

WSR 21-08-013
EMERGENCY RULES
DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed March 26, 2021, 2:20 p.m., effective March 26, 2021, 2:20 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Encourage petitions for administrative review of initial orders and petitions for judicial review of final agency orders to be served by United States mail or email on either the secretary of department of children, youth, and families (DCYF) or the DCYF board of appeals instead of personal delivery while state agency buildings are closed to the public in response to the COVID-19 pandemic.

Citation of Rules Affected by this Order: Amending WAC 110-03-0530 and 110-03-0590.

Statutory Authority for Adoption: RCW 34.05.220 and 43.216.065.

Other Authority: Proclamations of the Governor 20-05 and 20-25.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. The governor's proclamation directed state agencies to do everything reasonably possible to respond to and recover from the COVID-19 outbreak. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Proclamation of the Governor 20-25 established the "Safe Start - Stay Healthy" ["Stay Home - Stay Healthy"] County-by-County Phased Reopening plan that prohibits government buildings from opening to the public until such time as approved by the state department of health. Emergency WAC 110-03-0530 and 110-03-0590 were adopted on an emergency basis on July 29, 2020, under WSR 20-16-079 and November 25, 2020, under WSR 20-24-088. Circumstances have since changed under Proclamations 20-25 through 20-25.12 Roadmap to Recovery, but conditions prompting the State of Emergency declaration still exist and justify the need for emergency rules to remain in effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 2, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 2, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 26, 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 peti-

tion 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.]