

## ISSUE INDEX

*The Issue Index is arranged alphabetically. The issue headings appear on the left margin underlined and in bold. Below each heading you will find short, descriptive summaries of the Commission's rationale and holdings. Each summary, in turn, is followed by a citation to the applicable Commission decision.*

***NOTE: The summaries are not law. Please refer to the official Commission decisions for the actual text, rationale, and holdings.***

### **Attorney Fees**

The Commission may award attorney fees and costs on petition for review when an agency has acted without a reasonable basis in fact or law.

*Dep't of Correction v. Morriss*, IPC No. 95-21 (Decision and Order on Request for Attorney Fees and Costs, September 24, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Weirum v. Dep't of Correction*, IPC No. 97-03 (Decision and Order on Request for Fees and Costs, June 18, 1999)

Attorney fees are not automatically awarded to the prevailing party.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

The basis for an award of attorney's fees is: 1) to serve as deterrent of groundless or arbitrary agency action; and 2) to provide a remedy for persons who have borne unfair and unjustified financial burdens defending against groundless charges or attempting to correct mistakes agencies should never have made.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

Requests for attorney fees and costs on petition for review must be filed within ten days of the Commission's decision.

*Dep't of Correction v. Morriss*, IPC No. 95-21 (Decision and Order on Request for Attorney Fees and Costs, September 24, 1999)

*Weirum v. Dep't of Correction*, IPC No. 97-03 (Decision and Order on Request for Fees and Costs, June 18, 1999)

In deciding to award attorney fees and costs on petition for review, the Commission must consider the following factors: 1) the time and labor required in representing the employee; 2) the experience and ability of the attorney representing the employee; 3) the prevailing charges for similar work; 4) the amount involved and the results obtained; and 5) awards in similar cases.

*Dep't of Correction v. Morriss*, IPC No. 95-21 (Decision and Order on Request for Attorney Fees and Costs, September 24, 1999)

*Weirum v. Dep't of Correction*, IPC No. 97-03 (Decision and Order on Request for Fees and Costs, June 18, 1999)

When an agency terminated an employee in reliance upon a seriously flawed investigation, failed to undertake even a cursory review of the process and conclusions, failed to evaluate and seriously consider the employee's responses to the investigative report, and failed to consider the recommendations of the impartial review panel, the hearing officer was correct in finding that the agency acted without a reasonable basis in fact or law.

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

The hearing officer was correct in holding that fee of \$165.00 per hour exceeds the rates previously approved in appeals to the Commission, but that a rate of \$150.00 per hour for an experienced attorney was in keeping with previous decisions.

*Weirum v. Dep't of Correction*, IPC No. 97-03 (Decision and Order on Request for Fees and Costs, June 18, 1999)

Time and labor attorney spent representing client was excessive when time claimed was more than double the time claimed in two recent proceedings which were of similar length and complexity.

*Weirum v. Dep't of Correction*, IPC No. 97-03 (Decision and Order on Request for Fees and Costs, June 18, 1999)

### **Burden of Proof**

In cases involving Rule 190 discipline, the state must prove its case by a preponderance of the evidence.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

The Commission Rules mandate that the department, in a discipline case, carries the burden of proof by a "preponderance of the evidence." That is, the department must prove *at least one* of the 17 proper cause reasons for discipline, as listed in Rule 190, by a preponderance of the evidence. (Emphasis added.)

