



Concise Summaries of Changes

Public Records: 263-12-005, -016, -017, -01701, -018, -019.

Amendments include added provisions for making an appointment with the Public Records Officer in order to inspect records, waiver of copy fees when the amount would be considered de minimus, and various other housekeeping changes.

MEXMs and ROPs: WAC 263-12-093.

Amendment to the rule on agreements that are based on the parties informing the judge of the agreement without the need to issue a Report of Proceeding and separate Order on Agreement of Parties. The judges include all the parameters of the agreement in the order, negating the need to create a separate Report of Proceeding in order to issue an Order on Agreement of Parties.

Also amend rule on MEXMs to reflect current policy that the result will be an Order on Agreement of Parties and not allow for the alternative result of a Proposed Decision and Order.

Serving copies of filings on other parties: WAC 263-12-01501.

Our rule currently provides that copies of documents filed with the BIIA be *furnished* to other parties. Because practice requires litigants to *serve* parties, language of the rule will be amended accordingly.

Limited English Proficiency: WAC 263-12-145.

Amendment regarding time for filing a Petition for Review when a limited-English speaking party requests translation of a Proposed Decision and Order. The time to file a Petition for Review will automatically be extended in order to allow for communication of the translated order.

Attorney fees: WAC 263-12-165.

Amendment to the attorney fee rule to provide direction on how fees will be determined under the cost shifting allowed by RCW 51.32.185 and 51.32.187.

Significant Decision Rule: 263-12-195.

Housekeeping for Significant Decision rule, it contains an update of applicable public records statute.

Full Text of Rules (with proposed changes)

WAC 263-12-005

Purpose.

The purpose of this chapter is to promulgate rules concerning the board's practice and procedure pursuant to RCW 51.52.020 and to comply with ~~RCW 42.17.250~~ 42.56.040 through ~~42.17.320~~ 42.56.520 and chapter 40.14 RCW pertaining to public records.

WAC 263-12-016

Public records—Location.

(1) Public records available. All public records of the board as defined in chapter 42.56 RCW are deemed to be available for public inspection and copying pursuant to these rules, except as otherwise provided by RCW 42.56.210-~~42.56.480~~.

(2) General information concerning the board may be obtained at its headquarters, 2430 Chandler Ct. S.W., P.O. Box 42401, Olympia, Washington 98504-2401.

(3) Public records officer. The public records officer shall be responsible for the following: The implementation of the board's rules and regulations regarding release of public records, coordinating the staff of the board in this regard, and generally insuring compliance by the staff with the public records disclosure requirements of chapter 42.56 RCW.

(4) Indices are available providing identifying information as to the following: (a) Final decisions and orders of the board, including concurring and dissenting opinions; (b) proposed decisions and orders of the board's industrial appeals judges; (c) in addition, any indices maintained for intra-agency use are available for public inspection and copying.

(5) No fee will be charged for inspection of public records. Inspection will be during office hours, upon request and by appointment with the public records officer, in a space provided by the board and must be accomplished without excessive interference with the essential functions of the agency, and without causing damage or disorganization to public records.

(6) A fee shall be charged for copies of documents made with the board's equipment in an amount necessary to cover the cost to the agency of providing such service.

WAC 263-12-017

Request for public records.

(1) In accordance with requirements of chapter 42.56 RCW, the board will make nonexempt "public records" available for inspection and copying.

(2) A request to inspect or copy public records should be made in writing through the records officer email address shown on the board website or upon the board's request form, which is available at its Olympia headquarters or its web site. The form may be presented to the public records officer, or to any member of the board's staff, if the public records officer is not available, at the headquarters of the board during customary office hours. The form may also be mailed, faxed, or emailed to the attention of the public records officer at the address or fax number provided on the board's web site

The request should include the following information:

(a) The name and address of the person requesting the record and any other contact information, such as phone number or email address, that may aid in responding to the request;

(b) The date the request is made;

(c) The identity of the record(s) requested. If the record(s) requested is referenced within the current index maintained by the records officer, a reference to the requested record as it is described in such current index should be included whenever possible. If the requested record(s) is not identifiable by reference to the board's current index, as detailed a description as possible should be included to aid staff in identifying the records sought; and

(d) Whether the request is for copies or to inspect records.

