionary review of a decision does not affect the right of a party to obtain later review of the executive director's, his or her designee's, or hearing examiner's decision or the issues pertaining to that decision.

(2) After the close of the hearing and the filing of all briefs, the examiner shall issue a decision containing findings of fact, conclusions of law, and an order. Unless appealed to the commission under WAC 391-45-350, a decision issued under this section shall be the final order of the agency, with the same force and effect as if issued by the commission.

[Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.120, and 49.39.060. WSR 10-20-172, § 391-45-310, filed 10/6/10, effective 11/6/10. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.58.050, 41.59.110, 41.76.060, 41.80.120. WSR 08-04-058, § 391-45-310, filed 1/31/08, effective 4/1/08. Statutory Authority: RCW 28B.52.080, 41.56.090, 41.59.110, 41.58.050, 28B.52.065, 41.56.160 and 41.59.150. WSR 00-14-048, § 391-45-310, filed 6/30/00, effective 8/1/00; WSR 98-14-112, § 391-45-310, filed 7/1/98, effective 8/1/98. Statutory Authority: RCW 41.58.050, 28B.52.080, 41.56.090, 41.59.110, 28B.52.073, 41.56.180, 41.59.150 and 53.18.015. WSR 90-06-074, § 391-45-310, filed 3/7/90, effective 4/7/90. Statutory Authority: RCW 28B.52.080, 41.56.040, 41.58.050, 41.59.110 and 47.64.040. WSR 80-14-048 (Order 80-7), § 391-45-310, filed 9/30/80, effective 11/1/80.]