

## STATEMENT OF QUALIFICATIONS

HAROLD J. MERKOW

### *PROFESSIONAL EXPERIENCE*

September 1976 to Present: Arbitrator/Hearing Officer/Administrative Law Judge/  
Judge Pro Tem

12/72-9/76: Assistant Attorney General, Arizona Attorney General's Office, Phoenix,  
Arizona

### *EDUCATION AND PROFESSIONAL MEMBERSHIPS*

Law School: Wayne State University, 1972

Member, Arizona State Bar Association since 1972, U.S. District Court for the District of  
Arizona 1972, U.S. Court of Appeals, 9th Circuit, 1974, U.S. Supreme Court, 1975

1979-12/2002 -- American Arbitration Association National Panel of Arbitrators;  
American Arbitration Association National Panel of Construction Arbitrators

2017 to present — FINRA arbitrator

I have been an independent arbitrator/hearing officer/administrative law judge since 1976 and have presided over more than 9,000 administrative hearings for a variety of governmental agencies, municipalities, school districts and private clients in cases pertaining to personnel matters/employee relations/grievances/whistleblower complaints, school district, community college, and university employee discipline/whistleblower complaints (certified & classified employees), education (employee discipline, whistleblower complaints, special education, student conduct), commercial disputes, public procurement bid protest appeals, contract and construction claims, professional licensing including accounting, technical registration [architects, engineers, surveyors], medicine (physicians [allopathic and osteopathic], dental, nursing, veterinarian, naturopathic, psychology), financial regulation (banking, insurance, real estate), election law, natural and public resources (air quality, water [quantity and quality], flood control, minerals, environmental regulation, food service hygiene), public health and safety (health services, public housing, environmental services, AHCCCS eligibility, ambulance regulation), pesticide misuse (structural and agricultural), peace officer certification [POST], land use and zoning enforcement, International Building Code and zoning ordinance abatement procedures, disadvantaged business enterprise (DBE), municipal taxation, amusement regulation (alcoholic beverages, horse and dog racing, Indian gaming) and transportation/economic development (Arizona Department of Transportation, City of Tempe, City of

Phoenix). Since 1982, I have also been serving as an Administrative Law Judge for the U.S. Government for disputed claims involving Indian relocation.

Since 1976, I have been a contract hearing officer for the Maricopa County Merit System Commission to conduct personnel disciplinary appeals and whistleblower claims for County employees. Since 1979 I have been a contract hearing officer for the Arizona State Personnel Board to conduct personnel disciplinary appeals and whistleblower complaints for State employees. Since 1997, I have been a contract hearing officer for the City of Phoenix Civil Service Board to conduct disciplinary appeals, since 2003 I have been a contract hearing officer for the City of Bullhead City for employee disciplinary appeals, in 2007 I received a contract to serve as a hearing officer for the City of Peoria for employee disciplinary appeals. In 2008, I received a contract from the Maricopa Special Health Care District (Maricopa Integrated Health System [MIHS] now known as Wellpoint) to conduct personnel appeals and whistleblower hearings. In 2008, I received a contract from the Arizona State University to conduct personnel appeals, grievances, and whistleblower complaints involving certified and classified employees of the university. In 2009, I received a contract from the City of Goodyear to serve as a hearing officer for employee disciplinary appeals. In 2014, I received contracts from the City of Chandler and the City of Avondale to serve as a hearing officer for employee disciplinary appeals. In 2015, I received an administrative hearing officer contract from the Arizona Board of Regents on behalf of the three universities to conduct disciplinary appeals and grievances for university staff employees (certified and classified). In 2017, I received a contract from the Maricopa Community College District (MCCCD) to conduct employee disciplinary appeals and employee grievances. 2017, I received a contract from the Town of Marana to conduct employee disciplinary appeals. I am on the list of approved employment arbitrators of the Town of Chino Valley and for the Town of Oro Valley. I am on the approved roster of independent hearing officers for the Tuba City Regional Medical Center to hear Level II employee disciplinary appeals.

For the Judicial Branch of the Supreme Court, I am on the list of approved hearing officers for the Maricopa County Judicial Merit System, the Coconino County Superior Court, Navajo County Superior Court, and Mohave County Superior Court, all of which are kept to preside over employee disciplinary matters and employee disputes. I have presided over employee disciplinary hearings for the Mohave County Superior Court, the Maricopa County Superior Court, the Coconino County Superior Court, and the Navajo County Superior Court.

I have also conducted employee disciplinary hearings for the cities of Surprise, Avondale, Tolleson, Parker, Wickenburg, Town of Buckeye, City of Apache Junction, Town of Camp Verde, City of San Luis, City of Gila Bend, Town of Miami, City of Globe, and Lake Havasu City on an as-needed basis, and for the former State Compensation Fund when needed. I have also conducted employee disciplinary hearings for the Arizona State School for the Deaf and Blind, as a special independent hearing officer in connection with the removal of the Arizona State Hospital Superintendent, and as a

special independent hearing officer in connection with the Governor's removal of a member of the Board of Executive Clemency.

I have conducted employee disciplinary appeals and grievances for public service/first responder personnel (sworn and unsworn) for the Town of Gilbert, Maricopa County, City of Phoenix, City of Avondale, City of Peoria, City of Bullhead City, City of Surprise, City of Goodyear, City of Chandler, City of Apache Junction, Town of Camp Verde, City of Tolleson, Town of Miami, Town of Oro Valley, City of Globe, City of Prescott, Town of Payson, and the City of Buckeye.

