

**ELC 10.12**  
**SCHEDULING OF HEARING**

**(a) Where Held.** Absent agreement of all parties, all disciplinary hearings must be held in Washington State.

**(b) Scheduling Conference.** Following the filing of respondent's answer, the hearing officer must convene a scheduling conference of the parties, by conference call or in person.

**(c) Scheduling Order.** The hearing officer must enter an order setting the date and place of the hearing. This order may include any prehearing deadlines the hearing officer deems required by the complexity of the case, as well as a determination regarding a settlement conference under subsection (h). The Scheduling Order may be in the following form with the following timelines:

SCHEDULING CONFERENCE DETERMINATION:

The hearing officer finds that this case may benefit from a settlement conference, and a settlement officer should be appointed.

**IT IS ORDERED** that the hearing is set and the parties must comply with prehearing deadlines as follows:

**1. Witnesses.** A preliminary list of intended witnesses, including addresses and phone numbers, and a designation of whether the witness is a fact witness, character witness, or expert witness, must be filed and served by [Hearing Date (H)-12 weeks].

**2. Discovery.** Discovery cut-off is [H-6 weeks].

**3. Motions.** Prehearing motions, other than motions to bifurcate, must be served by [H-4 weeks]. An exhibit not ordered or stipulated admitted may not be attached to a motion or otherwise transmitted to the hearing officer unless the motion concerns the exhibit's admissibility. The hearing officer will advise counsel whether oral argument is necessary, and, if so, the date and time, and whether it will be heard by telephone. (Rule 10.15 provides the deadline for a motion to bifurcate.)

**4. Exhibits.** Lists of proposed exhibits must be exchanged by [H-3 weeks].

**5. Service of Exhibits/Final Witness List.** Copies of proposed exhibits and a final witness list, including a summary of the expected testimony of each witness must be exchanged by [H-2 weeks]. A copy of the final witness list, excluding the summary of expected testimony, must be filed and served by [H-2 weeks].

**6. Objections.** Objections to proposed exhibits, including grounds other than relevancy, must be exchanged by [H-1 week].

**7. Briefs.** Any hearing brief must be filed and served by [H-1 week]. Exhibits not ordered or stipulated admitted may not be attached to a hearing brief or otherwise transmitted to the hearing officer before the hearing.

**8. Hearing.** The hearing is set for [H] and each day thereafter until recessed by the hearing officer, at [location].

**(d) Failure to Comply With Scheduling Order.** Upon a party failing to comply with a provision of the scheduling order, the hearing officer may exclude witnesses, testimony, exhibits or other evidence, and take such other action as may be appropriate.

**(e) Motion for Hearing Within 120 Days.** A respondent's motion under section (b) for a hearing within 120 days must be granted, unless disciplinary counsel shows good cause for setting the hearing at a later date.

**(f) Notice.** Service of a copy of an order or ruling of the hearing officer setting a date, time, and place for the hearing constitutes notice of the hearing. The respondent must be given at least ten days notice of the hearing absent consent.

**(g) Continuance.** Either party may move for a continuance of the hearing date. The hearing officer has discretion to grant the motion for good cause shown.

**(h) Settlement Conference.**

(1) *Procedure.* The hearing officer determines whether a settlement conference should be ordered whenever:

(A) the hearing officer issues a scheduling order under subsection (c); or

(B) a party requests a settlement conference in writing.

(2) *Timing.* Unless agreed to by the parties a settlement conference may not be scheduled later than 30 days prior to the hearing date specified in the scheduling order.

(3) *Factors Considered.* When making a determination about whether to order a settlement conference, the hearing officer shall consider whether such a conference would be helpful in light of the complexity of the issues, the extent to which the relevant facts or charged violations are disputed, or any other relevant factor.

(4) *Appointment.* The chief hearing officer will determine whether to appoint the assigned hearing officer or another hearing officer to conduct the settlement conference. Following a settlement conference, the hearing officer who conducted the settlement conference may not conduct the disciplinary hearing without the consent of all parties.

(5) *Confidentiality.* Settlement conference proceedings are confidential and not admissible in any discipline proceeding.

[Adopted effective October 1, 2002; Amended effective January 1, 2014.]