

POLICY 61.18

Section: Coverage and Jurisdiction **Effective:**

Title: Policy 61.18 - Determining Workers' Compensation Coverage for Corporate Officers **Cancels:** Policy 61.18 dated 12-15-99

See Also: [RCW 51.12.020\(8\)](#) (employments excluded)
[RCW 23B.01.400\(28\)](#) (definitions-Washington business corporations act)
[WAC 296-17-31004](#) (coverage requirements-in good standing)
[WAC 296-17-31018](#) (exception classifications)
[Policy 61.04](#) (processing applications for elective coverage)

Approved by: _____
Cheri Ward for the Insurance Services Policy Council

This policy establishes criteria to determine coverage and proper classification reporting for corporate officers.

- 1. Corporate officers not excluded from coverage are mandatorily covered and must be reported in the applicable classification for the business.**
- 2. Some corporate officers are excluded from mandatory coverage.**

To be excluded from coverage, corporate offices must meet *all* of the following criteria:

- Performing duties as an officer, not just in name,
- Voluntarily and freely elected or appointed to the position in compliance with corporate articles and bylaws, and
- Exercising substantial control in the daily management of the corporation. This means making managerial decisions over a business function(s) impacting the entire corporation.

Corporate officers for public, non-public, and family corporations have different criteria to determine excluded status:

- **Corporations defined as public companies** "Public company" means a corporation has a class of shares that are publicly traded.

To be excluded, the officers of a public corporation must meet *all* of the following criteria:

- Be a legitimate officer,
- Be a legitimate director,
- Be a shareholder in the corporation, with stock issued in their name,
- Exercise substantial control in the daily management of the corporation, and
- Cannot perform manual labor as part of their primary duties.

- **Non-public corporations**

To be excluded from coverage, *all* officers of a non-public corporation must meet *all* of the following tests and may not exclude more than eight (8) officers:

- Be a legitimate officer,
- Be a shareholder in the corporation, with stock issued in their name, and
- Exercise substantial control in the daily management of the corporation.

If the corporation has more than eight (8) officers at any time, they may choose which eight (8) officers are excluded.

Officers of a non-public corporation can perform manual labor and still be excluded.

- **Family corporations**

To be excluded from coverage, *all* officers of a family corporation must meet the following criteria:

- Be a legitimate officer, and
- Be related within the third degree of kin by blood or by marriage.

Degrees of relation are:

- 1st degree – Parent or child.
- 2nd degree – Grandchild, brother, sister, grandparent.
- 3rd degree – Great grandchild, nephew, niece, uncle, aunt, great grandparent.

There is no limit to the number of legitimate, related officers who can be excluded from coverage.

If any officers of a non-public corporation are not related within the third degree of kin, then the family corporation criteria do not apply. Instead, they must apply the exclusion criteria for a non-public corporation.

3. Corporations may elect coverage for excluded corporate officers.

The election to cover officers is for *all* excluded officers. The corporation may not elect coverage for only some officers.

Coverage is effective at 12:01 a.m. the day after the completed application for optional coverage is received by the department, unless a later date is indicated.

Cancellation of coverage is effective 30 days after the date the written request is received by the department.

Corporate officers who don't meet the exclusion criteria are mandatorily covered.

Exception:

- 3a. An officer who performs no work for the corporation and receives no compensation other than a return on investment isn't a worker and is not covered.

4. There are certain classifications and reporting guidelines for excluded corporate officers who meet the tests of WAC 296-17-31018.

- Duties limited to clerical, outside sales and administrative tasks must be reported in classification 7101.
- Classification 7101 isn't assigned if employer's basic classification includes clerical office and sales.
- Duties restricted to only outside sales or estimating must be reported in classification 6303.
- Hours must not be split between classifications 7101 and 6303 or the basic classification.
- Hours must not be reported in classification 4904.
- Duties or direct supervision exposed to the operative hazard of the business, must be reported in the basic classification applicable to the work performed.
- Must report either the number of actual hours worked (if accurate records kept) or 480 hours per quarter for each corporate officer.

5. The department will cancel elective officer coverage when an account is not in good standing.

For technical questions contact Employer Services Policy Coordinator at 360-902-4777.