

WASHINGTON STATE 
BOARD OF HEALTH

**POLICIES, PROCEDURES, AND BYLAWS
COMMITTEE**

**Notice of Public Meeting
Wednesday, September 7, 2022
2:00 – 3:00 p.m.**

Please Note

This is a virtual meeting via Zoom. Meeting access and instructions are provided below.

Agenda

- 2:00 p.m. Opening and Introductions
- 2:05 p.m. Selection of Committee Chair
- 2:10 p.m. Committee Scope and Objectives
- 2:15 p.m. Board Complaint Policy Discussion
- 2:55 p.m. Next Steps
- 3:00 p.m. Adjourn

Zoom Meeting Information:

To access the meeting online, please click:

- <https://us02web.zoom.us/j/84427050247?pwd=REE2VkFKUEdhajA3bG5RVVZuS09zdz09>
- Meeting ID: 844 2705 0247, Passcode: 950236

You can also dial-in using your phone:

- One-tap mobile: +1 (253) 215-8782
- Webinar ID: 844 2705 0247#
- Passcode: 950236#

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Important Information to Know:

- This meeting is open to the public. The public can observe the meeting online.
- The subcommittee will not take formal action or receive public comment. If you have comments or materials you would like to share with the full Board, please send your copies to wsboh@sboh.wa.gov.
- This is a special meeting of the Board's Policies, Procedures, and Bylaws ad hoc subcommittee. It is intended to guide staff preparation related to issues for upcoming Board meetings.
- Times are estimates only. We reserve the right to alter the order of the agenda.
- Emergency contact number during the meeting is (360) 463-9069.
- To request this document in an alternate format or a different language, please contact Kelie Kahler, State Board of Health Communication Manager, at 360-236-4102 or by email kelie.kahler@sboh.wa.gov

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Board Policies, Procedures, and Bylaws Committee

Purpose, Scope, Background

Committee Purpose

Per the Washington State Board of Health's (SBOH) bylaws, the Board may establish ad-hoc committees to fulfill specific tasks. Ad-hoc committees shall be comprised of members recommended by Board members or staff. The committee must disband when it completes its assigned task(s). Each ad-hoc committee shall select a committee chair unless one is selected by the Board. Ad-hoc committees may include subject matter experts or members of the public. All committee meetings are open and will be conducted as special meetings under the Open Public Meetings Act in accordance with RCW 42.30.080.

At its June 2022 meeting, Board members discussed proposed revisions to its policy regarding Responding to Complaints Against a Local Health Officer or Administrative Officer (Policy Number 2015-001). Board members expressed interest in continued work on updating this policy through an ad-hoc committee. Board staff consider this ad-hoc committee the Policies, Procedures, and Bylaws committee.

Committee Scope

The Policies, Procedures, and Bylaws committee will be tasked with reviewing and finalizing recommended revisions to the Board's Responding to Complaints Against a Local Health Officer or Administrative Officer policy (Policy Number 2015-001). Committee recommendations will be brought to the full Board at a future meeting for potential adoption.

This committee may also consider revisions to the Board's bylaws and other policies and procedures (e.g., the Board's policy for handling rulemaking petitions). In addition to selecting a committee chair, the scope of the committee should be confirmed by committee members during their first meeting.

Complaint Policy

Under RCW 70.05.120, any person may file a complaint with the Board concerning the failure of the local health officer or administrative officer to properly carry out public health laws under chapters 70.05, 70.24, and 70.46 RCW and Board rules.

The Board previously adopted Policy 2015-001, Responding to Complaints Against a Local Health Officer or Administrative Officer, which establishes the procedure by which the Board will handle complaints under RCW 70.05.120.

Current policy states that when a complaint is received, the Board determines whether the complaint falls within its authority to review and, if so, whether it merits further action. If it is determined that the complaint merits further action, the Board may request a preliminary investigation be completed by members and/or staff. Following the completion of a preliminary investigation, the Board will hear the results of the investigation at a public meeting and may take action, including scheduling a hearing in accordance with the Administrative Procedures Act (APA).

Since adoption of the policy, the Board has received and heard three complaints. In reviewing these complaints, staff have identified potential gaps in the policy that need updating. Areas for possible update include clarification on who may conduct a preliminary investigation, removing gendered language, clarification of the Board sponsor role, and increased specificity about who may serve as the presiding officer for a hearing. The goal of these recommendations is to provide additional transparency and clarification on how the Board will process future complaints received against local health officers or health administrators in accordance with RCW 70.05.120.

