



# EXPEDITED RULE MAKING

## CR-105 (June 2024) (Implements RCW 34.05.353)

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STATE OF WASHINGTON  
FILED

DATE: April 09, 2025

TIME: 3:41 PM

WSR 25-09-042

**Agency:** Department of Social and Health Services, Office of the Secretary, BOA

**Title of rule and other identifying information:** (describe subject) DSHS hearing rules amendments and housekeeping updates: WAC 388-02-0015, 388-02-0025, 388-02-0030, 388-02-0130, 388-02-0135, 388-02-0140, 388-02-0200, 388-02-0218, 388-02-0220, and 388-02-0245.

**Purpose of the proposal and its anticipated effects, including any changes in existing rules:** The purpose of these housekeeping changes is to update addresses, phone numbers, and other changed or obsolete language.

**Reasons supporting proposal:** The public, advocates, and DSHS personnel need up-to-date information in the hearing rules so that the hearing process functions easily and properly. Changing address and phone number information without changing the effect of the rule is appropriate for expedited rulemaking under RCW 34.05.353(1)(c). Updating the rules will help the public, advocates, and DSHS personnel to locate and contact the agencies and units specified in the rules..

**Statutory authority for adoption:** RCW 34.05.020, 34.05.220, and 34.05.353

**Statute being implemented:** Chapter 34.05 RCW, Parts IV and V.

**Is rule necessary because of a:**

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

**Name of proponent:** (person or organization) Marc Lampson, Chief Review Judge BOA DSHS

Private  
 Public  
 Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Marc Lampson	P.O. Box 45803, Olympia, WA 98504-5803	360-664-6093
Implementation:	Marc Lampson	P.O. Box 45803, Olympia, WA 98504-5803	360-664-6093
Enforcement:	Marc Lampson	P.O. Box 45803, Olympia, WA 98504-5803	360-664-6093

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:** None

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.

**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The changes do not impact any party's rights to administrative hearings.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: DSHS Rules Coordinator

Agency: Department of Social and Health Services

Address: PO Box 45850, Olympia WA 98504

Phone: 360-664-6097

Fax: 360-664-6185

Email: [DSHSRPAURulesCoordinator@dshs.wa.gov](mailto:DSHSRPAURulesCoordinator@dshs.wa.gov)

Other:

**BEGINNING** (date/time) noon on April 23, 2025 **AND RECEIVED BY** (date/time) 5:00 p.m. on June 24, 2025

**Date:** April 9, 2025

**Name:** Katherine I. Vasquez

**Title:** DSHS Rules Coordinator

**Signature:**



AMENDATORY SECTION (Amending WSR 02-21-061, filed 10/15/02, effective 11/15/02)

**WAC 388-02-0015 How do the terms in the Administrative Procedure Act (APA) compare to this chapter?** To improve clarity and understanding, the rules in this chapter may use different words than the APA or the model rules. Following is a list of terms used in those laws and the terms as used in these rules:

Chapter 34.05 RCW Chapter 10-08 WAC	Chapter 388-02 WAC
Adjudicative proceeding	Different terms are used to refer to different stages of the hearing process, and may include prehearing meeting, prehearing conference, hearing, review, reconsideration, and the entire hearing process
Agency	DSHS
Application for adjudicative proceeding	Request a hearing
Enter	Make, send
Presiding officer	ALJ ( <del>or review judge</del> )
Reviewing officer	Review judge

AMENDATORY SECTION (Amending WSR 15-23-048, filed 11/12/15, effective 12/13/15)

**WAC 388-02-0025 Where is the office of administrative hearings located?** (1) (~~(a)~~) The office of administrative hearings (OAH) headquarters location is:

(a) Office of Administrative Hearings  
2420 Bristol Court SW  
P.O. Box 42488  
Olympia WA 98504-2488  
(360) (~~664-8717~~) 407-2700  
(360) 664-8721 (fax)

(b) The headquarters office is open from 8:00 (~~am~~) a.m. to 5:00 p.m. (~~Mondays~~) Monday through Friday, except legal holidays.

