

Chapter 308-29 WAC
COLLECTION AGENCIES AND REPOSSESSION SERVICES

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WAC

308-29-010	Definitions.
308-29-020	Financial statement.
308-29-025	What records must a licensee maintain at the licensed location?
308-29-030	Do licensees have to notify the director of changes in ownership, officers, directors, or managing employees?
308-29-045	Collection agency fees.
308-29-050	Are licensees required to notify the director of lawsuits, judgments, etc., involving the licensee or its employees?
308-29-060	What are the licensees' obligations when transferring an interest in a collection agency?
308-29-070	Disclosure of rate of interest.
308-29-080	Does a collection agency have to notify the credit reporting agency when the debt is satisfied?
308-29-085	Remote work requirements.
308-29-090	Brief adjudicative proceedings—When they can be used.
308-29-110	Conduct of brief adjudicative proceedings.
308-29-120	Appeal process for brief adjudicative proceedings.
308-29-130	Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

308-29-040	Collection agency—Fees. [Statutory Authority: RCW 43.24.085. WSR 80-14-022 (Order 356), § 308-29-040, filed 9/25/80; Order PL 221, § 308-29-040, filed 11/5/75.] Repealed by WSR 83-17-031 (Order PL 442), filed 8/10/83. Statutory Authority: 1983 c 168 § 12. Later promulgation, see WAC 308-29-045.
308-29-100	Preliminary record in brief adjudicative proceedings. [Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-100, filed 5/22/01, effective 6/22/01.] Repealed by WSR 07-17-145, filed 8/21/07, effective 9/21/07. Statutory Authority: RCW 19.16.410.

WAC 308-29-010 Definitions. (1) Words and terms used in these rules have the same meaning as each has under chapter 19.16 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning.

(2) "Branch office" is any location physically separated from the principal place of business of a licensee where the licensee conducts any activity meeting the criteria of a collection agency or out-of-state collection agency as defined in RCW 19.16.100.

(3) "Business office" is the licensed principal place of business or certified branch office from which the licensee conducts any activity meeting the criteria of a collection agency or out-of-state collection agency as defined in RCW 19.16.100.

(4) "Collection activities" as used in this section means those activities performed by collection agencies or the employees of collection agencies pursuant to chapter 19.16 RCW.

(5) "Employee" is a natural person employed by a licensee and shall not be deemed a "collection agency" or a "branch office" as defined in RCW 19.16.100 (5)(a) so need not have an additional license or certificate to perform collection activities on behalf of the licensee whether working from a business office or from the employee's virtual office.

(6) "Repossession services" conducted by any person shall not be deemed a collection agency as defined in RCW 19.16.100, unless such person is repossessing or is attempting to repossess property for a third party and is authorized to accept cash or any other thing of value from the debtor in lieu of actual repossession.

(7) "Managing employee" is an individual who has the general power to exercise judgment and discretion in acting on behalf of the licensee on an overall or partial basis and who does not act in an inferior capacity under close supervision or direction of a superior au-

thority (as distinguished from a nonmanaging employee who is told what to do and has no discretion about what he or she can and cannot do and who is responsible to an immediate superior).

(8) "Remote work" occurs when an employee performs collection activity for a licensee from the employee's "virtual office" as defined herein and more particularly described in WAC 308-29-085. Work performed by a licensed attorney litigating claims on behalf of a licensee is not remote work subject to WAC 308-29-085.

(9) "Virtual office," for purposes of chapters 19.16 and 18.235 RCW and chapter 308-29 WAC, is a virtual extension of the licensee's business office, which is fully connected via electronic means and telecommunications to the business office and its employees and from which an individual employee may perform the same collection activities and be similarly monitored as if located in the business office and as more particularly described in WAC 308-29-085.

[Statutory Authority: RCW 19.16.351. WSR 21-03-046, § 308-29-010, filed 1/14/21, effective 2/14/21. Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-010, filed 5/22/01, effective 6/22/01; Order PL-123, § 308-29-010, filed 5/17/72.]

WAC 308-29-020 Financial statement. Each applicant must submit a current (within prior three months) financial statement of assets and liabilities. Such statement shall be submitted in the manner and form prescribed by the director. Whenever a licensee applies for annual license renewal, such licensee must sign the renewal form that contains a certification:

(1) That the collection agency's true net worth complies with the requirements of RCW 19.16.245; and

(2) That the trust account(s) have sufficient funds to pay all obligations to clients.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-020, filed 5/22/01, effective 6/22/01; Order PL-123, § 308-29-020, filed 5/17/72.]