Washington State Board of Health Policy & Procedure

Draft Policy Number:	2015-001
Subject:	Responding to Complaints Against a Local Health Officer or Administrative Officer <u>Under RCW 70.05.120</u>
Approved Date:	January 14, 2015

Policy Statement

RCW 70.05.120 allows any person to file a complaint with the Washington State Board of Health (~~board~~Board) alleging the failure of the local health officer or administrative officer to carry out the laws or the rules and regulations concerning public health. The ~~B~~Board ~~shall~~will review complaints that allege a local health officer, or administrative officer, has refused or neglected to obey or enforce the provisions of chapters 70.05, 70.24 and 70.46 RCW, ~~and the state board of health~~or Board rules, regulations, or orders. The ~~B~~Board will review a complaint to determine whether it merits a preliminary investigation. The ~~B~~Board may dismiss a complaint that is beyond the scope of RCW 70.05.120, lacks sufficient information to support a preliminary investigation, or is frivolous in nature. If the ~~B~~Board determines a preliminary investigation is warranted, the ~~B~~Board ~~shall~~will assign ~~members and/staff~~ or ~~staff~~a third-party investigator, as appropriate, to conduct a preliminary investigation and to report their findings to the ~~board~~Board. The ~~board~~Board will then review the findings of the investigation and ~~make a final determination regarding~~determine how to proceed. The Board may determine that further information is necessary, close the complaint, or hold a hearing based on the findings of the preliminary investigation.

Procedure

- 1) **Complaint Review and Notifications:** Board staff, in consultation with the Executive Director, will respond to the complainant within five business days acknowledging receipt of the complaint. The Executive Director or staff will notify Board members that a complaint has been received and will be brought to the Board for review at the next regularly scheduled ~~B~~Board meeting. If no regular meeting is scheduled within 60 days of receipt of the complaint, or if the agenda for the regular meeting cannot accommodate review of the complaint, the Executive Director will notify the Chair of the need to schedule a special ~~B~~Board meeting for the purpose of reviewing the complaint. The Executive Director will also ~~shall~~ notify the subject local health official and will provide a copy of the complaint for ~~his or her~~their information and review, and inform the official that ~~he or she~~they may provide a written response to the complaint if ~~he or she~~they so ~~chooses~~choose. The Executive Director ~~shall~~will notify the complainant and the subject local health official of dates and times that the Board is scheduled to review or discuss

the complaint. As part of the initial review, the Board will determine whether a complaint falls within its authority to review, and whether the complaint merits further action.

Multiple complaints against the same official(s) about the same subject matter will be consolidated for review.

- 2) **Preliminary Investigation:** If the Board determines that a complaint is within the scope of RCW 70.05.120, and merits further review, the Board may direct ~~members and/or~~ staff to conduct a preliminary investigation. The Board may ~~designate~~identify a ~~sponsor~~Board member to ~~oversee~~be available for consultation with staff activities. ~~The~~during the preliminary investigation. This Board member will recuse themselves as necessary from further participation in resolution of the complaint. The Board may direct staff to hire a third-party investigator to conduct the preliminary investigation when necessary to avoid a potential conflict of interest with the Board. ~~The preliminary investigation may include,~~ but may not be limited to: a review of relevant statutory and rule authorities; gathering other background information and evidence; and interviewing the complainant, ~~witnesses, or named parties/individuals regarding~~the local health official named in the complaint, and others regarding the complainant's allegations. Background information includes, but is not limited to, laws, rules, court decisions, and documents submitted by the complainant and local health ~~jurisdiction~~official named in the complaint, and other state or local entities involved ~~in the complaint.~~ ~~Board staff may interview witnesses, any parties named or implicated in the complaint,~~ In addition to conducting interviews, the individual(s) designated to conduct the investigation may consult with content or industry experts, ~~and consult with~~ appropriate representatives of named or implicated agencies, and others as appropriate. The Board may request the Department of Health to provide assistance in conducting the preliminary investigation.
- 3) **Findings:** ~~The sponsor and board~~Board staff or a third-party investigator assigned to conduct the investigation ~~shall~~will present the findings of the preliminary investigation and a recommendation for Board consideration at a ~~regular~~ Board meeting. As described above, ~~Board~~ staff ~~shall~~will notify the complainant and subject local health official of the date and time of the Board meeting at which the Board will review findings. The complainant and ~~may request that they~~local health official named in the complaint will be given the opportunity to provide comment at the meeting.
- 4) **Determination: Review of Findings** Based on the findings of the preliminary investigation, the ~~board~~Board will ~~make a determination regarding the complaint~~determine how to proceed. For example, it may request further information if it cannot reach a conclusion based on the results of the preliminary investigation; close the complaint if it concludes that the local health officer or administrative officer did not ~~fail~~refuse or fail to obey or enforce the provisions of chapter 70.05, 70.24 or 70.46 RCW, or ~~the state board of health~~ Board rules, regulations, or orders; or, ~~if it determines that the local health officer or administrative officer failed to obey or enforce the provisions of chapter 70.05, 70.24 or 70.46 RCW, or the state board of health rules or orders,~~ direct the officer to remedy the failure; or, if necessary, hold a hearing under the Administrative

Procedure Act (APA), chapter 34.05 RCW regarding the officer's removal to determine if the local officer is guilty of the alleged acts.

~~5) **Hearing:** If the Board determines that a hearing is necessary, it will be held pursuant to the provisions of chapter 34.05 RCW.~~

5) Hearing: If a hearing is called, the Board will designate a presiding officer for the proceedings in accordance with RCW 34.05.425. The Board, members of the Board, or an Administrative Law Judge (ALJ) with the Office of Administrative Hearings (OAH) may serve as the presiding officer. If an ALJ is designated, the scope of their duties will be determined at that time. If an ALJ is involved, OAH will schedule the proceedings. The proceedings will be conducted in accordance with the APA and applicable procedural rules.