(3) Requestors desiring copies of records shall make arrangements with the records officer to pay for the cost of providing the records. Costs shall include the cost of copies and the cost of mailing the records. The per page cost for standard size (8 1/2" x 11") black and white or color photocopies will be as posted on the board's web site. Nonstandard-sized documents and documents produced on something other than paper will be provided at the actual cost to reproduce and may include the cost of the materials used. Mailing cost will include actual postage and the cost of the container.

(4) Requestors desiring to inspect records shall make arrangements with the records officer for inspection. There is no cost to inspect records. Records will be made available for inspection at the board's Olympia headquarters during the board's customary office hours.

(5) In all cases in which a member of the public is making a request, the public records officer or staff member to whom the request is made will assist the member of the public in appropriately identifying the public record requested.

WAC 263-12-01701

Copying fees—Payments.

(1) The following copying fees and payment procedures apply to requests to the board under chapter 42.56 RCW and received on or after July 23, 2017.

(2) Pursuant to RCW 42.56.120 (2)(b), the board is not calculating all actual costs for copying records because it would be unduly burdensome for the following reasons:

(a) The board does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3), and (4).

(3) The board will charge for copies of records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). The board will charge for customized services pursuant to RCW 42.56.120(3). Under RCW 42.56.130, the board may charge other copying fees authorized by statutes outside of chapter 42.56 RCW. The board may enter into an alternative fee agreement with a requestor under RCW 42.56.120(4).

The charges for copying methods used by the board are summarized in the fee schedule available on the board's web site at www.biia.wa.gov.

(4) Requestors are required to pay for copies in advance of receiving records. ~~Fee waivers are an exception and are available for some small requests:~~

(a) It is within the discretion of the public records officer to waive copying fees when:

(i) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(ii) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this rule.

(iii) The amount that could be charged is considered de minimus.

(b) Requested fee waivers are an exception and will be considered only upon receipt of a written request to the public records officer. Fee waivers are not applicable to records provided in installments.

(5) The public records officer may require an advance deposit of ten percent of the estimated fees when the copying fees exceed twenty-five dollars for an installment, an entire request, or customized service charge.

(6) All required fees or deposits must be paid in advance of release of the copies or an installment of copies. The office will notify the requestor of when payment is due.

(7) Payment should be made by check or money order to the board of industrial insurance appeals. The board prefers not to receive cash. For cash payments, it is within the public records officer's discretion to determine the denomination of bills and coins that will be accepted.

WAC 263-12-018

Public records—Exemptions.

(1) The board shall determine which public records requested in accordance with these rules are exempt under the provisions of RCW 42.56.210-[42.56.]480.

(2) Pursuant to RCW 42.56.070, the board may delete identifying details when it makes available or publishes any public record in any case where there is reason to believe that disclosure of such details would be an invasion of personal privacy.

(3) Denials of requests for public records will be accompanied by a written statement specifying the reason for the denial. A statement of the specific exemption in chapter 42.56 RCW or other statute authorizing withholding the record and a brief explanation of how the exemption applies to the record held will be included.

WAC 263-12-019

Review of denials of public records requests.

(1) Any person who objects to the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

(2) Immediately after receiving a written request for review of a decision denying a public record, the public records officer or other staff member denying the request shall refer it to the board. The board shall immediately consider the matter and either affirm or reverse such denial or call a special meeting of the board as soon as legally possible to review the denial. In any case, the request shall be returned with a final decision within two business days following the ~~original denial~~ receipt of the request for review.

(3) Administrative remedies shall not be considered exhausted until the board has returned the petition with a decision or until the close of the second business day following ~~denial of inspection~~ receipt of the request for review, whichever occurs first.

WAC 263-12-093

Conferences—Disposition of appeals by agreement.

(1) If an agreement concerning final disposition of any appeal is reached by all the parties present or represented at a conference, an order shall be issued in conformity with their agreement, providing the board finds the agreement is in accordance with the law and the facts.

(a) In industrial insurance cases, if an agreement concerning final disposition of the appeal is reached by the employer and worker or beneficiary at a conference at which the department is represented, and no objection is interposed by the department, an order shall be issued in conformity with their agreement, providing the board finds that the agreement is in accordance with the law and the facts. If an objection is interposed by the department on the ground that the agreement is not in accordance with the law or the facts, a hearing shall be scheduled.

