

WSR 22-13-159
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed June 21, 2022, 3:16 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: In chapter 110-03 WAC, Administrative hearings; WAC 110-03-0530 Requesting review of the initial order, and 110-03-0590 Judicial review.

Hearing Location(s): On July 26, 2022, telephonic. Make oral comments by calling 360-522-2826 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including July 26, 2022, will be considered.

Date of Intended Adoption: July 27, 2022.

Submit Written Comments to: DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate>, by July 26, 2022.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, by July 20, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules update the instructions for petitioning for review of initial administrative hearing orders. Specifically, the proposals direct petitioners to follow the instructions that are included with the initial order. The proposals' change in existing rules is the elimination of a physical address for service on the department's board of appeals.

Reasons Supporting Proposal: The department's board of appeals is no longer located at the address the current rule provides for personal service. It is possible the board of appeals could relocate again, so the department is opting not to include in the rule an address for personal service, and instead directs petitioners to follow the instructions supplied with the orders being challenged. The instructions will include the current physical address for personal service on the board of appeals.

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, Olympia, 360-902-8262; Implementation and Enforcement: DCYF, state-wide.

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.

June 21, 2022
Brenda Villarreal
Rules Coordinator

OTS-3663.6

AMENDATORY SECTION (Amending WSR 21-11-078, filed 5/18/21, effective 6/18/21)

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 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) Instructions for obtaining a review will be sent with the initial order. Depending on how the petition is filed, use the following contact information:~~

~~(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~~

~~(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.~~

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

(1) A party may request review of their initial order by filing a written request, known as a petition for review. A petitioner must follow the instructions included with their initial order when petitioning for review.

(2) A petition for review should state the:

(a) Specific parts of the initial order with which the party disagrees;

(b) Reasons why they disagree; and

(c) The specific evidence in the record that supports their position.

(3) A party filing a petition for review must serve a copy of their petition for review on OAH and the other parties and their representatives at the same time their petition for review is filed with the BOA.

(4) A petition for review must be filed with the BOA using one of the following methods:

(a) Mail to:

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) Personal service: The physical address where the BOA may be served is identified on the BOA website and in the initial order's instructions for petitioning for review. Parties filing by personal service are encouraged to first call the BOA at 360-902-0278 to arrange for someone to accept service.

(5) The contact information in this section is current as of the effective date of these rules. Any necessary updates are made to the initial orders' instructions for petitioning for review when changes occur.

(6) The DCYF board of appeals can be contacted by telephone at: 360-902-0278.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 21-11-078, § 110-03-0530, filed 5/18/21, effective 6/18/21; WSR 20-02-031, § 110-03-0530, filed 12/19/19, effective 1/19/20.]

AMENDATORY SECTION (Amending WSR 21-11-078, filed 5/18/21, effective 6/18/21)

WAC 110-03-0590 Judicial review. (1) Judicial review is the process of appealing ~~((a))~~ final agency orders 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))~~ 30 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))~~ 30 day period does not commence until the agency disposes of the petition for reconsideration. ~~((Copies))~~ A copy 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 DCYF secretary ~~((of DCYF))~~ or ~~((to the DCYF))~~ the BOA. The petition must be either hand delivered, 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)~~) is 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 21-11-078, § 110-03-0590, filed 5/18/21, effective 6/18/21; WSR 20-02-031, § 110-03-0590, filed 12/19/19, effective 1/19/20.]