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

## Credibility of Witnesses

This Commission has previously held that credibility issues are within the province of the hearing officer.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

Where credibility of witnesses is an issue, the Commission will usually rely on the determination of the hearing officer who was in a position to judge the credibility and relative credibility of the witnesses.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

The hearing officer was not required to make specific findings of witness credibility.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

The Commission need not accept the hearing officer's factual determinations on every case where credibility of witnesses is a factor. The hearing officer's sole advantage over the Commission as a fact-finder is his ability to observe the demeanor of the witnesses . . . . [T]here will be many cases where the Commission need not rely upon or accept the credibility determinations of its hearing officer. But where credibility is crucial and where first-hand exposure to the witnesses may strongly affect the outcome, we think the Commission should not override the hearing officer's impressions unless it makes a cogent explanation of its reasons for doing so.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999) (Citing *Dep't of Health and Welfare v. Sandoval*, 113 Idaho 186, 190, 742 P.2d 992, 996 (Ct. App. 1987))

It has long been the position of this Commission that it will not overturn credibility decisions of hearing officers without some cogent reason for doing so.

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

## Discipline

Consistency of discipline is a laudable goal, but it is not an entitlement. The agency's policy on discipline is just that: a policy; it is not a statute, and it confers no substantive rights.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

Discipline is a discretionary function retained by the agency. It is not this Commission's function to impose its views regarding an appropriate type of discipline upon agencies that

may have management concerns and exigencies that are beyond our expertise or understanding.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

Once an agency has proven cause to discipline, the choice of discipline remains with the agency.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

## **Discovery**

Discovery before the hearing officer in administrative proceedings is not unlimited.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

No party before the agency is entitled to engage in discovery unless discovery is authorized before the agency, the party moves to compel discovery, and the agency issues an order directing that discovery be answered.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

Discovery before the hearing officer in appeals to the Commission occurs either by stipulation of the parties or by order of the hearing officer upon request of the party.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

There was no abuse of the hearing officer's discretion when the hearing officer limited discovery to only that information and those witnesses directly related to the termination reasons set forth in the notice of contemplated dismissal.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

## **Due Process**

Nothing in statute or rule requires that all evidence supporting a disciplinary decision be disclosed to the employee before the disciplinary decision has been made.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

A classified employee is not entitled to a full evidentiary hearing before a decision to discipline is made, but instead is entitled to: 1) notice of the contemplated action; 2) notice of the basis of such action; 3) notice of the substance of the evidence supporting such action; and 4) an opportunity to respond before the decision is made.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

When the employee received notice of the contemplated action, the basis for the action, the substance of the evidence, and the opportunity to respond, full due process occurred.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

The law in Idaho is clear that due process in the context of a classified employee requires only notice and an opportunity to respond prior to dismissal. Full due process occurs post-termination in the appeal process.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

Failure to include notice regarding the right to have representation in the notice of contemplated action does not constitute a denial of due process.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

## **Evidence**

Agencies are advised to carefully consider allegations and evidence and rely on those allegations that are both substantive and material, rather than utilizing what might best be characterized as a "shotgun" approach.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

A properly administered polygraph examination may be admissible in matters before this Commission when its reliability has been established. We do not believe that the Commission should admit polygraph evidence in personnel hearings without a thorough airing of the test's validity and reliability in the particular case at issue.

*Dep't of Correction v. Morriss*, IPC No. 95-21 (Decision and Order on Petition for Review, August 9, 1999)

Relevant hearsay is admissible in the context of Commission hearings. The question is whether hearsay evidence is of the type commonly relied upon by prudent persons in the conduct of their affairs. If the hearsay meets that requirement, it is admissible.

*Dep't of Correction v. Morriss*, IPC No. 95-21 (Decision and Order on Petition for Review, August 9, 1999)

The notice of intent to discipline and the final decision form the foundation upon which a disciplinary action is built. Allowing an agency to attempt to prove its case without relying on the discredited investigation which formed the basis for the disciplinary action, while

focusing on written documentary evidence and hearing testimony, would turn the appeals process on its head. At its extreme, it allows an agency to discipline an employee, then use the appeals process to try and obtain evidence in support of the disciplinary decision.