(b) In cases involving the Washington Industrial Safety and Health Act, an agreement concerning final disposition of the appeal among the parties must include regardless of other substantive provisions covered by the agreement: (i) A statement reciting the abatement date for the violations involved, and (ii) a statement confirming that the penalty assessment for contested and noncontested violations has or will be paid.

(c) Where all parties concur in the disposition of an appeal but the industrial appeals judge is not satisfied that the agreement is in conformity with the facts and the law or that the board has jurisdiction or authority to order the relief sought, the industrial appeals judge may require such evidence or documentation necessary to adequately support the agreement in fact and/or in law.

(2) All agreements reached at a conference concerning final disposition of the appeal shall be stated on the record by the industrial appeals judge and the parties shall indicate their concurrence on the record. The record may either be transcribed by a court reporter or recorded and certified by the industrial appeals judge conducting the conference.

The industrial appeals judge may, in his or her discretion accept an agreement for submission to the board in the absence of one or more of the parties from the conference, or without holding a conference.

(a) In such cases the agreement may be confirmed in writing by the parties to the agreement not in attendance at a conference, except that the written confirmation of a party to the agreement not in attendance at a conference will not be required where the industrial appeals judge is satisfied of the concurrence of the party or that the party received notice of the conference and did not appear.

(b) In cases where no conference has been held but the parties have informed the judge of their agreement, yet no written confirmation has been received, a final order may be issued ~~the judge may submit a judge's report of proceedings~~ which encompasses the agreement.

(3) In the event concurrence of all affected employees or employee groups cannot be obtained in cases involving agreements for final disposition of appeals under the Washington Industrial Safety and Health Act, a copy of the proposed agreement shall be posted by the employer at each establishment to which the agreement applies in a conspicuous place or places where notices to employees are customarily posted. The agreement shall be posted for ten days before it is submitted to the board for entry of the final order. The manner of posting shall be in accordance with WAC 263-12-059. If an objection to the agreement is interposed by affected employees or employee groups prior to entry of the final order of the board, further proceedings shall be scheduled.

(4) The parties present at a conference may agree to a vocational evaluation or a further medical examination of a worker or crime victim, including further evaluative or diagnostic tests, except such as require hospitalization, by medical or vocational experts acceptable to them, or to be selected by the industrial appeals judge. In the event the parties agree that an order on agreement of parties ~~or proposed decision and order~~ may be issued based on the report of vocational evaluation or medical examination, the industrial appeals judge may arrange for evaluation or examination and the board will pay reasonable and necessary expenses involved. Upon receipt by the board, copies of the report of such examination or evaluation will be distributed to all parties represented at the conference and further appropriate proceedings will be scheduled or an order on agreement of parties ~~or proposed decision and order~~ issued. If the worker or crime victim fails to appear at the evaluation or examination, the party or their representative may be required to reimburse the board for any fee charged for their failure to attend.

WAC 263-12-01501

Communications and filing with the board.

(1) **Where to file communications with the board.** Except as provided elsewhere in this section all written communications shall be filed with the board at its headquarters in Olympia, Washington. With written permission of the industrial appeals judge assigned to an appeal, depositions, witness confirmations, motions (other than motions for stay filed pursuant to RCW 51.52.050), briefs, stipulations, agreements, and general correspondence may be filed in the appropriate regional board facilities located in Tacoma, Spokane, or Seattle.

(2) **Methods of filing.** Unless otherwise provided by statute or these rules any written communication may be filed with the board by using one of four methods: Personally, by mail, by telephone facsimile, or by electronic filing. Failure of a party to comply with the filing methods selected by the party for use under this section, or as otherwise set forth in these rules or statute for filing written communications may prevent consideration of a document.

(a) **Filing personally.** The filing of a written communication with the board personally is accomplished by delivering the written communication to an employee of the board at the board's headquarters in Olympia during customary office hours.

(b) **Filing by mail.** The filing of a written communication with the board is accomplished by mail when the written communication is deposited in the United States mail, properly addressed to the board's headquarters in Olympia and with postage prepaid. Where a statute or rule imposes a time limitation for filing the written communication, the party filing the same should include a certification demonstrating the date filing was perfected as provided under this subsection. Unless evidence is presented to the contrary, the date of the United States postal service postmark shall be presumed to be the date the written communication was mailed to the board.

(c) **Filing by telephone facsimile.**

(i) The filing of a written communication with the board by telephone facsimile is accomplished when a legible copy of the written communication is reproduced on the board's telephone facsimile equipment during the board's customary office hours. All facsimile communications must be filed with the board via fax numbers listed on the board's web site.

