

**641—173.6(17A) Presiding officer.**

**173.6(1)** Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing which identifies or describes the presiding officer as the director of the department or members of the department.

**173.6(2)** The department may deny the request only upon a finding that one or more of the following apply:

*a.* Neither the department nor any officer of the department under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

*b.* There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

*c.* An administrative law judge with the qualifications identified in subrule 173.6(4) is unavailable to hear the case within a reasonable time.

*d.* The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

*e.* The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

*f.* Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

*g.* The request was not timely filed.

*h.* The request is not consistent with a specified statute.

**173.6(3)** The department shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge with the qualifications identified in subrule 173.6(4), the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

**173.6(4)** An administrative law judge assigned to act as presiding officer in a contested case shall have the following technical expertness unless waived by the department: a J.D. degree.

**173.6(5)** Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the department. A party must seek any available intra-agency appeal in order to exhaust adequate administrative remedies.

**173.6(6)** Unless otherwise provided by law, the director of the department and members of multimember boards and commissions, when reviewing a proposed decision upon intra-agency appeal, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.