I am on the approved list of hearing officers for the Arizona Department of Education for teacher/school administrator/employee (certified and classified) disciplinary cases and I have been appointed as a hearing officer by the Scottsdale Unified School District, the Deer Valley Unified School District, the Mesa Unified School District, Chandler Unified School District, Peoria School District, Laveen School District, the Madison School District, Alhambra School District, the Phoenix Elementary School District, Roosevelt Elementary School District, Isaac School District, Glendale Union High School District, Liberty Elementary School District, Maricopa County Regional School District, Littlefield Unified School District, Tucson Unified School District, Somerton Elementary School District, Gadsden Elementary School District, Naco Elementary School District, Window Rock Unified School District, Ganado Unified School District, Tolleson Union High School District, Gila River Community School District, Sacaton Elementary School District, and the Kayenta Unified School District to adjudicate disciplinary actions brought against certified school teachers and administrators as well as classified employees and I have conducted hearings related to grievances and whistleblower complaints filed by District employees.

I hold contracts with the Arizona Board of Regents on behalf of the 3 universities, City of Tucson, City of Avondale, City of Glendale, and City of Peoria, to conduct procurement appeals, contract and construction claims, and debarment proceedings. I am also on the approved hearing officer lists of the Arizona Department of Education and the Arizona State Board of Education to conduct procurement appeals and contract/construction claims involving school districts. I have a contract with the Maricopa Community College District (MCCCD) for procurement appeals. I am on the preferred hearing officer list for the City of Phoenix to conduct procurement appeal/claims hearings.

I am on the approved hearing officer list with the Scottsdale Unified School District, Cartwright School District, Madison School District, Glendale Elementary School District, and Creighton School District to conduct student expulsion/long-term suspension hearings. I also hold a contract with the Arizona Board of Regents on behalf of the 3 universities to conduct student conduct violation hearings for the universities. I have conducted student conduct hearings for public, charter and private school districts.

For five years, I was a Judicial Officer for the Probate & Mental Health Division of the Maricopa County Superior Court, adjudicating cases under ARS Titles 14 and Title 36. As a current Phoenix Municipal Court Judge, I hear cases involving behavioral issues of defendants' competence to stand trial under Rule 11, restoration of competency, SMI compliance with programmatic sentencing terms, compliance with medication, compliance with terms of probation, family issues, and compliance with other court requirements. These cases require the participation of Mercy Care and other case managers at every level and at every step of the pre-trial, trial, sentencing, and monitoring stages.

I have been appointed to conduct relocation appeal hearings by the Arizona Department of Transportation, City of Phoenix, and City of Tempe for public works construction projects. Since 1986, I have conducted more than 60 relocation appeal hearings.

Since 1999, I have been serving as a contract hearing officer for the Maricopa County Planning and Development Department presiding over zoning and code enforcement violation hearings, nuisance abatement hearings, and flood control/drainage clearance violations and in 2007 I received a contract to adjudicate development appeals for the City of Peoria. In 2012, I received a contract from the City of Glendale to preside over nuisance abatement hearings and slum properties under the International Building Code and Glendale City Code. I am a contract hearing officer for Maricopa County to conduct hearings into air quality violations and permits, environmental violations, and flood control violations.

From 1978 until August 2005, I served as an IDEA due process hearing officer for the Arizona Department of Education to conduct special education due process hearings throughout the State of Arizona (jurisdiction was assumed by OAH in January 2006). I adjudicate due process hearings under Section 504 of the Rehabilitation Act for school districts including the Scottsdale Unified School District, the Deer Valley Unified School District, and the Marana Unified School District.

In January 2017, I became a contract hearing officer for the City of Phoenix Housing Department, adjudicating public housing tenant grievances, termination from Section 8 voucher qualification hearings, and hearings regarding participation in public housing accommodations. In December 2021, I became a contract hearing officer for the City of Glendale Housing Authority, adjudicating terminations from the Section 8 voucher program.

Since April 1999 to date, I serve as a Judge Pro Tem for the City of Phoenix Municipal Court.

Between 2006 and 2008, I was a Judge Pro Tem for the City of Scottsdale Municipal Court.

Between 2000 and 2005, I served as a Judicial Officer Pro Tem for the Maricopa County Superior Court.

In 1995, I was appointed by the Maricopa County Superior Court as Special Master in the receivership of American Bonding Company adjudicating commercial and surety claims.

In March 2000, I was appointed as the Joint Expert (Special Master) by the U.S. District Court to monitor an injunction that was issued against the Arizona Department of Corrections regarding inmate access to the Courts.

In March 2002, I was appointed Special Master by the Maricopa County Superior Court in the receivership of Premier Healthcare of Arizona to adjudicate provider and participant claims against the estate. In November 2004, I was appointed Special Master in the Premier Healthcare receivership to adjudicate claims brought by the Receiver against providers and insurers.

In January 2021, I was appointed as a Special Administrative Law Judge/Arbitrator by the Arizona Governor's Office to determine whether 'cause' existed for the Governor's removal of a gubernatorial-appointed Board member.

I am currently on the FINRA roster of arbitrators to hear and decide disputes between investors, brokers and dealers as well as expungement petitions by brokers.