WAC 308-29-025 What records must a licensee maintain at the licensed location? Required records:

The collection agency must maintain the following records at the licensed location:

(1) **Bank trust records.**

(a) Duplicate receipt book or cash receipts journal recording all receipts showing date received and the customer who paid;

(b) Sequentially numbered checks with check register or cash disbursement journal or check stubs showing the purpose of the disbursement and the client account it is debited to;

(c) Bank deposit slips verifying the date deposited and reconciled with receipt book or cash receipts journal;

(d) Client's accounting ledger or client remittance report summarizing all moneys received and all moneys disbursed for each client collection account; and

(e) Reconciled bank statements and canceled checks for all trust bank accounts.

(2) **Other records.**

- (a) Copies of all financial statements of licensee showing solvency;
- (b) Annotations of significant events or conversations with debtors;
- (c) Transactions folders containing all agreements, contracts, documents, statements and correspondence for each debtor and client (may be maintained electronically or on other retrievable medium); and
- (d) Collection agreements authorizing the licensee to collect debts or a schedule listing all fees or charges to be charged to the debtor or client.

Accuracy, accessibility and retention of records:

All required records shall be accurately posted, kept up-to-date and kept at the address where the collection agent is licensed to do business. Such records shall be retained and available for inspection by the director or the director's authorized representative during normal business hours. The collection agent shall provide copies of required records upon demand by the director or the director's authorized representative.

(3) Licensee's responsibilities:

(a) The licensee shall be responsible for the custody, safety and the accuracy of entries in all required records. The licensee retains this responsibility even though another person or persons assume the duties of preparation, custody or recording.

(b) The licensee shall obtain copies of the Collection Agency Act (chapter 19.16 RCW) and the rules implementing the act (chapter 308-29 WAC) and be knowledgeable of these laws and rules in their most recent version.

(c) The licensee must ensure accessibility of the licensed location and records to the director or the director's representative.

(4) Administration of trust funds and client property:

(a) A licensee who receives funds or moneys from any debtor, client or customer shall hold the funds or moneys in trust for the purposes of the agreement and shall not utilize such funds or moneys for the benefit of the licensee or any person not entitled to such benefit.

(b) All funds or moneys received shall be deposited into a federally insured banking institution.

(c) The trust bank account will be in the licensee's name and identified as a trust account.

(d) Preauthorization of regular disbursements or deductions on an ongoing basis by financial institutions is not permitted for multi-client accounts.

(e) When a contract between the licensee and client expires, terminates, or is no longer in existence, the licensee shall give a closing statement to the client summarizing all receipts and payments since the last statement and shall return all instruments and client property to the client within thirty days after written demand from the client, or as specified in the client contract.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-025, filed 5/22/01, effective 6/22/01.]

WAC 308-29-030 Do licensees have to notify the director of changes in ownership, officers, directors, or managing employees? (1) Each licensee shall notify the director in writing:

- (a) Within ten business days of any change in its ownership;

(b) Within ten business days of any change in officers, directors, or managing employees of each office location.

The notification shall consist of reporting the individual's name, position, address and effective date of change.

(2) If requested by the department, each licensee shall notify the department in writing of any additional information regarding the change or changes in subsection (1) of this section within ten days after the mailing of the request.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-030, filed 5/22/01, effective 6/22/01; WSR 87-11-064 (Order PM 653), § 308-29-030, filed 5/20/87; Order PL-141, § 308-29-030, filed 12/18/72.]

WAC 308-29-045 Collection agency fees. The following fees will be charged by the business and professions division of the department of licensing:

Title of Fee	Fee
Collection agency—Main office:	
Original application	\$890.00
Renewal	\$515.00
Reregistration fee after 30 days	\$1,405.00
Branch office (with WA main office):	
Original application	\$590.00
Renewal	\$340.00
Reregistration fee after 30 days	\$930.00
Out-of-state collection agency—Main office:	
Original application	\$445.00
Renewal	\$257.50
Reregistration fee after 30 days	\$702.50
Branch office—With out-of-state main office:	
Original application	\$295.00
Renewal	\$170.00
Reregistration fee after 30 days	\$465.00
License print fee	\$5.00

