

**WAC 388-02-0240 How does a party file a motion of prejudice?**

(1) A party may request a different ALJ by sending a written motion of prejudice to the OAH before the ALJ rules on a discretionary issue in the case, admits evidence, or takes testimony. A motion of prejudice must include an affidavit or statement that a party does not believe that the ALJ can hear the case fairly.

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

(a) Granting or denying a request for a continuance; and

(b) Granting or denying a request for a prehearing conference.

(3) A party must send the written motion of prejudice to the chief ALJ at the OAH headquarters identified in WAC 388-02-0025(1) and must send a copy to the OAH field office where the ALJ is assigned.

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

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

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

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

[Statutory Authority: RCW 34.05.020, 34.05.220. WSR 11-04-074, § 388-02-0240, filed 1/31/11, effective 3/3/11. Statutory Authority: RCW 34.05.020. WSR 00-18-059, § 388-02-0240, filed 9/1/00, effective 10/2/00.]