

701—115.8(421,441) Hearings before the board.

115.8(1) *Prehearing conference.* An informal conference of parties may be ordered at the discretion of the board or at the request of any party for any appropriate purpose. Any agreement reached at the conference shall be made a part of the record in the manner directed by the board.

115.8(2) *Notice of hearing.* The notice of hearing will contain information required by Iowa Code section 17A.12.

115.8(3) *Waiver of 30-day notice.* The parties may jointly waive the 30-day written notice requirement for a hearing in Iowa Code section 441.37A by submitting a mutually agreed upon hearing date approved by the board.

115.8(4) *Continuance.* A motion to continue the hearing or written consideration shall be in writing and, except in the case of unanticipated emergencies, filed not later than seven days before the hearing or written consideration. The motion should state the specific reason for the request and indicate whether the opposing party was contacted and agrees to a continuance. An emergency oral continuance may be obtained from the board. In determining whether to grant a continuance, the board may consider:

- a. Prior continuances;
- b. The interests of all parties;
- c. The likelihood of informal settlement;
- d. The existence of an emergency;
- e. Any objection;
- f. Any applicable time requirements;
- g. The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h. The timeliness of the request; and
- i. Other relevant factors, including the existence of a hearing scheduling and discovery plan.

115.8(5) *Hearing procedures.* Hearings and any preliminary proceedings may be conducted in person, by telephone, or by video, or the appeal may proceed as a written consideration.

a. *Representation.* Parties have the right to participate or to be represented in all hearings. Any party may be represented by an attorney or by a designated representative. A partnership, corporation, or association may be represented by any member, officer, director, or duly authorized agent.

b. *Participation in hearing.* Parties have the right to introduce evidence relevant to the grounds on appeal. Subject to terms and conditions prescribed by the board, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument. The hearing will proceed as provided by Iowa Code sections 17A.12 and 17A.14.

115.8(6) *Dismissal.* If a party fails to appear, the appeal may be dismissed under Iowa Code section 441.37A(2) “a.”

115.8(7) *Hearing recordings.* Any party may request a copy of the hearing recording and pay a fee associated with preparing the copy. Any party may provide a certified court reporter at the party’s own expense.

115.8(8) *Ex parte communications with board members.* Ex parte communications are prohibited in appeals before the board following the provisions of Iowa Code section 17A.17.

115.8(9) *Disqualification of board member.* A board member or members must, on their own motion or on a motion from a party in the proceeding, withdraw from participating in an appeal if there are circumstances that warrant disqualification under Iowa Code sections 17A.11(2) through 17A.11(4) and 17A.17(8).

[ARC 7713C, IAB 3/6/24, effective 4/10/24]