[Statutory Authority: RCW 43.24.086. WSR 22-24-050, § 308-29-045, filed 11/30/22, effective 12/31/22. Statutory Authority: RCW 19.16.140, 43.24.086, and 2011 1st sp.s. c 50. WSR 11-23-159, § 308-29-045, filed 11/22/11, effective 12/23/11. Statutory Authority: RCW 19.16.140, 43.24.086. WSR 04-18-043, § 308-29-045, filed 8/26/04, effective 10/1/04. Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-045, filed 5/22/01, effective 6/22/01. Statutory Authority: RCW 43.24.086. WSR 90-06-052, § 308-29-045, filed 3/2/90, effective 4/2/90; WSR 87-10-028 (Order PM 650), § 308-29-045, filed 5/1/87. Statutory Authority: 1983 c 168 § 12. WSR 83-22-060 (Order PL 446), § 308-29-045, filed 11/2/83; WSR 83-17-031 (Order PL 442), § 308-29-045, filed 8/10/83. Formerly WAC 308-29-040.]

WAC 308-29-050 Are licensees required to notify the director of lawsuits, judgments, etc., involving the licensee or its employees?

(1) Within thirty days after the entry of any judgment against the licensee or any owner, officer, director or managing employee of a non-individual licensee, the licensee shall notify the director in writing of the judgment, if the judgment arises out of any of the practices prohibited in RCW 19.16.250 or of any of the grounds set forth in RCW 19.16.120.

(2) Within thirty days after the filing, service or knowledge of a tax lien or warrant filed against the licensee or any owner, officer, director or managing employee of a nonindividual licensee, the licensee shall notify the director in writing of the lien or warrant.

(3) Within thirty days after the filing, service or knowledge of any suit, complaint, counterclaim or cross claim served or filed in any court in which the licensee or any owner, officer, director or managing employee of a nonindividual licensee is named a defendant, the licensee shall notify the director in writing of such matter if it:

(a) Involves alleged violations of RCW 19.16.210; or

(b) Is or purports to be brought on behalf of the state of Washington or three or more persons.

(4) Within thirty days after the licensee or any owner, officer, director or managing employee of a nonindividual licensee files a petition for bankruptcy, the licensee shall notify the director in writing of the filing of the petition.

(5) The written notification shall be sent by certified or registered mail and shall identify:

- The names of all parties, plaintiff and defendant;
- The court in which the action is commenced; and
- The cause number assigned to the action.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-050, filed 5/22/01, effective 6/22/01; WSR 79-06-084 (Order PL-306), § 308-29-050, filed 6/1/79.]

WAC 308-29-060 What are the licensees' obligations when transferring an interest in a collection agency? (1) In order to transfer the licensee's interest in a collection agency or out-of-state collection agency, unless the transfer is due to the death of an individual licensee, the licensee shall notify all of its clients with open accounts, or cause such clients to be notified, of the transfer of the licensee's interest.

(2) The instrument by which the interest is transferred shall be in writing, and shall indicate:

(a) That the license or branch office certificate granted under chapter 19.16 RCW is not assignable or transferable, that the transfer of the licensee's interest in the business does not include such license or certificate, that the transferee of the interest must apply for a license and/or certificate in accordance with the law, and that the transferee of the interest may not act, assume to act, or advertise as a collection agency or out-of-state collection agency as defined in chapter 19.16 RCW, without first having applied for and obtained a license under that chapter;

(b) Which party to the transaction bears responsibility for payment to clients of amounts due them between the date the instrument is executed and the effective date of the transfer;

(c) Which party to the transaction bears responsibility for maintaining and preserving the records of the collection agency or out-of-

state collection agency as prescribed by RCW 19.16.230 and these rules;

(d) Whether the transfer of interest includes the right to use of the business name or trade name of the collection agency or out-of-state collection agency; and

(e) Which party to the transaction bears responsibility for providing written notice of the transfer to the clients of the collection agency who have open accounts with the collection agency or out-of-state collection agency.

(3) The licensee must provide the director a copy of the instrument transferring the licensee's interest signed by all parties to the transaction and shall indicate the effective date of the transfer.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-060, filed 5/22/01, effective 6/22/01; WSR 87-11-064 (Order PM 653), § 308-29-060, filed 5/20/87; WSR 86-14-051 (Order PM 602), § 308-29-060, filed 6/27/86; WSR 79-06-084 (Order PL-306), § 308-29-060, filed 6/1/79.]

