

Specifications for Class of

INDUSTRIAL APPEALS JUDGE 2

**Abolished Effective June 1, 2005**

Definition: At the Board of Industrial Insurance Appeals, presides over pre-hearing conferences and hearings where evidence is presented, and issues written decisions resolving appeals filed under the Industrial Insurance Act, Crime Victims Compensation Act, and the Washington Industrial Safety and Health Act, Health and Safety-Asbestos Act, Safety-Crime Prevention Act (Late Night Retail Establishments), Charter Boat Safety Act, Washington State Explosives Act, Worker and Community Right to Know Act, and other Acts as determined by the Legislature.

Typical Work

Convenes pretrial conferences and original hearings pursuant to the Superior Court Rules of Evidence and Superior Court Civil Rules where the parties and the judge engage in open and informal discussion of the issues raised by that particular appeal; assists each party in clarifying its positions; explores settlement options; if settlement is reached, ascertains its legal and factual bases and determines its sufficiency, drafts the agreement in proper format and prepares the agreement for the Board's signature; in those cases in which a settlement is not reached, entertains pre-hearing evidentiary and procedural matters and sets the case for future proceedings;

Ensures preservation of a clear and concise record of the respective positions, supporting offers of proof and legal authority, and the judge's ruling in the dispute, so that the rights of further appeal based upon this record are protected; in ruling upon pre-hearing motions, weighs the interests of the parties' privacy, rights to discovery, and public policy, while ensuring to all a fair, complete and impartial proceeding;

Convenes the original hearings, ensuring proper venue, and jurisdiction; identifies the issues in dispute; applies Superior Court Rules of Evidence to rule upon disputes as to the admissibility of testimony and documentary evidence, at the hearings; questions witnesses to complete or clarify the record; evaluates the testimony of lay and expert witnesses, including experts from medicine or other healing arts, psychology, chemistry, vocational counseling and rehabilitation, engineering, occupational safety and health, ergonomics, and criminology; analyzes and evaluates exhibits admitted in the appeal, which may include x-rays, CT scans, MRIs, medical and business records, blueprints, technical data, photographs, video tapes, police reports, and other material; may also on his/her own initiative call additional witnesses in order to ensure a complete record; may order a worker to submit to a physical or mental examination pursuant to Rule 35 of the Civil Rules, or a vocational examination pursuant to WAC 263-12-095; upon receipt of a motion from a party, schedules a timely hearing on the motion, hears arguments for the parties, and issues a ruling, either in writing or from the bench, on the motion. In a complex case, generally receives and adjudicates multiple pretrial motions;

Where a party is not represented by an attorney, assists in the presentation of evidence on his or her behalf including the impartial examination of witnesses to develop facts deemed necessary to fairly and adequately decide the appeal;

Weighs the merits of competing policy concerns or conflicting statutory interpretations; assures that each order outlines the issues, discusses, evaluates and weighs the evidence, analyzes the applicable law, and contains findings of fact to address all of the issues raised in the appeal and corresponding conclusions of law;

Issues a variety of orders in the disposition of any appeal, including determinations of jurisdiction and proper venue, orders establishing litigation schedules, orders on motions made pursuant to the Civil Rules, the scope of the relief sought during the pendency of the appeal, orders outlining the terms of the settlement of the case, dismissal of the appeal for lack of jurisdiction, for failure to present evidence when due or upon motion of the appellant, and Proposed Decisions and Orders, which contain Findings of Fact and conclusions of law that are based on the evidence in the record; in the case of Orders on Agreement of Parties or Orders Dismissing Appeal, reviews the order to determine whether interest should be awarded to a prevailing party;

Maintains and manages a caseload of as many as 100 cases involving complicated litigation with a trial calendar of six to nine months; must manage the caseload to efficiently and effectively use the resources of the State, the Board of Industrial Insurance Appeals and the parties; this requires adhering to timelines for hearings on pretrial motions contained in the Civil Rules; reinforcing timelines set forth for identifying and confirming witnesses; completion of discovery and submission of depositions; engaging in a sophisticated analysis of the issues and positions of the parties in order to determine the amount of hearing time necessary to try a particular case; and ruling on requests for continuances and other procedural matters;

Is also responsible for providing instructional assistance in the training of the Industrial Appeals Judge 1; this includes training in techniques in conducting all types of proceedings before the Board, writing, research, and case management; in training, the Industrial Appeals Judge 2 must communicate clearly the duties of the Industrial Appeals Judge and be able to demonstrate any of the skills necessary to fulfill those duties, make constructive suggestions for improvement and any suggestions necessary to assist the Industrial Appeals Judge 1 in managing his/her caseload efficiently and effectively;

From time to time is delegated the authority to decide interlocutory appeals from procedural and other rulings of Industrial Appeals Judges 1 or 2 in the conduct of their hearings or pretrial proceedings; this responsibility includes weighing arguments from counsel and leading authority and responding by way of a reasoned legal opinion and order within ten days of receipt of the interlocutory appeal;

Assigned from time to time additional cases or groups of cases involving multiple parties, extremely complex matters, novel legal issues or a potentially high monetary impact, which constitutes approximately 25% of the hearing and conference time, and approximately 25% of the time spent in the evaluation of evidence, analysis of law, and preparation of the written decision;

Performs other duties as required.

#### Knowledge and Abilities

Knowledge of: State and Federal substantive and procedural law; legal rules of evidence and procedure applicable in the courts; industrial insurance law including Federal and State statutes, court decisions and agency regulations; departmental policies relevant to the hearings and review process.

Ability to: render sound legal and policy judgments on points of law; write proposed decisions, opinions, and orders clearly, completely, concisely; deal effectively with individuals and/or groups; occasionally provide training to Industrial Appeals Judges 1 in all phases of hearings, examinations and decision writing, maintain a judicial temperament and display an exemplary degree of professional competence and responsibility in the conduct of hearings.

Minimum Qualifications

Active membership in the Washington State Bar Association.

AND

One year of experience as an Industrial Appeals Judge 1 or three years of experience in general trial practice under court rules of evidence, one year of which must involve experience in an industrial insurance case before the Board or the court, or three years of experience as a judge of a court of general jurisdiction which observes the rules of evidence.

New class Adopted 2-11-88, effective 7-1-88 (formerly Hearings Examiner 3)

Class code change (formerly 4719B): 7-1-91

Revised definition: 5-9-96 (effective 7-1-96) (part of 911)