

Attachment 1 to CR-103P

Variance from Model Rules Prepared pursuant to RCW 34.05.250

Rule 208-08	Model Rule 10-08	Comments
020	N/A	The amendments: clarify that the model rules indicated for adoption include future amendments; clarify the types of proceedings the department will consider for brief adjudicative proceedings; and clarify that if a conflict arises with securities rules, the securities rules will govern.
025	N/A	This new rule authorizes electronic service.
030	N/A	The amendments: make the rules consistent with the Washington Rules of Professional Conduct (“RPC”) and related comments; establishes the RPC as the basic standard of professionalism in practicing before DFI and OAH; adds new language clarifying the role of DFI employees who maintain a WSBA license; and provides the presiding officer with authority to impose a sanction for a violation of subsection (3).
040	083	The proposed amendments: clarify notice requirements; aid the determination of who represents which respondent when a matter has multiple respondents; and assist in contacting a respondent after his or her representative has withdrawn.
050	035	The proposed amendments create consistency and reference a new section.
053	N/A	The proposed new section facilitates more efficient and timely resolution of matters by requiring additional information early in the process.
055	N/A	The proposed amendments provide tools, guidance, and clarification to the ALJs as to their authority.
060	N/A	The proposed amendments establish the rules of discovery that apply in DFI adjudicative proceedings; clarify that, for purposes of discovery, the “presiding officer” is not the agency head; create a rule for determining when a motion for discovery will be heard and addressed; establish a limitation on what is discoverable; clarify the ALJ’s authority to make negative inferences based upon discovery

		violations; clarify that discovery is a stage of the proceeding subject to default, pursuant to RCW 34.05.440(2); and provide a mechanism for interlocutory appeal of discovery issues.
070	N/A	The proposed amendment creates requirements for tracking and safekeeping information.
080	N/A	The proposed amendment more accurately reflects the content of the rule.
083	N/A	The proposed new language codifies and clarifies the authenticity of documents and creates a process and standards for challenging authenticity.
085	N/A	The proposed new section authorizes the use of unsworn declarations.
090	N/A	The proposed amendments help clarify the rule.
110	N/A	The proposed amendments clarify the rule.
120	230	The proposed amendment delineates who is authorized from DFI to address settlements.
150	N/A	The proposed new language creates a standard for amending initiating documents.
160	N/A	The proposed new language creates a protocol to address interlocutory appeals.
170	N/A	The proposed new language sets forth existing statutory authority of the divisions of Banks and Credit Unions to adjudicate within DFI. The proposed new section also clarifies that charges against some other entities may be adjudicated inside DFI to the extent permitted by statute.