

WAC 110-03-0200 Assignment and challenge of assignment of administrative law judge or review judge. (1) OAH assigns an ALJ at least five business days before the hearing. A party or a party's representative may learn which ALJ is assigned to the hearing by calling or writing to the OAH field office listed on the notice of hearing.

(2) A party may request a different ALJ under RCW 34.12.050 and 34.05.425.

(a) Under RCW 34.12.050, a party requesting a different ALJ must file a written motion of prejudice at least three business days before the hearing or at least three business days before any earlier stage of the proceeding at which the ALJ may issue a discretionary ruling;

(i) The motion of prejudice must include an affidavit stating the reasons that the party believes the assigned ALJ cannot fairly decide the case or other discretionary issue;

(ii) The party must file the request with the chief ALJ at the OAH headquarters and serve a copy of the request at the same time on all other parties and their representatives.

(iii) The first request for a different ALJ under RCW 34.12.050 will be automatically granted. Any subsequent request may be granted or denied in the discretion of the chief ALJ or the chief ALJ's designee.

(b) Under RCW 34.05.425, a party may also request that an ALJ or review judge be disqualified for bias, prejudice, conflict of interest, or any other good cause. A petition for disqualification is a written explanation requesting assignment of a different ALJ or review judge. The party or the party's representative must file a petition by taking the following steps:

(i) File a written petition and an affidavit supporting the party's reasons for believing the assigned ALJ or review judge cannot hear the case fairly;

(ii) A party must promptly file the petition after receipt of notice indicating that the individual will preside or, if later, promptly upon discovery of facts establishing grounds for disqualification;

(iii) File the petition and supporting affidavit with OAH or BOA and serve a copy on all other parties and their representatives at the same time;

(iv) The ALJ or review judge whose disqualification is requested will decide whether to grant or deny the petition and must state the facts and reasons for the decision.

[Statutory Authority: RCW 34.05.220, 43.216.020, and 43.216.065. WSR 20-02-031, § 110-03-0200, filed 12/19/19, effective 1/19/20.]