WAC 308-29-070 Disclosure of rate of interest. Whenever a collection agency is required pursuant to RCW 19.16.250 (8)(c) to disclose to the debtor that interest charges are being added to the original obligation, the collection agency must also disclose to the debtor the rate of interest. The rate of interest cannot exceed the legal maximum rate established in chapter 19.52 RCW.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-070, filed 5/22/01, effective 6/22/01; WSR 87-11-064 (Order PM 653), § 308-29-070, filed 5/20/87; WSR 86-14-051 (Order PM 602), § 308-29-070, filed 6/27/86.]

WAC 308-29-080 Does a collection agency have to notify the credit reporting agency when the debt is satisfied? If a collection agency informs a credit-reporting agency of the existence of a claim, the collection agency shall promptly notify the credit-reporting agency that the claim has been satisfied. In the absence of other applicable law, "promptly" shall mean within forty-five days after satisfaction of the claim.

[Statutory Authority: [RCW 19.16.410]. WSR 01-11-132, § 308-29-080, filed 5/22/01, effective 6/22/01; WSR 87-11-064 (Order PM 653), § 308-29-080, filed 5/20/87; WSR 86-14-051 (Order PM 602), § 308-29-080, filed 6/27/86.]

WAC 308-29-085 Remote work requirements. A licensee may allow qualified employees to perform collection activities from virtual offices if the following requirements are met:

(1) **Employee list.** A licensee must keep a record of employees who are permitted to perform collection activities from a virtual office. The list must be kept current, and must include the employee's name, telephone number and email address, and the virtual office location address.

(2) **Equipment list.** A licensee must maintain a current record of licensee equipment supplied to an employee for use in their virtual office.

(3) **Employee remote work agreement.** A licensee must provide the employee a written agreement or checklist signed by the employee that indicates the employee has reviewed and agrees to the following requirements:

(a) While working remotely, the employee must agree to maintain confidentiality of consumer data, must maintain all collection agency data electronically and may not print hard copies or otherwise reproduce copies of collection agency data.

(b) The employee must read and agree to comply with the licensee's IT security policy and any updates.

(c) Employee must agree to maintain the safety and security of licensee's equipment at all times as more particularly described by the licensee.

(d) An employee must review a description of the specific type of collection work the employee or class of employee is allowed to perform while working from their virtual office.

(e) The employee must agree not to disclose or convey to the consumer that the employee is working from a virtual office or that the virtual office is a place of business.

(f) An employee must be advised that the employee's collection agency activities are subject to review and calls to and from the virtual office will be monitored and recorded.

(4) **Virtual office requirements.** An individual employee's virtual office is an extension of the licensee's business office and must meet the following requirements:

(a) It must have full connectivity with the licensee's business office systems including computer networks and phone system and must provide the licensee the same level of oversight and monitoring capacity as if the employee were performing their activities in the business office.

(b) It must have the capability to record calls made to and from the virtual office and to monitor virtual office calls in real time.

(c) It must be located within the United States and, within one hundred miles of the licensee's business office.

(d) It must be in a private location where the employee can maintain consumer confidentiality during the performance of their collection activities.

(e) It must meet all security requirements of this section and contain the equipment necessary to conduct the licensee's work safely and efficiently.

(f) Each employee shall be connected to the business office via a virtual office that requires unique credentialing for access by each employee.

(g) No more than one employee may work from a virtual office from the same physical location, except that cohabitating employees may each maintain a virtual office from their shared residence.

(h) Employees may not print or store physical records in the employee's virtual office.

(5) **Employee requirements.** The licensee is responsible for ensuring that an employee working from a virtual office meets all of the following requirements:

(a) To become eligible to work from a virtual office, the employee must have completed a training program at the licensee's business office, which covers topics including compliance, privacy, confiden-

tiality, monitoring and security, and other issues that apply particularly to working remotely from a virtual office.

(b) In addition, an employee must complete a minimum of forty-five days of direct oversight and mentoring in the licensee's business office prior to working from a virtual office. This requirement may be waived by the board under emergency circumstances that the board has determined makes it impossible to perform.

(c) Once an employee begins to work from a virtual office, they must be subject to the same levels of communication, management, oversight and monitoring via telecommunications and computer monitoring as they would if working in the business office.

(d) While working remotely the employee must comply with all applicable laws and regulations as outlined in chapters 19.16 and 18.235 RCW and chapter 308-29 WAC.

