

WSR 23-14-089
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS

[Filed June 30, 2023, 8:48 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-11-011.

Title of Rule and Other Identifying Information: WAC 196-09-015
Complaint processing approach.

Hearing Location(s): On August 23, 2023, at 1:30 p.m., at Board of Registration for Professional Engineers and Land Surveyors Office, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501; or WebEx meeting <https://brpels.my.webex.com/brpels.my/j.php?MTID=mc78c5c6baf60baadb0f370ce52a9ecc9> . The board of registration for professional engineers and land surveyors (board) is holding this hearing in person at the board's offices in Olympia. The public may also virtually participate in the hearing by accessing the hearing link on the board's rule-making page <https://brpels.wa.gov/about-us/laws-and-rules/rulemaking-activity>.

Date of Intended Adoption: October 19, 2023

Submit Written Comments to: Shanana Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanana.Gillespie@brpels.wa.gov, by August 23, 2023.

Assistance for Persons with Disabilities: Contact Mackenzie Wherrett, phone 360-968-4813, TTY 711 or 1-800-835-5388, email Mackenzie.Wherrett@brpels.wa.gov, by August 18, 2023.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To clarify existing complaint processing language and to provide language regarding complainant requests to reopen a closed complaint or investigation.

Reasons Supporting Proposal: Updates to current language and the addition of new language will help licensees and the public understand the board's complaint process approach.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: Chapter 18.43 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanana Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-968-4805.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. The board is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5) (a).

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Explanation of exemptions: This rule is exempt per RCW 34.05.310 (4) (b) because the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party.

Scope of exemption for rule proposal:
Is fully exempt.

June 30, 2023
Ken Fuller
Director

OTS-4680.1

AMENDATORY SECTION (Amending WSR 21-22-092, filed 11/2/21, effective 12/3/21)

WAC 196-09-015 Complaint processing approach. The board processes complaints as follows:

(1) Anyone may submit a complaint against a licensed or unlicensed person alleging unprofessional conduct, unlicensed practice, or any other violations of chapter 18.43, 18.235, or 18.210 RCW. Complaints must be sworn to in writing and should include documentation of the alleged conduct.

(2) Upon receipt of the complaint, board staff will send an acknowledgment of the complaint to the complainant. If the subject of the complaint ("respondent") is a licensee, the board will notify the licensee respondent that a complaint was filed against them and include a copy of the complaint documents.

(3) Board staff will conduct an initial review of the complaint to determine whether the complaint raises a potential violation that would fall within the jurisdiction (~~and purview of a potential board action.~~

~~(a) If board staff determines there are no violations)) of the board's regulatory powers. If the complaint does not raise a potential violation of law within the board's jurisdiction, the complaint is administratively closed after recommendation to the board, and the parties are notified of the closure.~~

~~((b) If board staff determines)) (4) If there is a potential violation, a ((formal investigation)) case is opened, a case file is created, and an investigator and case manager are assigned. The respondent is notified, and a response to the allegations in the complaint is requested.~~

~~((4)) (5) The investigator will conduct a formal investigation which may include requests for documentation and interviews of the complainant, respondent, and other associated parties. All records gathered during the investigation will be placed in the case file.~~

~~(6) When the investigation is complete, the case manager will review and evaluate ((all documentation or comments received (the investigation file),)) the case file with the investigator, and may ask additional questions of any party, or call for further investigation. When the case manager completes their review ((of the documentation)), they will draft a written report, which will ((result in either)) include facts, possible violations and recommendation on the disposition of the case which may be case closure, case closure with remedial~~

counseling, (~~(expedited resolution)~~) or issuance of (~~(statement of)~~) charges.

~~((5))~~ (7) The board may resolve a complaint or investigation at any time during this process.

(8) If a complainant requests reopening of a closed complaint or investigation, the board may only do so upon receipt of additional evidence or information in support of the original complaint that is relevant to the allegations. Submission of additional documentation does not guarantee the complaint or investigation will be reopened.