

839-050-0020

Definitions

The following definitions apply, unless the context requires otherwise, to OAR 839-050-0000 through 839-050-0440:

(1) "Administrative law judge" means the commissioner or an individual or a special tribunal designated by the commissioner to preside over any or all aspects of a contested case hearing including motions, oral or written hearings, preparation of the Proposed Order and assistance in preparation of the Final Order. The administrative law judge may or may not be an employee of the Agency.

(2) "Agency" means the Bureau of Labor and Industries and any employee thereof, and includes the bureau when acting as the agent of another governmental entity, but for purposes of these rules does not refer to the administrative law judge or the commissioner.

(3) "Authorized representative" means a member of a partnership, an authorized officer or regular employee of a corporation, association or organized group, or an authorized officer or employee of a governmental agency who has been authorized by the partnership, corporation, association, organized group, or governmental agency to represent that entity during the contested case proceeding.

(4) "Case presenter" means the Agency staff person assigned to present the case for the Agency at the contested case hearing and to handle all related matters, but does not include counsel for the Agency.

(5) "Charging document" means any document issued by the Bureau of Labor and Industries stating that any person, entity, or government agency has violated the laws within this Agency's jurisdiction and includes, but is not limited to:

- (a) Formal Charges;
- (b) Order of Determination;
- (c) Notice of Intent to Revoke License;
- (d) Notice of Intent to Deny License;
- (e) Notice of Intent to Refuse to Renew a License;
- (f) Notice of Intent to Place Name on List of Ineligibles;
- (g) Notice of Intent to Assess Civil Penalties;
- (h) Notice of Intent to Suspend or Revoke License or to Assess Civil Penalty in Lieu Thereof.

(6) "Claimant" means any individual who has filed a wage claim pursuant to ORS 652 or 653 and who has assigned that claim to the commissioner.

(7) "Commissioner" means the Commissioner of the Bureau of Labor and Industries.

(8) "Complainant" means an individual who has, or whose attorney has, filed a complaint pursuant to ORS 658 or 659A, those statutes in ORS 279 enforced by the Bureau of Labor and Industries, and any laws, regulations, or ordinances enforced by the bureau as the agent of another governmental entity.

(9) "Counsel" means an attorney who is in good standing with the Oregon State Bar or **[a] an out-of-state who is granted permission to appear in the matter pursuant to ORS 9.241 and Oregon Uniform Trial Court Rule 3.170. Local counsel who obtained the order on behalf of the out-of-state attorney must participate meaningfully in the case in which the out-of-state attorney appears.** *[member in good standing of any United States Court or the highest court of any state who is permitted to*

appear in a particular proceeding by order of the administrative law judge. Such permission will be given only in compliance with the requirements of ORS 9.241 and Uniform Trial Court Rule 3.170.]

(10) "Counsel for the Agency" means the Attorney General or the Attorney General's designee. When the Agency's interests require representation by counsel and the Attorney General cannot represent the Agency, the Agency will arrange for the services of a private attorney.

(11) "Good cause" means, unless otherwise specifically stated, that a participant failed to perform a required act due to an excusable mistake or a circumstance over which the participant had no control. "Good cause" does not include a lack of knowledge of the law, including these rules.

(12) "Hearings Unit" means the section of the Bureau of Labor and Industries handling all aspects of contested case hearings. The address for the Unit is: Bureau of Labor and Industries, Hearings Unit, 1045 State Office Building, 800 N.E. Oregon Street, Portland, OR 97232-2162.

(13) "Issuance" means the act of sending out a document from the Hearings Unit. For purposes of these rules, the date of issuance is the date, as noted on the document, that the document was sent out from the Hearings Unit.

(14) "Participant" means any party, including any person or entity granted party status under OAR 137-003-0005, or the Agency.

(15) "Party" means:

(a) Any person, government agency, or entity upon whom a charging document has been served;

(b) Any person, government agency, or entity that has been granted party or limited party status under OAR 137-003-0005.

(16) "Service" means, for purposes of these rules, the method of forwarding documents and includes personal service, registered or certified mail, hand delivery or regular U.S. mail.

Stat. Auth.: ORS 183 & 651.060(4)

Stats. Implemented: ORS 279C.860, 279C.865, 652.332(3), 653.065(1), 658.115, 658.407(3), 658.820, 659A.845 & 659A.850