

CHAPTER 5
DUE PROCESS

817—5.1(ExecOrd48) Appeals.

5.1(1) *Commission staff decisions.* Administrative staff of the commission shall make all decisions in accordance with established policies and administrative rules of the Iowa commission on volunteer service and published policies from the Corporation for National Service.

a. Appeal of commission staff decision. If an individual, agency, or reasonable representative of commission business disagrees with a staff decision, that party has the right to appeal to the full commission. The appeal shall be in the form of a public hearing. The appellant must request the hearing in writing to the executive director within 14 calendar days of receiving the written notice of the staff decision. The written request shall clearly set forth the issues being contested and provide evidence supporting the claims. In order to be considered by the full commission, the request shall be based upon one or more of the following grounds:

- (1) The staff's decision was in violation of federal law.
- (2) The staff's decision was in violation of Iowa state law.
- (3) The staff's decision was in violation of published Corporation for National Service guidelines or published Iowa commission on volunteer service rules.
- (4) The staff's decision was made in an unreasonable and arbitrary or capricious manner.

All written evidence provided by the appellant will be mailed to commission members no later than 7 calendar days before the scheduled hearing for the commissioners' consideration. Commission staff will also be afforded the right to present a written explanation of the staff decision. This explanation shall be mailed at the same time as the appellant's materials.

b. Hearing.

(1) The executive director shall set a date for the hearing within 30 calendar days from the date the request was received. The hearing date will be set as soon as reasonable, and in no event later than 60 calendar days from the date the request was received.

(2) The executive director shall establish the procedural guidelines of the hearing in accordance with the uniform rules on contested cases as published in the Iowa Administrative Code. The executive director will notify the appellant and commission members of the hearing procedures no later than 14 calendar days before the designated hearing date.

(3) The commission chairperson shall preside at the hearing. If the chairperson is not able to preside, the commission vice-chairperson shall be the designated substitute. The commission chairperson shall appoint a representative of the commission to preside if neither the chairperson or vice-chairperson is able to preside.

(4) After commission consideration of all evidence presented, the presiding officer shall call for a roll-call vote of the commission members. A quorum must be present to take an official vote of the commission on the appeal. A simple majority vote of the eligible voting members of the commission is required for a decision. The presiding officer shall announce the result of the roll-call vote. The commission's decision is final and binding on all parties.

(5) Written notice of the commission's decision on the appeal shall be mailed to the appellant within 10 days of the hearing.

5.1(2) *Committee decisions.* Committees of the commission shall make all decisions in accordance with established policies and administrative rules of the Iowa commission on volunteer service and published policies from the Corporation for National Service.

a. Appeal of committee decision. If an individual, agency, or representative of commission business disagrees with a committee decision, that party has the right to appeal to the full commission. The appeal shall be in the form of a public hearing. The appellant must request the hearing in writing to the executive director within 14 calendar days of receiving the written notice of the committee decision. The written notice shall clearly set forth the issues being contested and provide evidence supporting the claims. In order to be considered by the full commission, the request shall be based upon one or more of the following grounds:

- (1) The committee's decision was in violation of federal law.
- (2) The committee's decision was in violation of Iowa state law.
- (3) The committee's decision was in violation of published Corporation for National Service guidelines or published Iowa commission on volunteer service rules.
- (4) The committee's decision was made in an unreasonable and arbitrary or capricious manner.

All written evidence provided by the appellant will be mailed to commission members no later than 7 calendar days before the scheduled hearing for the commissioners' consideration. The committee chairperson will also be afforded the right to present a written explanation of the committee's decision. This explanation shall be mailed at the same time as the appellant's materials.

b. Hearing.

(1) The executive director shall set a date for the hearing within 30 calendar days from the date the request was received. The hearing date will be set as soon as reasonable, and in no event later than 60 calendar days from the date the request was received.

(2) The executive director shall establish the procedural guidelines of the hearing in accordance with the uniform rules on contested cases as published in the Iowa Administrative Code. The executive director will notify the appellant and commission members of the hearing procedures no later than 14 calendar days before the designated hearing date.

(3) The commission chairperson shall preside at the hearing. If the chairperson is not able to preside, the commission vice-chairperson shall be the designated substitute. The commission chairperson shall appoint a representative of the commission to preside if neither the chairperson or vice-chairperson is able to preside.

(4) After commission consideration of all evidence presented, the presiding officer shall call for a roll-call vote of the commission members. A quorum must be present to take an official vote of the commission on the appeal. A simple majority vote of the eligible voting members of the commission is required for a decision. The presiding officer shall announce the result of the roll-call vote. The commission's decision is final and binding on all parties.

(5) Written notice of the commission's decision on the appeal shall be mailed to the appellant within 10 days of the hearing.

This rule is intended to implement Executive Order Number 48.

[Filed 11/16/94, Notice 6/22/94—published 12/7/94, effective 1/11/95]

[Filed 3/11/04, Notice 1/21/04—published 3/31/04, effective 5/5/04]