

WSR 22-07-030
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed March 11, 2022, 9:36 a.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 110-30-0230

How does an alleged perpetrator challenge a founded CPS finding?, and 110-30-0280 What happens if CPS management does not change the founded CPS finding?

Hearing Location(s): On April 26, 2022, 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 26, 2022, will be considered.

Date of Intended Adoption: April 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/online>, by April 26, 2022.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov, by April 22, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules:

- Require requests for review of child abuse and neglect founded findings to be made as instructed in the founded finding notice and within 30 days of the date the alleged perpetrator receives the notice of founded finding;
- Clarify that a founded finding decision may not be challenged further if a request for review is not made within 30 days after the alleged perpetrator receives the notice of founded finding; and
- Require requests for administrative hearings of founded finding decisions to be made as instructed in the notice of decision and filed with the office of administrative hearings no later than 30 days after a founded finding decision is received.

Reasons Supporting Proposal: The proposed rules incorporate content that is explicitly and specifically dictated by RCW 26.44.125.

Statutory Authority for Adoption: RCW 26.44.125(7).

Statute Being Implemented: RCW 26.44.125.

Rule is necessary because of state court decision, *Rios-Garcia v. Department of Social and Health Services*, 18 Wn. App. 2d 660, 493 P.3d 143 (2021).

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tarassa Froberg, 360-515-8092; 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. The proposals are exempt under RCW 34.05.328 (5)(b)(v).

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 rule content is explicitly and specifically dictated by statute; and 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 11, 2022
Brenda Villarreal
Rules Coordinator

OTS-3074.3

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-30-0230 How ~~((does an))~~ do alleged perpetrators challenge ~~((a))~~ their founded CPS findings? (1) In order to challenge ~~((a))~~ founded CPS findings, ~~((the))~~ alleged perpetrators must ~~((make a written))~~ request in writing for CPS to review ~~((the))~~ their founded CPS findings of child abuse or neglect. ~~((The CPS finding notices must provide the information regarding all steps necessary to request a review.))~~

(2) ~~((The))~~ Alleged perpetrators must request ~~((must be provided to the same CPS office that sent))~~ the CPS review of their founded CPS finding notice within ~~((thirty))~~ 30 calendar days from the date ~~((the alleged perpetrator receives the CPS finding notice (RCW 26.44.125))~~ they received it. If requests are not made within 30 days, alleged perpetrators may not further challenge the findings.

[WSR 18-14-078, recodified as § 110-30-0230, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 26.44.125 (2) and (4). WSR 13-17-126, § 388-15-085, filed 8/21/13, effective 9/21/13. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-085, filed 7/16/02 and 8/14/02, effective 2/10/03.]

AMENDATORY SECTION (Amending WSR 20-04-019, filed 1/27/20, effective 2/27/20)

WAC 110-30-0280 What happens if CPS management does not change ~~((the))~~ founded CPS findings after their reviews? (1) If CPS management does not change ~~((the))~~ founded CPS findings after their review, ~~((the))~~ alleged perpetrators ~~((has))~~ have the right to further challenge ~~((that finding))~~ CPS management's decision by requesting an administrative hearing.

(2) ~~((The))~~ Requests for ~~((a))~~ administrative hearings must be in writing and ~~((sent to))~~ filed with the office of administrative hearings ~~((WAC 110-03-0070 lists the current address))~~ (OAH) as instructed in the notice of the CPS management review decision.

(3) (~~The office of administrative hearings must receive the written request for a hearing within thirty~~) Requests for administrative hearings with the OAH must be filed within 30 calendar days from the date that the (~~person requesting the hearing receives~~) alleged perpetrators received the CPS management review decision.

[Statutory Authority: 2017 c 6. WSR 20-04-019, § 110-30-0280, filed 1/27/20, effective 2/27/20. WSR 18-14-078, recodified as § 110-30-0280, filed 6/29/18, effective 7/1/18. Statutory Authority: RCW 74.13.031, 74.04.050, and chapter 26.44 RCW. WSR 02-15-098 and 02-17-045, § 388-15-105, filed 7/16/02 and 8/14/02, effective 2/10/03.]