

Specification for the Class of

INDUSTRIAL APPEALS JUDGE 3

**Abolished Effective June 1, 2005**

Definition: At the Board of Industrial Insurance Appeals, reviews written proposed decisions and orders of Industrial Appeals Judges, recommends action to the Board on cases submitted for review, conducts mediation and settlement conferences and drafts final orders for signature of the Board. The Board of Industrial Insurance Appeals jurisdiction includes the following: the Industrial Insurance Act, Crime Victims Compensation Act, 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

Reviews BIIA appeal files and claim files provided by the Department of Labor and Industries, and identifies the potential issues of fact and law presented by the appeal; examines facts, pleadings and procedures in order to establish jurisdiction to hear the appeal;

Conducts mediation conferences in appeals involving matters of industrial insurance, industrial safety and health, crime victim compensation, and other matters under the Board's jurisdiction; presents procedural facts to parties to establish the jurisdiction of the Board; coordinates negotiations among the parties to encourage settlement, including thoroughly exploring settlement options, provides expertise in the areas of law involved; where appropriate, provides informal opinions to parties of likely outcome of appeal if it proceeds to hearing;

During mediation, obtains stipulations of fact from the parties; rules on preliminary legal motions and issues orders affecting the process of the appeal; schedules and arranges agreed upon independent medical examinations and issues orders based on the resulting medical reports and opinions;

Reviews agreements of the parties to ensure conformance with the law and agency policies; based on agreements reached during mediation conferences, prepares orders for the signature of the Board which determine the issues presented and resolve the appeal or, if no agreement is reached, determines when mediation has reached an impasse or when an appeal is ready to be sent to the hearings section for scheduling of hearings on the merits and prepares the paperwork necessary to forward the case for hearing;

Issues a Proposed Decision and Order in cases submitted for summary disposition, based on stipulated facts when requested by the parties; or when dismissing the appeal when the appealing party fails to appear and present evidence when due;

Reviews transcripts and records of cases where a Petition for Review has been filed by one or more parties contesting a Proposed Decision and Order issued by an Industrial Appeals Judge; examines the petition or petitions to determine the basis of the petitioners request for review; reads the entire record

and researches basis of the petitioners request for review and the law applicable to the issue raised on appeal;

Reviews evidentiary and procedural rulings of the Industrial Appeals Judge under the Superior Court Civil Rules and the Superior Court Rules of Evidence and determines if the trial judge has committed any prejudicial error; analyzes the testimony of lay and expert witnesses, which may include doctors specializing in various areas of medicine, psychologists, vocational and rehabilitation specialists, industrial hygienists, chemists, engineers, investigators, law enforcement and compliance officers, ergonomists, and others; analyzes and evaluates the offered exhibits; weighs all the evidence presented by all parties and applies the appropriate standards of proof under statutory, regulatory, and case law to ascertain where the preponderance of evidence lies;

Evaluates the Industrial Appeals Judges application of the law to the evidence, and correctness of the resulting order and ensures that the Proposed Decision and Order contains appropriate findings and conclusions on each contested issue of fact and law contained in the Proposed Decision and Order; evaluates the effectiveness of the Industrial Appeals Judge's case management and the quality of the Proposed Decision and Order;

Provides a written recommendation to the Board that the Petition for Review be granted or denied, setting forth the reasons for the recommendation;

Writes a formal legal opinion for appeals in which review has been granted which includes a background of the case, a statement as to the legal issues presented, discussion of the evidence on which the case is decided, an analysis of the evidence, in light of applicable statutes and administrative rules and relevant case law which supports the results reached; prepares findings of fact and conclusions of law on all contested issues; prepares dissenting opinions for various members of the Board;

Serves as one of the principal advisors to the Board regarding legal policy and operating practices;

Trains Industrial Appeals Judges through the review process, discussing with them matters of law, interpretation of facts and conduct of various hearings; recommends specific and general training needs of individual Industrial Appeals Judges;

Prepares orders containing recommended attorney fees for services rendered before the Board;

Conducts hearings pursuant to special assignment on highly sensitive, complex cases of first impression such as those impacting an industry (forest products, air-frame construction); highly unionized, multi-employer cases; cases with a potentially high monetary impact (hundreds of thousands of dollars); cases for which no legal precedent has been established; this includes the weighing of evidence, deciding issues of fact and law and issuing a legal opinion at the conclusion of these hearings;

Revises and updates Board publications of leading Board and court decisions;

Performs other work 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; agency policies relevant to the hearings and review process.

Ability to: mediate cases; explain the law and procedure to pro se litigants and others unfamiliar with the hearing process; explore settlement options and facilitate settlement; render informal opinion on likely outcome of appeal if it goes to hearing, when appropriate; render sound legal and policy judgments on points of law; review transcripts, findings and orders from hearings conducted by Industrial Appeals Judges, for errors of language, instructions to witnesses, rulings on evidence, conclusions of law, conformance with policy, and any other elements which could result in improper resolution of issues; write decisions, opinions, and orders clearly, completely, concisely; deal effectively with individuals and/or groups; provide training to Industrial Appeals Judges in all phases of hearings examination and decision writing; advise Industrial Appeals Judges on complex legal issues.

#### Minimum Qualifications

Active membership in the Washington State Bar Association.

#### AND

One year of experience as an Industrial Appeals Judge 2 or four years of experience in general trial practice under court rules of evidence, two years of which must involve a majority of time in industrial insurance cases before the Board or the courts or four years of experience as a judge of a court of general jurisdiction which observes the rules of evidence.

New class adopted 2-11-99, effective 7-1-88 (formerly Hearings Review Judge, 4728)

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

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