

WSR 21-07-060
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed March 15, 2021, 1:37 p.m.]

Original Notice.

Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1).

Title of Rule and Other Identifying Information: WAC 110-03-0530
Requesting review of the initial order, and 110-03-0590 Judicial re-
view.

Hearing Location(s): On April 27, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where department of children, youth, and families (DCYF) will send its response. Comments received through and including April 6, 2021, will be considered.

Date of Intended Adoption: April 28, 2021.

Submit Written Comments to: DCYF rules coordinator, P.O. Box 40975, Olympia, WA 98504-0975, email dcyf.rulescoordinator@dcyf.wa.gov, submit comments online at <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by April 27, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by April 23, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: 1. Remove the requirement that petitions for administrative review of initial hearing orders specify disputed issues. The anticipated effect is that petitions made defective by the current rule for failing to identify specific issues will be cured under the proposed rule, and department's review judges will be authorized to review entire hearing records when petitions do not identify specific disputed issues.

2. Emphasize secure email as a method for filing petitions for administrative review. The anticipated effect is petitioners have an additional, convenient method for filing petitions with the department's board of appeals.

3. Allow service of a petition for review on the department by secure email. The anticipated effect is petitioners will have a third method for service in addition to personal service and mailing.

Reasons Supporting Proposal: The proposed rule promotes access to justice by removing a procedural barrier to filing complete petitions for administrative review, offering an additional convenient method for filing petitions for administrative review, and offering an additional convenient service method for petitions for judicial review.

Statutory Authority for Adoption: RCW 34.05.220, 43.216.020, and 43.216.065.

Statute Being Implemented: RCW 34.05.464.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Laura Farris, Chief Review Judge, Olympia, Washington, 360-485-7621; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5) [(a)](i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

March 15, 2021
Brenda Villarreal
Rules Coordinator

OTS-2772.6

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

WAC 110-03-0530 Requesting review of the initial order. (1) A party must file the review request (petition for review) in writing and it (~~must~~) should:

(a) Clearly identify the parts of the initial order with which the party disagrees; and

(b) Clearly present arguments and refer to evidence in the record supporting the party's position.

(2) The petition for review must be filed with the BOA and the party requesting review must serve copies on the other parties and their representatives and OAH at the same time the petition is filed.

(3) (~~The petition for review must be filed with the BOA at the address stated in the~~) Instructions for obtaining a review will be sent with the initial order (~~or using~~). Depending on how the petition is filed, use the following contact information (~~appropriate to the method of filing used~~):

(a) Mailing address:

DCYF Board of Appeals
P.O. Box 40982
Olympia, WA 98504-0982;

(b) Fax: 360-586-5934;

(c) Email: Call the BOA at 360-902-0278 and request access to the secure email portal; or

(d) Physical address:

DCYF Board of Appeals
1115 Washington Street Southeast
Olympia, WA 98501
(~~Fax: 360-586-5934~~

~~This~~) (4) The contact information in this subsection is current as of the effective date of these rules; however, parties should file documents using the address or fax information received with the initial order if it is different from the information provided here.

((4)) (5) The DCYF board of appeals can be contacted by phone at: 360-902-0278.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0530, filed 12/19/19, effective 1/19/20.]

AMENDATORY SECTION (Amending WSR 20-02-031, filed 12/19/19, effective 1/19/20)

WAC 110-03-0590 Judicial review. (1) Judicial review is the process of appealing a final agency order to a superior court.

(2) Any party, except DCYF, may appeal a final order by filing a written petition for judicial review in superior court pursuant to RCW 34.05.514 that meets the requirements of RCW 34.05.546. The petition must be properly filed and served, as required by RCW 34.05.542, within thirty calendar days of the date the review judge serves the final order in the case. However, as provided by RCW 34.05.470, if a petition for reconsideration has been properly filed, the thirty day period does not commence until the agency disposes of the petition for reconsideration. Copies of the petition must be served on DCYF, the office of the attorney general, and all other parties at the same time the petition is filed.

(3) To serve DCYF, a copy of the petition must be delivered to the secretary of DCYF or to the DCYF BOA. The petition must be hand delivered (~~or~~), mailed with proof of receipt, or sent by secure email.

(a) The physical location of the secretary is:

DCYF Office of the Secretary
1500 Jefferson Street Southeast
Olympia, WA 98501

The mailing address of the secretary is:

DCYF Office of the Secretary
P.O. Box 40975
Olympia, WA 98504-0975

(b) The physical location and mailing address for the DCYF BOA are as stated in WAC 110-03-0530.

(c) To serve by email, call the BOA at 360-902-0278 and request access to the secure email portal.

(4) Service on the office of the attorney general and other parties of a copy of the petition for judicial review may be made at the following locations:

(a) The office of the attorney general may be served personally or by delivery at:

Office of the Attorney General
7141 Cleanwater Drive S.W.
Tumwater, WA 98501

The mailing address of the office of the attorney general is:

Office of the Attorney General
P.O. Box 40124
Olympia, WA 98504-0124

(b) Each party must be served at each party's address of record.

(5) A party may file a petition for judicial review only after it has exhausted administrative remedies, as provided under RCW 34.05.534.

(6) Filing a petition for judicial review of a final order does not stay the effectiveness of the final order.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0590, filed 12/19/19, effective 1/19/20.]