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

There is a long line of authority which holds that the Commission is precluded from taking further evidence than that which exists in the record on petition for review.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

### **Interlocutory Appeals**

We do not believe that Idaho Code §§ 67-5316 and 67-5307 confer jurisdiction on this Commission to hear interlocutory appeals from intermediate decisions of the hearing officer.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

Idaho Code § 67-5316(5) provides that “[process and procedure under this act shall be as summary and simple as reasonably may be.” In the course of an appeal, a hearing officer may issue any number of orders designed to advance the appeals process. If every such decision were appealable, the appeal procedure would be neither summary nor simple.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

When the Commission begins inserting itself into the process before the hearing officer, the appeal process and the petition for review process become inextricably entwined, defeating the statutory scheme and obviating the purpose of having a hearing officer handle appeals.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

### **Jurisdiction**

The Commission is a tribunal of limited jurisdiction whose jurisdiction depends entirely upon the statutes that grant its powers.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

Idaho Code § 67-5316(1)(a) specifically limits appeals to the Commission to classified employees who have received a disciplinary dismissal, demotion or suspension and have completed the departmental due process procedure.

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

Idaho Code § 67-5316(1) does not vest this Commission with jurisdiction to hear appeals on every action taken by an agency against an employee, even when the agency may have acted wrongfully or illegally. The remedy for non-disciplinary claims of discrimination, retaliation by agencies against employees, or constructive discharge remains, as it always has, with the courts.

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

The Commission lacks jurisdiction to hear claims of constructive discharge.

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

A resignation, whether voluntary or involuntary, is not a disciplinary dismissal.

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

The Commission lacks jurisdiction to hear interlocutory appeals from decisions of the hearing officer.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

It is against the policy and practice of the Commission to hear interlocutory appeals of intermediate decisions made by hearing officers. This policy is a logical extension of the legislature's stated intention that the appeal process be as "summary and simple as reasonably may be." The reasons for this policy remain and the Commission will continue to refuse to hear interlocutory appeals relating to non-jurisdictional issues.

*Hill v. Dep't of Correction*, IPC No. 99-14 (Order Staying the Proceedings Below and Briefing Schedule, October 14, 1999)

The question of subject matter jurisdiction presents unique circumstances in that substantial time and money could be expended by both parties to a case prior to the opportunity for the Commission to determine this threshold issue. For this reason and in the interest of judicial economy, the Commission has determined that it is appropriate that it exercise its discretionary power to stay the proceedings below and allow the parties an opportunity to brief the issue of the Commission's subject matter jurisdiction over this matter.

*Hill v. Dep't of Correction*, IPC No. 99-14 (Order Staying the Proceedings Below and Briefing Schedule, October 14, 1999)

The statutory scheme creating the problem solving and due process procedures recognized that not every issue that was appropriate for problem solving would be appealable. Because

very few problem-solving procedures will involve a right or benefit to which an employee is entitled by law, very few problem-solving outcomes will be appealable.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

A letter of reprimand is an appropriate subject for problem solving. It is non-disciplinary and not otherwise precluded by Idaho Code § 67-5315.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

Nothing in Idaho Code § 67-5315, Commission Rule 200, or departmental policy entitles an employee to present witnesses or introduce evidence during a problem solving.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

An employee waives any right of review by the Commission by not complying with the time limit for filing.

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

### **Practice and Procedure before the Commission**

The Rules of Civil Procedure are inapplicable to a Commission proceeding.

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

The Commission has authority to dismiss a petition *sua sponte* for petitioner's failure to comply with the provisions of Idaho Code § 67-5317 and IDAPA 28.01.01.202.04.

*Slover v. Dep't of Correction*, IPC No. 98-10 (Decision and Order Dismissing Petition for Review, February 16, 1999)

Practice before the Commission will require that all parties demonstrate an appropriate level of professionalism and civility, both in their dealings with each other and in their appearances before the Commission.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

## **Rule 190 Discipline**

In matters involving Rule 190 discipline, the questions before the Commission are whether the department proved, by a preponderance of the evidence, that the employee was properly subject to discipline, and whether the hearing officer's findings of fact are supported by substantial, competent evidence.