(6) **IT security requirements.** Licensees are responsible for developing and following a written IT security policy for virtual offices that outlines the security protocols in place safeguarding the company and consumer data. Consumer data in the form of an electronic record must have the appropriate protections against unauthorized or accidental disclosure, access, use, modification, duplication, or destruction.

The IT security policy shall include the following additional requirements:

(a) Virtual office access to the collection agency's secure system must be through the use of a virtual private network "VPN" or other system that requires usernames and passwords, frequent password changes, authorization, multifactor authentication, data encryption, and/or account lockout implementation.

(b) The immediate installation or implementation of any system updates or repairs in order to keep information and devices secure.

(c) The provision of safe and secure storage with expandable capacity for all electronic data including consumer and licensee data.

(d) Virtual offices must contain computers and/or other electronic devices that have secure computer configurations and reasonable security measures such as updated antivirus software and firewalls.

(e) Access to licensee's systems must occur on company-issued computers and electronic devices whose use is restricted to authorized employees while working at their virtual office, and an employee's use of devices must be limited to employment related activities on behalf of licensee.

(f) Consumer data is accessed securely through the use of encryption or other secure transmission sources.

(g) An action plan has been developed and communicated with relevant employees on how to handle a data breach arising from remote access devices in accordance with applicable laws, which shall include any required disclosures of such breach.

(h) A disaster recovery plan has been developed and communicated with relevant employees on how to respond to emergencies (e.g., fire, natural disaster, etc.) that have the potential to impact the use and storage of licensee's data.

(i) The secure and timely disposal of licensee's data as required by applicable laws and contractual requirements.

(j) An annual internal or external risk assessment is performed on the collection agency's protection of licensee's data from reasonably foreseeable internal or external risks. Based on the results of the annual risk assessment, the collection agency shall make adjustments to its data security policy if warranted.

(k) The licensee can stop the virtual office's connectivity with the network and remotely disable or wipe company issued computers and electronic devices that contain or have access to licensee's information and data when an employee no longer has an employment relationship with the company.

(7) **Call recording and monitoring.** Licensees must consistently record and monitor calls in which employees are performing collection activities. Call recordings must be maintained for a minimum of four years and call monitoring must be regularly performed, a portion of which must be in real time. Recording and monitoring calls from virtual offices must meet industry standards for collection agencies and ensure that virtual office calls comply with chapter 19.16 RCW and more particularly with RCW 19.16.250 (13)(c), (18), and (19) and also chapter 9.73 RCW.

(8) **Nondisclosure.** Neither the employee nor the licensee shall represent to debtors or any other party that the employee is working independently from licensee in a virtual office. Such acts include, but are not limited to:

(a) Advertising in any form, including business cards and social media, an unlicensed address or personal telephone or facsimile number associated to an unlicensed location.

(b) Meeting consumers at, or having consumers come to the employee's virtual office.

(c) Holding out in any manner, directly or indirectly, by the employee or licensee, an address that would suggest or convey to a consumer that the virtual office is a licensed collection agency location or "branch office," including receiving licensee's mail, or storing books or records at the virtual office.

It shall not be considered a violation of this section if, in response to an inquiry about the remote worker's location, a remote worker responds that the worker is working remotely or working from a virtual office, or words to that effect.

(9) **Data breach.** Should a licensee or virtual office experience a data breach as defined under chapter 19.255 RCW, the licensee must comply with the requirements of chapter 19.255 RCW.

(10) **Evaluation.** The board will review and evaluate the adequacy of this section at least annually and will make amendments, as the board deems necessary.

[Statutory Authority: RCW 19.16.351. WSR 21-03-046, § 308-29-085, filed 1/14/21, effective 2/14/21.]

WAC 308-29-090 Brief adjudicative proceedings—When they can be used.

(1) The board adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted at the discretion of the board. Brief adjudicative proceedings can be used in place of formal adjudicative hearings whenever the board issues a statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleging that an applicant or licensee's conduct, act(s), or condition(s) constitute unlicensed practice or unprofessional conduct as that term is defined under chapter 18.235 RCW, the Uniform Regulation of Business and Professions Act. Brief adjudicative proceedings can also be used whenever the statement of charges, notice of intent to issue a cease and desist order, or temporary cease and desist order alleges violations of any

statute or rule that specifically governs disciplinary actions within a profession for which the applicant seeks a license or from which the licensee holds a license.

