

281—6.4(290,17A) Manner of appeal.

6.4(1) An appeal under this chapter is started by filing an affidavit, unless an affidavit is not obligated by the statute establishing the right of appeal. The affidavit is to set forth the facts, any error complained of, or the reasons for the appeal in a plain and concise manner and be signed by the appellant. The affidavit is to be delivered to the office of the director by United States Postal Service, facsimile (fax), electronic mail, or personal service. The affidavit is considered filed with the agency on the date of the United States Postal Service postmark, the date of arrival of the facsimile, the date of arrival of the electronic mail message, or the date personal service is made. Time will be computed as provided in Iowa Code section 4.1(34).

6.4(2) The director or designee, within five days after the filing of such affidavit, will notify the proper officer in writing of the taking of an appeal. The officer, within ten days, will file with the board a complete certified transcript of the record and proceedings related to the decision appealed. A certified copy of the minutes of the meeting of the governmental body making the decision appealed will satisfy this rule.

6.4(3) The director or designee will send written notice by certified mail, return receipt requested, at least ten days prior to the hearing, unless the ten-day period is waived by all parties, to all persons known to be interested. Such notice includes the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing is to be held; a reference to the particular sections of the statutes and rules involved; and a short and plain statement of the matters asserted. A copy of the appeal hearing rules will be included with the notice.

The notice of hearing will contain the following information: identification of all parties including the name, address and telephone number of the person who will act as advocate for the agency or the state and of parties' counsel where known; reference to the procedural rules governing conduct of the contested case proceeding; reference to the procedural rules governing informal settlement; and identification of the presiding officer, if known (if not known, a description of who will serve as presiding officer (e.g., director of the department or administrative law judge from the department of inspections, appeals, and licensing)).

6.4(4) An amendment to the affidavit of appeal may be made by the appellant up to ten working days prior to the hearing. With the agreement of all parties, an amendment may be made until the hearing is closed to the receipt of evidence.

[ARC 7427C, IAB 12/27/23, effective 1/31/24]