(2) OAH field offices are at the following locations:

(a) Olympia  
Office of Administrative Hearings  
2420 Bristol Court SW  
P.O. Box 42489  
Olympia, WA 98504-2489  
(~~(360) 753-2531~~)  
(~~1-800-583-8271~~)  
fax: (360) 586-6563

(b) Seattle  
Office of Administrative Hearings

~~((One Union Square  
600 University Street, Suite 1500  
Mailstop: TS-07  
Seattle, WA 98101-1129  
(206) 389-3400  
1-800-845-8830))~~

Closed to the public, see the call center for contact information  
fax: (206) 587-5135

**(c) Spokane Valley**

Office of Administrative Hearings  
16201 E. Indiana Avenue, Suite ~~((5600))~~ 3000  
Spokane Valley, WA 99216  
~~((509) 456-3975  
1-800-366-0955))~~  
(509) 742-5747  
fax: (509) 456-3980 & (509) 456-3997

**(d) Tacoma**

Office of Administrative Hearings  
~~((949 Market Street, Suite 500  
Mailstop: WT-54))~~  
4301 S. Pine St, Suite 200  
Tacoma, WA ~~((98402))~~ 98409  
(253) 476-6888  
Effective 11/18/2024, open by appointment only  
fax (253) 593-2200

**(Yakima**

~~Office of Administrative Hearings  
32 N 3rd Street, Suite 320  
Yakima, WA 98901-2730  
(509) 575-2147  
1-800-843-3491  
fax (509) 454-7281))~~

(3) You should contact the call center ~~((Olympia field office))~~,  
under subsection (2) of this section, if you do not know the correct  
field office.

Call center telephone: (360) 407-2700

Toll free: (800) 583-8271

Call center is open from 7:00 a.m. to 5:00 p.m. Monday through  
Friday, except legal holidays.

(4) You can obtain further hearing information at the OAH web-  
site: **www.oah.wa.gov**.

AMENDATORY SECTION (Amending WSR 11-04-074, filed 1/31/11, effective  
3/3/11)

**WAC 388-02-0030 How do I contact the board of appeals?** (1) The  
information included in this section is current at this time of rule  
adoption, but may change. Current information and additional contact  
information are available on the department's internet site, in person

at the board of appeals office, or by a telephone call to the board of appeal's main public number.

Department of Social and Health Services Board of Appeals	
Location	Office Building 2 (OB-2) First Floor Information 1115 Washington Street SE Olympia, ( <del>Washington</del> ) WA
Mailing address	P.O. Box 45803 Olympia, WA 98504-5803
Telephone	(360) 664-6100
Fax	(360) 664-6187
Toll free	1-877-351-0002
Internet website	(( <a href="http://www.dshs.wa.gov/boa">www.dshs.wa.gov/boa</a> )) <a href="https://www.dshs.wa.gov/office-of-the-secretary/board-appeals">https://www.dshs.wa.gov/ office-of-the-secretary/board- appeals</a>

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0130 What requirements apply to notices for limited-English-speaking parties?** If OAH is notified that you are a limited-English-speaking person, all hearing notices, decisions, and orders for you must:

- (1) Be written in your primary language; or
- (2) Include a statement in your primary language:
  - (a) Indicating the importance of the notice; and
  - (b) Telling you how to get help in understanding the notice and responding to it.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0135 What requirements apply to interpreters?** (1) OAH must provide a qualified interpreter to assist any person who:

- (a) Has limited-English proficiency; and
  - (b) Is a party or witness in a hearing.
- (2) OAH may hire or contract with persons to interpret at hearings.
- (3) Relatives of any party and DSHS employees may not be used as interpreters.
- (4) The ALJ must determine, at the beginning of the hearing, if an interpreter can accurately interpret all communication for the person requesting the service. To do so, the ALJ considers the interpreter's:
- (a) Ability to meet the needs of the hearing impaired person or limited English speaking person;
  - (b) Education, certification, and experience;

