

WAC 182-526-0240 Filing a motion of prejudice. (1) A party requesting a different administrative law judge (ALJ) may do so by filing a written motion of prejudice consistent with RCW 34.12.050. A party must file the motion with the office of administrative hearings (OAH) before the ALJ rules on a discretionary issue in the case, admits evidence, or takes testimony. The motion must include an affidavit or sworn statement under penalty of perjury supporting the party's claim that the ALJ cannot hear the case fairly.

(2) Rulings that are not considered discretionary rulings for purposes of this section include, but are not limited to rulings that:

(a) Grant or deny a request for a continuance; or

(b) Grant or deny a request for a prehearing conference.

(3) A party must send the motion of prejudice to the chief ALJ at OAH headquarters and must send a copy to the OAH field office where the ALJ is assigned. The address of OAH headquarters is provided in WAC 182-526-0025(1).

(4) A party may make an oral motion of prejudice at the beginning of the hearing or prehearing conference before the ALJ rules on a discretionary issue in the case, admits evidence, or takes testimony if:

(a) OAH did not assign an ALJ at least five business days before the date of the hearing or prehearing conference; or

(b) OAH changed the assigned ALJ within five business days of the date of the hearing or prehearing conference.

(5) The first request by each party for a different ALJ is automatically granted. The chief ALJ or a designee grants or denies any later requests.

[Statutory Authority: RCW 41.05.021 and 41.05.160. WSR 17-05-066, § 182-526-0240, filed 2/13/17, effective 3/16/17. Statutory Authority: 2011 1st sp.s. c 15 § 53, chapters 74.09, 34.05 RCW, and 10-08 WAC. WSR 13-02-007, § 182-526-0240, filed 12/19/12, effective 2/1/13.]