

721—25.14(17A,39A,47) Disqualification.

25.14(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a complaint proceeding if that person:

- a.* Has a personal bias or prejudice concerning a party or a representative of a party;
- b.* Has personally investigated, prosecuted or advocated, in connection with that proceeding, the specific controversy underlying that proceeding, another pending factually related complaint proceeding, or a pending factually related controversy that may culminate in a complaint proceeding involving the same parties;
- c.* Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that complaint proceeding, the specific controversy underlying that complaint proceeding, or a pending factually related complaint proceeding or controversy involving the same parties;
- d.* Has acted as counsel to any person who is a private party to that proceeding within the past two years;
- e.* Has a personal financial interest in the outcome of the proceeding or any other significant personal interest that could be substantially affected by the outcome of the proceeding;
- f.* Has a spouse or relative within the third degree of relationship that (1) is a party to the proceeding, or an officer, director or trustee of a party; (2) is a lawyer in the proceeding; (3) is known to have an interest that could be substantially affected by the outcome of the proceeding; or (4) is likely to be a material witness in the proceeding; or
- g.* Has any other legally sufficient cause to withdraw from participation in the decision making in that proceeding.

25.14(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is jurisdiction to initiate a proceeding, or exposure to factual information while performing other functions, including fact gathering for purposes other than investigation of the matter which culminates in a complaint proceeding. Factual information relevant to the merits of a complaint proceeding received by a person who later serves as presiding officer in that proceeding shall be disclosed if required by Iowa Code section 17A.17(3) and rule 721—25.26(17A).

25.14(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

25.14(4) If a party asserts disqualification on any appropriate ground, including those listed in subrule 25.14(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code section 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

25.14(5) If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

25.14(6) If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect.