

WSR 24-02-072
PERMANENT RULES
OFFICE OF
ADMINISTRATIVE HEARINGS

[Filed January 2, 2024, 9:20 a.m., effective February 2, 2024]

Effective Date of Rule: Thirty-one days after filing.

Purpose: To improve clarity and readability of WAC 10-16-010 by adding "OAH" definition of "Office" to mean the office of administrative hearings, to identify the agency's physical locations, and to establish that the agency procedures are in Title 10 WAC.

Citation of Rules Affected by this Order: Amending WAC 10-16-010.

Statutory Authority for Adoption: RCW 34.12.080.

Adopted under notice filed as WSR 23-21-081 on October 16, 2023.

Changes Other than Editing from Proposed to Adopted Version: Subsection (1) of the adopted rule is the current rule, with minor edits. Subsection (2) of the adopted rule is the current rule with the addition of a phrase in the second sentence. The proposed subsection (2) would have allowed any person to file a written complaint. The adopted subsection (2) maintains the current rule "an interested party" but expands the meaning to include a witness, interpreter, or court reporter in an administrative hearing. The adopted rule's subsection (5) replaces the proposed term manager for the term supervisor. Subsection (7) as adopted adds a phrase for clarity.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: January 2, 2024.

Edward Pesik
Acting Chief Administrative Law Judge

OTS-5017.3

AMENDATORY SECTION (Amending WSR 99-20-115, filed 10/6/99, effective 11/6/99)

WAC 10-16-010 Procedure for complaints regarding improper conduct of an administrative law judge. (~~(1) Administrative law judges must at all times adhere to the fundamental principles of law, fairly and equitably. Administrative law judges should be fair in their rulings and should conduct the proceedings in a judicious manner.~~

~~(2) Any interested party to an administrative proceeding may file a complaint alleging improper conduct of an administrative law judge.~~

For purposes of this section, an interested party is a person who has a right to receive notice of the administrative hearing.

~~(3) A complaint concerning a decision or order shall be handled through the appeal or petition for review process. This includes initial or final orders and interim orders or discretionary rulings from which further appeal may be taken.~~

~~(4) A complaint concerning the conduct of an administrative law judge, apart from a decision from which further appeal may be filed, shall be in writing and sent to the supervising administrative law judge.~~

~~(5) The written complaint must set forth in detail all pertinent facts and information. It shall include, among other things, the name of the administrative law judge, the date of the incident, the individuals present, and any other information which would assist in investigation of the complaint. The complaint should be no more than five pages.~~

~~(6) Within ten days of receipt of a written complaint, the supervising administrative law judge shall send a letter acknowledging receipt of the complaint. The supervising administrative law judge shall conduct an investigation of the complaint. For matters no longer pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response to the complaining party within thirty days of receipt of the complaint. However, for matters pending before the office of administrative hearings at the time the complaint is filed, the supervising administrative law judge shall issue a written response within thirty days after issuance of the administrative law judge's decision. If additional time is needed, the supervising administrative law judge shall notify the complaining party in writing and indicate an expected response date.~~

~~(7) If, after investigation, the complaint is found to have merit, the supervising administrative law judge shall take appropriate corrective action. If disciplinary action is warranted, it shall be handled internally subject to the individual's privacy rights as in other personnel matters.~~

~~(8) Should the complaining party not be satisfied with the result of the investigation, he or she may request review of the complaint by the chief administrative law judge. The chief administrative law judge shall review all facts and information pertinent to the complaint and issue a written response. The response of the chief administrative law judge shall be final.~~

~~(9) Any inquiries concerning the grievance procedure may be made through the administrative office or any field office of the office of administrative hearings. A directory listing the names and mailing addresses of supervising administrative law judges, deputy chief administrative law judges and the chief administrative law judge will be available through these offices.)~~

(1) Administrative law judges (ALJs) will at all times adhere to the fundamental principles of law, fairly and equitably. They should be fair in their rulings and should conduct the proceedings in a judicial manner.

(2) Any interested party to an administrative proceeding may file a complaint alleging improper conduct of an administrative law judge. For purposes of this section, an interested party is a person who has a right to receive notice of the administrative hearing, or was a witness, interpreter, or court reporter in an administrative hearing.

(3) The written complaint must include:

- (a) The name of the ALJ;
- (b) What the ALJ said or did that was improper;
- (c) The date of incident;
- (d) The individuals present; and

(e) Any other facts and information that would help the office of administrative hearings (OAH) investigate the complaint.

(4) A person filing a complaint must send it to OAH by mail or facsimile (fax) to the location listed on the notice or order, or by mail to 2420 Bristol Ct. S.W., P.O. Box 42488, Olympia, Washington, 98504-2488. A person may also file a complaint online at www.oah.wa.gov.

(5) OAH will acknowledge the complaint within 10 days after receiving it. A supervising ALJ (supervisor) will investigate the complaint. If the case is no longer pending before OAH when the complaint is filed, the supervisor will respond to the person in writing within 30 days after receiving the complaint. If the case is pending before OAH when the complaint is filed, the supervisor will respond within 30 days after the ALJ issues their decision. If additional time is needed, the supervisor will tell the person in writing and state when the supervisor expects to send a response.

(6) If the investigation finds that the ALJ acted improperly, OAH will take appropriate action. If discipline is warranted, it shall be handled internally. The person who filed the complaint will not be told about any action taken against an individual judge, but may be told of policy or practice changes that result from the complaint.

(7) If the person who filed the complaint is not satisfied with the result of the investigation, they may ask the chief administrative law judge (chief) to review the complaint. The chief will review all facts and information related to the complaint and respond in writing. The chief's response will be final.

(8) Any questions concerning the complaint procedure may be asked by calling OAH at the number listed on the order or notice, or in writing by mail or fax as explained in subsection (4) of this section.

(9) Disagreements with an ALJ's decisions or rulings must only be handled through the appeal or petition for review process, rather than this complaint process. If the complaint is only about the decisions and rulings of the ALJ, it will not be investigated.