(2) Brief adjudicative proceedings may be used to determine the following issues, including, but not limited to:

(a) Whether an applicant has satisfied terms for reinstatement of a license after a period of license restriction, suspension, or revocation;

(b) Whether an applicant or licensee has satisfied financial security requirements by providing adequate proof of surety bonds or other proof of financial security, as required by law;

(c) Whether a sanction proposed by the board is appropriate based on the stipulated facts;

(d) Whether an applicant meets minimum requirements for an initial or renewal application;

(e) Whether an applicant or licensee failed to cooperate in an investigation by the board;

(f) Whether an applicant or licensee was convicted of a crime that should disqualify the applicant or licensee from holding the specific license sought or held;

(g) Whether an applicant or licensee has violated the terms of a final order issued by the board;

(h) Whether a licensee has committed recordkeeping violations;

(i) Whether a licensee has committed trust account violations;

(j) Whether an applicant or licensee has engaged in false, deceptive, or misleading advertising; or

(k) Whether a person has engaged in unlicensed practice.

(3) In addition to the situations enumerated in subsection (1) of this section, the board may conduct brief adjudicative proceedings instead of formal adjudicative hearings whenever the parties have stipulated to the facts and the only issues presented are issues of law, or whenever issues of fact exist but witness testimony is unnecessary to prove or disprove the relevant facts.

[Statutory Authority: RCW 46.01.110 and 2018 c 199. WSR 18-21-028, § 308-29-090, filed 10/5/18, effective 11/5/18. Statutory Authority: RCW 19.16.410. WSR 07-17-145, § 308-29-090, filed 8/21/07, effective 9/21/07; WSR 01-11-132, § 308-29-090, filed 5/22/01, effective 6/22/01.]

WAC 308-29-110 Conduct of brief adjudicative proceedings. Brief adjudicative proceedings shall be conducted by a presiding officer designated by the board. The presiding officer for brief adjudicative proceedings shall have agency expertise in the subject matter but shall not have personally participated in the decision to issue the initiating document.

[Statutory Authority: RCW 19.16.410. WSR 07-17-145, § 308-29-110, filed 8/21/07, effective 9/21/07; WSR 01-11-132, § 308-29-110, filed 5/22/01, effective 6/22/01.]

WAC 308-29-120 Appeal process for brief adjudicative proceedings. If you do not receive satisfaction from the brief adjudicative proceeding, you may appeal to the board for an administrative review. The board must receive your written appeal within twenty-one days af-

ter the brief adjudicative proceeding order is posted in the United States mail. The board considers your appeal and either upholds or overturns the brief adjudicative proceeding decision. The board's decision, also called an order, is mailed to you. This section does not apply to brief adjudicative proceedings conducted by the board through WAC 308-29-090(2).

[Statutory Authority: RCW 19.16.410. WSR 07-17-145, § 308-29-120, filed 8/21/07, effective 9/21/07; WSR 01-11-132, § 308-29-120, filed 5/22/01, effective 6/22/01.]

WAC 308-29-130 Objections to brief adjudicative proceedings and conversion to formal adjudicative hearings. (1) At least five days before the scheduled brief adjudicative proceeding, any party to the proceeding, including the board, may file a written objection to resolution of a matter by a brief adjudicative proceeding and may request that a matter be converted to a formal adjudicative hearing. Upon receiving a timely written objection, the presiding officer shall determine whether the matter should be converted. Regardless of whether any party files a timely objection, the presiding officer may convert any brief adjudicative proceeding to a formal adjudicative hearing whenever it appears that a brief adjudicative proceeding is insufficient to determine the issues pending before the board.

(2) In determining whether to convert a proceeding, the presiding officer may consider the following factors:

(a) Whether witness testimony will aid the presiding officer in resolving contested issues of fact;

(b) Whether the legal or factual issues are sufficiently complex to warrant a formal adjudicative proceeding, including whether there are multiple issues of fact or law;

(c) Whether a brief adjudicative proceeding will establish an adequate record for further board or judicial review;

(d) Whether the legal issues involved in the proceeding present questions of legal significance or are being raised for the first time before the board;

(e) Whether conversion of the proceeding will cause unnecessary delay in resolving the issues; and

(f) Any other factors that the presiding officer deems relevant in reaching a determination.

[Statutory Authority: RCW 19.16.410. WSR 07-17-145, § 308-29-130, filed 8/21/07, effective 9/21/07.]