- (c) Understanding of the basic vocabulary and procedures involved in the hearing; and
- (d) Ability to be impartial.
- (5) The parties or their representatives may question the interpreter's qualifications and ability to be impartial.
- (6) If at any time before or during the hearing the interpreter does not provide accurate and effective communication, the ALJ must provide another interpreter.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

- WAC 388-02-0140 May you waive interpreter services?** (1) If you are limited English proficient, you may ask to waive interpreter services.
- (2) You must make your request in writing or through a qualified interpreter on the record.
  - (3) The ALJ must determine if your waiver has been knowingly and voluntarily made.
  - (4) You may withdraw your waiver at any time before or during the hearing.
  - (5) You may ask that the interpreter be retained on standby for the duration of the hearing to provide interpreter services if the need arises.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

- WAC 388-02-0200 What happens during a prehearing conference?** During a prehearing conference the parties and the ALJ may:
- (1) Simplify or clarify the issues to be decided during the hearing;
  - (2) Agree to the date, time, and place of the hearing;
  - (3) Identify accommodation and safety issues((+)) ;
  - (4) Agree to postpone the hearing;
  - (5) Allow the parties to make changes in their own documents, including the DSHS notice or the hearing request;
  - (6) Agree to facts and documents to be entered during the hearing;
  - (7) Set a deadline to exchange names and phone numbers of witnesses and documents before the hearing;
  - (8) Schedule additional prehearing conferences;
  - (9) Resolve the dispute;
  - (10) Consider granting a stay if authorized by law or DSHS rule;
- or
- (11) Determine any other procedural issues raised by the parties.

AMENDATORY SECTION (Amending WSR 12-10-036, filed 4/26/12, effective 5/27/12)

**WAC 388-02-0220 What rules and laws must an ALJ and review judge apply when conducting a hearing or making a decision?** (1) ALJs and review judges must first apply the department rules adopted in the Washington Administrative Code.

(2) If no department rule applies, the ALJ or review judge must decide the issue according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, regulations, and court decisions.

(3) When applying program rules regarding the substantive rights and responsibilities of the parties (such as eligibility for services, benefits, or a license), the ALJ and review judge must apply the program rules in effect on the date of the department action, unless otherwise required by other rule or law. If the department amends its notice of the action, the ALJ and review judge must apply the rules in effect on the date the action was taken, unless otherwise required by other rule or law.

(4) When applying program rules regarding the procedural rights and responsibilities of the parties, the ALJ and review judge must apply the rules that are in effect on the date the procedure is followed.

(5) Program rules determine the amount of time the department has to process your application for services, benefits, or a license.

(6) The ALJ and review judge must apply the rules in this chapter beginning on the date each rule is effective and in accordance with subsection (3) of this section.

(7) (~~If you have a dispute with the department concerning the working connections child care (WCCC) program, the ALJ and review judge must apply the hearing rules in this chapter and not the hearing rules in chapter 170-03 WAC.~~) The rules in this chapter apply to disputes between you and the department of social and health services.

AMENDATORY SECTION (Amending WSR 00-18-059, filed 9/1/00, effective 10/2/00)

**WAC 388-02-0245 May an ALJ or review judge be disqualified?** (1) An ALJ or review judge may be disqualified for bias, prejudice, or conflict of interest, or if one of the parties or a party's representative has an ex parte contact with the ALJ or review judge.

(2) Ex parte contact means a written or oral communication with the ALJ or review judge about something related to the hearing when the other parties are not present. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, (~~or~~) location, or asking for directions to the hearing location.

(3) To ask to disqualify an ALJ or review judge a party must send a written petition for disqualification. A petition for disqualification is a written explanation to request assignment of a different ALJ or review judge. A party must promptly make the petition upon discovery of possible bias, conflict of interest, or an ex parte contact.

(4) A party must send or deliver the petition to the ALJ or review judge assigned to the case. That ALJ or review judge must decide whether to grant or deny the petition and must state the facts and reasons for the decision.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 388-02-0218      When do review judges conduct the hearing and enter final orders?