(ii) The hours of staffing of the board's telephone facsimile equipment are the board's customary office hours. Documents sent by facsimile communication comments outside of the board's customary office hours will be deemed filed on the board's next business day.

(iii) Any written communication filed with the board by telephone facsimile should be preceded by a cover page identifying the party making the transmission, listing the address, telephone and telephone facsimile number of such party, referencing the appeal to which the written communication relates, and indicating the date of, and the total number of pages included in, such transmission. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(iv) The party attempting to file a written communication by telephone facsimile bears the risk that the written communication will not be received or legibly printed on the board's telephone facsimile equipment due to error in the operation or failure of the equipment being utilized by either the party or the board.

(v) The board may require a party to file an original of any document previously filed by telephone facsimile.

(d) **Electronic filing.** Electronic filing is accomplished by using the electronic filing link on the board's web site. Communication sent by email will not constitute or accomplish filing. Communication filed using the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. A separate transmission must be used for each appeal. Transmissions containing more than one docket number will be rejected and filing will not be accomplished, unless the multiple docket numbers have been previously consolidated by the board.

(3) **Electronic filing of a notice of appeal.** A notice of appeal may be filed electronically when using the appropriate form for electronic filing of appeals as provided on the board's web site. An electronic notice of appeal is filed when it is received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Appeals received via the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic notice of appeal has been received.

The board may reject a notice of appeal that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(4) Electronic filing of application for approval of claim resolution structured settlement agreement. An application for approval of claim resolution structured settlement agreement must be filed electronically using the form for electronic filing of applications for approval of claim resolution structured settlement agreement as provided on the board's web site. An electronic application for approval of claim resolution structured settlement agreement is filed when received by the board's designated computer during the board's customary office hours pursuant to WAC 263-12-015. Applications received by the board via the board's web site outside of the board's customary office hours will be deemed filed on the board's next business day. The board will issue confirmation to the filing party that an electronic application for approval of claim resolution structured settlement agreement has been received. An electronic copy of the signed agreement for claim resolution structured settlement agreement must be submitted as an attachment to the application for approval. The board will reject an application for approval of claim resolution structured settlement agreement that fails to comply with the board's filing requirements. The board will notify the filing party of the rejection.

(5) Sending written communication. All correspondence or written communication filed with the board pertaining to a particular case, before the entry of a proposed decision and order, should be sent to the attention of the industrial appeals judge assigned to the case. Interlocutory appeals should be sent to the attention of the chief industrial appeals judge. In all other instances, written communications shall be directed to the executive secretary of the board.

(6) Form requirements. Any written communications with the board concerning an appeal should reference the docket number assigned by the board to the appeal, if known. Copies of any written communications filed with the board shall be ~~furnished to~~ served on all other parties or their representatives of record, and the original shall demonstrate compliance with ~~this~~ the requirement to serve all parties. All written communications with the board shall be on paper 8 1/2" x 11" in size.

WAC 263-12-145

Petition for review.

(1) Time for filing. Within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record, any aggrieved party may file with the board a written petition for review. When a petition for review is filed, the failure of any party not aggrieved by the proposed decision and order to file a petition for review shall not be deemed a waiver by such party of any objections or irregularities disclosed by the record.

(2) A petition for review must be filed separately. A petition for review must be filed separately from any other pleading or communication with the board and must note "PETITION FOR REVIEW" prominently on the first page of the submission.

(3) Extensions of time.

(a) The board may extend the time for filing a petition for review upon written request of a party filed within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record. Such extension of time, if granted, will apply to all parties to the appeal. Further extensions of time beyond any initial extension may be allowed only if ~~an~~ an

application for further extension is filed within twenty days from the date of communication of the proposed decision and order to the parties or their representatives of record or ~~(b)~~ the board, on its own motion or at the request of a party, acts to further extend the time for filing a petition for review before the prior extended time for filing a petition for review has expired.

(b) A request for translation of a proposed decision and order by an unrepresented limited English proficient party will be treated as a request for extension of time. When the board receives and mails the translated proposed decision and order, the board will also extend the time for filing a petition for review for all parties for an additional thirty days.

