

WASHINGTON STATE BOARD OF HEALTH

Date: June 1, 2021

To: Washington State Board of Health Members

From: Keith Grellner, Chair

Subject: Board Policy and Procedure 2015-001 Responding to Complaints Against a Local Health Officer or Administrative Officer – Designation of Presiding Officer

Background and Summary:

Board Policy 2015-001 establishes process and procedure for responding to complaints filed pursuant to RCW 70.05.120, alleging a local health officer or administrative officer has failed to carry out the laws or rules and regulations concerning public health. In accordance with RCW 70.05.120, the policy provides that if the Board finds a hearing is warranted after preliminary investigation, the hearing will be conducted pursuant to chapter 34.05 RCW, the Administrative Procedure Act (APA). Under RCW 34.05.425, the Board may determine who will serve as the presiding officer for the hearing.

The presiding officer conducts the hearing and may issue an initial or final order as described below. The presiding officer may be one or more individuals and may be made up of members of the Board who will conduct the hearing and issue an order after the hearing, or the Board may hire an administrative law judge (ALJ) through the Office of Administrative Hearings to serve as the presiding officer. An ALJ can conduct the hearing and may also issue an initial order. In all instances, the Board issues the final order.

The options for who may serve as the presiding officer pursuant to chapter 34.05 RCW are as follows:

1. A quorum of the Board may serve as the presiding officer, conducting the hearing and issuing its decision after the hearing. One member may be designated as the head presiding officer for purposes of communication
2. One or more members of the Board may serve as the presiding officer
3. The Board may hire an ALJ to serve as the presiding officer for the purpose of conducting the hearing and issuing an initial order after the hearing. The Board would then issue a final order.

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4. The Board may hire an ALJ to serve as the presiding officer for the purpose of conducting the hearing without issuing an initial order, leaving it to the Board to issue a final order after the hearing.

Recommended Board Actions:

The Board may wish to consider, amend if necessary, and adopt one of the following motions:

The Board determines that a quorum of the Board will serve as the presiding officer, and further that *Member Name* will serve as the head presiding officer.

OR

The Board determines that one or more members of the Board will serve as the presiding officer, and further that this member or these members will be *Member Name* or *Members Names*.

OR

The Board directs staff to hire an administrative law judge through the Office of Administrative Hearings to serve as the presiding officer for the purpose of conducting the hearing and issuing an initial order.

OR

The Board directs staff to hire an administrative law judge through the Office of Administrative Hearings to serve as the presiding officer for the purpose of conducting the hearing but not for issuing an initial order.

Staff

Lilia Lopez, Counsel to the Board

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