

## **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 2013 Commission decision.*

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

### **Non-Classified Employee**

The Commission is without jurisdiction, power and authority to entertain or accept Appellant's appeal since she was a non-classified employee.

*Lara Millich v. Idaho State Treasurer's Office*, IPC No. 13-07 (Order of Dismissal, May 10, 2013)

### **Rule 190 Discipline**

Insubordination is a "willful or intentional disregard of the lawful and reasonable instructions of the employer." It has also been very similarly defined as a deliberate or willful refusal by an employee to obey a reasonable order or directive which an employer is authorized to give and entitled to have obeyed. Accordingly, a finding of insubordination requires proof that the employee intentionally or willfully disregarded a lawful and reasonable instruction from an employer or supervisor.

*Patricia Scott v. South Central Public Health District*, IPC No. 12-5 (Decision and Order on Petition for Review, January 23, 2013)

Requiring the employee to sit in a closer chair was not a reasonable order under the circumstances presented in this case. Therefore the refusal was not insubordination.

*Patricia Scott v. South Central Public Health District*, IPC No. 12-5 (Decision and Order on Petition for Review, January 23, 2013)

### **Standard and Scope of Review**

On a petition for review to the Idaho Personnel Commission, the Commission conducts a de novo review of the record and renders an independent decision on the facts.

*Patricia Scott v. South Central Public Health District*, IPC No. 12-5 (Decision and Order on Petition for Review, January 23, 2013)

Once proper cause is proven for discipline under Idaho Code § 67-5309(n) and IPC Rule 190, the Commission (and its hearing officers) have no authority to second guess the choice of discipline imposed.

*Patricia Scott v. South Central Public Health District*, IPC No. 12-5 (Decision and Order on Petition for Review, January 23, 2013)

In reviewing a Hearing Officer ruling on a motion for continuance, the Commission adopts the same standard of review as an appellate court in reviewing trial court motion rulings. The decision to grant or deny such motions is vested in the sound discretion of the hearing officer and only where there is a clear abuse of discretion will the Commission reverse a hearing officer's ruling on a motion for continuance.

*Matthew P. Emery v. Idaho Department of Health and Welfare*, IPC No. 12-15 (Decision and Order on Petition for Review, October 29, 2013)

Alleged conflict of interest of a hearing officer must be raised and ruled upon before the hearing officer in order to be preserved for review by the Commission. It cannot be newly raised on petition for review before the Commission.

*Matthew P. Emery v. Idaho Department of Health and Welfare*, IPC No. 12-15 (Decision and Order on Petition for Review, October 29, 2013)

### **Timeliness of Appeal**

The decision of the appointing authority shall be final and conclusive unless a classified employee files an appeal within thirty-five (35) days after completing the departmental problem solving or due process procedure. Acknowledgement of the receipt of the Letter of Disciplinary Action completed the due process procedure and the IPC must have physically received Appellant's appeal within thirty-five calendar days from the acknowledgement in order to have jurisdiction over the appeal.

*Paula Aldous v. Idaho Department of Correction*, IPC No. 13-06 (Order of Dismissal, May 1, 2013)