(4) **Contents.** A petition for review shall set forth in detail the grounds for review. A party filing a petition for review waives all objections or irregularities not specifically set forth therein. A general objection to findings of fact on the ground that the weight of evidence is to the contrary shall not be considered sufficient compliance, unless the objection shall refer to the evidence relied upon in support thereof. A general objection to all evidentiary rulings adverse to the party shall be considered adequate compliance with this rule. If legal issues are involved, the petition for review shall set forth the legal theory relied upon and citation of authority and/or argument in support thereof. The board shall, at the request of any party, provide a copy of the transcript of testimony and other proceedings at the hearing. The requesting party shall sign an acknowledgment that receipt of the transcript of proceedings shall constitute compliance by the board with any statute requiring service on the party of a certified copy of the testimony.

(5) **Action by board on petition for review.** (a) After receipt of a petition for review, the board shall enter an order within twenty days either: (i) Denying the petition for review, in which case the proposed decision and order shall become the final order of the board, or (ii) granting the petition for review, in which case the board shall within one hundred and eighty days from the date the petition for review was filed issue a final decision and order based upon its review of the record. (b) After twenty days of receipt. If a petition for review is not acted upon by the board it shall be deemed to have been granted. (c) Remands for further hearing.

After review of the record, the board may set aside the proposed decision and order and remand the appeal to the hearing process, with instructions to the industrial appeals judge to whom the appeal is assigned on remand, to dispose of the matter in any manner consistent with chapter 263-12 WAC.

(6) **Reply to petition for review.** Any party may, within ten days of receipt of the board's order granting review, submit a reply to the petition for review, a written brief, or a statement of position regarding the matters to which objections were made, or the board may, on its own motion, require the parties to submit written briefs or statements of position or to appear and present oral argument regarding the matters to which objections were made, within such time and on such terms as may be prescribed.

WAC 263-12-165

Attorney's fees.

(1) Applications for attorney's fees.

(a) For the fixing of attorney fees as provided by RCW 51.52.120, the board shall fix a reasonable attorney fee to be paid by the worker, crime victim or beneficiary for services rendered before the board, or before the department in a claim resolution structured settlement agreement, if written

application therefor is made by the attorney, worker, crime victim or beneficiary, within one year after the board's final decision and order, or approval of the claim resolution structured settlement agreement, is communicated to the party making the application. If such application for fixing of a fee is made by the attorney, it shall set forth therein the monetary amount which the attorney considers reasonable for all services rendered before the board in an appeal, or before the department in a claim resolution structured settlement agreement, and the justification supporting the requested fee. The board shall afford to all parties affected a minimum of ten days in which to submit comments and material information which may be helpful to the board in setting a fair and reasonable fee.

(b) For the ordered payment of attorney fees as provided by RCW 51.32.185 and 51.32.187, the board shall set the attorney fee in a manner consistent with applicable provisions of subsections (2) and (3) below.

(2) **Fee fixing criteria.** All attorney fees fixed by the board, where application therefor has been made, shall be established in accordance with Rule 1.5 of the Rules of Professional Conduct and the following general principles:

(a) Only one fee shall be fixed for legal services in any one appeal or claim resolution structured settlement agreement regardless of the number of attorneys representing the worker, crime victim or beneficiary, except that in cases of multiple beneficiaries represented by one or multiple attorneys the board has the discretion to set more than one attorney fee if so requested.

(b) The board shall defer fixing a fee until such time as information, which it deems sufficient upon which to base a fee, is available.

(c) A fee shall be fixed only in those cases where the attorney's services are instrumental in securing additional benefits to the worker, crime victim or beneficiary, sustaining the worker's or beneficiary's right to benefits upon an appeal by another party, or in securing a claim resolution structured settlement agreement.

(d) Where increased compensation is obtained, the fee may be fixed without regard to any medical benefits secured.

(e) In setting all fees, the following factors shall be carefully considered and weighed:

(i) Nature of the appeal or the claim resolution structured settlement agreement.

(ii) Novelty and complexity of the issues presented or other unusual circumstances.

(iii) Time and labor expended.

(iv) Skill and diligence in conducting the case or in securing the claim resolution structured settlement agreement.

(v) Extent and nature of the relief. In computing the extent of additional benefits, or the retention of benefits awarded by the department, the cost to the worker, crime victim or beneficiary of the litigation, i.e., medical examination and witness fees, shall be first deducted and the net benefits considered.

(vi) The amount of accrued time-loss payments as a result of proceedings before the board.

(vii) The prevalent practice of charging contingency fees in cases before the board.