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

Idaho Code § 67-5309(n) is clear. Any one violation, when proven, can constitute proper cause for dismissal. IDAPA 15.04.01.190.01 is in accord.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

Although testimony suggested that the decision to terminate was prompted by the weight of all the issues, existing law requires proof of only one of the proper cause reasons for discipline as a prerequisite of discipline.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

When an employee argued that all three reasons for his dismissal which were specified in the notice of contemplated action must be proven or the entire disciplinary proceeding fails, the argument was without merit.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

Proof of any one of Rule 190's listed causes is sufficient for imposition of discipline. Disciplinary choices include suspension, termination, and demotion. In disciplinary matters, the agency has the choice as to the type of discipline it wishes to impose.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

In this case, the agency exercised its discretion in choosing termination. Substantial evidence supports the hearing officer's determination that the agency had proper cause to impose discipline based on insubordination. The Commission will not substitute its judgment with respect to the appropriateness of the method of discipline.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

**Rule 190.01.a: Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the department or the personnel commission**

Hearing officer was correct in implicitly holding that a mutual, voluntary conversation regarding religious beliefs is not an attempt to “influence the religious beliefs of another” as prohibited by broadly worded departmental policy.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

**Rule 190.01.b: Inefficiency, incompetency, or negligence in performing duties**

A conclusion of negligence requires proof of a duty owed. No credible evidence of any duty owed was introduced. We find no support in the record for dismissal on the basis of negligence.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

**Rule 190.01.e: Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the department**

A finding of insubordination requires proof that the employee intentionally or willfully disregarded a lawful and reasonable instruction from an employer or supervisor.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

Testimony admitting refusal to obey a supervisor’s directives is substantial and competent evidence of insubordination. Under the existing Commission statute and rule, this evidence provides proper cause for discipline.

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

The department failed to prove, by a preponderance of the evidence, that an employee had violated Rule 190.01.e when numerous witnesses testified that they had observed no instances of religious discrimination or poor treatment of a subordinate employee.

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

**Standard and Scope of Review**

When considering a petition for review, the Commission reviews the record of the proceeding below together with any briefs or transcripts submitted by the parties.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

Findings of fact made by the hearing officer must be supported by substantial, competent evidence.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

The Commission exercises free review over issues of law.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

On petition for review, the Commission may “affirm, reverse or modify the decision of the hearing officer, may remand the matter, or may dismiss it for lack of jurisdiction.” Idaho Code § 67-5317(1).

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*King v. Dep't of Correction*, IPC No. 98-22 (Decision and Order on Petition for Review, June 17, 1999)

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

On appeal to the Commission, matters are assigned to a hearing officer who conducts a full evidentiary hearing and may allow motion and discovery practice before entering a decision containing findings of fact and conclusions of law.

*Cheney v. Dep't of Correction*, IPC No. 97-15 (Decision and Order on Petition for Review, July 8, 1999)

*Dimond-Stafford v. Dep't of Health and Welfare*, IPC No. 98-11 (Decision and Order on Petition for Review, January 8, 1999)

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)

*Isaac v. Dep't of Correction*, IPC No. 98-05 (Decision and Order on Petition for Review, March 10, 1999)

*Jacobs v. Dep't of Correction*, IPC No. 98-04 (Decision and Order on Petition for Review, March 10, 1999)

*Lafferty v. Dep't of Health and Welfare*, IPC No. 98-08 (Decision and Order on Petition for Review, December 28, 1999)

*Whittier v. Dep't of Health and Welfare*, IPC No. 98-03 (Decision and Order on Petition for Review, September 24, 1999)

The question on appeal is not whether there is substantial competent evidence to support alternative findings, but whether there is substantial competent evidence to support the findings that the hearing officer actually made.

*Dep't of Correction v. Weirum*, IPC No. 97-03 (Decision and Order on Petition for Review, May 13, 1999)