

721—3.6(17A) Contested case hearing procedures.

3.6(1) Subpoenas. When necessary for the full presentation of a contested case, the presiding officer shall issue subpoenas for the attendance and testimony of witnesses and for the production of written or recorded materials of any kind which are relevant or material to any matter at issue in the hearing. Any individual who desires the issuance of a subpoena shall file a request with the presiding officer, designating the witnesses or documents to be produced and describing their address or location. When prepared by the presiding officer, the subpoena shall be returned to the requesting party for service; and the requesting party shall bear all costs associated with serving the subpoenas. Service may be made in any manner allowed by law, but must be performed prior to the hearing date.

3.6(2) Rules of evidence. The presiding officer is not bound to follow the technical common law rules of evidence. A finding shall be based upon the kind of evidence which reasonably prudent persons are accustomed to rely upon for the conduct of their serious affairs, and may be based upon such evidence even if it would be inadmissible in a jury trial. The presiding officer may give probative effect to evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. The presiding officer shall give effect to the rules of privilege recognized by law. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be required to be submitted in verified written form. Any party intending to submit evidence in written verified form, shall notify any other individuals at least seven working days prior to the hearing so that any objections can be filed with the presiding officer. Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original, if available.

3.6(3) Discovery. Discovery procedures may be utilized as permitted under the procedures of the Iowa rules of civil procedure. Depositions taken in accordance with the Iowa rules of civil procedure may be used as evidence with the approval of the presiding officer.

3.6(4) Presentation of testimony and evidence. In the hearing, each party shall have the right to present evidence and the testimony of witnesses, who shall testify under oath, and to cross-examine the witnesses of another individual. A person who has submitted testimony in written form is subject to cross-examination if that person is available. Opportunity shall be afforded to each party for redirect and recross-examination, and to present evidence and testimony as rebuttal to evidence presented by another party. Witnesses shall be subject to examination by the presiding officer. The presiding officer may, upon the motion of any party or its own motion, order the sequestration of witnesses.

3.6(5) Briefs. The presiding officer may order the filing of briefs on any of the issues presented in the contested case.

3.6(6) Record. The record in a contested case shall include:

- a. All pleadings, motions and intermediate rulings.
- b. All evidence received or considered and all other submissions.
- c. A statement of all matters officially noticed.
- d. All questions and offers of proof, objections and rulings.
- e. All proposed findings and exceptions.
- f. Any decision, opinion or report by the officer presiding at the hearing.

3.6(7) Failure to appear. If any party fails to appear at the hearing and no continuance has been granted, the presiding officer may proceed with the hearing and render a decision in the absence of the complainant.

3.6(8) Proceedings recorded and open to the public. The hearing shall be recorded by audio recording. An individual may demand that the hearing be recorded by a certified shorthand reporter, but that party must bear all costs associated with the shorthand reporter. The record of hearing or a transcript shall be filed with the authority and maintained for a period of five years.

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