

WAC 200-220-620 Exclusion from capitol campus or areas thereof.

(1) An officer of the Washington state patrol or a designated enterprise services employee may exclude a person from the capitol campus or a designated area thereof under the authority of this section, if the issuer has reasonable belief based upon the facts and circumstances to believe that the person through acts or omissions has violated one or more of the rules applicable to the capitol campus under chapters 200-200 through 200-599 WAC or an applicable statute, regulation, or policy while on the capitol campus.

(2) A notice of exclusion shall not be issued unless:

(a) The alleged violator who engaged in the conduct in question was informed that the conduct is a violation of an applicable statute, rule, or policy, was requested to cease or correct that conduct, and the person did not upon request and information promptly cease or correct the conduct, including, if applicable, removing any objects or materials that are in violation; or

(b) The alleged violator has been given a warning of potential exclusion for the conduct in question; or

(c) The alleged violation has resulted in or creates a substantial risk of damage to property or injury to a person.

(3) A notice of exclusion shall:

(a) Be in writing, signed by the person issuing it, identify the issuer's name and title, and identify the person subject to the order, if known.

(b) Reasonably identify the ground or grounds for the exclusion. To the extent practicable, if ground in subsection (2)(b) of this section is relied upon, identify the date of a prior warning, and if ground in subsection (2)(c) of this section is relied upon, describe the basis for finding damage or a substantial risk of damage to state property or injury or a substantial risk of injury to a person.

(c) Contain the date of issuance and a citation to the rule(s) and/or statute(s) the person is alleged to have violated.

(d) Contain the date the exclusion begins and ends. If the exclusion duration is longer than the standard period of exclusion, the notice shall provide a description of the nature of the violation warranting a deviation from the standard.

(e) Specify the locations from which the individual will be excluded, which the issuer may, if appropriate, limit to areas of the capitol campus where similar conduct might occur. Exclusions do not apply to public rights-of-way and public sidewalks along such rights-of-way that are not closed to the public. Further, exclusions do not apply to direct transit along a direct route through the capitol campus for the sole purpose of attending a public hearing, a legislative session, or a prearranged meeting with a state official unless the notice of exclusion specifically states that such areas are subject to the exclusion and provides the reasons therefore.

(f) Set out the method of appealing the notice, which shall also include the address where an appeal should be sent.

(g) Prominently display a warning of the consequences for failure to comply with the notice and state that a violation of the terms of the notice will constitute criminal trespass under chapter 9A.52 RCW.

(4) The person subject to exclusion need not be charged, tried, or convicted of any crime or be issued an infraction or have an infraction found committed in order for a notice of exclusion to be issued or effective. The issuing person need only establish that probable cause exists that a violation occurred and that one or more of the conditions in subsection (2) of this section are satisfied.

(5) The standard period of exclusion shall be as follows and shall apply unless the issuing person deems a longer period of exclusion is warranted based on the nature of the violation:

(a) First violation: Forty-eight hour exclusion.

(b) Second violation: Thirty day exclusion.

(c) Third violation: One year exclusion.

(6) A person subject to exclusion pursuant to this section may appeal the exclusion to the director as provided on the notice by submitting the appeal together with a copy of the exclusion within 10 days of receipt of the notice of exclusion. The director or a designee shall decide the appeal as a brief adjudicative appeal under RCW 34.05.482 through 34.05.494. The presiding officer shall base the final order on a "more probable than not" standard whether (a) a condition in subsection (2) of this section was or was not present and (b) the violation did or did not occur. The presiding officer may modify the terms of the exclusion to reduce the period and/or area of exclusion. The decision of the presiding officer may be appealed under the provisions of chapter 34.05 RCW.

(7) Unless the appellant requests and obtains a stay from the presiding officer or the exclusion is otherwise invalidated, removed, or modified, the exclusion will remain in effect until its expiration date. A stay request must be accompanied by a statement of the grounds for the stay and identify the evidence setting forth the factual basis for the request. A stay will not be granted unless the deciding presiding officer finds that the appellant is likely to prevail on the appeal or that the appellant has raised a substantial question whether the exclusion should be reversed and has shown a likelihood that the appellant will suffer irreparable harm due to the exclusion.

(8) An individual who has received an exclusion notice may petition the director of enterprise services (of its designee) for an exemption from the exclusion notice to allow entry on specific days and times for specific purposes. A request for an exemption must:

(a) Be made in writing, provide the individual's current address, enclose a copy of the exclusion notice from which the individual is requesting an exemption, and be mailed to the department of enterprise services at (address);

(b) Be received by the department of enterprise services within 25 days after the individual has been served with an exclusion notice or not later than five business days prior to the requested period of exemption; and

(c) Identify: (i) The specific location the individual wants to visit; (ii) the date and time when the individual wants to visit; (iii) the purpose of the visit and whether the individual asserts that the exemption is for the purpose of exercising rights under the first amendment of the U.S. Constitution.

After receiving a request for an exemption, the director of the department of enterprise services or a designee must review the request and issue a decision on the request within three business days. The decision must specify the reasons why the presiding officer granted or denied the request.

In the event the presiding officer grants the request, the decision must specify the location, date, and time of the exemption to the exclusion notice. The department of enterprise services must immediately transmit a copy of the decision to the Washington state patrol's special operations division by email, and regular mail, or other shared systems.

In the event the presiding officer denies the request, the decision is appealable under the provisions of chapter 34.05 RCW.

[Statutory Authority: RCW 43.19.125 and 46.08.150. WSR 23-07-028, § 200-220-620, filed 3/6/23, effective 6/6/23.]