(viii) The worker's or crime victim's circumstances and the remedial social purposes of the Industrial Insurance Act and of the Crime Victims Compensation Act, which are intended to provide sure and adequate relief to injured workers and crime victims and their families.

(f) In those cases where the payment of accumulated benefits is insufficient to allow payment of the fee set and allow the worker, crime victim or beneficiary to retain a reasonable monetary amount, the board may also set the schedule and manner in which such fee shall be payable.

(3) Amount of fees.

(a) Where additional compensation for permanent partial disability, loss of earning power, or total temporary disability is obtained as a result of settlement of the appeal on agreement of the parties prior to presentation of testimony, a fee of from 10 to 25 percent of the increased compensation due the worker, crime victim or beneficiary on the date of the board's order on agreement of the parties and by reason thereof shall be fixed after considering all factors.

(b) Where additional compensation for permanent partial disability, loss of earning power or total temporary disability is obtained after the presentation of testimony, a fee of from 10 to 30 percent of the increased compensation shall be fixed after considering all factors. This provision shall also apply to retroactive permanent total disability (pension) benefits.

(c) Where no additional compensation is obtained, but the worker or crime victim is relieved of the payment for medical benefits, a fee of from 10 to 25 percent of the amount the worker or crime victim is so relieved of paying shall be fixed after considering all factors.

(d) Where permanent total disability (pension) benefits are obtained for the worker or crime victim, or death benefits are obtained for survivors of a deceased worker or crime victim, 10 percent of the first \$40,000.00 of the pension reserve as calculated by the department of labor and industries, and 15 percent of the pension reserve in excess of \$40,000.00 shall constitute the usual fee, which may be decreased or increased after weighing all factors.

(e) Where indeterminate additional compensation is obtained because the claimant is successful in establishing a proper claim for benefits which was previously rejected or for which responsibility was denied, a fee in accordance with the preceding principles and factors shall be fixed.

(f) Where, upon an appeal by a party other than the worker or his or her beneficiary, the right to receive the benefits awarded by the department is affirmed, a fee in accordance with the preceding principles and factors shall be fixed.

(g) Where a claim resolution structured settlement agreement is approved by the board, fees for attorney's services are limited to fifteen percent of the total amount to be paid to the worker after the agreement becomes final.

(h) When a firefighter, law enforcement officer, or Hanford site worker has prevailed and the final decision is to allow the claim, making the opposing party responsible for the payment of reasonable costs, including attorney fees, the fees may be established based on an hourly rate.

(i) The number of hours expended must be supported by documentation. The board will disregard inflated hours or hours reflecting reimbursement for clerical functions.

(ii) All requests for costs must be accompanied by invoices and documentation including hourly breakdowns where applicable.

(4) Excess fee unlawful. Where the board, pursuant to written application by an attorney, worker, crime victim or beneficiary, fixes a reasonable fee for the services of the attorney in proceedings before this board, or before the department in securing a claim resolution structured settlement agreement, it is unlawful for the attorney to charge or receive any fee for such services in excess of that fee so fixed, per RCW 51.52.132.

WAC 263-12-195

Significant decisions.

(1) The board's publication "Significant Decisions," prepared pursuant to RCW 51.52.160, contains the decisions or orders of the board which it considers to have an analysis or decision of substantial importance to the board in carrying out its duties. Together with the indices of decision maintained pursuant to WAC 263-12-016(4), "Significant Decisions" shall serve as the index required by RCW ~~42.17.260 (4)(b) and (c)~~, 42.56.070 (5)(a) and (b).

(2) The board selects the decisions or orders to be included in "Significant Decisions" based on recommendations from staff and the public. Generally, a decision or order is considered "significant" only if it provides a legal analysis or interpretation not found in existing case law, or applies settled law to unusual facts. Decisions or orders may be included which demonstrate the application of a settled legal principle to varying fact situations or which reflect the further development of, or continued adherence to, a legal principle previously recognized by the board. Nominations of decisions or orders for inclusion in "Significant Decisions" should be submitted in writing to the executive secretary.

(3) "Significant Decisions" consists of decisions and orders identified as significant and headnotes summarizing the proposition or propositions for which the board considers the decisions or orders "significant." Indices are also provided to identify each decision or order by name and by subject.

(4) "Significant Decisions" and indices may be accessed at the board's web site, www.bia.wa.gov.