

875—5.16(88) Hearing examiner; powers and duties.

5.16(1) Powers. The commissioner or the commissioner's designee presides over the hearing and has all powers necessary or appropriate to conduct a fair, full, and impartial hearing.

5.16(2) Private consultation. Except to the extent required for the disposition of ex parte matters, the hearing examiner may not consult a person or a party on any fact at issue unless upon notice and opportunity for all parties to participate.

5.16(3) Disqualification. When the commissioner or the commissioner's designee deems appropriate to be disqualified to preside, or to continue to preside, over a particular hearing the commissioner or the commissioner's designee will withdraw therefrom by notice on the record, and the commissioner shall designate another.

Any party who deems the commissioner or commissioner's designee for any reason to be disqualified to preside, or to continue to preside, over a particular hearing, may file with the commissioner a motion for disqualification and removal, supported by affidavits setting forth the alleged ground for disqualification. The commissioner's ruling on the motion is final for the purposes of judicial review under rule 875—5.24(88).

5.16(4) Contumacious conduct; failure or refusal to appear or obey the rulings of the hearing examiner. Contumacious conduct at any hearing before the hearing examiner is a ground for exclusion from the hearing.

If a witness or a party refuses to answer a question after being directed to do so, or refuses to obey an order to provide or permit discovery, the hearing examiner may make such orders with regard to the refusal as are just and appropriate, including an order denying the application of an applicant or regulating the contents of the record of the hearing.

5.16(5) Referral to Iowa rules of civil procedure. On any procedural question not regulated by Iowa Code chapter 88 or this chapter, the hearing examiner is guided by the Iowa Rules of Civil Procedure.

[ARC 8432C, IAB 12/11/24, effective 1/15/25]